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TERRUM.

Constitutional Reforms in Mexico.
By Julio Vargas.

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In February 2024, the Mexican President, all though leaving office by November of this year, has sent to congress certain initiatives to disappear certain Constitutional Autonomous Organisms that were created in past administrations tending to perfect the Mexican democracy.

As many other institutions and organisms, Mexican President better known as AMLO, his name initials, regardless of their importance or value, only considers that if such organisms or agencies were created in the past, then they all are creations of the "neoliberals" and therefor against him, the people, and his administration.

In this particular case the initiative tends to eliminate the following agencies:

- Federal Economic Competition Commission (COFECE),
- Federal Institute of Telecommunications (IFT),
- National Institute of Transparency, Access to Information and Protection of Personal Data (INAI),
- National Council for the Evaluation of Social Development Policy (CONEVAL),
- Energy Regulatory Commission (CRE)
- National Hydrocarbons Commission (CNH), and the decentralized public body called the National Commission for the Continuous Improvement of Education (MEJOREDU).

In parallel, the President has also sent an initiative that includes substantial reforms to electoral provisions contained in the Political Constitution of the Mexican United States, which among other issues, tend to completely dismantle and extinguish the current National Electoral Institute, (INE) and the unification of the administrative and jurisdictional electoral authorities and extinction of local public bodies and electoral tribunals of the states.

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For that purpose, the relevant part of the initiative states that: "...This proposal seeks to strengthen democracy and guarantee compliance with the will of the people. Electoral administrative and jurisdictional authorities must be independent of political power, parties, and economic groups. In recent years, the actions of these authorities have been characterized by their lack of adherence to the principles of objectivity, independence and impartiality that are proper to the electoral function.

This initiative proposes to embark on a new electoral stage for the country. It is proposed to transform the electoral institutionality by abolishing the INE and creating in its place the National Institute of Elections and Consultations (INEC) as an independent electoral authority, guaranteeing the guiding principles of the electoral function, as it should always have been. It is also proposed to strengthen the Federal Electoral Tribunal (TFE).

INEC would be the sole electoral administrative authority in the country. Its functions would absorb those of the local public bodies (OPL), that is, it would organize the totality of the electoral processes of the republic, at the national, state, and municipal levels. In addition, it is proposed that it carry out the exercises of direct democracy provided for in the Constitution and laws.

It is worth mentioning that the INE, since its creation to date, has been increasingly exercising its power of attraction over the functions of the OPLs, to the extent of carrying out or verifying practically all the significant activities that formally correspond to these bodies, except for the investigation and substantiation of complaints; registration of candidates, computations, and declaration of validity. Having a single administrative authority will contribute to greater certainty and harmonize electoral processes and citizen participation.¹ It is also proposed that the heads of such organizations be elected through popular vote.

It seems that President AMLO, has forgotten that in the past elections, when he became President of the United Mexican States (Mexico), the elections were sanctioned entirely by the INE and the TFE and these two constitutional entities declared valid and legal the complete election procedure through which AMLO became President. It looks like his intention is to take complete control of this agency and the tribunal as opposed to the autonomy that they have gained and strengthened in the past years. Of course, all entities, can and should be modified to become more efficient, modern, and effective, but completely abolishing the current Institutions may become a serious setback to the Mexican democracy.

“This means going back to a extreme centralized government and with no real benefit to the people.”

Regarding the other constitutional autonomous organisms mentioned in this paper and as recognized in the initiative of the decree, in the 1990's the Mexican State began a process of restructuring the public administration, adopting the creation of constitutionally autonomous bodies to which it conferred a certain constitutional independence and converted them into public powers distinct from the three traditional powers, with legal personality, budgetary and organizational freedom, and management autonomy. They were intended to: i) limit the presidential system; ii) confront the “partyocracy” and other de facto powers through “independent” institutions that would be able to check those powers, and iii) the processes of transition to democracy, since the formal powers established had authoritarian vices, and the democratic transformation required new, uncontaminated bodies that encouraged and accompanied the processes of change.

According to some authors cited in the initiative, they point out that several of the autonomous constitutional bodies owed their origin to recommendations and/or impositions of international financial organizations, and that such autonomous organisms derive from neoliberal logics.

This seems to be the only reason to destroy these organisms, that they were created under a neoliberal logic, whatever that means to the current administration. With that excuse and lame argument what this administration is trying to do again, is to recapture all the power in the hands of the government conducted by the President.

1.-Iniciativa del Ejecutivo federal con Proyecto de Decreto, por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia electoral. Gaceta Parlamentaria, Ciudad de México, México, 05 de febrero de 2024, pp.7-8. Obtenido de: <https://gaceta.diputados.gob.mx/PDF/65/2024/feb/20240205-11.pdf#page=2>

The initiative states as motives that:

"In congruence with the constitutional principles of economy, rationality, honesty and transparency in the allocation and exercise of public resources, the present administration has conducted its actions with strict adherence to the policy of republican austerity with the aim of putting an end to luxuries, superfluous expenses, duplication of functions, the squandering of national goods and resources, and thus. to allocate all of these to the fight against social inequality, to the development and construction of a just, peaceful, free, solidary, democratic, prosperous, and happy Mexico.

For many years, a golden bureaucracy was created, and new agencies were created to which many resources from the budget had to be allocated, so under the principle that there can be no rich government with poor people, it is necessary to rethink the functioning of these, which in fact duplicate functions and tasks of the federal executive. From this point of view, it is proposed to return the powers of the Constitutional Autonomous Agencies to the government institutions that had such powers..."².

This means going back to an extreme centralized government and with no real benefit to the people. The initiative continues to state that:

"...this initiative seeks the reincorporation into the sphere of the Federal Public Administration of the functions carried out by the Constitutionally Autonomous Bodies, Coordinated Regulatory Bodies in energy matters and other decentralized ones, thus avoiding duplication of functions and allowing budgetary savings, without affecting the functions they perform.

On the other hand, a paragraph is added to article 134 of the political constitution, in order to establish as a constitutional principle to avoid creating different public entities under the figures of decentralization and deconcentration in an unnecessary way, promoting the duplication of functions, when the centralized public administration could assume such attributions..."³.

This autonomous bodies, through the years, all though not perfect have become mostly fair arbitrators and regulators in their specific fields and have contributed for a more transparent and balanced relation between private entities and the public administration and they can certainly be improved, instead of simply ordering their disappearance.

Once again, these proposed reforms tend to take Mexico back to the 70's era were all the decisions were centralized and in hands of authoritarian presidents that concentrated absolutely all the power against the most elementary democratic principles.

Finally, we will still have to wait and see if congress votes and passes these initiatives.

2.- *Iniciativa del Ejecutivo federal con Proyecto de Decreto, por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de simplificación orgánica. Gaceta Parlamentaria, Ciudad de México, México, 05 de febrero de 2024. Pp 1. Obtenido de: <https://gaceta.diputados.gob.mx/PDF/65/2024/feb/20240205-18.pdf#page=2>*

3.- *Iniciativa del Ejecutivo federal con Proyecto de Decreto, por el que se reforman, adicionan y derogan diversas disposiciones de la Constitución Política de los Estados Unidos Mexicanos, en materia de simplificación orgánica. Gaceta Parlamentaria, Ciudad de México, México, 05 de febrero de 2024. Pp.14. Obtenido de: <https://gaceta.diputados.gob.mx/PDF/65/2024/feb/20240205-18.pdf#page=2>*

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