

The Mexican electoral reform: A road to uncertainty

The Pact for Mexico (signed by the leftist Party of the Democratic Revolution, the conservative National Action Party and President Peña Nieto's ruling Institutional Revolutionary Party), a celebrated political achievement, has already conceived its worst political product. The victim of this unfortunate slip is the electoral system.

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The Pact for Mexico –a table for negotiation and political decision-making set up by the most relevant political parties in Mexico- which pulled Mexican democracy out from its marasmus after 15 years of unproductive discord, has made a dreadful mistake: subjecting the future of the reform on the energy sector to the support on the political reform (and vice versa).

Two major changes of quite different nature were analysed and agreed on altogether, overlooking their particularities, as a result of the pressure imposed by each on the other one, and the provisional result is the most intricate and uncertain reform of the last 25 years.

The oil market prevailed and the entrenched ideology of the need of ‘structural reforms’ deceived the presidential agenda of Peña Nieto, who is willing to sacrifice the institution that has guaranteed the political stability in Mexico during the pluralism era (the Federal Electoral Institute), in order to put his name as a modernist leader in the mainstream financial markets.

The Mexican electoral legislation and institutions have paid the price: a major, unintelligible and unprecedented legislative disruption, which is hard to understand in terms of design and objectives.

According to the amendment (already approved by the Congress) the Federal Electoral Institute will disappear and will be superseded by a National Electoral Institute, whose powers will extend to state and municipal elections, which have been historically organised by local bodies.

This is a recentralising reform that not only modifies the constitutional nature of the electoral authority but also changes the organisational model of the elections in Mexico, without explaining how the elections will be carried out at the states and municipalities' levels.

Deprived from any justification, the reform extinguishes a clear, predictable and successful scheme and gives birth to a new body that will exercise a confusing and incoherent set of powers. The new National Electoral Institute will be tasked with the organisation of federal and local elections; electoral and civic capacitation; districting; national and local electoral registration... However, according to the constitutional amendment, those powers 'may' be delegated to local authorities.

And conversely: the new National Electoral Institute 'may' take into its jurisdiction powers reserved to local authorities. Therefore, a pile of crucial powers in the electoral arena will be subjected to the strategies, whims and desires of the political parties that conform and will still conform the directing body of the electoral authority.

Therefore, what used to be the unquestionable base, undertaken and agreed on, is now coming into question: the arbiter and the basic rules of the arbitration are part of the political contest in itself.

For instance: the political parties may exercise their campaign expenditure through the National Electoral Institute. This provision is not mandatory, it is optative and thereby invites discretion and arbitrariness, and also opens the door to differentiated financial schemes for the political parties during campaigns which could compromise transparency and equality in the electoral contest.

There are new hypothesis to declare nullity of elections on the grounds of abstract irregularities that go beyond the protection of the will of the people, which should be the only reason to question and eventually to cancel massive and complex democratic processes such as elections.

Consequently, the electoral reform is already displaying the future controversies and constituting the new source of struggle and discord in the electoral arena. In other words, adding causes of the annulment of elections not related to direct infringements on the right to vote, means to write since now the script of the impugnation to come.

This reform breaks down the essential logic of the electoral system in many ways, because it complicates the registration for new political parties (the minimum member checked on the electoral roll to register grows from 2 to 3%) and at the same, rewards personalities that may disregard the political parties processes and present themselves as ‘independent candidates’ for the purposes of running for public office.

The reform constitutes a formula to multiply political adventures financed by private actors, while nourishing anti-politics and personalism.

We could provide many examples but the constant variable of the reform is the attempt to avoid and defer crucial decisions regarding the basic definitions underpinning the Mexican electoral system, by means of uncertainty and the use of ambiguous and vague language.

The agenda of this reform was not responsive to a thorough diagnosis on the electoral system; rather it was prompted by the imperatives and discomfort derived from a post-election challenge (in 2012) whose alleged electoral offences and ‘proofs’ were never demonstrated not even remotely.

The electoral institutions and legislation ‘had’ to be included in the legislative agenda of the Pact for Mexico as a result of political inertia, which was built up from the remains and debris of the post-electoral battle. Hence, the reform was not guided by a clear idea or by a coherent set of specific proposals.

The electoral discontent predominated again and faded away political debates that are way more relevant for Mexico: specially the type of political regime and coalition governments.

The Pact for Mexico, a political achievement celebrated by many –and even by us- has already conceived its worst political product. The victim of this unfortunate slip is the electoral system, a system that has been built from so much effort, resources and time to Mexico.