

THE CRAFTSMANSHIP OF POLITICS: NEGOTIATING THE 2014 POLITICAL-ELECTORAL REFORM IN MEXICO

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ABSTRACT

After the presidential election of July 2012, won by the PRI, the prospects for achieving meaningful changes in Mexico were not promising. The more pluralistic and competitive political environment developed in recent years had made increasingly difficult the creation of legislative majorities needed to produce major reforms. On the other hand, there was still unease and mistrust among political actors. The government and the opposition parties negotiated the Pact for Mexico, a multiple-issue agreement which provided the basis for pushing for an ambitious reform agenda, including a political-electoral component. The article theorizes that given the existence of formal constraints, political actors seek and build alternative mechanisms to provide viability and functional capability to the political system.

KEY WORDS: Electoral reform, negotiation, governability, Mexico

I. FRAMING THE ISSUE

After the presidential election of July 2012, won by Enrique Peña Nieto of the Revolutionary Institutional Party, (PRI, for its acronym in Spanish), the prospects for achieving major changes in the Mexican institutional framework were not promising. The more pluralistic and competitive political environment developed in recent years had made increasingly difficult the creation of the congressional majorities needed to produce major reforms. On the other hand, despite numerous political-electoral reforms, there was still unease and mistrust among politi-

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cal actors, with both electoral processes and institutions being questioned.

Mexico's democratization process has focused on a series of successive changes to electoral laws.¹ In the 1990s, and independent electoral authority, the Federal Electoral Institute (IFE, for its acronym in Spanish) was created. Later reforms strengthened IFE's independence and its ability to supervise and manage electoral processes, reinforced the role of the electoral judicial tribunal (TEPJF, for its acronym in Spanish) and allowed a response to increased demands of a more plural political environment. After 65 years of dominance, in 1994 the PRI lost qualified majority in the Chamber of Deputies, and in 1997, simple majority. In 2000, it lost the presidency to the National Action Party, (PAN, for its acronym in Spanish), which would win it again in a close election in 2006. Afterwards, the impartiality and effectiveness of electoral institutions and rules were questioned, and a major reform took place in 2007-2008, focusing on achieving equality in media access. Political parties were forbidden to buy media coverage, now administered by IFE (using government time slots, charged as taxes to media companies).

During the 2012 presidential election, criticisms and dissatisfaction were voiced again, mostly on the lack of control on the flow of resources and overspending in political campaigns, particularly by the presidential candidate of the PRI. The PAN and the Democratic Revolutionary Party, (PRD, for its acronym in Spanish) also complained that PRI governors (governing most Mexican states), increasingly empowered by receiving federal oil revenues and acting as local chieftains, controlled local legislatures and electoral authorities, and decidedly intervened and favored their party.² IFE's performance was questioned, and it was argued that it had lost its credibility as an impartial and professional institution.

Democratization in Mexico turned divided government into a real possibility, and brought the risk of stalemate. During the PRI hegemonic regime concentration of power in the presidency and its control of the party meant automatic legislative majorities, with no need for negotiation or the creation of coalitions.

¹ Electoral reforms have taken place in 1977, 1986, 1990, 1993, 1994, 1996, 2007-2008 and 2013-2014. See Becerra, Salazar & Woldenberg (2000), Merino (2003) and Woldenberg (2012).

² Since the early 2000's, state governments increasingly received resources from the federal government, as a share of oil revenues. With little overview, they used the resources discretionally. Governors from all three major parties created an informal organization, the National Conference of Governors (CONAGO, for its acronym in Spanish), to discuss issues of common interest and give statements. Through federal legislators from their home state, many attempted and succeeded in exercising influence over the federal budgetary process.

More pluralism has produced a more active and assertive Congress, and winning coalitions were now needed to be skillfully crafted (Rosell, 2000, ch. 1).

Theorists of democracy have stated the balance between the principles of representation and governability, between more diverse and plural government components and more government efficacy. They are both important to construct democratic legitimacy, since plurality provides moral foundations, but a lack of response to society's needs and problems could undermine such legitimacy. Depending on a specific situation and context, the balance can lean towards one or the other principle, in order to provide continuity and functionality to the political system.³ After increasing movement towards more pluralism, the need to achieve important reforms in Mexico seemed to call for the strengthening of governability. A presidential regime with three major political parties (PAN-PRI-PRD), it turns very difficult to build winning coalitions, able to approve major legislative changes.

This article theorizes that although formal institutional arrangements constraint the functional capability of a political system, political actors seek and develop alternative mechanisms to improve its performance. A more pluralistic Congress in a presidential system, with three predominant political parties, increases the possibility of confrontation with the Executive and reach stalemate. Furthermore, after a process of strengthening representation and democratization, rising expectations for an effective government, capable of improving general economic and social welfare, mount pressure to obtain results. The difficulty to change the framework or follow time-consuming and uncertain established paths work as incentives for political elites to shorten and make more efficient communication channels and implementation measures.

Following theoretical reasoning, major political players construct semi-formal arrangements for negotiating and improving chances of policy success. Government leadership identifies key actors and their interests, as well as the major issues to be addressed. In a multi-level and multi-issue negotiation process,

3. On this classic debate, see Sartori (1997b, ch. 1) and Nohlen (1984).

every party involved should make some gains, according to its relative leverage position. The negotiators develop a commitment to achieve and implement agreements, even at risk of alienating part of their own constituencies. This allows the political system to work outside and alongside the institutional framework, dramatically increasing the chances of moving forward in a reform agenda.

II. PREVIOUS ATTEMPTS

Attempts to facilitate the creation of majorities and enhance governability have had scan results. In December 2009, President Felipe Calderón from PAN made a proposal for a political and electoral reform that included second ballot for presidential election, legislative and mayoral reelection, reducing the size of Congress, raising the threshold for political parties, and preferred presidential initiatives. It also contemplated measures to favor democratic representation and participation, such as independent candidates, referendum, and citizen initiative. Although many of these components had been part of several previous proposals, the novelty was the way to combine them.

President Calderón had achieved only very limited fiscal and energy reforms, and his political party faced unfavorable results in the 2009 midterm election. Thus, he sought to deal first with a political reform, in order to strengthen the Executive and make more accountable and efficient the legislative process. After a long debate and the introduction of competing proposals, a diminished political reform was approved in August 2012. It only included presidential initiative, independent candidates, citizen initiative and popular consultation. The formation of coalition governments, a theme introduced in the Senate, was also excluded.

In July 2012, Enrique Peña Nieto won the Mexican presidency with 38.21% of the vote, against 31.59% of Andrés Manuel López Obrador of the PRD, and 25.41% of Josefina Vásquez Mota, of the PAN. Unlike the 2006 election, when Calderón won a close victory over López Obrador (35.89% versus 35.33%),

Peña Nieto had a considerable advantage. Despite accusations of spending money during his campaign well above legal limits, his victory was not effectively contested.

After Calderon's election, López Obrador along with the PRD had organized a "civic resistance" campaign, refusing to accept the official result, arguing inequalities during the campaign, particularly in media coverage. He declared himself the "legitimate President" of the country, but his leadership and tactics within his own party began to be questioned and challenged. Even so, the possibility of an alliance with the PAN, Calderon's party, became highly improbable. The new federal government, unable to find support in the PRD, could only turn to the PRI in order to create legislative coalitions large enough to achieve major reforms, since many required a qualified majority in Congress.

The PRI, still baffled by its second presidential defeat, found itself as the key player, with the largest contingent in the Chamber of Deputies and the second in the Senate. It became an unwilling partner, refusing to grant significant gains to the Executive. As mentioned earlier, Calderón had only limited success on two key items in his agenda, fiscal and energy reform. In the political arena, the PRD demanded changes in electoral laws and the Federal Electoral Institute, which resulted in the prohibition of buying media exposure by political parties, requiring IFE to assign it, and the removal and replacement of IFE's directing body, the General Council.

López Obrador would again be presidential candidate in the 2012 election, but as mentioned earlier, this time his claim was less appealing and more difficult to argue. A more moderate faction of the PRD, labeled New Left (*Nueva Izquierda*), gradually took control of the majority of the party structure.⁴ López Obrador, still with considerable backing but increasingly becoming more distant, would eventually leave the PRD and found a new party, National Renovation Movement, (MORENA, for its acronym in Spanish).

4. Jesús Zambrano, member of *Nueva Izquierda*, became president of the PRD in 2011. Other leaders of this faction include Jesús Ortega and Guadalupe Acosta Naranjo, former presidents of the PRD, and Carlos Navarrete, elected president in 2014.

III. THE SEARCH FOR AN AGREEMENT

The new PRD leadership was willing to portray itself as a constructive and collaborative option, and some of its members approached president-elect Peña Nieto's transition team, seeking to build an effective communication channel (Hernández, 2012). They got a positive response. Peña Nieto was a pragmatic politician, eager to obtain support for his ambitious government agenda. He saw an opportunity to create an alliance with opposition political parties, with specific commitments by all parties involved. The PRI had the largest legislative group in both chambers of Congress, and could achieve simple majority with his political ally, the Green Party, (PVEM, for its acronym in Spanish). But many reforms required constitutional changes, and thus a qualified majority. Furthermore, wider coalitions were needed to provide legitimacy and reach to any reforms.

The PAN leadership was also invited to join the conversation. In the presidential election, its candidate Josefina Vázquez Mota finished in third place. This was a major disappointment for the party, after a campaign that seemed to lack proper coordination, with confusing political messages, and even a distant relationship with the president and his group. Vázquez Mota was not Calderon's favorite choice for presidential candidate, and the PAN leader, Gustavo Madero, had to defeat a strong challenger supported by the Executive. Madero was still struggling to achieve effective control of the party structure, and being approached by the president-elect to participate in high-level negotiations seemed useful to strengthen his position.

Peña Nieto hoped to give his presidency a strong start-up, capitalizing on an initial agreement that could provide congressional support. Negotiations for what was labeled Pact for Mexico (*Pacto por México*) were initially very discrete, with only a few individuals involved. But eventually information leaked, and voices of discontent emerged in both PRD and PAN, arguing a too close relationship with the newly elected government. The president-elect wanted to

announce the pact before taking office, but it had to be postponed for a few days, in order to allow PAN and PRD leadership more time to address criticisms. It was finally signed on November 28, three days before Peña Nieto's inauguration.

To move forward with his agenda, Peña Nieto had first to promote changes within his own party. The PRI statutes included opposition to value added taxes in food and medicines, as well as privatization in the energy sector, particularly in the oil industry. The structure and rules of the party, with strong centralized leadership control and incentives for discipline for career advancement, allowed Peña Nieto to change these stands, in preparation for possible reforms.

The PRD, on the other hand, had a long tradition of factionalism. Founded as an aggregation of leftist parties and dissidents from the PRI, it officially recognizes the existence of "tribes" (*tribus*) or groups that gather around political leaders that control votes and party and government positions.⁵ As mentioned before, the group that took the party leadership was moderate and willing to work with the new government, but had more difficulty to gather support. The PAN also presented divisions, but without official recognition, and more oriented towards individual party member participation in internal debate and competition. The so-called "traditional" party membership disliked getting too close to a *priista* government, and the *calderonista* group was struggling to preserve its influence, so PAN leadership had also to deal with questioning and dissent in its cooperation strategy with the new government (Nuñez & Gómez, 2012).⁶

The Pact for Mexico set an ambitious agenda for the transformation of the country, promoting reforms in areas such as the energy sector (including oil, a long-standing nationalist stronghold), fiscal policy, telecommunications, the financial sector, the criminal code and education. The newly elected government followed a bold negotiation strategy, pushing for profound changes and incorporating concerns and priorities of the PAN and PRD leaderships. By negotiating in multiple topics and addressing demands on several issues, President Peña Nieto's close group

5 On the origins, structure and functioning of the PRD, see Cadena Roa & López Leyva (Comps). (2013).

6 The *calderonista* group was headed by senators Ernesto Cordero, Javier Lozano, and Luisa María Calderón, sister of the former president.

was able to build a written agreement that stated 105 specific commitments, signed by his government and the major opposition parties. Thus, this “semi-formal” coalition, a result of able political craftsmanship, paved the ground for the intense legislative and political activity that followed.

The Pact included commitments 89 and 90, which dealt with electoral and political reform. Both PAN and PRD were concerned with issues like the enforcement of campaign spending controls. The PRD also wanted political reform in its stronghold, the Federal District (which includes Mexico City) to turn it into a state, and the PAN asked for the creation of a national electoral authority, overseeing both federal and local elections. As mentioned before, after the PRI lost the presidency, its governors became autonomous powerful figures, benefiting from oil revenue resources provided by the federal government. The PAN argued that many PRI governors controlled their state legislatures and local electoral authorities, resulting in uneven conditions for electoral competition.

IV. THE NEGOTIATION PROCESS

The early legislative approval of the education and telecommunications reforms were presented as important successes of the Peña Nieto administration. This raised criticism within opposition parties, accusing their leaderships of providing support and getting nothing in return. The Ruling Council (*Consejo Rector*, which included the leaders of PAN, PRD, PRI and government officials), established to preside and oversee the Pact, was denounced for assuming legislative functions, reaching agreements that should be discussed and debated in Congress. Madero faced reelection as president of the PAN, and the PRD also had an upcoming election to renew its leadership, and participation in the Pact would become a campaign issue. The leaders of both PAN and PRD were accused of being “too close” to the Peña Nieto Administration. Despite being questioned, participation in the Pact strengthened their position within their own parties. Later on, for the first time ever, the PRD

was able to negotiate presiding over both chambers of Congress.

The leader of the PAN Senators, former presidential pre-candidate and head of the *calderonista* group Ernesto Cordero, openly challenged Madero. Along with a group of PAN and PRD Senators, he introduced a proposal for a major electoral and political reform, including far-reaching changes that would basically result in a semi-parliamentary system. After several calls for discipline and then threats, Madero removed Cordero from senate leadership, and later managed to win reelection. The PRD's New Left group resisted detractors and had to postpone internal elections, but would also keep its presidency and main positions.

The fiscal reform was important for the federal government, since public finances were highly dependent on income from taxes to PEMEX, (for its acronym in Spanish) the state oil company. The Peña Nieto administration wanted to lessen this dependence, and also allow PEMEX to have more resources for investment in exploration and oil production. The government worked on a proposal that included tax increases for middle and high income contributors, as well as new taxes and limit fiscal credits for large companies. However, it did not contemplate applying the value-added tax to food and medicines, a very sensitive political issue (although no longer a banner for the PRI), which constituted a critical stand

for the PRD. The administration had the approval and support of the PRD, but the PAN denounced the agreement, seen as harmful to its middle-class voter constituency, and refused to endorse the bill.

The energy reform was also a priority for the Peña Nieto administration, since it hoped that the opening to private local and international investment would boost the sector, in particular the oil industry, and drive overall economic growth. Nevertheless, the PRD strongly opposed any measures to increase private participation, so the government's position was much closer to the PAN. But the *panistas* were resentful after being left out in the fiscal reform, and denounced that during the local elections in Veracruz in July 2013, the PRI governor had built an "electoral network" that used social assistance programs and provided unlawful resources and support to his party, reinforcing the argument of a collusion between local electoral authorities and state governments (*Reforma*, 2012).

The PAN leadership threatened to abandon the Pact, but decided to say and demand that only after a political-electoral reform had been approved, they would negotiate an energy proposal with the federal administration. The government accepted and negotiations continued. PAN President Madero wanted to focus on electoral issues, arguing the lack of time for completing a more

comprehensive agreement that could apply for the 2015 elections. But PAN legislators insisted on a wider reform, including institutional changes, and forced Madero to comply. Both PAN and PRD leaderships introduced political-electoral reform proposals, along with the previous senatorial initiative (supported by groups of PAN and PRD senators). The Peña Nieto administration and the PRI decided not to present their own, and the Ruling Council of the Pact for Mexico announced that negotiations would take place using the three existing ones (*Reforma*, 2013).

The main demand of PAN was the creation of the National Electoral Institute, INE, which would take the place of IFE and be in charge of organizing all local and federal elections. It was expected that this new entity would break the governor's control of state electoral organisms, since local electoral counselors would be named and supervised by the INE, and would contribute to reduce costs by using more efficiently the available resources and centralizing spending controls. Critics (including many academics, IFE electoral counselors, governors and state electoral counselors) argued that the new scheme would damage federalism, ignore the uniqueness of local electoral processes, imply a costly transition, and produce no significant savings (Michel, 2013; Ibarra & Guerrero, 2013). PAN negotiators, however, stood firmly and prevailed.

Other central points in the discussion were campaign spending limits and controls, causes for election annulment, legislative and municipal reelection, threshold for political parties, and the formation of coalition governments. The PRI and the government refused to consider second ballot for presidential election and a new law on government publicity and propaganda. The PAN, PRI and the government went along with the negotiations, and although the PRD participated, its request for political reform in the Federal District was sidelined and left for a later review.

Talks between PAN and the federal government on energy reform had also continued. Nevertheless, when the political-electoral reform seemed to drag in local legislatures controlled by the PRI (a simple majority of state congresses was needed for its final approval, and then signature of the federal Executive), the PAN threatened again to abandon the table. The PRI leadership had to declare that its local legislators were committed to its approval, the reform moved on, and negotiations on energy continued.

Meanwhile, the PRD denounced that the PAN and the Peña Nieto administration were exchanging the political for the energy reform. The energy proposal brought close the positions of PAN and the government, allowing expansion of private investment in the sector (as noted earlier, Peña Nieto had the PRI modify favorably its posi-

tion on the subject). For the PRD it was a non-compromise issue, and it was left out of the talks. The PRD leadership announced its official withdrawal from the Pact for Mexico, effectively terminating its existence.

During the negotiation of the reforms, the federal government was accused of “buying” legislative votes. Political parties in Congress receive resources for legislative activities, which are used discretionally and with scant accountability. An increase in these resources, extra payments for “legislative performance”, as well as federal allowances for specific projects to be chosen by the legislator in his or her district or state, raised concerns about the issue, although no investigation has proved these allegations (Salazar, 2014; Herrera & Guerrero, 2015).

V. THE NEW RULES

The political-electoral reform was signed by President Peña Nieto in January 2014, and in the following May a new General Law on Electoral Institutions and Procedures (*Ley General de Instituciones y Procedimientos Electorales*), applying for both federal and local levels, was issued. Other new ordinances were the General Law on Political Parties (*Ley General de Partidos Políticos*) and the General Law on Electoral Felony Matters (*Ley General en Materia de Delitos Electorales*), both also published in May, the Federal Law on Popular Consultation (*Ley Federal de Consulta Popular*), issued in March, and modifications to the existing General Law on the System of Impugnation Means in Electoral Matters (*Ley General del Sistema de Medios de Impugnación en Materia Electoral*), also in May. The new framework includes changes related to institutional, representation and governability issues. Some of the major points in each theme are discussed in the following section.

V.I. INSTITUTIONAL CHANGE

The creation of the National Electoral Institute meant that all national and local elections were under its

jurisdiction, although local electoral authorities were preserved as a result of a compromise with the PRI. Nevertheless, local electoral counselors were now to be appointed by INE, not by state congresses or other provisions, and arguably away from governor's control. The conformation of INE's directive body, the General Council, was a result of intense negotiations among PRI, PAN and PRD.

After a selection process that included examination by an outside committee (formed mostly by non-partisan members from academia), the parties supported specific profiles and candidates. The General Council named local counselors, also after a selection process including testing and interviews, and also choosing from the finalists from parties' proposals.⁷ In local electoral tribunals, judges are now named by the Senate, instead of state legislatures and the governor, also attempting to provide them with more leeway from the local executive.

The INE assumed most functions in the general organization of elections, has now the faculty to attract the overall local electoral process, can remove local electoral counselors, and can choose to delegate certain provisions, such as political parties and candidates spending overseeing and controls. This institutional design gives great leverage and control to the central authority, but it also allows its discretionary use and has built-in the potential for conflict.⁸

A commission was created inside INE to supervise and control spending by political parties and candidates, which would closely work together with the existing technical Fiscal Unit (*Unidad de Fiscalización*). This unit was harshly criticized by both PAN and PRD for its reports on allegations of vote buying and overspending by PRI candidates, which denied any wrongdoing. Both the commission and the unit would now be responsible for receiving and reviewing financial reports of every party and candidate in every election, a dramatic increase in workload from previous years.

The reports would have to be revised much faster and efficiently, since overspending became a cause for election annulment (five percent over the authorized limit). As mentioned before, this task could be

⁷ The General Council of IFE had 9 members, with the INE it was expanded to 11. The IFE functioned with 8 members since February 2013, when one counselor resigned, and with 4 from November 2013 to April 2014, when PAN and PRD in Congress refused to name their replacements until the creation of the new INE. Local counselors (members of the Public Local Electoral Organizations, *Organismos Públicos Locales Electorales*, OPLES, generically known as such, but that conserved their previous name in each state) were appointed in July 2014 only for the 17 states that would have local elections in 2015.

⁸ On the use and implications of institutional design, see Lijphart & Waisman (Eds.). (2002) and Horowitz (2002).

delegated to local authorities, however, it will probably be centralized given the mandate to improve control over campaign finances. Other causes for annulment are using money coming from illicit sources, taking advantage of diverted public resources, and buying media coverage. When the difference between the first and second place is less than five percent, these causes will be considered determinant in the result of an election.

Although one of the main arguments for the creation of INE was saving resources by centralizing and making more efficient management and spending, it will be difficult to do so. Since the 2007-2008 reform, money allocated for political parties and its campaigns is calculated according to the number of registered voters and the minimum salary. New and expanded faculties and the need to develop more capacities have INE asking for more resources, not less. Local authorities continue to exist and cost money, and now all its counselors receive the same salary (an increase in most cases) and use the same formula to allocate resources for all local elections to political parties (which also meant an increase in most cases).

V.II. REPRESENTATION

Consecutive reelection in Congress had been opposed by PRI, on grounds that it favored the rotation of political membership and that its implementation could erode party discipline.⁹ Arguments in favor include making lawmakers more accountable, giving constituency means to approve or disapprove its performance, professionalization of legislative work (more experienced members), and creating a mutual trust relationship among representatives that can allow giving in today in an issue, in exchange for support in the future (Jacobson, 1992, ch. 5). The PAN and PRD pressed on the matter, and the PRI finally accepted. Senators and Deputies can be reelected

⁹ On the effects of reelection on party discipline, see Sartori (1997a, ch. 3).

for immediate periods, one for the first and two for the second, for up to twelve years.¹⁰

Nevertheless, PRI's fear of "runaway candidates" that could switch parties or run as independents if they lose internal nomination, took to the provision that reelection only applies with the same party, and if the candidate wants to run by a different party or as an independent, he or she must resign to its original political party before the first half of the legislative period. Political parties retained control over the distribution of campaign resources, and a centralized structure of power remains in Congress, were party leaders and their negotiation arena, the Political Coordination Board (*Junta de Coordinación Política*) controls resources and committee assignments (Rosell, 2000, ch. 5). Immediate reelection for municipal governments, which had also been opposed by the PRI, was also introduced for a second period. The PRI first negotiated that every state Congress would decide on the issue, but legislators from both PAN and PRD insisted and were able to make it mandatory in the Constitution for all states.

The new legislation states that half the candidates for Congress of every party must now be women, and in the party lists of proportional representation candidates, women and men must be intercalated. All election formulas (proprietor and substitute candidates) must be of the same gender. These are important and decisive affirmative action measures.

Independent candidacies, introduced by the 2012 electoral reform, were also regulated. In order to run for office, they must constitute a civil association that will receive the same fiscal treatment that a political party. They will get public resources and have access to media, all together as if they were a newly registered political party (then divided amongst them),¹¹ and can also have private funding. Depending on the election, they can have representatives in councils of electoral authorities at all levels. To be presidential candidate, they must gather signatures of one percent of the electoral registration list, in at least seventeen states. For senatorial and deputy relative

¹⁰ The Mexican Senate has 128 members, two elected by formula in each state by the relative majority or winner take all principle, one from the first minority party in each state, and 32 by proportional representation from a national list. The Chamber of Deputies has 500 members, 300 elected by relative majority in their districts, and 200 by proportional representation divided in 5 regional lists. On the issue of improving representation through electoral reform, see Dummert (2004).

¹¹ Available resources for political parties during elections (calculated in reference to the voter registration list, *lista nominal de electores*) are divided as follows: 70% according to the vote obtained in the past election for deputies, and 30% equally amongst all parties. Newly registered parties have only access to the later.

majority candidacies, they must convene signatures of two percent of the state or district electoral registration list.

Although independent candidacies allow direct representation, without the intermediation of political parties, obtaining the required signatures is a daunting task for most citizens, who need to build a mobilization structure. The resources they can gather and use are relatively scarce compared to the support an “official” party candidate can receive, so expectations about this figure should be very modest. Even if elected, independent lawmakers could be isolated, with little chance of effective impact on legislation, without the support of a party group and probably divided amongst them.

V.III. GOVERNABILITY

The electoral reform allowed the creation of partial electoral coalitions, which meant that political parties should support at least 50 percent of common candidates in a given election, under the same political platform. It also contemplates the flexible coalition, with at least 25 percent of common candidates under the same platform. These measures are supposed to facilitate agreements for political parties, encourage a wider support for candidates, and favor the formation of legislative coalitions.

The Law on Political Parties stated first that votes for a coalition candidate in a ballot would count only as one, and not for each allied political party marked in it. But the PRD and the small political parties (Green-Ecological Party of Mexico, *Partido Verde Ecologista de Mexico*; Workers’ Party, *Partido del Trabajo*; Citizens’ Movement Party, *Movimiento Ciudadano*; and New Alliance Party, *Partido Nueva Alianza*) were opposed, and took their claim to the Supreme Court, which invalidated the provision (Fuentes, 2014). This improved their chances of managing enough support to preserve their official registry, and of gaining proportional representation seats.

The legal framework established that no political party could have more than 8 percent of overrepresentation, that is, the number of seats in relation to its percentage of the vote, not only in the Chamber of Deputies (as previously stated), but also in all state legislatures. This principle limits the possibility of larger parties, most likely the PRI, to have access to more proportional representation seats and achieve legislative majority.¹² It favors pluralism and the principle of representation, now uniformly across the country.

The law also rises the threshold from 2 to 3 percent of the vote for political parties, to obtain and maintain their registry. It is argued that a too low threshold could imply the inclusion of irrelevant parties, but one too high might leave out significant options and inhibit the birth of new ones (Sartori, 2005, pp. 105-109). There's the viewpoint that fewer political parties make negotiations easier and agreements more feasible. Only the Green-Ecological Party, PVEM, has had the sufficient size and position to determine the formation of a winning legislative coalition. There's also the public perception that small parties have scarce representation, cost much taxpayers money, and some are managed as private businesses or personal political platforms. Thus, the measure is aimed at reducing the number of political parties, and arguably improving governability.

Popular consultation was introduced with the 2012 reform, and regulated with the new law on the subject. It supposedly provides a decision device for major issues, although running the risk of being overused or increase confrontation (Powell, 2000, ch. 3-4). The consultation issue can be proposed by the Executive, one of the chambers of Congress (with 33 percent of senators or deputies), or a group of citizens (with 2 percent of the voter registration list). It must be approved by the Supreme Court, and voted by both chambers Congress. Matters of human rights, electoral rules, State income and expenses, national security and armed forces, and foundations of the republic (federal, representative democracy) are to be excluded. Its result will become mandatory if the overall turnout is at least 40 percent of the voter registration list. The consultation takes place the same

¹² On the subject see Shugart & Carey (1992, ch. 9).

day of the general election, substantially improving the chances of enough participation to become mandatory.

Considered a useful mechanism for breaking political stagnation or stalemate, popular consultation is thus an instrument for effective government. However, Mexican political parties used it as a mean for campaigning. During 2014, the three major parties requested INE (by law in charge of organizing them) to include consultations in the June 2015 midterm elections, the PRD on revoking the energy reform, the PAN on minimum salary raise, and the PRI on eliminating proportional representation seats. This provided them with extensive media exposure, very useful in a non-electoral year. It was dubious that any of them would be approved by the Supreme Court, which actually rejected them. But the gain was considerable, and the incentive is attractive even if they don't fulfill the legal requirements. Furthermore, if one major party proposes a consultation, the others will very likely follow with one of their own.

The political-electoral reform contemplates the possibility of a coalition government, when the president invites one or more political parties different from its own. This allows a wider support base in the Legislative, in exchange for coordinating public policies and positions in the Executive branch. It provides a formal basis for an agreement that could construct a working and enduring majority in Congress, something a single party has not been able to achieve since 1997, when the PRI lost simple majority in the Chamber of Deputies. If an agreement is reached, the Senate would ratify cabinet appointments. This widens the options if the president's party doesn't gain majority in Congress. The Executive can now choose between a minority government and intense legislative negotiation to have his proposals approved, or negotiating first a coalition that would assure legislative support, although by sharing the conformation of his government agenda. It provides an interesting and useful mechanism to improve governability.

The main criticism to this type of arrangements is the difficulty to achieve consistency in the design and implementation of the public agenda, and that

a cabinet composed by members of different political parties could compromise the unified command structure of the Executive.¹³ Although the agreement should specify the causes for its abandonment, it's hard to foresee its duration. The end of the coalition does not imply the fall of the government and a call for new elections as in a parliamentary system, but it can have a high political cost, hinder future cooperation, and disrupt the continuity of public policies.

The creation of coalition governments was put forward in similar terms during the negotiations for the 2012 political-electoral reform, by the then leader of the Senate, Manlio Fabio Beltrones of the PRI, supported by PAN and PRD. Nevertheless, Beltrones was a contender against then governor Peña Nieto for the PRI presidential candidacy, and its acceptance could have been viewed as an achievement for the senator.¹⁴ The governor's advocates in Congress refused to include the measure then, but it was proposed again by the PAN and PRD and included in the 2014 reform. The Pact for México was actually an attempt to construct a coalition among major political parties and the government, to provide some certainty and continuity to a very ambitious reform agenda. A provision to formalize such arrangements seemed appropriate.

CONCLUSIONS

The Pact for México was an interesting experiment, crafted with a pragmatic sense of opportunity, where every political actor involved was willing to give and take. The close negotiation among a compact group made possible an agreement, offering the government a chance to push for an ambitious reform program. It provided opposition party leaders and their groups with a tool to influence the public agenda, claim credit in some issues, but distance themselves from some others. After successfully confronting and taming discontent within their own organizations, they were able to effectively strengthen their position and party control, and deliver the legislative coal-

¹³ Shugart and Carey argue that legislative ratification of the cabinet is an effective parliamentary measure to improve governability, allowing participation of both branches in the conformation of government. On the other hand, Pasquino questions the unified functioning of "compound cabinets", although referring to semi-presidential regimes. See Shugart & Carey (1992, ch. 6) and Pasquino (2007).

¹⁴ Beltrones was later elected deputy and became leader of the PRI group in the 2012-2015 legislature.

tions needed to construct the majorities that made reforms possible. It can actually be viewed as a preview, of how a formal government coalition in the Mexican presidential regime could work.

The political-electoral reform was negotiated as a component of a larger agreement, which sought to also address social and economic issues, and thus arguably improving the overall quality of the Mexican democracy.¹⁵ The multiple level channels of exchange made possible the inclusion of some measures long discussed but discarded in previous reform attempts, such as reelection and coalition governments. It created a new institution, INE, which centralizes the organization and supervision of all federal and local elections, an immense and complex task.

The reform introduces figures that seem to facilitate the creation of legislative majorities, and thus favor governability. They include limbering electoral coalitions, a higher threshold, decision through popular consultation, and the possibility of formal coalition governments. Nevertheless, it also incorporates some that seek to assert representation. Reelection is supposed to make lawmakers more accountable and responsive to their constituencies, and less disciplined to political party structures. But electoral and congressional rules put a very high price on rebellion, and provide effective means for party predominance. Independent candidates, allegedly a voice for unsatisfied citizens, also have to fulfil tough requirements and overcome major obstacles to have a chance to be elected.

The permanence and extension to all state legislatures of the limit to overrepresentation diminishes the prospects for an outright majority by a single party, implying a clear recognition of a more plural political environment. However, the overall combination of these elements seems to lean toward generally improving governability, but they will have to be tried out and probably modified, or even abandoned along the way. The 2014 political-electoral reform was the result of an innovative negotiating arena and process in Mexican politics, and a further step in the country's democratic advancement.

¹⁵ The concept of quality of democracy and its components is discussed in Diamond & Morlino (Eds.). (2005).

As the theoretical framework indicated, non-established, semi-formal negotiation arrangements were critical for success. President Calderon's 2012 electoral reform was very limited, after following established institutional routes that led to strong positioning on issues and even confrontation. The new presidential administration and the leadership of major opposition political parties joined in an early negotiation process, which provided the government with legitimacy and momentum, and the party heads with control of their party structures and chances of advancing their own political careers. Multi-level negotiation made possible the energy reform, pushed mainly by PAN, a fiscal reform in terms sought by PRD, and telecommunications and education reforms supported by PRI. Components pursued by all parties were included and incorporated in a new electoral reform. Interests were identified and attended, major issues and concerns addressed, and relative leverage was exercised. The political system worked its way and was able to break an impasse through alternative channels, making policy reform possible.

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