

# Revista de Administración Pública

The logo of the Instituto Nacional de Administración Pública (INAP) is displayed in a bold, black, sans-serif font. It consists of the letters 'I', 'N', 'N', and 'P' in a stylized, blocky arrangement.

## Political reform and management efficiency

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The present article has the aim to deepen into scopes of the constitutional reforms into political- electoral matter, published at the beginning of February, 2014, from the political point of view as well as into its more general consequences for the public administration.

At first, it is fundamental to emphasize three elements that give it form and delineate the scopes of the reform: first, the reforms are a fruit of a wide agreement of the principal political forces; secondly, they are aimed at improving the electoral system; and thirdly, and maybe most important, they lay the foundations to improve the action of the government.

### **Genealogy and method: long-winded reforms and democratic dialogue**

The reforms passed in late 2013 and were published in February this year, are part of a long process of transformation that started in the mid-seventies of the last century.

If anything characterizes us as a society, is a continuous movement of openness and democratization. This long transition process slowly, but steadily for more than three decades, has enabled us to arrive at the current conditions of our institutional political order. Today, we have one electoral system and competitive and plural parties, and government responsibilities are divided among a variety of policy options. We also have autonomous bodies responsible for organizing the elections, creating certainty, fairness and transparency in the electoral process.

The route to the current state of affairs has not been linear. In a brief account of journey, it is possible to estimate how were adding new elements according to were attended the worries that in every moment presented the social forces that were aspiring to become into political forms.

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For example, the reform of 1977 put emphasis in recognizing, promoting and protecting the political plurality from an incipient system of parties. From the reform of 1990 derives the design of electoral system today governs us in terms of the procedures and the electoral institutions. In 1996, relevant year in this journey the attention was put in the system of financing of the political parties to grant equity to the competition, beside having given origin to the IFE, fully civil, and to the qualification of the elections on the part of the Judicial Power.

The reforms of the year 2007 and 2012 the model of political communication was completely re-designed and the civil right to take part in the integration of the popular representation was regulated, without having to do it through a party or independent candidacies. They were, among others, important adjustments tending to reconstruct the conditions of equity in the contest, and open new channels for the country's political life.

Recent constitutional reforms are part of a long process that has almost thirty years and at its various stages has always set the goal of improving the State as a whole.

This has been the genealogy of the reforms. From this, we have also inherited her democratic method. Process of political and institutional transformation has been reported as an engine the demands of the political forces and, as a mechanism for its implementation, the dialogue in an increasingly plural congress.

We do not lose sight that this dialogue has had strident moments after contested elections, whose results have been questioned by any of the candidates who failed to win in the elections, particularly the presidential ones. We must also recognize that the contestants have always managed to find and to privilege institutional channels.

### **Pact for Mexico. The citizens' dissatisfaction and response of political forces**

Assuring that the political system has been democratized does not obstruct recognizing that Mexicans have expressed a growing distrust in the policy—politicians—, political parties and electoral processes. Though forms of access to power were already a decided issue, the main problem was in the way it was exercised.

With major or minor reason, and also as result of electoral strategies based in discrediting the adversaries and the institutions; the certain thing is that in every point of the journey towards the reforms, to which we have referred, there has been present the intention of giving confidence to a citizenship increasingly demanding.

The constitutional reforms published in February of this year are not the exception. These reforms consider the demands done by the political parties to revise the conditions of the electoral contest, and it processes the dissatisfaction of the average citizen to offer him answers. On one hand, revise electoral and the parties system and, for the other one, improve the exercise of government.

The difference of the recent constitutional reform, with regard to the previous ones, is the general frame in which they are placed. For the first time in our history one comes out the immediacy of electoral topic and makes of the good policy, of the dialog and of the agreements' construction the mechanism to construct a route of transformations for Mexico, for a long time postponed.

The Pact for Mexico is based on dialogue, which has been the essence of Mexico's democratic transition. On December 2012, the main political parties and the Government of the Republic signed this agreement, which required, first, a vote of confidence among the parties and a great sense of maturity and responsibility to find a common agenda for the benefit of Mexicans, and second, an intense political work of the Legislative body to give legal substance to the political agreements identified at the Pact.

It is worth making two observations: first, that the reform agenda contained in the Pact for Mexico was not limited to the strictly political and electoral issues, in other words, the political and electoral matters was a subject of the Pact for Mexico, but by no means "The Topic" of the Pact. So before thinking about themselves, the parties and their leaderships agreed, first, to build solutions to the problems that were more worrying to the people.

The second point is that electoral political reforms were realized overcoming a stage of disagreements, when the issue of local elections last year questioned the viability of the agreements reached.

Rapidly an exit was constructed in a joint way from the vision of which in our democracy it is possible, legitimately, to cooperate and to agree, to confront and to compete in a simultaneous way.

The so-called Pact for Mexico's Addendum<sup>1</sup> quickened his pace to advance in the transformative reforms, while we review the rules of our democracy.

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<sup>1</sup> In the frame of the local elections of 2013 a Pact for Mexico's Addendum was signed, which included, as agreement, the installation to the briefness of a committee integrated by the representatives of its Governing Council and of the Parliamentary Groups of both Chambers, in order to integrate an Initiative of Political and Electoral Reform to being presented in the Congress, among other points.

## **The Pact for Mexico and the Agreements for Democratic Governance**

The need for a new political-electoral reform was based on an assessment of the strengths and weaknesses of our electoral and party system, which was included in the last section of the agenda set in the Pact for Mexico: are the Agreements for the democratic governance that have as starting point:

“The country’ political plurality is an undeniable reality, derived from a long process and unfinished democratic transition. This diversity shows that any political force can govern alone, so it is essential to reach agreements through dialogue and institutional negotiations for all political forces take co-responsibility of leading the country and its problems. It is necessary promote reforms in order to make the political system more functional to give governance to the country, expanding and improving its democratic system”.<sup>2</sup>

So expressed as desirable image, as a policy goal, Agreements for democratic governance took shape and reality in the legislative process.

On May 23 committees were installed with representatives of the three main political parties of the country, their parliamentary groups and the Government of the Republic, who accompanied them during the construction of agreements.

The Senate of the Republic was the Chamber of origin of the Political-electoral Reform. During its elaboration there were analyzed 38 bills,<sup>3</sup> which were analyzed by both Chambers of the Congress during December.<sup>4</sup>

On January 22, 2014, the Congress, through its Permanent Commission, emitted the declaration of constitutionality of the political-electoral reform, which was promulgated by the President of the Republic on January 31, 2014 and published in the Official Diary of the Federation on February 10.<sup>5</sup>

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<sup>2</sup> Pact for Mexico published on December 2, 2012.

<sup>3</sup> The initiatives analyzed were submitted between 27 October 2009 and 28 November 2013.

<sup>4</sup> The Opinion was discussed in the Senate on December 3, 2013 and was sent in the same date to the Deputies’ Chamber, which, in its capacity as revising body, approved it with modifications on December 5, 2013 and returned it to the chamber of origin. The Senate of the Republic approved the opinion and sent it to the local congresses on December 13, 2013.

<sup>5</sup> The reform obtained 18 approbatory votes of the Congresses of Baja California, Baja California Sur, Colima, Coahuila, Durango, Guanajuato, Jalisco, México, Morelos, Nayarit, Nuevo León, Puebla, Querétaro, San Luis Potosí, Sinaloa, Tamaulipas, Tlaxcala and Zacatecas.

With the reform enacted and the work required for its implementation, Mexico will have new institutional mechanisms to facilitate agreements that the country needs: the electoral system will be more dynamic and transparent, our political and democratic system is updated to consolidate above all things, respect for the vote, the right of the citizen to be elected and the ability to assess people's representatives.

Beyond improving the conditions of equity in the contests, the reform means a transformation, that not only attends to the rules of access to the power, but to the forms with which the power is exercised. Let's revise these transformations.

### **Main elements of the reform, its meaning and implications**

The reform includes a set of measures of diverse nature and depth for what it suits to group them in order to offer an interpretation on its political meaning and its administrative and government implications.

#### **1. Implications in the regime of government. Division of Powers and cooperation among powers**

This reform gives constitutional response to the structural phenomenon of divided governments. To contend with this type of distribution of the power that the citizens have made from 1997, the reform places incentives that favor the cooperation among powers and actors, beyond individual wills, to reach shared solutions to collective problems.

In that sense, our presidential political system, which had not been changed since the Constitution of 1917, today opens itself to regulate the possibility of coalition governments. The reform includes a new figure that encourages responsibility between the legislative and executive powers, which encourages dialogue and harmony.

The use of this figure will be optional for the President and, through it, at any time, he can build a political agreement with one or more parties represented in Congress, through a covenant and a government program approved by the majority of the members present in the Senate. This partnership is not subject to long-term, since the causes of dissolution shall be as stated in the agreement itself.

When this figure was chosen, the Senate of the Republic will ratify the appointments of all the secretaries of State, with exception of those of the National Defense and Marine. If the responsible of the Federal Executive was not chosen for a coalition government, the appointment of the

Secretary of Foreign Relations will have to be ratified for the Senate of the Republic and that of Finance and Public Credit for the Deputies' Chamber.<sup>6</sup> The adoption of this measure promotes a relation more balanced among powers and breaks paradigms to consolidate an Executive Power enclosing and a more dynamic Legislative Power and with major co-responsibility.

Another measure that impacts the relationship between powers is the reform of democratic planning system, so from 2018, the Deputies' Chamber will have the power to approve the National Development Plan and the Senate the National Public Safety Strategy.

## **2. Institutional redesign**

With the reform there is an advance towards a design of government and co-responsibility balances. In this sense, it is oriented to the transformation of the Attorney General's Office (PGR) and the National Council for the Evaluation of Social Development Policy (CONEVAL), which will have new powers to take us to develop a social policy of the State.

Replacing the PGR by the Fiscalía General de la República, involves the creation of an autonomous public body with legal personality and own patrimony. With such features, this institution will be able to deploy a more effective policy of justice and deepen into the professionalization of public servants who integrate it.

For the designation of Fiscal General de la República, the Senate will integrate a list of 10 candidates passed for qualified majority, which will send to the Federal Executive so that this one integrates a short list, of which the Senate will make the corresponding appointment. The head of the Fiscalía may be removed only by the Federal Executive by serious reasons stipulated by Law, but such removal will be able to be objected by the majority of the Senate's members.

The Fiscalía will have at least two specialized prosecutors: one for electoral offenses and other to combat corruption, the persons in charge will be designated and removed by the Fiscalía director, the Senate will be able to object such appointments and removals. Finally, has been established the obligation of the Fiscalía director to produce annual reports on his activities to the Congress and to the Executive.

The reform also gives autonomy to the CONEVAL to assure the impartiality in the fulfillment of its functions. This body will take as an object, the measurement of the poverty and evaluation of the programs, goals and actions of social development policy guaranteeing transparency, objectivity and technical rigor.

<sup>6</sup> This reform will take effect on December 1, 2018.

Its governing body shall be composed of a chairman and six members appointed by the Deputies' Chamber.<sup>7</sup> The Counselor President shall have the obligation to submit annual reports of activities to the powers of the Union.

Also in the item of institutional redesign, there is created the National Electoral Institute (INE) that, from the establishment of general criteria and the distribution of competences with the local institutes, will have to guarantee the quality of the elections in the whole country. Of course, this modification is orientated to increase the confidence in the electoral processes and the legitimacy of the organs of representation that stem from them.

### **3. Review and update of the procedures and electoral rules**

In electoral matter, besides the transformation of the IFE in INE, the reform defines rules for a new national system of parties and elections. The INE preserves powers of the current IFE and, in addition, assumes others that strengthen its participation in the organization of local elections and its relation with the electoral state organisms.

The General Council of the INE, consisting of a Councilor President and 10 executive councilors, will have the power to develop directly the activities of the electoral function corresponding to the local electoral bodies, or delegate to them powers as the control of the political parties.

Moreover, Congress is empowered to issue general laws that distribute powers between the Federation and the states on political parties, elections and electoral bodies, according to the bases provided in the Constitution.

Requirements are available to achieve and maintain registration as a political party,<sup>8</sup> and the minimum which shall cover its basic documents, ensuring gender parity in candidacies and recognizes the right of independent candidates to accede to public funding and have spaces in radio and television, to compete on equal conditions that the political parties.

New regulations are established for the financing and inspection of the parties, which will be obliged subjects of the Federal Law of Transparency and Access to the Public Information.

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<sup>7</sup> The President of the Republic may object the above mentioned appointments; the counselors will last 4 years in charge and the president 5, who only will be able to be removed in the terms of the Title IV of the Constitution.

<sup>8</sup> Increases of 2-3% the minimum required in order to maintain the registration of a political party and so it can participate in the distribution of seats and proportional representation seats.

The electoral campaigns will be more purposeful, with more debates and fewer spots and the promotional articles only will be elaborated by textile material.

There will be new regime of coalitions, election polls regulation, frivolous allegations will be sanctioned and new causes for invalidity are established.

#### **4. Re-election and other reform provisions**

Another transformation in our political system, product of this reform, is the possibility of reelection in some charges of popular election. The federal deputies will be electing up to in four consecutive periods, that is to say, one election and three re-elections. Senators only will be re-electing in two periods, that is to say, only one re-election. The re-election will proceed when the postulation comes from the same party by which the charge was obtained, unless there has been a waiver of membership before midterm.<sup>9</sup>

As for the re-election of local deputies, provides that state constitutions can establish up to four consecutive terms, i.e., one election and three re-elections. The conditions for the validity of the election are the same for federal legislators.

Regarding the members' reelection of the local councils, the Local Congresses will have the power to establish it in the local constitutions for the charges of municipal president, alderman or syndic, for an additional period; provided that their periods of municipal government do not exceed three years. Also, in this case rules of origin defined for the federal legislators are applied.

It is important to emphasize that the reform also introduces a change in the date of the take of possession of the President of the Republic,<sup>10</sup> foresees three new reasons of nullity of federal and local elections<sup>11</sup> and indicates limits to the overrepresentation in the integration of local Legislatures<sup>12</sup>

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<sup>9</sup> The consecutive reelection of federal deputies and senators will come into force until 2018.

<sup>10</sup> The Federal Executive will take up possession on October 1 of the year of the election. The reform shall enter into force until 1 December 2018, whereby the presidential period from 2018 and 2024 will begin on 1 December 2018 and ending on September 30, 2024.

<sup>11</sup> The three causes are: exceed by more than 5% of the top authorized campaign expenses; illegally buy coverage on radio or television, receiving or using illegal resources or public resources.

<sup>12</sup> No party will be able to have a number of local deputies that represents a percentage of integration of the Legislature higher in 8 % to its percentage of voting in the corresponding election.



As can see it, it is a set of major reforms. Not only the regulation of political contest is reviewed, institutions are also modernized, but above all, best parameters for the exercise of power are established. There are best rules for citizens, greater obligations to the rulers. That's the formula. At the end, this new wave of reforms, again, accountability must be extended; we must extend the rights of Mexicans.

### **Final comments**

Reforms move from a conception of democracy that is limited to the forms of access to exercise power, to one that also understands the ways in which power is exercised.

The constitutional reform in political and electoral matters is a deep change to the rules, procedures and institutions of our system, which will strengthen the development of our democracy.

As discussed in this article, the reform responds to social demands of the immediate past by having more transparent, more competitive and less expensive elections, while laying the foundation for better governance that will lead to tangible results for citizens.

This reform belong everybody, because it was approved by deputies and senators of the five major national political parties and by most state legislatures. Hence the breath that gives it solid legality.

The constitutional reform forces to the elaboration and to the reform of diverse laws, as well as to the appointment of new authorities, where we must look what more is convenient for the country's democracy.

Our political history demonstrates that there are no definitive reforms and that the development of our democracy is a permanent task. So, we will continue constructing the scaffolding that Mexico needs to have a democracy increasingly solid and mature.

Our commitment will do listening, discussing and agreeing with all actors of society, because as has been shown, it is not only possible, it is the best way to transform Mexico.