

Constitutional electoral reform in Mexico: a paradigm shift

I. BACKGROUND

On April 28, 2022, the Federal Executive filed an initiative to reform various articles of the Mexican Constitution on electoral matters (the "Initiative").

The main points of the Initiative, which is pending for discussion and possible approval by the Congress and the State Legislatures, will be addressed herein.

II. REFORM

The Initiative aims to reform the following articles of the Constitution: 35, 41, 51, 52, 53, 54, 55, 56, 60, 63, 73, 99, 105, 110, 111, 115 and 122; this is a substantial electoral reform, that seeks to establish a new paradigm.

The main purposes of said constitutional reform, according to the Initiative, are the following:

1. Provide the country with an Electoral System that offers security, respect for voting, honesty and legality.
2. Elect upright administrative and jurisdictional authorities and to maintain them aside from power struggles.
3. Guarantee political freedom for all citizens, without censorship.
4. Establish a national sphere in which independent parties and candidates have guarantees allowing for their free participation in the struggle for political power.
5. Create a single national electoral mechanism with single electoral and jurisdictional institutions, under the principle of republican austerity.
6. Elect by secret, direct and universal vote the highest electoral, administrative and jurisdictional authorities, by postulation of candidacies by the branches of the State.

7. Elect the members of both chambers of the Congress of the Union by means of voting in each of the Federal Entities, using the method of lists postulated by the political parties and independent candidacies.
8. Eliminate 200 federal deputies and 32 senators, to leave the number of the former at 300 and the number of the latter at 98.
9. To establish that, the states and municipalities, congresses and city councils will be governed by the same principle of postulated lists in a single demarcation that covers the entire territory of the respective state and municipality.
10. Limit the public financing of political parties to campaign expenses, and regulate the contributions of people to them and their use.

III. COMMENTS

- Every electoral system can be perfected, however, if it works well in general, there is no point in a paradigm shift that would bring down an independent system that has an impartial arbiter of the elections, the result of years of democratic struggle. In other words, the country already has an electoral system whose proper functioning has been demonstrated, as, for example, in the last presidential election of 2018.
- The system already has honest administrative and jurisdictional authorities. In the event that there were irregularities, there are already legal means to amend them and to establish responsibilities, as applicable.
- In electoral matters, citizens by law have already guaranteed their political freedom, without censorship. In cases where, by law, a citizen is prevented from being voted, then the electoral authority has the obligation to uphold the law, without this implying any censorship.
- Parties already have freedom to participate in struggles for political power on a national level, in accordance with the law.
- The creation of a single national electoral mechanism with single electoral and jurisdictional institutions, under the principle of republican austerity, is not recommended since it would entail going against proven international trends. Also, it would entail a more onerous and complex centralization of the electoral matter and will violate basic federal principles. The current electoral system of shared competences between the central electoral authority and those of the states works well, thus, there is no reason to experiment with a centralizing one.
- Choosing the electoral arbitrators, both administrative and jurisdictional, through the vote of the citizens, is not advisable since said arbitrators must be highly

knowledgeable persons of the very complex and vast electoral matter. These are not political positions but technical ones. Therefore, this appointment should not be subject to the vagaries of partisan political struggles, and especially of those who hold power.

- There are, without a doubt, aspects of the current electoral system that can be improved, such as the reduction of part of the public financing of the parties, and the implementation of electronic voting. However, the aforementioned aspects do not require a radical change of electoral paradigm.
- It is paradoxical though that this Initiative was proposed by the federal government, winner at the polls, and not by the opposition.
- Changing the regulations on official propaganda to allow the authority to disseminate activities related to public services is not democratic, since it puts the contenders who aspire to the positions and belong to the opposing parties at a clear and unfair disadvantage.
- The system of electing members of Congress through lists must be analyzed with extreme care in order to fully understand its underlying purpose, given the political circumstances of the country, and to prevent minorities from being affected.

IV. CONCLUSION

By virtue of the aforementioned, we consider that said Initiative, which entails a new electoral paradigm, is neither necessary nor convenient since the current electoral system generally works well, and that the majority of the proposed reforms would not improve it.

We hope this Initiative to be discussed extensively in all sectors for the good of the nation.

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