MEXICO

Oscar ECHENIQUE QUINTANA[1]
Nadja Dorothea RUÍZ EULER[2]
Ricardo CARRASCO VARONA[3]

I. OVERVIEW

The Mexican federal system was born between 1823 and 1824, a few years after Mexico achieved its independence from Spain (1821). The first Mexican constitution, enacted in 1824, established the principle of the Mexican nation's supremacy, thus rejecting the supremacy of the component states.

In general outline, the form of federalism chosen was inspired by the American model. Mexican reality, however, was profoundly different from the conditions prevailing in the model country. While the United States of America's federal system was designed in light of the underlying social reality, federalism in Mexico was by and large a political ideal. In reality, Mexico, as a self-governing country, was born with a heritage of profound centralism (derived from the colonial Spanish government) whose effects can be felt even today.

Mexican history in the nineteenth century reflects the tension between centralism and federalism. It was marked by the struggle between two groups: conservatives and liberals. The former pioneered a centralized political regime, while the latter fought for the legal changes necessary to build a real federal structure. As a result of this struggle, Mexico experienced a variety of constitutional regimes which were based on both conservative and liberal views.

The early twentieth century was marked by the revolutionary movement, the outcome of which resulted in the adoption of the current Mexican political system. In 1917, a new Mexican constitution was enacted. It was based on a traditional model of a federal state, which included separation of powers and (limited) sovereignty for its component states. These states are endowed with some exclusive powers that, in principle, neither the federal authorities nor other component states can encroach upon. Furthermore, local constitutions and authorities shall respect the principle of separation of powers established in the federal constitution. A special regime exists in the Mexican Federal District (currently, Mexico City) which is the seat of the federal government.

Mexico´s twentieth century was characterized by a strong presidential system and overall control by one political party. It was only during the last quarter of the century that power became more diversified and the long-awaited federalism became a serious political option. The crucial moment in this development was the defeat of the predominant political party in the presidential elections in 2000. From this moment onwards, political and economic processes have gradually brought Mexico closer to a real federal system.

---

[1] Mexican lawyer. Graduated from the International Tax LLM of the University of Michigan Law School, 2009. Currently works for the Mexican Revenue Service.
[2] Mexican lawyer. Graduated from the *Instituto Tecnológico Autónomo de México* (*ITAM*). Currently works for the Mexican Revenue Service.
[3] Mexican lawyer. Graduated from the *Escuela Libre de Derecho*. Currently works for the Mexican Revenue Service.
The authors gratefully acknowledge the assistance of lawyer Eugenio Grageda Núñez.

II. THE FEDERAL DISTRIBUTION AND EXERCISE OF LAWMAKING POWER

1. *Central and State Legislative Powers*

Besides the federal Mexican Constitution, each of the component states[4] has, as a (limited) sovereign, its own constitution. Based upon a *federal agreement* made in 1824, the constitution of the component states shall not infringe the substance of the federal Constitution.

The federal constitution allocates the legislative power to either the central government or to the component states. This is achieved by vesting the component states with general and residual legislative power and then assigning specific legislative powers to the central government. In other words, the component states' legislative competence is limited only by the legislative power allocated to the federal level. Note that the opposite is true, however, with regard to Mexico City, i.e., the Federal District: here the residual power is given to the center and local authorities have only the competences expressly assigned to them.

The central government has the power to legislate in the matters specifically provided in Article 73 of the federal constitution. This enumerative approach is then somewhat modified by the last subsection of the article that provides for implied powers of the central government, opening up a potentially wide area for federal legislation.

The main areas exclusively reserved to the central government include the macroeconomic policy; currency; national debt; taxation of customs, oil, natural resources, financial institutions, electric energy, tobacco, and alcoholic beverages; foreign and interior policy; military defense; resolution of disputes among component states; labor; financial services; citizenship; communication; and national security.

There are certain subjects on which the central government has the power to issue general regulations distributing competences among its own jurisdiction, the component states, and the municipalities (e.g., in the fields of education, health, and the environment); the states may then legislate within the established federal framework. From a practical point of view, the most important areas of central government regulation are banking, financial law, commercial law (including the law of contracts which is thus uniform throughout Mexico), competition, and labor law.

The federal constitution allows both the federal and state levels to legislate in most of the remaining areas of law as long as they stay within their respective jurisdiction. For example, there are core areas of private law (including property, family, inheritance, torts) and criminal law, as well as procedure, in which both levels have their own legislation.

The federal constitution also establishes some guidelines that components states must follow with regard to their form of government, i.e., the basic structure of their executive, judicial and legislative branches. In addition, the federal constitution specifies certain matters of law in which local legislation is expressly forbidden, or at least confined to narrow limits, e.g., alliances with other states or countries, currency, taxation on the export and import of goods, or the printing of money.

It is also worth mentioning that federal legislation is not always passed by the same actors. As a rule, a federal statute must be passed by both houses of the Central Congress. Some legislation, however, can be

[4] As mentioned above, the Mexican federal system includes a Federal District (Mexico City) where the central government has its principal residence. This District, however, does not have its own constitution since it is governed by a local statute. Nevertheless, the local government has been promoting a local constitution in order to turn the Federal District into a component state. Despite this fact, every reference hereinafter to the component states includes the Federal District, except as otherwise indicated.

made only by one of the houses. For example, the House of Representatives alone approves the Federal Expense Government Budget, and the Senate alone approves international treaties signed by the President.

2. *Principles Relating to the Interaction between the Central and State Legal Systems*

It is important to highlight that there is no specific hierarchy rule between state and federal law. The Mexican Supreme Court jurisprudence has corroborated this principle. Thus, potential conflicts between state and federal legislation shall be primarily resolved according to the respective competences. If one level invades the sphere reserved to the other, i.e., where federal legislation intrudes upon matters reserved to the states or vice-versa, the conflict is solved by the Supreme Court by way of special constitutional procedures.[5] Normally, federal and state law should thus not be applicable to the same situation. Where this is nonetheless the (exceptional) case, central law will prevail under the notion of federal supremacy. This can have a top-down unifying effect as will be explained in the next section.

Below the component states there is a third level of government: the "municipalities". They are the component states' territorial and administrative divisions and constitute a particular form of power decentralization. Furthermore, they can be conceived as *sui generis* entities because they have some statutory freedom but are also linked to the state to which they belong by strong and permanent ties.

Municipalities have legal personality and their own patrimony. They are exclusively in charge of certain services and functions and are also allowed to form associations with other municipalities. The highest level of governance of these entities it is a group of representatives headed by a municipal president. The municipal representatives have to approve administrative provisions regarding all the matters within the municipalities' jurisdiction.

Municipalities were introduced in the constitution of 1917 in order to strengthen federalism by returning some competences, previously absorbed by the central government, to the local level. Yet, despite the allocation of some powers to the municipalities, the central power of the states has prevented the development of real municipal independence.

III. THE MEANS AND METHODS OF LEGAL UNIFICATION

1. *Legal Unification or Harmonization through the Exercise of Central Power* (*Top Down*)

Article 133 of the federal Constitution establishes the supremacy principle according to which all authorities at all government levels must observe the commands of that document. This means that the contents of laws made and applied by each government entity are roughly alike or at least not irreconcilable. In addition, the general supremacy of the federal Constitution has had the effect that, in practice, states have generally followed federal law. As a result, component states thus follow central federal law in two ways: they are required to comply with federal constitutional provisions, and they often voluntarily mimic the general model of federal law (both in constitutional and statutory matters). Indeed, frequently, local rules are merely copies of provisions enacted by the Central Congress. This is true for most of private and criminal law as well as for both civil and criminal procedure.

[5] For example, conflicts pertaining to election law are decided by a specialized federal court.

There is, however, no complete legal unification regarding matters that fall under the residual powers clause established in article 124[6] of the federal constitution, i.e., in areas that are reserved exclusively to the component states because they are not assigned to the federal government.

When it comes to the judiciary, it is noteworthy that in Mexico, the interpretation of law, both at the constitutional and the legislative level, strongly contributes to its legal harmonization. In particular, the federal constitution provides the judicial branch with various mechanisms to enforce constitutional provisions. The most important of these mechanisms is the *amparo* procedure. It allows the judicial branch to control the uniformity of the national law by deciding whether a federal or local provision infringes the federal Constitution. Given the importance of this procedure, its basic features and contributions to legal unification will be explained in greater detail below.[7]

Another fairly common "top-down" harmonization mechanism is the negotiation of agreements between the federal government and the states about the allocation of certain administrative duties. These agreements are commonly promoted by the executive branch with the goal to define the distribution of resources and to determine areas of competence. Most of these agreements are related to economic development, public security, health and education.

In addition, the three federal branches of government, i.e., the legislature, the executive, and the courts, are constantly sponsoring and promoting conventions, meetings, and publications related to the harmonization of national law. Local authorities, academic institutions from the whole country, and private sector organizations frequently participate in these efforts which thus provide a national platform for action.

These efforts are remarkable against the background of the traditional predominance of the executive in Mexico, which lasted from the beginning of the twentieth century until the 1990s. In its heyday, this predominance itself ensured considerable unification of law since the legislature, the judiciary, and the member state authorities could rarely decide against the position and will of the executive. Over the last two decades, this situation has gradually changed. The other branches of the federal government as well as the member states have increasingly claimed their share in decision making and exercised their legal powers more freely. This spelled the end of the traditional authoritarian ways of legal unification that had prevailed for so many decades. The current path can thus be described as a gradual and moderate decentralization process, driven by the enactment of general (central) laws distributing institutional powers more widely among the federal authorities, state units, and even municipalities.

Overall, Mexican federalism is marked by considerable complexities and even contradictions. Witness, for example, that legislation on commerce is an exclusive power of the Central Congress but that controversies about commercial issues can nonetheless be brought before local authorities.

2. *Legal Unification through Formal or Informal Voluntary Coordination among the Component States* (*Bottom Up*)

Due to compliance with the central constitution and to a *de facto* weakly developed federalism, local legislatures commonly follow federal law when enacting state statutes.

[6] The "residual powers clause" established in article 124 of the federal constitution is similar to the 10th amendment to the United States of America Constitution, which sets forth the following: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people."
[7] See below section IV. Institutional and Social Background, 1. The Judicial Branch.

On the judicial side, the supremacy of federal law - especially that of the constitution - expressly forces the local courts to keep their decisions within constitutional parameters. Likewise, decisions must also be in accordance with international treaties signed by the federal executive and any implementing legislation enacted by the Central Congress. Among the local courts, significant efforts have been made to build institutional frameworks for gathering and sharing experiences and for pursuing joint projects of nationwide scope. For example, the states´ supreme courts have created the National Commission of Supreme Courts of the United Mexican States (CONATRIB). The Commission meets periodically in order to share ideas with the goal of improving the effective administration of justice. This Commission has pursued several projects pertaining to legal unification, such as the draft Model Criminal Procedural Code published in 2008.

The executive branches of the component states also play a role in the discussion of federal concerns and the relations between federal and the local policies. A noteworthy institution is the National Confederation of Governors (CONAGO), which was created in 2002. While its proposals of course do not bind federal authorities, local executives participating in the Confederation have been leading an important struggle to maintain the balance between powers on the federal and the state levels.

3. *Legal Unification Promoted by Other State and Non-State Actors*

Even though Mexico has traditionally been a clear case of top-down unification, today state and non-state local actors play a more significant role than in the past. Final outcomes of legislative disputes thus increasingly betray the influence of these actors.

In Mexico, there is nothing similar to the United States' "Restatements", a notion rather alien to the legislation-centered civil law tradition. Non-state actors do play an occasional role, however. For example, it is rather common in Mexico to publish law reform proposals issued by academic institutions and non-profit organizations. In addition, many private organizations promote legal standards and thus push for harmonization. For example, chambers of commerce, industries, or bankers constantly develop harmonization proposals for lobbying purposes. There are also various privately organized entities whose members belong to the local judiciary or the local administrative courts. Members of these organizations meet in order to promote the unification of criteria for judicial dispute resolution. An example is the Mexican Association of Judges (*Asociación Mexicana de Impartidores de Justicia),* a private organization whose members are judges representing courts in charge of law enforcement at both the central and local levels.

In addition, Mexican law – both federal and state – often generally follows models provided by international organizations. Examples include model rules generated by the Organization for Economic Co-operation and Development (OECD) and the Organization of American States (OAS), among others. These models concern areas such as international commerce, taxation, and arbitration.

4. *The Role of Legal Education and Training in the Unification of Law*

Generally speaking, the legal education that students receive at any institution in the country covers a combination of federal and local law. The common approach is that students learn federal law and the law of the component state where the institution is located. The resulting knowledge is thus a mixture of central and state law.

Yet, legal education particularly emphasizes the study of federal law and of the law of the Federal District. Moreover, where scholars discuss codified private law, they mostly refer to the Civil Code

enacted in 2000 and applicable in the Federal District, particularly since it is highly similar to the Federal Civil Code.[8]

There is no bar admission requirement in order to practice law in Mexico.[9] When an accredited law faculty has granted a student a law degree, the Ministry of Education issues a professional license. This is done simply on the basis of an application and requires no additional examination.

While there is no bar admission requirement, Mexico has several bar associations with voluntary membership. For example, the *Barra Mexicana Colegio de Abogados* and the *Ilustre y Nacional Colegio de Abogados de México* are important associations working as forums for the discussion of legal matters with other professionals and in an academic environment. Since these associations also exist in the component states, they serve as platforms for the encounter between groups from throughout the country, on the national as well as local level.[10]

Continuing legal education is currently a major concern of both government and private institutions. Government officials can find many educational programs sponsored by the institution they work for. In some contexts, especially in the judicial branch, enrolling in continuing education programs is required for appointment to certain positions.

Postgraduate programs play an important role in legal unification because many of them operate on a national basis. Frequently, students from all over the country gather in these educational contexts and thus receive instruction in the same material. Sometimes, this type of continuing education fosters the promotion of harmonization or unification of particular areas of law.

5. *The Influence of International Law*

In Mexico, the effects of both public and private international law significantly promote a high level of harmonization. Mexico has always been noted for accepting and complying with international obligations. There is also a broad tendency to resort to principles contained in international treaties, and some recent Supreme Court decisions regarding the supremacy of treaties over federal and state law have entailed a high level of national harmonization in matters regulated by international instruments. Examples include the Mexican membership in NAFTA as well as various treaties in civil and commercial matters, such as on child adoption, marriages, commercial arbitration, and commodities sales agreements.[11]

A very representative example can be found in the field of taxation. Mexico has frequently made tax treaties with foreign countries based on the Model Tax Convention on Income and on Capital issued by the OECD. Therefore, international tax matters, particularly the rules applicable to foreign taxpayers, have become increasingly unified in the last few years.

[8] Mexico has a Federal Civil Code (applicable to all areas subject to federal law) as well as civil codes on the local level, i.e., for the federal district and each of the member states; yet, due to the model function of the Federal Code, they are all highly similar.
[9] Nonetheless, the Federal Judicial Power has been studying the matter and has come to the conclusion that it is necessary to establish a mandatory bar admission requirement in Mexico. The latter is part of a comprehensive and coherent reform regarding the Mexican justice system.
[10] In Mexico, joining the professional world generally begins before a student's graduation, e.g., by working part-time in a law firm. Mexican law students thus acquire practical experience at an early stage of their careers. It is also more common first to join law firms, companies, or government offices rather than to establish one's own practice right at the outset.
[11] Mexico is also a member of the Vienna Convention on the Law of Treaties of 1969 (in force 1980).

IV. INSTITUTIONAL AND SOCIAL BACKGROUND

1. *The Judicial Branch*

In Mexico, the judicial branch acts as a standardizing agent, so to speak. This is because through its decisions (jurisprudence), it clarifies and establishes the meaning of the law. This is done with the objective of examining if the law is in conformity with the federal constitution, which is the supreme law of the nation.

Constitutional scrutiny is carried out through a special procedure known as *amparo*. In one very general sense, it constitutes a judicial review process as it is understood in many constitutional regimes around the world. Yet, having evolved from special circumstances, the *amparo* procedure is also marked by particular features that make it unique.

At the outset, the *Miguel Vega* case (1869) – roughly the Mexican equivalent of *Marbury vs. Madison* in the United States of America – created a groundbreaking precedent: it established that the federal constitution is above any other law or legal regulation and that the judiciary is the only branch entitled to decide whether any specific provision or any government decision is in accordance with the meaning of the federal constitution. This precedent and principle became the basis for the *amparo*.

Generally speaking, the *amparo* procedure's objective is to protect any person against infringements of constitutional rights by government authorities. It is regulated by a special code (*Ley de Amparo*), administrative provisions issued by the Supreme Court, and the jurisprudence of the judiciary.

In principle, any person (individuals or companies) may bring an *amparo* action, claiming that an authority has infringed his constitutional rights. Among the main claims that can be brought by means of the *amparo* are violations of personal freedom (a *habeas corpus* approach), and the unconstitutionality of a law in general (*judicial review* function) or of an administrative or judicial decision in particular cases (review of executive or judicial acts).

On the whole, the Mexican *amparo* is a complex institution which can be employed for a variety of purposes through roughly the same rules, as long as the infringement of constitutional rights is at stake, including human rights provided in international instruments.[12]

The action is presented before a federal *amparo* court. In some circumstances, the case goes to a court higher in the federal hierarchy. The Supreme Court receives appeals only when the case is considered innovative or particularly relevant to the judicial, political or social circumstances of the country.

One of the most debated and analyzed aspects of the *amparo* is the scope of its binding effect, i.e., the question of who benefits from an *amparo* decision. In principle, the decision of the court has merely a "relative effect", i.e., it works only *inter-partes*. It thus benefits only the party that brought the case to the court. The holding does not bind other courts, which may therefore issue contrary decisions in other cases. This explains why, in practice, the same legal provision or decision may be enforceable against one individual (or company) but not against another (i.e., the one who brought an *amparo* action and won the case).

[12] As a result of a major reform of the Constitution enacted on June 6, 2011 and in force 120 days after its publication in the Federal Gazette. In this regard, the *amparo* law shall be modified.

This changes, however, once there is an established "jurisprudence". A decision becomes "jurisprudence" when its argument has been sustained at least five times in different cases, i.e., when at least five cases have been decided under the same rationale.

A decision can also be deemed "jurisprudence" when the Supreme Court decides a conflict between contradictory lower federal *amparo* court decisions and thus adopts one holding over others. In such a case, it is not necessary to wait for five decisions confirming the same rationale. The effect of becoming "jurisprudence" is that the rationale binds lower courts in the hierarchy when deciding similar cases; it thus becomes a more general rule which also no longer refers to the real parties and facts of the original case.

The normal lack of *erga omnes* effects notwithstanding, the *amparo* procedure functions as a powerful means of legal unification for a combination of reasons: 1) it can be raised in practically any case involving a claim of constitutional rights infringement; and 2) it is widely used by both individuals and companies in order to attack an allegedly unconstitutional decision of state authorities, so that 3) the meaning of the federal Constitution is constantly examined and enforced by the judicial branch. This exerts unrelenting pressure on all branches of government at all levels to act within the limits of the Constitution. According to recent changes to the Constitution,[13] however, decisions will have *erga omnes* effect when certain requirements are met. Tax legislation was not included for the latter purposes.

It has been argued that the resultant unification of law exceeds the competence of the *amparo* courts because this violates the independence and sovereignty of local authorities. Be that as it may, the procedure greatly promotes the uniformity and constitutional integrity of the Mexican legal system, albeit at the expense of local autonomy.

Moreover, as a consequence of recent changes to the Constitution mentioned above,[14] in some cases, *amparo* remedies are extended even to class actions.

Beyond this procedure, there are several other efforts by the judicial branch to reform public administration and to promote legal unification. A recent example is the "White Book of the Supreme Court" (*Libro Blanco de la Reforma Judicial en México*), which compiles several proposals on those matters. It was prepared in 2005 and 2006 and is the result of a national survey among members of the judicial branch and parties appearing before the courts. The main issues covered by the survey were amendments to the *amparo* law, the strengthening of local judicial branches, and amendments to criminal law.

2. *The Relationship between the Central and Component State Governments*

The central government does not have the power to force component states to legislate in any area of law. Any coordination of state laws must thus be the outcome of a purely political process.

Only the central government may execute federal law. Yet, as mentioned before, it is common for federal and the local authorities to negotiate agreements about the distribution of competences and the allocation of resources to execute laws and regulations.

The component states participate in the central legislative process through the Senate. Members of this chamber are deemed to represent the component state in which they were elected. The senators fully participate in a bicameral legislative system and work with the House of Deputies in the production of

[13] See note 10.
[14] See note 10.

federal law which must be passed by both chambers.[15] Most of the senators are chosen by direct election in which only the citizens of the respective state can vote. There are, however, other senators who are chosen according to the percentage of votes obtained by the political party to which they belong. As a result, the Senate is constituted by a mixture of direct election and proportional representation.

3. *Taxation*

The general principle in taxation is that both the central government and the component states may levy all taxes they deem necessary to cover public expenditures. Yet, as mentioned above, there is an enumeration of certain taxes that the federal constitution expressly assigns to the federal level, i.e., taxes on commerce, natural resources, oil products, financial services, alcohol, and tobacco.

In light of the fact that there is no constitutional prohibition of multiple taxation, the central government and the component states have entered into several agreements in order to avoid excessive burdens on the taxpayer. The legal expression of these negotiations is the Law of Tax Coordination. It establishes a system of distribution of competences pertaining to the collection and administration of taxes. The main purpose of the tax coordination system is the distribution of the revenue between the federal government and the component states.

On the administrative level, the tax coordination system works as the framework for bilateral agreements between the component states and the central government. Under the agreement, a component state accepts the amount of revenue it will receive from the central treasury. Municipalities can also participate in the scheme. The distribution is not equal for each state; instead, it depends on considerations of necessity (level of poverty in the state) and development (i.e., mainly the contribution to the national economy).

4. *The Bureaucracy*

The civil service of the central government is separate from the systems of the component states. Mobility between federal and local offices does exist but is not common. It occurs mainly when a local political group gains a federal position. On the whole, candidates usually prefer positions with the central government because the wages are higher.

Both at the federal and the state level, the need for civil service rules to provide governmental officials with certainty about their position has produced a lot of legislative activity. At the federal level, there is now a law setting forth the general rules for the central offices' civil service system (*Ley del Servicio Profesional de Carrera en la Administración Pública Federal*, 2003). Unfortunately, practice has not yet become entirely standardized since not all governmental offices have developed and implemented programs under this law. There is also no uniform set of rules for both the federal and state levels because political interests keep blocking the road towards a generally institutionalized practice. Still, civil service systems will gradually be regulated more and more under the current framework, making this area a coming example of legal harmonization, even though the process may require several years on the local level.

[15] The federal budget is an exception; it is passed by the House of Deputies alone.

5. *Social Factors*

Mexico has a long heritage of social diversity. Its population is mainly a mixture of Hispanic immigrants and ancient indigenous groups. Some of the latter communities have tried to avoid integration; this has created unique ethnic cleavages within the country. These communities are highly heterogeneous, speaking many different languages, following various religious beliefs, and keeping diverse social institutions.

Indigenous populations are recognized by the federal constitution under the principle of "self determination" which is, however, limited by the principle of national unity. Their status does not directly affect the structure of the federal system as it is established by the Constitution.

While the indigenous communities are dispersed throughout the nation, there is a major concentration in the south. This has produced important political consequences. In the mid-1990s, a popular armed movement arose in the southern states, pioneering the recognition of indigenous rights. This ended up shaping the constitutional framework by giving it the pluricultural character that it has today.

The social situation in Mexico is marked by a variety of social asymmetries of which the ethnic diversity of the population is just one. Another important characteristic is the pronounced inequality of wealth distribution. Both features are connected: historically, the indigenous communities have not benefited from the economic growth of the country. As a consequence, there is currently an important correlation between the concentration of indigenous communities within certain states and local poverty.

In particular, this has entailed significant differences between the northern and the southern states: traditionally, the northern states have been more developed. This disparity in the economic situation has influenced the behaviour of local authorities, especially in that they have continuously fought for greater shares of the national resources. On the one hand, northern authorities usually claim a greater share of the national revenue, arguing that their economy is more efficient and productive than in the southern states. On the other hand, southern states argue they should receive more of the national revenue as they "need" it more given the high level of poverty prevailing there.

The federation constantly faces this struggle and tries to resolve the conflict. The pertinent legal provisions and administrative regulations reflect this situation.

V. CONCLUSION

The history of Mexico as an independent nation has been shaped by a permanent battle to realize its political aspirations. One of the most striking aspects of this journey has been the search for a federal way of life, with the centralist tradition presenting a constant obstacle to overcome. The evolution of Mexican law perfectly illustrates this situation. Even during the modernization process in the mid-twentieth century, the legal system still operated largely under the President´s control, which blocked further development towards real democracy. As can be imagined, the strong presidential rule during that period fostered the unification of the legal system.

In addition to this political situation, the institutional mechanisms of the Mexican judicial system have also been a significant catalyst of legal unification. The power of the courts under the *amparo* procedure has enabled them to push for uniformity by forcing authorities in all branches and on all levels to stay within the boundaries drawn by the federal constitution.

The changes in the political environment that occurred in last quarter of the past century and particularly as a result of the presidential elections in 2000 (when the predominant party lost for the first time ever)

have set Mexico on a new course towards becoming a real federalist nation. This emerging "real" federalism is already beginning to work against legal uniformity as local authorities are increasingly seeking to use their newly-gained political freedom.

Looking at the matter from an economic perspective, however, the new federalism may be more mirage than reality – or at least render federalism highly contingent on fiscal considerations. In the economic context, the inertia of the centralist tradition is especially hard to overcome. For example, even though the local authorities now vigorously demand greater freedom to shape the political, economic, and social features within their territories, most of them insist that the central government must continue to bear the responsibility for collecting the revenue and for distributing it among the component states. Also, the central authorities sometimes seem to fear losing the control and power they have had in the past.

Today, strong commercial interests, as well as some political interests, are pushing both federal and local authorities to maintain and promote the harmonization of law by pointing to the benefits of common and consistent rules throughout the nation. Yet, such efforts are merely one element in a complex mix of factors pulling in various directions, and the outcome of the resulting struggles is far from clear.

For any person interested in reading more about the topics of this report, the authors recommend the following bibliography:

AGUIRRE SALDÍVAR, Enrique, *Los retos del derecho público en materia de federalismo: Hacia la integración del derecho administrativo federal*, México, IIJ-UNAM, 1997.

ARTEAGA NAVA, Elisur, *Derecho constitucional*, México, Oxford, 1999.

BARRAGÁN BARRAGÁN, José, *El federalismo mexicano: Visión histórico constitucional*, México, IIJ-UNAM, 2007.

CABRERA ACEVEDO, Lucio, *El constituyente de Filadelfia de 1787 y la judicial review*, México, SCJN, 2005.

CARPIZO, Jorge, *Estudios constitucionales*, México, UNAM-Porrúa, 2003.

———, *Federalismo en Latinoamérica*, México, IIJ-UNAM, 1973.

COSSÍO, José Ramón, *Dogmática Constitucional y Régimen Autoritario*, México, Fontamara, 1998.

———, *Cambio Social y Cambio Jurídico*, México, ITAM, 2001.

FIX-ZAMUDIO, Héctor, *Ensayos sobre el derecho de amparo*, México, UNAM-Porrúa, 2003.

GONZÁLEZ OROPEZA, Manuel, *La jurisprudencia: su conocimiento y forma de reportarla*, México, SCJN, 2005.

———, *El federalismo*, México, IIJ-UNAM, 1995.

HÄBERLE, Peter, *El federalismo y regionalismo como forma estructural del Estado constitucional*, México, IIJ-UNAM, 2007.

HERNÁNDEZ, Antonio M. y VALADÉS, Diego *(coords), Estudios sobre federalismo, justicia, democracia y derechos humanos*, México, IIJ-UNAM, 2003.

ORTIZ AHLF, Loreta, *Derecho internacional público*, México, Oxford, 3ª ed., 2004.

PEREZNIETO CASTRO, Leonel, *Derecho internacional privado*, México, Oxford, 8ª ed., 2003.

SEPÚLVEDA, Cesar, *Derecho internacional*, México, Porrúa, 25ª ed., 2006.

SERNA DE LA GARZA, José M. *(coord), Federalismo y regionalismo*, México, IIJ-UNAM, 2002.

SUPREMA CORTE DE JUSTICIA DE LA NACIÓN, *La jurisprudencia: su integración*, México, SCJN, 2005.

TENA RAMÍREZ, FELIPE, *Derecho Constitucional Mexicano*, México, Porrúa, 2005.

ZALDIVAR LELO DE LARREA, Arturo, *Hacia una nueva ley de amparo*, México, IIJ-UNAM, 2002.