ENGLISH VERSION

PRESENTATION

In 1997, Dr. Emilio O. Rabasa (✞), member of the Legal Research Institute of the Autonomous University of Mexico (IIJ-UNAM), coordinated the preparation of a text, to commemorate the 80th anniversary of the 1917 Mexican Constitution. For that purpose, he welcomed contributions from twenty jurists, both researchers and teachers, in different professional fields such as the judiciary, politics, academia, international relations and law. Their contributions were grouped into four topics: Human Rights, Social Reform, Political Reform, and International Affairs Reform. Deputy Rafael Oceguera Ramos, Chairman of the Library and Information Commission in 1998 wrote a foreword to the text and the 57th Legislature of the Chamber of Deputies and the Legal Research Institute of UNAM jointly published 2,000 copies of it, under the title: "Eighty years of constitutional life in Mexico" with a cover page by Saturnino Herrán, labeled "Alegoría del trabajo 1910-1911" (Allegory of work 1910-1911).

I was invited to contribute with the theme "Political-electoral constitutional reforms" under the topic of Political Reform.

My text gave an account of all the political and electoral reforms carried out by making changes and/or additions to our Magna Carta beginning with the one on granting suffrage to women presented by President Adolfo Ruiz Cortines in 1953 up to the initiative of President Ernesto Zedillo in 1996.

The reforms were classified under two headings: 1) Partial electoral reforms because they included a single theme of constitutional change such as votes for women (1953), party deputies (1963), votes for 18-year olds (1969) and passive political rights (1972); and 2) comprehensive reforms which, because included

different themes such as the new composition of national representation, first in the Chamber of Deputies and then in the Senate, a new paradigm for political parties with such prerogatives as financing and access to social communications media, electoral campaigns and, in particular, electoral organization and jurisdiction. These were put into effect in 1977, 1986, 1990, 1993, 1994 and 1996.

For each of the reforms I explained the altered articles and included a summary of their content. In the text's conclusions major trends were pointed out showing that, taken together, the reforms were intended to rebuild our electoral system based on ideological and political pluralism and the transition to democracy. The trends noted were towards: 1) electoral impartiality; 2) legislative pluralism; 3) fair elections; 4) democratizing the Federal District (Mexico City); and 5) autonomous electoral jurisdiction.

The main purpose of my paper was to include in a single text all the political-electoral reforms undertaken by our Constitution´s reforming power, without leaving anyone out, since, although there is no lack of literature that analyses one or the other separately, I had not found any text that included all of them.

Another objective was to explain the reforms briefly and in simple language, above all keeping in mind students of Law, Political Science and related disciplines, rather than specialists, but including those people who, while not professionals or without previous knowledge of the subject, were interested in it.

Considering what has been said so far, as I indicated in the very text: "Although the last political-electoral reform was announced as 'a definitive reform' by the head of the Executive Branch, and unanimously agreed by all political forces represented in the Mexican Congress, many party representatives and political analysts have noted that there still are 'pending matters'".

After the federal elections of 2000 and 2006 and the mid-term ones of 2003, there were new electoral issues on the pub-

lic debate such as the excessive cost of our democracy, the time spent on pre-campaigns and on the campaigns and, above all, on the access to the media, all of which, led to a new political-electoral reform in 2007 which, obviously, did not appear in my text, published in 1998.

An additional motive for updating my text was that in January 2010, I joined the Institute of Legal Research-Instituto de Investigaciones Jurídicas (IIJ-UNAM) as a full-time researcher, and was also teaching Constitutional Law at UNAM's Faculty of Law. Under my new academic position I decided to review my earlier text and complete it with the unpublished material about the above-mentioned reform of 2007. The new text was ready for publication in late 2010 when another political reform was announced and passed at the Senate. It included a great deal of issues about rights of the citizens to participate in politics. However, the Chamber of Deputies made significant changes to the bill and send it back to the Senate. Now the deadline was overdue for it to be applied in the election of 2012, and there was no clear possibility that it would be finally approved by both chambers of Congress. I decided, therefore, to go ahead with a text that included all the reforms up to 2007, even at the risk of the new reform being passed while the text was undergoing printing, in which case it would be updated in a later publication.

I thank the IIJ-UNAM for consenting to include the material above referred, from their 1998 commemorative edition "Eighty years of constitutional life in Mexico", so that the new publication was updated with the 2007 electoral reform.

I also want to express my appreciation to Jorge Alcocer, undoubtedly one of the leading experts, scholars, practitioners and reformers of political and electoral issues in Mexico, for his friendly foreword that does me so much honor.

My thankful thoughts address to Dong Nguyen Huu and the United Nations Development Programme (UNDP) for having my text translated into English and distributed.

Finally my gratitude to Oliverio Orozco (Political Science) for having revised the whole bilingual text.

Emilio RABASA GAMBOA

National Autonomous University of Mexico City,
Winter of 2011

PRESENTATION
NEW EDITION

Through an agreement of the main political forces, two important reforms took place, one in 2014 and the other one in 2019.

The first one was a wide reform that not only covered political-electoral matters but also others like the democratic planning, the National Council for the Social Development Policy evaluation (CONEVAL – in Spanish), the Prosecution Office and the Supreme Court, but here I shall only be concern with the political-electoral changes that include political parties, the National Electoral Institute (INE – Spanish), the Federal Executive Branch, the Senate and local governments, which changed articles 35, 41, 54, 55, 59, 89, 105 and 116.

The second one modified articles 2º, 4º, 35, 41, 52, 53, 56, 94 y 115 to establish gender parity in everything.

With those reforms the original text published March 20, 2012, is now updated until January of 2024.

Along 2023, the Executive branch tried to pass a bill to reform the whole electoral system, including national representation and reduce the number of deputies and senators; a complete restructuring of INE and the Federal Electoral Tribunal making subject to popular vote the counselors of the first one and the magistrate of the second one, as well as canceling the whole local electoral structure (OPLES-Spanish), thus centralizing all elections federal and state ones in the INE. This reform was not approved since it lacked the qualified majority (2/3) of Congress members. The Supreme Court also rejected through unconstitutional action, the intention by the Executive branch to alter the

electoral system by secondary legislation (only simple majority required).

Emilio RABASA GAMBOA
Mexico City, 2024

FOREWORD

For more than three decades many specialists in the fields of Law, Sociology and Political Science have placed electoral matters at the centre of debate and analysis. It would be difficult to find a case similar to that of Mexico where, from 1977 to 2007, there had been such a number of in-depth constitutional reforms that changed the legal and institutional framework supporting the electoral process.

Specialized literature has kept pace with constitutional and regulatory modifications to cover a wide range of texts addressing the political and electoral changes in Mexico from different perspectives. However, a text was needed to give a chronological, orderly and systematic account of the path leading to constitutional changes concerning elections.

The book that PhD Emilio Rabasa now introduces closes this gap, and does it in such a didactic way which will be thoroughly appreciated by readers. The author's review ranges from the reform of the early 1950's, when women were granted the right to vote, to the most recent reform in 2007 introducing a new and advanced model of political communication whose central component, is giving electoral authorities and political parties access to television and radio.

As a deep connoisseur PhD Rabasa leads us, step by step, through the ever changing history of the Mexican electoral system. While reading the book I remembered something that is soon forgotten, especially within younger generations: the patience it took to build rules, institutions and practices that enabled Mexico's transition to democracy, in peace, through the law.

On the long path that includes the process of electoral reforms, each one added new elements that earned for elections and their results the citizens' confidence, which finally made possible that plurality would be followed by alternation, until the arrival of a still uncertain democratic normality but which, in the end, is no more than the work undertaken by so many.

I hope that those interested in the subject, whether specialists or simply citizens concerned about democracy and elections, find in this book information to help them understand the dynamics of constitutional change in Mexico, one of the most important issues for our country's political life and future outlook and, at the same time, open the way for still needed changes to continue building the democracy to which we aspire.

Jorge ALCOCER V.

I. Introduction

Political-Electoral matters have been the focus of permanent changes the Chamber of Representatives has performed on the Mexican Constitution of 1917. Some 40 political-electoral reforms have taken place between 1953 and 1996, in all.[1]

From the administration of President Adolfo Ruiz Cortines —when articles 34th and 115th section VI, of the Constitution were reformed to extend the right of women to vote in all elections and for any elected office—, up to that of President Ernesto Zedillo, whom in cooperation with all national political parties promoted an extensive electoral reform, no Mexican President failed to present initiatives to the Congress so that, in terms of the135th constitutional article, amendments or additions were made to the Constitution proclaimed in the city of Querétaro in 1917.

This constitutional reformist activism is a clear sign of the dynamics presented by Mexico's political system from the second half of the 20th century onwards. The history of these reforms is that of a highly centralized and authoritarian system evolving into one that is decentralized and democratic. In this transformation the emphasis is mainly on the important role of political parties as public interest organizations and on the Congress's election system. The electoral bodies and jurisdictional system are other no less important issues.

[1] Foro a detallad description of all constitutional reforms see: Gutiérrez, Sergio Elías and Rives, Roberto, *La Constitución mexicana al final del siglo XX* (The Mexican Constitution at the end of the 20th century), Mexico, Líneas del Mar, March 1995.

Broadly speaking, political reforms enumerated on the following chart have been carried out:

Year it Took Place	*Originally Promoted by*	*Purpose it Beared*
1953	Adolfo Ruiz Cortines	Women vote
1963	Adolfo López Mateos	Party deputies
1969	Gustavo Díaz Ordaz	Votes for 18-year olds
1972	Luis Echeverría Álvarez	Passive political rights
1977	José López Portillo	Comprehensive electoral system
1986	Miguel de la Madrid	
1990	Carlos Salinas de G.	
1993		
1994		
1996	Ernesto Zedillo	

Even if the head of the Executive Branch announced the 1996 reform as a "definitive" one, and in despite it was achieved by unanimous vote of all political fractions represented at the Congress, not few party representatives and political analysts have pointed out that there still are "pending matters". These refer to the parties' funding, the so called "overrepresentation share", the popular initiative, the referendum, the interactions between federal Legislative and Executive branches, and others which, jointly, have bearing into a broader Mexican state reform.[2]

For purposes of this presentation the series of political-electoral reforms can be divided into two stages: the first covers 1953

[2] See, amongst others: Silva-Hérzog Márquez, Jesús, "El switch del pluralismo" (Pluralism's switch), *Enfoque* (newspaper suplement), *Reforma* (newspaper), México, July the 13th 1997; as well as: Marván Laborde, Ignacio, "Y después del presidencialismo" (And after the presidentialism), *Enfoque* (newspaper suplement), México, September the 7th 1997. Also: Respuesta al III Informe de Gobierno del presidente Ernesto Zedillo, por el presidente del H. Congreso de la Unión, Porfirio Muñoz Ledo (Repply to president Ernesto Zedillo's 3rd governance report, by the Congress's chairman, Porfirio Muñoz Ledo), reproduced, amqongst others by *El Financiero* (newspaper) September the 2nd 1997.

to 1977 and concerns isolated reforms of the electoral system that only address parts of it. They focus on very specific issues that relate primarily to "broadening the electoral base both as regards the electorate, namely active political rights such as elected office, or so-called passive political rights."[3] In contrast, the second stage, starting with the reform of 1977 (President José López Portillo and his Minister of the Interior Jesús Reyes Heroles), is characterized by extensive modifications affecting the entire electoral system.

II. Partial Electoral Reforms

As shown in the chart above, these were four: 1953 on votes for women; 1963 on party deputies; 1969 on votes for 18-year olds; and 1972 on passive political rights. A brief description of the constitutional background, scope and significance of each is given below.

1. *Women Suffrage*

The background of this reform was an addition to article 115th section I published in the *Diario Oficial de la Federación* (*Mexican Official Gazette* or *DOF*) on February the 12th 1947 giving women the same rights as men to vote and be elected only in municipal elections. Women were left without the right to vote and be elected in state and federal elections.

The 1953 reform of articles 34th and 115th of the Constitution (*Mexican Official Gazette* 17 October 1953) eliminated the above mentioned addition of the second provision that became unnecessary by modifying the first one referring to citizenship, by

[3] For a description of the main political-electoral reforms in this century up to 1997, see the *Gaceta Informativa de la Comisión Federal Electoral* (Information Gazette of the Federal Electoral Commission), Mexico, 1982, t. X (*Reforma política*).

adding "Mexican citizens are males and females who, having the status of Mexicans, also meet the following requirements […]". Extending the vote to women in all types of elections and for any elected office was assured by linking articles 34th and 35th stating that the prerogatives of citizens included the right to vote and to be elected. Thus, Mexican women would acquire not only the active right to vote, but also the passive right to be elected to any public office.

2. *Party Deputies*

Before the 1963 reform, the election of deputies was direct (Article 54th) and a deputy was elected for each two hundred thousand inhabitants or for a fraction over a hundred thousand (Article 52nd) by a simple majority system rather than in proportion to the number of votes cast in the election. This system made it almost impossible for representatives of several political parties or schools of thought, differing with the official Party[4] to be elected to the Chamber of Deputies.[5]

The reform of article 54th introduced the system of party deputies in the following terms: "Every national political party obtaining two and a half percent of the total country vote in an election, shall have the right to accredit amongst its candidates, five deputies plus one more, up to a maximum of twenty, for each additional half percent of the casted votes". Its right to have so called "party-deputies" was to be cancelled if the party obtained a majority of the votes, in twenty or more electoral districts.

The party-deputies system was the forerunner of the mixed-simple-majority-and-proportional-representation system introduced with the 1977 reform, subsequently presented, and which

[4] Translator's Note (T. N.): "Official Party", is a common way to refer to the *Partido Revolucionario Institucional* (Institutional Revolutionary Party, or PRI), which was by then in office with a majority of seats in both Chambers (High and Low), and of which, the Mexican President, was also Chairman.

[5] As said in the presidential bill.

prevails to the day. The party-deputies system marked the beginning of the long Legislative Branch political pluralism process, first in the Chamber of Deputies, and then in the Senate with the 1993 reform.

3. *The Right of 18-Year Olds to Vote*

On December the 22nd, 1969 an amendment to constitutional Article 34th was published in the *Diario Oficial de la Federación* (*Mexican Official Gazette* or *DOF*) to modify section I, which established as a requirement for citizenship: "Having reached 18 years of age if married, or 21 years of age if unmarried" to simply "Having reached 18 years of age".

The reform abolished this distinction so, anyone, male or female, who had reached 18 years of age, and had an honest mean of livelihood, would acquire the nationality and thus vote in elections. However, not the passive political right to be elected, which was reserved for 25-year olds, if racing for the Chamber of Deputies while 35-year olds for the Senate.

4. *Passive Political Rights and Party Deputies*

The 1972 reform amended Article 55th section II, lowering the age to be elected for the Deputies Chamber from 25 to 21 years of age, and Article 58th by lowering the age to be elected for the Senate from 35 to 30 years of age.

This reform included the system of party-deputies, it reduced the percentage of the total vote required, from two and a half percent to one and a half percent (Article 54th section I) and increased the maximum number of deputies a political party could accredit from 20 to 25 (Article 54th, II).

Through these four reforms the Mexican electoral system: 1) expanded active political rights, or, so to say the electoral base, by including women and young people over 18 years of age; 2) ex-

panded passive political rights by reducing the age required to be elected as a deputy or senator; 3) introduced the mixed formula of simple majority and proportional representation by means of the party deputies system. By 1976, Mexico had a much broader electoral system, although not necessarily fairer, more impartial, more equitable nor, above all, with more competitiveness. The following reforms would be aimed at attaining those, indisputable values, in a modern democratic electoral system.

III. Comprehensive Electoral Reforms

The following seven political and electoral reforms were characterized both, by their extension and their depth. They covered the entire electoral system and core issues, such as the political party subsystem and its prerogatives; the subsystem of electoral entities; the electoral procedure —including the mechanism to certify elections— the system of electing deputies and senators to the Mexican Congress; and the electoral disputes subsystem. The distinctive features of each are described below.

1. *1977 Electoral Reform*

This reform's main features were four: a) Constitutional ranking of political parties and their prerogatives b) The mixed system of first past the post (FPTP) and proportional representation (PR) to elect respectively 300 and 100 federal deputies; c) The referendum and the people's initiative; d) The role of the Supreme Court in electoral matters.

The original text of the 1917 Constitution did not include the term "political parties". Article 9th only referred to the right of political association as an individual guarantee. It was not until the above-mentioned reform of 1963, in the Constitution, that the notion of political parties was included, but only in relation to the system of party-deputies. In the 1977 Constitutional re-

form, Article 41st, included the political parties as "public interest entities".

Furthermore, on the same rule, the reform established that "The aim of political parties, is to promote people's participation in democratic life, contribute to the integration of national representation and, as citizen organizations, to make it possible for them to gain access, by means of free, secret and direct universal suffrage, to public power, in accordance to programs, principles and ideas, which they nominate and by means of free, universal, secret and direct suffrage".

This reform's inclusion of political parties in the Constitutional text, expanded their right to have access to the media, their prerogatives allocated regarding a principle of fairness, and the right to participate in state and municipal elections.

The significance of this reform was to recognize the importance of political parties to a national representation and, by extension, a politically and ideologically diverse representation. This was political pluralism in the Chamber of Deputies. The existence of many different national currents of opinions was recognized so parties would promote, integrate and organize them to become the link between citizens and public authorities. Hence the manifest interest of reformers in giving them the necessary elements they needed to be better equipped to comply with the purposes of the reform.

Another very important aspect of this reform was the development of the mixed First Pass the Post (FPTP) and Proportional Representation (PR) system for the Chamber of Deputies, previously found in rudimentary form in the party deputies system, established by the above-mentioned 1963 reform.

The new system of electing and integrating the Chamber of Deputies required reforming Articles 52nd to 54th, and additionally the 60th, on electoral rating, to replace the plurality and party-deputies system, in effect since the 1963 reform.

The system introduced by this reform was to elect 300 deputies in single member electoral districts according to the principle

of FPTP rule, and up to 100 deputies to be elected by using PR regional lists in multi-member constituencies (Article 52nd).

According to the FPTP principle, 300 deputies would be elected by to the majority of votes each one received in relation to those received by each of the other contending candidates in their district. The country was divided into 300 districts in each of which, one deputy is elected, hence the term "uninominal" (single membered).

In addition to the 300 mentioned before, 100 deputies would be elected in proportion to the number of votes casted in favor of the contending parties. To give effect to this principle (PR), the political parties would draw up lists of candidates for each constituency.

In short, while according to the FPTP system each party would nominate a single candidate and only one could be elected in the district concerned, under PR each party would nominate several candidates and several would be chosen (hence the term "plurinominal" or multi-membered) for each constituency. Electoral districts would be determined based on the population census and, according to the law, there would be up to five constituencies for the PR election (Article 53rd).

Article 54th's reform established the rules for having access to the PR system: to have at least one and a half percent of the total vote for all the regional lists in plurinominal constituencies; participating in —at least— 100 electoral districts; presenting candidates for deputies by the FPTP principle without having obtained 60 seats by the same system. Afterwards the number of seats in the Chamber of Deputies obtained by the party that met the above three requirements would be decided according to an electoral formula determined by the law.

This system was extended to the local states with the reform of Article 115th section III, last paragraph, so that it also applied to the election of deputies in local legislatures, mayoralties and in municipalities with three hundred thousand or more inhabitants.

By the terms in which the 1977 reform was approved, the PRI could not have access to the PR system, because its history showed it had always received more than 60 simple majority seats. At the same time the opposition would increase its previous 25 party deputies by being guaranteed 100 proportional representation seats.

Qualitatively relevant elements of this reform, although without much practical effect, were the referendum and people's initiative, established in Article 73rd section VI, 2nd base; only applicable by the Mexican Congress, to the Federal District's legislation, in the following terms: "The legal regulations and the rules determined by law in this respect shall be submitted to a referendum and may be the subject of a people's initiative, according to the relevant legal procedure".

These important democratic concepts are being reassessed now, both for the Federal District and for national legislation.

This reform also paid attention to the procedure for rating elections. Each Chamber's self-evaluating system was maintained but Article 60th was amended to include 100 deputies in the Electoral College —60 which had been appointed by simple majority and 40 of which had been selected through PR—. This was intended to ensure consistency between the new Lower House representation and its electoral rating mechanism.

In terms of electoral jurisdiction, this reform involved the Supreme Court of Justice in two ways: 1) through the resource used by political parties to complain against decisions made by the Chamber of Deputies' Electoral College. The Supreme Court resolution would only have a declaratory effect with no obligation by the electoral body (Article 60th); 2) The Supreme Court was empowered to "officially ascertain any fact or facts that constitute a violation of the public vote, but only in cases which, in its view, could cast doubt on the legality of the whole process of electing one of the Mexican government branches" (Article 97th). This would be a short-lived part of the reform when the jurisdiction of the new Electoral Disputes Court (Tribunal de lo

Contencioso Electoral or Tricoel) was established by the subsequent 1986 reform and, especially, by that of 1996.

Finally, one aspect of this reform which would really have judicial and political relevance was the amendment of Article 70th, with the aim to establish the constitutional basis for the issuance of a Mexican Congress new Organic Law that could not be vetoed by the Executive Branch and would not require enactment to be valid. Previously, the entire organization of the Legislative Branch rested on a regulation until the reform gave it the status of law.

The 1977 reform was very important for the evolution of the Mexican political system by taking a great step towards its liberalization that set the groundwork to be laid for a multi-party system, as well as a new election system even though originally was restricted to the Chamber of Deputies. The inclusion of political parties in the text of the Constitution, and the mixed FPTP and PR system, were its greatest achievements and, despite new changes, they have persisted up to now since its enactment.

2. *1986 Electoral Reform*

On December the 15th, 1986, the *DOF* published reforms to the following Articles of the Constitution: 52nd; 53rd second paragraph; 54th first paragraph, sections II, III, IV; 56th, 60th and 77th section IV, on the Federal Legislative Branch; and on August the 10th, 1987, reforms to Articles 73rd section VI; 79th section V; 89th section XVII; 110th first paragraph, section III; and 127th, on the new Federal District Assembly of Representatives.[6]

The most important aspects of this electoral reform concerned: a) Modifying the mixed FPTP and PR electoral system;

[6] For more details about this reform see: Alanis Figueroa, María del Carmen, *El comportamiento electoral mexicano* (Mexican electoral behavior) (thesis), Mexico, UNAM, Faculty of Law, 1990.

b) Altering the self-rating system of the Chamber of Deputies; c) The new electoral jurisdiction and d) The Federal District Assembly of Representatives.

The 1986 reform introduced three changes in the election system for the Chamber of Deputies: a) The extension of the PR principle by 100 seats to a total of 200 seats thus providing the Lower Chamber with 500 deputies (Article 52nd); b) Changing the rules on allocating PR deputies to include all political parties and not only the minority parties (Article 54th); c) Setting a maximum of 350 seats that a single political party could obtain by both, FPTP and PR rules.

The self-rating system in both Chambers was upheld but the reform (article 60th) established that the Chamber of Deputies Electoral College would include all deputies instead of only the 100 of the previous reform. Membership of the Senate's Electoral College was also adjusted to include all the new elected senators and those that continued serving.

The last paragraph of article 60th established the leadership of the federal government in the entire electoral process from preparation and development to supervision, and delegated to secondary legislation the organization of the electoral bodies to be responsible for carrying out these functions and for contesting results.

The federal government majority principle in organizing elections resulted, in practice, in an overwhelming representation of the official party in the national electoral organism, the Federal Electoral Commission. The previous system of equal representation (one representative from each political party) was replaced by one of representation according to election results, all of which severely affected electoral impartiality.

Concerning electoral jurisdiction, the resource of appealing to the Supreme Court of Justice was repealed, instead, an Electoral Disputes Court was established whose decisions would be binding and could only be modified by the electoral colleges of

both Chambers of the Federal Congress. Thus began the process of the relative autonomy of electoral jurisdiction with respect to the bodies in charge of the election.[7]

This reform was completed a year later with the creation of the Federal District Assembly of Representatives to be composed of 40 representatives elected by the FPTP principle and 26 elected by PR. The assembly would also become an electoral college to qualify the election of representatives.

The original powers of the Assembly of Representatives (Article 73rd, Section VI, 3rd) resulted in a limited legislative function consisting of issuing good government and police edicts, ordinances and regulations without contravening the provisions of local laws and decrees issued by the Federal Congress.

This reform kept the advances of the previous one, but there was even a regression from the liberalizing intentions of its predecessor concerning, for example, the issue of electoral organization that would be modified with the 1990 reform and, in particular, with that of 1994. Its main merits concern jurisdictional matters with the creation of the Electoral Disputes Court and the beginning of the Federal District's democratization by establishing its own Assembly, a process that would culminate with the 1996 reform. Unfortunately, its achievements could not offset its defects, as was evident in the general election of 1988 that set the tone for accelerating the overall process of political-electoral reform towards impartiality, transparency and electoral competitiveness.

3. *The 1990, 1993 and 1994 Reforms*

Unlike previous administrations in each of which there had only been one political-electoral reform, during the six-year presidential period from 1988-1994 there were three reforms: 1) April the 6th 1990 amending seven articles of the Constitution;

[7] On the evolution of electoral jurisdictional matters, see: Patiño Camarena, Javier, *Derecho electoral mexicano* (Mexican electoral law), Mexico, UNAM, 1990.

5th; 35th section III; 36th section I; 41st; 54th; 60th; and 73rd section VI, base 3a; 2) September the 3rd 1993 again amending seven Articles of the Constitution: 41st; 54th; 56th; 60th; 63rd; 74th section I; and 100; and 3) April the 19th 1994 once more amending Article 41st of the Constitution.[8]

A. *1990 Reform*

Extends mainly over the following areas:

The organization of federal elections, including responsible bodies and governing principles (Article 41st).

It is important to stress that the issue of electoral organization was moved from Article 60th to Article 41st and linked to the concept of national sovereignty. Regarding competence in organizing elections, this was modified so that, instead of being the exclusive responsibility of the federal government, equally responsible were political parties and citizens (former Article 60th) in the following terms: "The Mexican Legislative and Executive Branches with the participation of political parties and citizens as provided by law" (Article 41st). With this principle began the process of citizens' participation in electoral bodies that culminated with the 1996 reform.

The 1990 reform established five guiding principles governing the electoral organization: accuracy, legality, impartiality, objectivity and professionalism. Two means are used to make them legally operative and ensure their practical implementation: 1) The new structure of electoral bodies; and 2) Guarantees concerning electoral disputes.

[8] The explanation of this reform is taken from another work by the same author: Rabasa Gamboa, Emilio, "Introducción general. Las reformas de 1990, 1993 y 1994" (General introduction to the 1990, 1993, and 1994 reforms), *Cua-dernos Constitucionales México-Centroamérica*, México, UNAM, IIJ, No. 14, 1994.

a. *Structure of the New Electoral Body (Article 41st)*

The reform restructured the whole electoral apparatus. The previous system that had prevailed for many years was divided into electoral commissions, one federal and 32 local. The new Federal Electoral Institute (IFE) was incorporated as a public and professional entity making autonomous decisions, including management (the General Council), executives (the Directorate General and Secretariat General) and specialists (members of the General Executive Board). In each state and the Federal District the IFE would have a replica made up of the local executive board, the executive director and the local council.

b. *Election of Assembly Deputies and Representatives*

This reform modified the election system of the 200 deputies by the PR principle and the regional list system, as well as the 26 representatives to the Federal District Assembly by the same principle. The requirements for granting constancy of seats placed all the contending parties on an equal footing, so that the reform sought to combine the principle of governability of the legislative body, with the distribution of seats according to the percentage of votes obtained and the number of constancies of majority allocated.

c. *Electoral Ratings (Article 60th)*

This reform clarifies the scope of the electoral colleges in applying the principle of legality, reviewing eligibility, complying with the law, and providing proof of how FPTP and PR seats are allocated. It changed the number of members of the Electoral Council of the Chamber of Deputies from 500 set in the previous reform, to 100 as established in the 1997 reform.

d. *Electoral Disputes (Article 41st)*

The innovations introduced by the reform in this area were: I) Increase the means of elections claims to ensure each stage of the electoral process becomes definitive; ii) Decentralize the Electoral Court (TRIFE) so that it may also operate in regional courts; and iii) Nominate an investigating magistrate.

B. *1993 Reform*

The fundamental changes of this reform during the same presidential administration covered the following areas:

a. *Finance of Political Parties (Article 41st)*

A number of financing rules were established including prohibitions on funding sources. Only the following types of funding were authorized: public; by party members; by supporters; by financial returns, funds, trust funds, and self-financing. This differs from the previous financial regime that only included public funding. Also included was the obligation to report to the competent electoral authority on how resources were obtained and spent.

b. *Suppression of Governability Clause (Article 54th)*

In no case may any political party have more than 315 deputies elected by the two election principles (FPTP and PR). The 1986 reform had set the limit at 350. This meant that to comply with a constitutional amendment requiring two-thirds of Chamber members (334 deputies), it would be necessary for two or more parties to reach an agreement, thus ending the phase of single-party constitutional reforms in favor of intra-chamber negotiation.

c. *New Senate Composition and Quorum (Articles 56th and 63rd)*

For the first time in its history the Senate would have four members representing each state and the Federal District, three of whom would be elected by FPTP and one would be assigned to the largest minority. This change would increase the number of Senate members from 64 to 128 and there would be more variety in its political makeup. The reform also meant this legislative body would be totally re-elected at the end of every six-year presidential period, instead of half of it at midterm as had been before. The quorum was also reduced from two-thirds of its members to more than half.

d. *Electoral Rating (Articles 60th and 74th Section I)*

The self-rating procedure of deputies and senators by the electoral colleges of their respective Chambers is abolished and replaced by a "mixed electoral system collective rating by an independent electoral body and by the Electoral Court". The final rating of elections would be first made by the IFE and, in case of disagreements, by the TRIFE (Electoral Court of the Federal Judiciary). Ultimately, the decision would be made by the TRIFE Court of Second Instance whose decisions would be final and incontestable.

e. *Electoral Disputes (Articles 41st and 100th)*

The competence of TRIFE is confirmed with its decisions being declared final and incontestable (previously they could be reviewed by the Chamber's electoral colleges) so it is finally established as an independent body and the maximum electoral jurisdictional authority.

The TRIFE is also restructured with the Court of Second Instance composed of four members of the federal judiciary elected by two-thirds of the members present in the Chamber of Deputies being proposed by the Supreme Court of Justice. This Court of Second Instance will hear any disputes arising from the new system of electoral qualifications.

f. *Federal District Government*

Constitutional changes published on October the 25th 1993 on political reform of the Federal District extended to Articles 31st, 44th, 73rd, 74th, 79th, 89th, 104th, 105th, 107th, and 122nd; the fifth title was renamed "Of the states of the Federation and the Federal District," as an addition to section IX of Article 76th, as a first paragraph to Article 119th, and section XVII of Article 89th was repealed.[9]

g. *This Section of the Reform's Fundamental Themes were:*

— The characterization of the following three organs of the Federal District as "representative and democratic": I) The Assembly of Representatives as a legislative body; II) The head of the Federal District as being executive and administrative; and III) The High Court of Justice of the Federal District as jurisdictional.
— Powers are distributed between federal and local bodies as follows: The Mexican Congress will issue the Federal District government Statute; the President of Mexico, together with the Assembly of Representatives, will appoint the head of the Federal District; and, together with

[9] For a more detailed analysis of this reform see my comments in Rabasa, Emilio O. and Caballero, Gloria, *Mexicano: esta es tu Constitución* (Mexicans: this is your Constitution), Mexico, Chamber of Deputies, Miguel Ángel Porrúa, 1994.

the Head of the Federal District, will designate the Attorney General of the Federal District who will: I) retain exclusive control of the police force and appoint its chief; II) propose debt amounts; and III)present bills on laws or ordinances to the Assembly, which becomes the legislative body with a variety of functions (section IV).

— This reform determined that a hybrid mechanism will be used to appoint the Head of the Federal District Government; the appointment will be made by the President of Mexico (presidential element) from among any of the representatives of the Assembly, federal deputies or senators elected in the Federal District (parliamentary element) who are members of the political party receiving the largest number of seats in the Assembly. This provision was never applied in practice because before the 1997 election took place the reform of 1996 had substantially changed the designation mechanism to that of a direct, free and secret election.

— The changes introduced by this reform would be implemented gradually by a series of transitory articles: 1994, new Assembly powers; 1996 the inclusion of citizen councils; 1997, the first appointment of the Head of the Federal District Government according to the mechanism described above.

C. *1994 Reform*

The main changes of this reform relate to the content of Article 41st of the Constitution as it concerns the organization of elections and, above all, the new composition of the IFE's General Council, its highest management body.

The above-mentioned reform of 1990 would allow political parties to participate, together with citizens, in organizing federal elections and, for the first time, would include the position of a "Magistrate Adviser". The IFE's General Council would be

composed of six magistrate advisers, a representative of the Executive Branch (Ministry of the Interior), four members of the legislature (two from the majority party and two from the largest minority) and representatives of political parties in relation to their electoral strength.

The 1994 reform changed the electoral organizing principle as follows: "The organization of federal elections is a state function performed by an independent public agency with its own legal personality and patrimony, composed of members of the Mexican Executive and Legislative Branches with the participation of national political parties and citizens as provided by law".

The shift resulting from this reform towards elections being organized by the IFE is of great political significance as it marks the beginning of the process of electoral bodies becoming separate from, and independent of, the federal government that hitherto had total control over them.

The top IFE management includes, in addition to representatives of the Executive and Legislative Branches and political parties, the new position of "Citizen Councilor" which not only replaces the magistrate adviser but also acquires majority control of the highest electoral body.

There would be six citizen councilors no longer appointed by the Federal Executive Branch but by parliamentary groups of the chamber of Deputies and approved by two thirds of its members. These councilors have the right to express opinions and to vote while representatives of political parties no longer have the right to vote. It is important to stress that citizen councilors have six votes, a majority over the five votes of the Executive Branch (one) and the Legislative Branch (four).

The citizen councilor figures reproduces in each of the 32 local and the 300 district councils where political parties may also express their opinions but have no right to vote.

Because citizen councilors are a majority, how they are designated, their eligibility requirements and limitations during their tenure, as well as their increased presence in the whole electoral

apparatus, means that this reform has made of the electoral system a citizens management body, by lessening the specific weight of the federal government and of the political parties themselves. This trend would be completed with the 1996 reform when the federal government representative would no longer be part of the electoral body.

As regards electoral justice, this reform changed the 17th paragraph of article 41 of the Constitution to improve "with a better legal technique, the appointment of judges to the Electoral Court and leaves it to the secondary legislation to regulate different methods of appointment".[10] The judges of the court must satisfy requirements not less than those expected of Supreme Court Justices. They will be elected by two thirds of the members present in the Chamber of Deputies as proposed by the President of Mexico.

These were a series of contrasting, subjects in these last three reforms. On the one hand, the inequitable composition that contributed to the partiality of the electoral bodies was maintained until the 1994 reform, when it was decided to allow citizen participation in the IFE. On the other hand, it opened the Senate to a certain degree of plurality by appointing the largest minority senator. The governability clause was cancelled but overrepresentation in the Chamber of Deputies was maintained. The 1994 reform was made when the government was facing pressure from the indigenous uprising in the southern state of Chiapas and so far it became the most significant reform in advancing the principle of the electoral organization's impartiality with the appointment of a citizen councilor.

4. *1996 Reform*

One of this reform's greatest accomplishments was the consensus reached by the four political parties: PAN (National Action

[10] Moctezuma Barragán, Javier, "La justicia electoral y las reformas constitucionales y legales de 1994" (Electoral justice and constitutional and legal reforms of 1993). *Cuadernos Constitucionales…, cit.,* note 8.

Party), PRI (Institutional Revolutionary Party), PRD (Democratic Revolution Party), and Labor Party (PT) and the government that led to its unanimous adoption by the constitutional reviewing power.

This electoral reform consists of six issues: 1) The composition of the IFE's General Council (Article 41st); 2) New rules for a fair election (Article 41st); 3) Reconstructing the legislature (articles 54th, 56th and 60th); 4) The election of the Federal District government by the people (Article 122nd); 5) The new electoral jurisdiction (Articles 60th, 94th, 98th, 99th, 101st and 105th; and 6) Extending the reform to include the Mexican states (Article 116th).[11]

A. *New Composition of the IFE's General Council*

The composition of the highest electoral authority is subordinate to the question of who controls elections.

This reform maintains the authority of the IFE in elections as "an autonomous public body called the Federal Electoral Institute with legal personality and patrimony, composed of members of the Mexican Legislative Branch, of national political parties and of citizens in the terms established by law". The fundamental change was to remove the Executive Branch from the role of head of IFE, and to give constitutional status to the General Council of the IFE and its composition "consisting of its President and eight Electoral Councilors; also attending to express opinions but without a vote, will be Advisors of the Legislative Branch, representatives of political parties and the Executive Secretary". Therefore, control is held by the electoral councilors, the only members entitled to express opinions and to vote.

With this reform the electoral body is composed as follows: No Executive Branch representation, minimum representation

[11] See my comments in Rabasa, Emilio O. and Caballero, Gloria, *op. cit.*, 1997.

by Congress (four legislators, one from each party, with no right to vote), party non-voting representation, and total citizen control: nine with the right to vote.

B. *New Election Fairness Rules*

a. Access to the Media

The reform did not change the constitutional text which reads: "The law ensures that national political parties have fair access to elements to carry out their activities. They shall, therefore, have the right to make permanent use of the social communications media according to established forms and procedures"; as a result, innovations in this area are transferred to the Federal Code of Electoral Institutions and Processes (Cofipe).

b. Financing Rules

The reform of 1996 went into great detail at constitutional level and substantially modified the existing text. To give effect to the principles of fair and transparent elections regarding the origin of the parties' economic resources and how they were disbursed, this reform established the following two principles and three rules:

Principles: 1) Public rather than private funding preferred; and 2) Allocating resources to maintain the parties' permanent ordinary activities and those intended to obtain votes.

Rules: 1) Funds for permanent ordinary activities to be distributed as follows: 30% equally among all the contending parties and the remaining 70% according to their relative strength as expressed in previous elections for federal deputies; 2) To obtain votes, public financing will consist of an amount equal to what each party would have obtained from ordinary activities during the year; 3) Political parties will be reimbursed a percent-

age of their expenditures on education, training, socio-economic research and political and editorial policy and tasks.

The electoral legislation (Cofipe) will set spending limits as well as maximum amounts of contributions from supporters, and control procedures for monitoring the origin and use of all resources available to each political party, as well as sanctions to be imposed for failure to comply with these provisions.

C. *Reconstructing the Legislative Branch*

Constitutional amendments directed towards political pluralism introduced by this reform were threefold: 1) Decreasing from 315 to 300 the number of single-party deputies elected by the principles of FPTP and PR; 2) Introducing a new principle of fair distribution of seats with the total percentage of seats linked to the percentage of the national votes cast so that no political party can claim more deputies than it would be entitled to by its total number of votes plus eight percent; and 3) Ensuring pluralism in the Senate by making the distribution of 32 of the 128 seats subject to the PR principle, in addition to the 32 seats to be distributed to the largest minority, and the 68 seats to a FPTP majority. The secondary legislation (amendments to Cofipe) determines rules to apply PR in the Senate.

D. *Election of Federal District Government by the People*

One of the most important elements of the constitutional reform of 1996 was the amendment to article 122nd, in particular as it refers to the election of the head of government of the Federal District to read as follows: "The person chosen as Head of the Federal District shall be responsible for its executive and public administration and shall be elected by universal, free, direct and secret vote".

The modification of this article was more extensive. It also included: clarifying the system of concurrent jurisdiction by the Mexican government branches and local authorities; changing the Assembly of Representatives into a Legislative Assembly with extended powers that include the very important issue of elections; changing the name of assembly members to that of deputies; making a reference to the Administrative Disputes Court; and the direct election of political and administrative bodies (delegates) in the year 2000 (provisional article 10).

E. *New Electoral Jurisdiction*

This reform's innovations on electoral jurisdiction concern the constitutionality of election laws, and the position and competence of what is now the Electoral Court (formerly TRIFE) within the judicial system.

The Electoral Court is now part of the judiciary (Article 94th) along with the Supreme Court, Circuit Courts, District Courts and the Judicial Council so that it has the necessary authority to decide on electoral matters. The Supreme Court will only resolve constitutional actions now dealt with by national political parties (contrary to federal and local laws) and those registered in states (contrary to local laws).

The Electoral Court (article 99th) decides on the constitutionality of acts (not of laws) and disputed resolutions; all controversies and, in particular, acts and resolutions that violate active and passive political rights and citizens' free and peaceful affiliation. This will give citizens a resource they can use to claim their political rights.

Additionally, it is now the Electoral Court and not the Chamber of Deputies that will count the votes cast in the presidential election, declare it to be valid, and name the president-elect. This great responsibility now lies in the hands of seven judges.

F. *Federalizing the Reform*

The reformers wanted the advances made by these changes to be extended to local elections instead of being limited only to federal elections. Therefore, article 116 section IV was amended so that the new electoral rules will also be guaranteed in the local states' constitutions and laws.

Federalizing the reform covers the following areas: a) Elections of local and municipal authorities by free, secret and direct universal suffrage; b) Voting to be subject to the guiding principles of legality, impartiality, objectivity, accuracy and independence; c) The autonomy and independence of local electoral authorities; d) Establishing a system to settle disputes; e) Equal access to financing and the media; f) Limits on party campaign expenditures; g) Procedures to control and monitor the origin and use of party resources; and h) Defining election offences and penalties.

5. *2007 Reform*

Unlike its predecessors, this reform was born with three different characteristics: 1) It took more than six years to develop because, while all the reforms starting in 1979 took place during each six-year administration,[12] in the 2000-2006 period of Vicente Fox there was no reform due to a lack of agreement among the various political forces; 2) It is the first reform not introduced as a bill from the head of the Mexican Executive Branch but by the different political parties' legislators; 3) Unlike the other reforms that always introduced changes or innovations in electoral structures or the system of national representation, this reform was designed to introduce a series of adjustments in terms of political parties media access not previously touched upon and on

[12] Even during the administration of Carlos Salinas de Gortari there were three reforms: 1990, 1993 and 1994.

election campaign duration and finance, two issues with which it dealt in depth.

A decree published on November the 13th 2007 in the *Mexican Official Gazette* amended Articles 6th, 41st, 85th, 99th, 108th, 116th, and 122nd, added Article 134th and repealed a paragraph of Article 97th of the Constitution.

The fundamental changes introduced by the reformers concerned: 1) Clarifying the meaning of free and individual membership of political parties and electoral authorities' intervention in them; 2) New rules about public financing for political parties; 3) New rules about the permanent use of social communications media by political parties; 4) Reduction of time spent on campaigns and pre-campaigns; 5) Auditing IFE revenues and expenditures and the finances of political parties; 6) Length of time in office and staggered appointment of the IFE General Council members; 7) New powers of the Electoral Court; 8) Federalizing the above new rules; 9) Rules about using public resources on electoral material.

A. *Clarifying Party Affiliation and Involvement of Electoral Authorities*

Before this reform Article 41st had already established the principle of individual membership stating that: "Only citizens can freely and individually join political parties". But this is now clarified by placing an absolute ban on trade unions or organizations with a different social objective intervening in "the creation of parties and any other form of corporate affiliation", thus ending electoral corporatism.

It also gives more details about the freedom to organize political parties, with the electoral authorities intervening only as indicated in the Constitution and according to law and, therefore, not in any way that is arbitrary or discretionary.

B. *New Rules of Public Funding for Parties*

The principle that public resources should prevail over private funds is maintained, with such resources to be used for three purposes: a) Permanent ordinary activities; b) Activities designed to attract votes; c) Specific activities.

However, because it is not only a question of the equal distribution of 30 percent, and 70 percent among parties according to their electoral strength, more in-depth consideration is given to how resources are to be distributed among them. For that purpose, this reform sets the budget ceiling for expenditure equal to the total number of voters registered on the electoral roll multiplied by 65 percent of the prevailing daily minimum wage in Mexico City, with the result as the amount to be spent on ordinary activities. As it is a mechanism to control the amount spent on party activities, it now reduces the cost of a democracy that was too expensive.

For activities aimed at obtaining votes the amount was reduced to 50 percent of the resources allocated for ordinary presidential election activities; for mid-term elections of federal deputies the allocation is only 30 percent of the resources intended for such activities.

As for specific activities such as education, training, socioeconomic and political research, and editorial expenses, the total amount shall not exceed three percent of the total ordinary budget for activities distributed under the above-mentioned 30-70 percent rule.

However, the reform went beyond the three activities mentioned above by also establishing the amount to be spent on selecting candidates of political parties as not more than 10 percent of that spent in the last internal election.

Lastly, it included procedures for returning goods belonging to parties that lost their registration and for liquidating their obligations. Before this reform, and although paid for by public funds, all such property remained in the private ownership of the leaders of the parties that had participated in an election.

This part of the reform is clearly aimed at reducing expenditures on political parties' various activities. This is not without significance considering that in Mexico voting costs about 18 times more than in other Latin American countries

C. *New Rules on the Permanent use of Communications Media by Political Parties*

The previous reform did not change the principle that "The law will ensure national political parties have fair means of carrying out their activities. Therefore they will be entitled to the permanent use of established forms and procedures of social communications media". In contrast, this reform completely changed this principle by establishing a series of rules at constitutional level, and therefore ending the previous pattern that made it the responsibility of the ordinary law to regulate this matter. Now it becomes the matter of the Constitution to regulate and enlarge it leaving less room to the common legislator.

The general principle this reform introduces is that the IFE is now the sole authority to administer the time allocated for official use of radio and TV to give political parties access to these media, both in national elections and in local elections in each local state, during pre-campaigns, campaigns and at other times.

The exclusive administration by IFE of radio and TV times allocated to political parties means, as expressly indicated by the text of the reform itself, that political parties can neither buy time for themselves nor allow third parties to do so on any radio or TV programs; furthermore, no individual or corporation may buy advertising in these two media either in favor of or against the political parties or candidates up for election. It is also forbidden to transmit any such messages contracted abroad.

However, the radio and TV time political parties and candidates for elected office can use is covered by very detailed constitutional regulations, but this does not mean the IFE has complete discretion in administering it.

These regulations include not only the official time on radio and TV that the IFE can distribute among the political parties —48 minutes a day— but also the percentage thereof to be allocated to each political party, depending on whether it is a political pre-campaign or campaign, or both. It also regulates the scheduled time slots (between 6.00 a.m. and midnight) for transmissions, always keeping the 30-70 percent rule, as well as its application at local level for elections in the states.

The constitutional regulation also forbids denigrating advertising directed to institutions or the parties themselves and slandering individuals, and also prohibits the three levels of government from including advertising in government programs during election campaigns, with the exception of those relating to education, health and civil protection in case of emergency.

The regulation of this section also includes a series of penalties for infringements that may include the cancelation transmissions permits granted to radio and TV concessionaires.

D. *Less Time for Campaigns and Pre-Campaigns*

In the case of the election of the President of Mexico, senators and deputies, campaign time shall not exceed ninety days, and for the mid-term election of federal deputies the time is reduced to sixty days. Pre-campaign times cannot exceed two-thirds of campaign time.

E. *Auditing IFE Resources and Political Party Finances*

The reform resulted in two types of auditing bodies that must be distinguished to avoid confusion:

a) A General Auditor's Office whose head, to be proposed by public institutions of higher education, will be independently appointed for a six-year term by a majority of two-thirds of the members present in the Chamber of Deputies The auditor will be attached to the Presidency of the

IFE General Council, and will be responsible for controlling all the institution's revenues and expenditures.

b) A technical body charged with auditing national political parties' finances, with independent management appointed by two-thirds of the members of the IFE's General Council and not limited by banking, fiduciary and fiscal secrecy.

F. *Length in Office and Staggered Appointment of Members of the IFE General Council*

Previously there was no distinction as to the time in office of members of the IFE General Council and the nine members remained for seven years. The reform shortened this to six years in the case of the president who, however, may be re-elected once; it increases the term to nine years for the other members who, in addition, may have their terms renewed on a staggered basis and cannot be re-elected. The fourth provisional article of the reform defines the duration of terms in office to allow staggered appointments.

G. *New Functions of the Electoral Court of the Mexican Judicial Branch, and Staggered Integration*

The reform strengthened the Electoral Court by giving it a series of new functions of which the following are the most important:

a) The chambers of the Electoral Court may exert the necessary pressure to enforce its resolutions, thus ensuring that those who may be brought to justice, whether individuals or corporations, comply with the law.

b) The chambers of the Electoral Court may now rule on the non-application of an electoral law contrary to the Constitution, without prejudice to the provision 105 of

the Constitution relating to unconstitutional actions that come under the jurisdiction of the Mexican Supreme Court of Justice. The resolutions issued are limited only to the specific case on trial and are not ergo omens (universally obligatory).

c) The Higher Chamber of the Electoral Court may exercise a new power of attraction at the request of some or any one of the regional chambers. Conversely, the same Higher Chamber may refer a matter within its competence to the regional chambers for their information and permanent resolution.

d) For the first time the jurisdiction of the Court is recognized to address complaints by citizens about violations of political rights committed by political parties once they have exhausted other means of settling internal conflicts and, therefore, also strengthening the party structure.

e) Also clarified is the right to make decisions about electoral penalties determined by the IFE concerning electoral issues, against parties or political groups, individuals or corporations or foreign nationals who violate the Mexican Constitution or laws.

On the other hand the Electoral Court, like the IFE, should also be chosen by staggered appointments determined by the Organic Law of the Mexican Judicial Branch, as established in the fifth provisional article of the reform.

Also changed, from ten to nine years, is the term in office of the electoral judges of the Higher Chamber and a precision is given about the case of definitive vacancies to be filled only for the time remaining of the original appointment.

H. *Federalizing the New Rules Mentioned Above*

The reform had an impact on the provisions concerning the organization of elections in the Mexican federative states by including in it several new rules and/or principles previously

mentioned at the federal level such as: non-intervention by trade unions to prevent corporative affiliation, the intervention of electoral authorities in political parties' internal affairs in terms of the law; the new rules on public funding; media access; campaigns (ninety days for electing a governor and sixty days for electing local deputies) and pre-campaigns (up to two-thirds of the time for campaign).

Two new provisions of this reform on the relationship between the IFE and local election officials should be pointed out:

— Administrative provisions allowing an agreement to be reached with the IFE for it to take charge of organizing local elections; and
— The basis is established for coordination between the IFE and local authorities to control the finances of political parties.

Finally it specifies: the date of the election as the first Sunday in July of the corresponding year; the establishment of a system to settle disputes; rules for a total or partial recount of votes; and rules to annul elections for governor, local deputies and local councils, as well as setting deadlines to decide about the results being contested.

I. *Rules on the Provision of Public Resources for Elections*

Article 134th of the Constitution was added to introduce new provisions to strengthen the use of public resources made available for elections by the Federal Government, states, municipalities and the Federal District to ensure the principle of fair political party competition and, in particular, of the institutional nature of advertising in any type of social communication disseminated by public authorities, independent bodies, public administration departments and entities, both federal and local.

6. *2014 Reform*

In this reform almost all political forces summoned up to modify in political-electoral matters articles 35, 41, 54, 55, 59,n 89, 105 and 116 of the Constitution through a decree published in the Federation Official Gazette on February 10th, 2014. Basically, it was a reform to renovate and strengthen the electoral arbitrator, the National Electoral Institute (INE in Spanish) at federal and local levels, set the rules for reelection except presidency and governorship, and establish the most important figure of government by coalition.

Changes were done in the following fields:

A. *INE´s New Faculties*

Article 35 was reformed in fractions VII and VIII to aggregate in the first one, among the citizens 'rights, the most important faculty to start bills and/or their reform before Congress in terms indicated in the Constitution. This reform enables citizens to engage in the legislative function in addition to other actors established in article 71 of the Constitution (President, deputies, senators, state legislators)

In the second one (fraction VIII) paragraph 4th was added with the verification function in charge of INE to confirm the 2% of citizens in the electoral nominal list, required to request Congress a popular consultation over national transcendental issues, as well as the organization, development, computation, and declaration of the results.

Also, through an addition on paragraph 6th of the same fraction, the INE´s resolutions can be revised in terms of article 41 fraction VI of the Constitution.

It was in article 41 of the Constitution where the main changes were taken place on political-electoral matters, starting with a redefinition of the principal electoral organ which became to be the National Electoral Institute (INE in Spanish) substitut-

ing the Federal Electoral Institute (IFE in Spanish) and added paragraphs A, B, C and D, in fraction V of this article.

The new denomination of INE was truly substantial and not only grammatical since the new organism was added with a series of functions differentiating the federal and local electoral process, from the exclusively federal (Paragraph A), and the ones corresponding to the public local electoral organs (OPLES in Spanish -Paragraph C), including the assumptions in which INE can practice activities proper to the latter ones. Therefore, it is now a national organism and not only a federal one, since with these reforms it can step into the local electoral processes as well.

The integration of INE´s direction superior organ, the General Council was also affected going from 9 to 11 electoral counselors including their President and making all hearings public for every collegiate direction organ.

Also, the duration in office of the President was modified from six to nine years preserving nine years for all the other counselors.

It was important to clarify the designantion rules of the President and electoral counselors´ by the Federal House of Representatives (paragraphs a) to e) of the new Paragraph A), including the formation of a technical evaluation committee of six of highly respected persons, which shall value the total list of those registered for the General Council seats, in order to select five people for each vacancy from which the House will make the selection and pass it over the plenary session. In case no qualified majority (2/3) is reached the selection shall be made by pulling the names from a sack.

Finally, it is important to underline the new constitutional rules to differentiate the electoral functions whether they be federal or local, only federal, or exclusively local in charge of the local electoral organisms (OPLES in Spanish), all of them stated in Paragraph B.

For federal and local electoral processes INE shall perform electoral training, the determination of all the electoral geography (electoral districts and sections), the registry and nominal list of voters, location of election posts and the designation of the election post officials, the rules on electoral results, electoral polls, electoral observation, quick counts, printing of elector's documents and materials and checks on parties´ incomes according to law.

In the exclusively federal processes, the INE shall establish the rights and access to prerogatives for candidates and parties, preparation of election day, printing of documents of electoral material, scrutiny, computation, validly declaration and handing over the certifications on the election of representatives and senators, computation of the President of the Unites Sates of Mexico in each of the electoral districts.

Finally regarding OPLES- Spanish for local electoral organs), besides the ones established for the federal proceeds mentioned above, the following functions: civic education, the organization, development, computation, and results declaration of the mechanisms of citizens participation established in local legislation.

INE´s attraction of a local election requires an agreement with competent local authorities where the INE´s and local organs 'engagement functions shall be established.

In Paragraph D ruling was established for the Electoral Professional National Service, which includes, selection, training, professionalization, promotion, evaluation, rotation, confirmation, and discipline of public servants at the executive and technical organs in INE and OPLES.

In fraction VI the annulation of federal and local elections was clarified, by high violations and deceit, when more than 5% of the authorized spending is exceeded, when informative coverture in TV and radio times is acquired outside the law, or resources of illegal origin as well as public resources are received and used.

B. *Representatives and Senator's Reelection*

Another important change was the reform that gives representatives and senators the possibility of reelection. The former up to four times and the latter two times in consecutive elections, established in article 59 of the Constitution. For the first time the principle of "effective suffrage-no reelection" was canceled except in the presidential and governor's election.

In article 116 section II the consecutive reelection of representatives to the local legislatures up to four consecutive periods was established, for the same political party or coalition of parties.

Article 115 was added de consecutive election for local municipal authorities only for one additional period, if that period is no longer than three years.

C. *The OPLES*

Through a reform to article 115, paragraph IV, letter c) all the ruling for the public local electoral organisms (OPLES in Spanish) was established. This included its structure (one counselor president and six counselors with right of speech and vote, the Executive Secretary, and the political parties' representatives with only right to speech). This rule included the proceedings for their designation by the General Council of INE, requirements for their election, a one period of seven years in office without reelection, salary and removal by the General Council of INE, as well as labor and electoral impediments during their term of office.

In the same article the ruling for the integration of the local jurisdictional authorities was established integrated by unpair number of magistrates that would be elected by the Federal Senate by a qualified mayority (2/3).

Other matters included in these reforms were the rulings for the duration of local campaigns of 60 to 90 days in case of governor and 30 to 60 for municipal authorities, as well as their right

of access to radio and tv and public financing. The local party that does not obtain at least a 3% of all votes cast in a local election losses its registry.

D. *Candidates and Independent Candidates' Election*

Through these reforms the rules on candidates besides political parties and independent candidates were clarified, particularly those regarding prerogatives and times on radio and TV.

E. *The Coalition Government*

Through a reform to article 89 section XVII for the first time the coalition government was cast in the constitution. It is optional for the President to integrate it with one or several political parties represented in Congress, through an agreement and program approved by the Senate House with simple majority.

It is a new figure in our political system which has prevailed in countries with parliamentary regimes and very little in the presidential ones, but one that allows the integration of different political forces, and move from an electoral coalition to a government by coalition giving more democratic legitimacy to the government´s actions, avoiding the unipersonal type of ruling.

F. *Gender Parity*

A very significative advance of this reform was the incorporation in article 41, paragraph I, of the political party's responsibility giving citizens access to public representation office of gender parity in federal and local candidacies. This transcendental reform that modifies the composition of the Legislative Branch, with the full incorporation of women in this political representation would be the immediate precedent only five years later in 2019, of a wider gender reform.

7. *2019 Reform*

As a difference to the reforms that were here presented in chapter III, on integral reforms that modifies several elements of the whole electoral system, the 2019 reform was like the ones presented in chapter II, exclusively aimed at one only concern but of great importance: gender parity in various organs of the Mexican State, through changes in articles 2, 4, 35, 41, 52, 53, 56, 94 y 115, as explained here:

As a general principle in this matter, it was established that woman and man are equal before the law (art. 4) and that it is a right of citizens "to be elected in parity conditions for all electoral posts" through the registration requested by political parties (art 35 and 41).

A. *In the Federal and Local Executive Branch*

For the appointments of people to state ministries at federal and local levels, as well as in autonomous organisms, the law shall determine the forms and requirements for the observation of the gender parity principle (art. 41)

B. *In the Legislative Branch*

The composition of the House of Representatives shall be integrated by 300 female and male representatives elected by the simple majority principle at the unidimensional districts and 200 female and male representatives by the proportional representation principle in plurinominal circumscriptions (article 52).

In the electoral districts demarcation their distribution among the federal states, in no case shall be less of two female and male representatives by majority rule (article 53).

As for the proportional representation and the regional lists system, the plurinominal circumscriptions shall be conformed by the gender parity principle elaborating each list through the alternation of women and men for each electoral period (article 53).

As far as the Senate is concerned, it shall be integrated by 128 female and male senators in each state according to the majority principle, first minority and proportional representation´s principles, through the list system voted in each plurinominal circumscription made observing the gender parity principle made up alternatively between women and men in each electoral period (article 56).

C. *Judicial Branch*

The gender parity principle is added for the integration of the jurisdictional organs through open contest (article 94).

D. *Municipal Branch*

The Municipalities shall be governed by City Town councils of direct popular election integrated by female and male presidents and other offices determined by law according to the gender parity principle (article 115).

As far as the municipalities with indigenous population representatives to the city town halls shall be elected in observation of the parity gender principle (article 2 fraction VII paragraph A).

Lastly in the transitory articles 2nd and 3rd it was decided that Federal Congress would have up to a year to make whatever legislation adjustments are required to observe the gender parity principle, but this principle shall be applied for those taking office in the next federal or local electoral process once this decree is in force.

IV. Conclusions

Aside from the quantitative relevance of all these reforms, their qualitative aspect is much more important. As revealed by a shallow retrospective analysis of them, at least five processes or trends point towards the democratization of Mexican political system: 1) Impartiality of electoral bodies by means of citizen representation; 2) Political plurality in both Chambers of Congress and local state legislatures; 3) Fair elections; 4) Democratization of the Federal District government; and 5) An autonomous and trustworthy electoral justice system.[13]

1. *Towards Electoral Impartiality*

From its origins and until the 1980's the electoral system was characterized by complete Government control of the entire electoral process, in particular by the Executive Branch. Political parties were hardly involved in it and citizens not at all.

In the Electoral Law of 1946 the highest electoral body called the "Federal Electoral Monitoring Commission" was composed by the Minister of the Interior, another cabinet member commissioned by the Executive Branch, two members of the Legislative Branch and two members appointed by the political parties. There were twice as many State (four) as party representatives (two).

Due to this situation, with the 1977 reform a process began, leading to the largest party representation in the electoral body (three government and nine party representatives; over-representation of the —then— dominant party (16 representatives only from the PRI). Then came the 1986 reform followed by others until the beginning of citizen representation in the reform of 1994 (five Government representatives, six citizen councilors and the new party representatives without the right to vote).

[13] A more detailed analysis of these trends can be found in my article "Los alcances de la reforma" (The scope of the reform), *El Financiero,* Mexico, 29 July 1996.

With the 1996 reform citizen representation in the highest electoral body was strengthened; the Executive Branch was no longer a part of it when the Secretary of the Interior left the presidency of the IFE, and the number of citizen councilors would increase from six to eight, which were to be elected by two-thirds of the members of the Chamber of Deputies.

Therefore, the political composition of the electoral bodies has evolved following the 1946 law as follows: 1) Maximum representation and Government control, minimum party representation and no citizen representation at all (from 1946 to 1977 for 30 years); 2) Maximum party representation (from 1977 to 1987 for 10 years) and party over-representation (from 1987 to 1993 for six years) with state control; 3) Decreasing Governmental control, party representation and the beginning of Federal Executive representation reduction, minimum Congress representation, party representation without the right to vote, and total citizen control with the last reform. Restructuring the electoral body meant going from full Governmental control, to full citizen control along 50 years.

2. *Legislative Pluralism*

With the FPTP election system, until the 1960's the PRI was dominant in the Chamber of Deputies and in the Senate where the party's representation was absolute.

The reform of 1963 began the process of pluralism with the party deputies system but only in the Chamber of Deputies. Pluralism was promoted by the 1977 reform introducing the mixed system of FPTP and PR that allowed the opposition to have 150 seats and the majority party 350.

Although still maintained, the 1990 reform reduced over-representation and introduced plurality in the Senate, with the largest minority senators with the reform of 1993.

The 1996 reform eliminated over-representation with two measures: a maximum of up to 300 deputies per political party

and a number of deputies, elected by both FPTP and PR, whose percentage did not exceed the total national vote's percentage by eight points. Besides it introduces the PR principle to elect 32 senators.

The political composition of Congress has therefore evolved from: 1) The PRI's dominant representation in the Chamber of Deputies and total representation in the Senate; 2) The beginning of pluralism with FPTP (with over-representation) at first only in the Chamber of Deputies and then in both Chambers; and 3) Full Congress pluralism. From dominance by one party to total pluralism, also in 50 years, is the result of this process.

3. *Towards Equity in Electoral Competition*

There has been a transition from total impunity as to the origin and destination of public resources in election campaigns from the beginning of regulation with the 1977 reform, to a system of resources and guarantees introduced with the LFOPPE (Federal Law of Political Organizations and Electoral Processes); from a financing system that prohibited certain funding sources and authorized others with the 1993 reform, to the predominance of public over private resources; and by placing clear-cut caps on campaign spending, at the percentages established by law, with the 1996 reform.

This trend was reinforced by the 2007 reform when new rules were established for financing both electoral activities and political parties' access to social media which, on the one hand, prevents public resources from being wasted and, on the other, makes the election much fairer by preventing —federal or local government— from interfering by using public programs to support parties or candidates, or with advertising campaigns during elections periods.

More rationality in campaign and pre-campaign periods is another favorable factor to ensure fair elections.

4. *Towards Democratization of the Federal District*

In this case, the process of change involves the completely discretionary appointment of the "Regente" (Regent, was the head of the City of Mexico when it was the Federal District Department) by the Mexican President, from a selection limited to assembly members, deputies and/or the capital city's senators of the party that obtained the most seats in the Federal District Assembly, confirmed (but never put into practice) by the reform 1993, to election by universal, free, direct and secret vote with the reform of 1996, and extended to delegates for the year 2000.

5. *Autonomous Electoral Jurisdiction*

This trend extends from the subordination of the judicial function to the bodies responsible for organizing and rating elections (Electoral Commission and electoral colleges) with minimal interference by the Mexican Supreme Court of Justice (the 1977 reform), through the beginning of jurisdictional independence with the establishment of the Electoral Disputes Court (TRICOEL by the 1986 reform), full jurisdiction with TRIFE (1990 and 1993 reforms), to the incorporation of the Electoral Court, created by the 1996 reform to the Federal Judicial Branch.[14]

The 2007 reform strengthened the Electoral Court's jurisdictional function, both of the Higher Chamber and the regional chambers, with new powers as the highest constitutional and legal authority on electoral matters.

Full citizen representation in electoral bodies, this is, autonomous management from the Federal Executive Branch; complete pluralism in both Chambers of the Congress through the mixed, FTPP and PR, system; equity in the competence, with clear rules about the origin and usage of the campaign's resources; direct

[14] T. N.: Under the name of Tribunal Electoral del Poder Judicial de la Federación (Electoral Court of the Federal Judiciary), or TEPJF.

citizen election of the head of Mexico City's government and of the delegates, of one of the world's most populated cities, as well as independent and comprehensive electoral jurisdiction; are the five achievements of the 1996 reform.

In general terms, with this reform there are three major stages in the evolution of Mexico's political system: control by the State until the 1970's; relaxation of state control in the 1990's; and democratization since 1996 as demonstrated by the elections of July the 6th, 1997.

The great merit of 1996 reform is twofold: on one hand, for having concentrated the democratizing trends beginning in the 1960's which have needed over 30 years to be recognized. On the other, having consolidated those trends, thus bringing to an end a period of serious political conflicts and ruptures between a politically mature society and a long obsolete political system.

The 2007 Reform's significance, was to have made an in-depth change of the rules on electoral activities which, increased by pluralism, called for strengthening the principle of electoral equity to avoid at all costs replacing an authoritarian political system where one party was almost dominant, by another one subordinate to the public authorities at any level of government or, even worse, to interference by de facto powers when the country, at the dawn of the 21st century, was no longer either willing nor able to accept another form of political leadership than a straightforward effective democracy.

I do not believe that all constitutional political-electoral reforms have been exhausted, with the 2007 reform. A new legislative agenda is already being prepared, as a result of an intense debate regarding pending issues such as referendum, people's initiative, plebiscite, immediate re-election of federal, local and municipal legislators, independent representatives, accountability, revocation of mandate, reducing the size of both Chambers at the Congress, and others that all together, allow us to speak of a reform aimed at achieving greater citizen participation in the country's public life; in short, a citizens' political reform.

At the time of submitting this text for publication a sufficient consensus had not yet been achieved amongst the various political forces to bring about a new political reform; however, it does not seem that the reformation and updating process of our institutions has been halted, especially when it comes to consolidating our democracy.

As a matter of fact, after the 2007 reform, as has been presented above, two very important electoral constitutional reforms took place. The 2014 one which renovated and strengthen the INE (INE before) and other components of the electoral system like independent candidates, the reelection principle, gender parity in the Legislative Branch and the figure of the coalition government, and the 2019 reform completely addressed to generalize the gender parity principle in all local and state offices, making up for a more and better representative and equalitarian democracy, through the establishment of the conditions for the full incorporation of Mexican women in Mexico's public life.