LOOKING TO THE FUTURE

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Mexico's amazingly close 2006 presidential election has already become the object of much written analysis and even more speculation. Many have discussed what the 2006 election was "really" about and which policies are likely to be implemented over the course of President Felipe Calderón's upcoming administration. Yet others have argued that no matter what Calderón's National Action Party (PAN) administration does, it will remain illegitimate, spawned from fraud. A different and perhaps more useful approach is to address the topics that are most relevant to the future of Mexican democracy in the longer term.

Electoral rules and political institutions are intertwined, and cannot be thought of as independent from one another. Institutions generate incentives that interact with electoral rules—as when a ban on reelection makes members of Congress more responsive to their respective parties than to voters. And electoral rules, in turn, generate incentives that affect the ways in which power is exercised—representation in the Senate takes a different meaning when seats are assigned by a 2:1 ratio between the first and second most successful parties, than when only the winning party receives a seat for every state. Thus causality runs in both directions, and must be accounted for when analyzing events that have taken place under a particular institutional and electoral arrangement.

For Mexico, the interaction of rules and institutions means that the path to a more stable democracy will need to be like a road defined by two banks. One will be formed by improved electoral rules, while the other will be composed of far-reaching institutional reforms. Learning to approach the problem with both in mind will be crucial because it is

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precisely the link between institutions and elections that the electoral reforms of the last twenty years have ignored.

Institutions and elections together constitute the cornerstone of democracy, mainly because they define what can be expected of a political system. That is, by determining the rules governing competition for office, by establishing the mechanisms to determine the winner of an election, and by defining checks and balances between branches and levels of government, the interaction of institutions and electoral rules generates *incentives* for politicians to behave in a particular way. This straightforward conclusion appears not to be self-evident in Mexico; it was not self-evident in 1996, when the basic rules of the current electoral system were first adopted, and it does not seem to have gained much ground since.

The aftermath of the 2006 presidential election is simply the natural consequence of an institutional reform that has not been deeply thought about—much less fully enacted—since 1996. The 2006 races for both the presidency and Congress took place under 1996 rules and pre-1996 institutions. Not only have Mexican politics changed in the last ten years, but the sole objective sought at that time—minimizing the probability of large-scale fraud—is no longer the most relevant item on the list of what Mexico needs in order to achieve a better-functioning democracy. Any discussion of democracy's future in the country must analyze not only how and why some aspects of the electoral process succeeded or failed in 2006, but also the nature and direction of the changes that are needed to reinforce the successes and correct the failures.

Given the current rules set forth in the Electoral Code, election-day logistics worked nearly to perfection. That is, 99.9 percent of the more than 130,000 polling places were installed and votes were cast virtually without incident; 87 percent of the polling places had representatives from at least one political party; and votes were counted in the presence of interested citizens. Nothing less would be expected in any proper democratic election.

While the logistics left virtually no room for a massive orchestration of fraud, they unfortunately did leave quite a lot of space for human error. In the end, it is citizens and not trained officials who count the votes, and especially in a country where the average person has slightly more than seven years of schooling, mistakes are prone to happen.[1] Is there any way to reduce these errors? Yes, but not without a tradeoff. Votes could be cast and counted electronically, but at a much higher cost and not necessarily with higher reliability—consider the U.S. case—or thousands of election officials could be deployed on election day to count the ballots, again at a much higher cost, and with somewhat less apparent independence than under the current, citizens-based system.

But we need to keep in mind that the suspicion of fraud arose in 2006 *because of* human error. An autonomous elections-administering entity

such as the Federal Electoral Institute (IFE) and the practice of vote-counting by citizens were justifiable and perhaps even indispensable back when elections held under the decades-old rule of the Institutional Revolutionary Party (PRI) were synonymous with fraud. But today, when democracy is established and the probability of widespread fraud is negligible, it might make more sense to transfer the task of professionally organizing and supervising elections to the equivalent of a European or Latin American ministry of the interior, as is the case in Germany, Spain, or Chile. Some might say that if the government is allowed to intervene directly in the electoral process, fraud could be easily orchestrated and the possibility of sustaining a "real" democracy would soon die because of the irresistible temptation of government-sponsored tampering. But if that is the case then our problems—constituting a still-unfinished representative democracy—run much deeper. Addressing how the votes are counted or who organizes the electoral process would not solve the core issue. Mexicans need to ask which change and set of accompanying costs seem most preferable (all things considered) to the current status quo, and reform accordingly.

What Went Wrong?

While losing candidate Andrés Manuel López Obrador's claims of massive fraud are far from supported by the preponderance of evidence, his underlying argument appears valid: A case can be built for a lack of fairness in the race.[2] But defining and measuring "fairness" or "unfairness" with precision are daunting tasks. It would be hard to argue, for instance, that the televised "issue-advocacy" advertisements which business organizations paid for in the campaign's final stages had absolutely no impact on the election's outcome, but no serious scholar would venture to estimate the magnitude or direction of these effects.

Likewise, it would be hard to argue that federal social policy did not produce a positive evaluation of the incumbent party that might have created a bias in favor of ruling-party candidate Calderón. But any citizen in a democracy where parties regularly rotate in office knows that incumbents often hold advantages derived from performance while in office, although they may also incur serious disadvantages. Besides, López Obrador benefited from having been the mayor of vote-rich Mexico City, where he beat Calderón two to one. During his first five years as mayor, López Obrador's programs included a direct monthly subsidy worth nearly US$60 to every senior citizen living in poverty. It is no secret that most of the money wound up in zones where the mayor's Party of the Democratic Revolution (PRD) was strong. In sum, it is easier to reject the hypothesis of an equitable race than it is to prove how much inequity there was and what it finally meant. Yet both IFE and the Electoral Tribunal of the Federal Judiciary (TEPJF) issued rulings to

limit the constitutionally guaranteed right to free speech during this electoral process.

The "original sin" (as the PRD colorfully put it) that foreshadowed the electoral result was the 2003 controversy over the makeup of the IFE's General Council (GC). The PAN and PRI caucuses in Congress chose the GC's membership by themselves after the PRD walked out of negotiations over the body's composition and refused to submit candidates.[3] The IFE, so the PRD's complaint goes, thenceforth began to act as an instrument of these two parties. The argument is correct in pointing out an agency problem: The PRD cannot expect the GC to be the agent of a party that refused to vote for any Council members. But the argument is wrong in assuming, as has been done since 1996, that individuals involved in administering elections have no partisan preferences or ties. They do, and it is highly unlikely that someone with the necessary qualifications and no partisan links could be nominated by any party, let alone be selected.

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The deeper problem is that the current institutional design provides no incentives for the three main parties to reach a consensual decision regarding the composition of the GC. In a tripartisan setting such as exists in Mexico today, if two parties can achieve a minimum winning coalition by themselves, there is no reason for them *not* to act in tandem when the third party makes unreasonable demands. Moreover, if the members of the GC are chosen on partisan grounds, it follows that their actions will have a partisan flavor and will be seen as having been performed to benefit the members' principals.

Yet whatever the GC's internal political struggles and questionable attempts at modifying electoral policy, the system remained strong enough to produce an election that was at least logistically sound. Unfortunately, the performance of the rest of the institutional structure fails to merit such a positive assessment.

When recommending changes in the current system, two things should be kept in mind. First, changes in the electoral rules must be consistent with what institutional reform aims to achieve. That is, the effects of new electoral rules must be aligned with those of institutional reforms in order for the desired result to come about. Second, there is no such thing as a perfect institutional reform. Each alternative will not only generate unforeseen as well as intended results, but also costs as well as benefits. Each and every alternative is inherently imperfect, so we must be content with choosing the one that is closest to the desired outcome.

Therefore, the most important matter is defining precisely what we want the outcome of the institutional system to be. Once we have deter-

mined that, we can choose institutional reforms accordingly. In our view, the outcome that would do the most to improve the future of Mexican democracy would be a system that fosters long-term political stability. The new equilibrium that this system would embody would flow from the removal of barriers against the entry of new political participants, from steps to make competition more equitable, and from measures to minimize any more-than-proportional powers in the hands of particular political actors. In order to achieve such an equilibrium, three types of reforms will be necessary. The first type will be electoral, the second will mix electoral change with institutional modifications, and the third will focus purely on remodeling institutions. While space constraints rule out detailed discussions of mechanics, it is at least possible to sketch the rationale behind each category.

Electoral reforms. The rules under which elections are conducted will have implications for institutional design. The beginning of wisdom is to recognize that there is no need to address problems which have already been solved. Specifically, there is no need to rewrite the rules in order to impede massive electoral fraud (now a virtual impossibility) or to enhance trust and credibility in electoral institutions (a goal already achieved, despite their performance in 2006).[4]

Three changes to electoral-system rules would be particularly helpful. First, the nature and origin of funding for political parties need attention. Currently, political parties get most of their money (a grand total in 2006 of about US$400 million) from the federal government, with limited amounts coming from private sources. Public financing grows substantially from election to election, and is doled out in a lopsided way that rewards any party which increases its vote share from the previous balloting and imposes an unjustified handicap on any party whose vote-getting performance slips. Most importantly, a large portion of these funds are spent directly on television and radio campaign advertisements—typically bought at prices that the rising flood of public funds tends to drive upward. It would make sense to eliminate airtime purchases and to substitute state-mandated free broadcast time for a large portion of public funds, as is done in Brazil, Chile, and most of Europe outside Finland. It would also be a good idea to modify the distributional formula to avoid the inequitable "rich get richer, poor get poorer" effect of the current system.

A second needed change would adjust the functions of the electoral authorities. The IFE, and to a lesser extent the TEPJF, were created as a response to state-orchestrated electoral fraud and the need to foster confidence in election results. Since that aim has largely been achieved, it might make more sense to transfer responsibility for election logistics to some other government agency and allow the IFE to have the responsibility (now borne by the TEPJF) of officially declaring winners. Likewise, in order to avoid the current legal confusion between purely

electoral matters and other constitutional matters, the increasingly independent Supreme Court rather than the TEPJF should be the sole entity with power to decide legal controversies, including any involving the Electoral Code.

The third and fourth changes in electoral rules should be lowering the bar to entry for new parties and allowing independent candidates to run. There is no reason why the traditional parties need to be the exclusive channels to public office. Under the current rules, it is virtually impossible to form a new party without resort to corrupt clientelistic practices, and independents are barred from running for office. This makes it too easy for the established parties to keep elected officials more responsive to their party than to their constituents. If single-issue political views could more easily find expression in the form of new parties, moreover, a healthier and more representative party system would be the result. Similarly, eliminating the prohibition against independent candidacies might just be the boost that elected officials need to grow more attentive to voters. There are legitimate concerns about how to regulate the flow of public campaign funds to independent candidates, but these concerns can be met in ways that need not obviate the gains to be realized from independent candidacies.

Electoral-cum-institutional reforms. Since electoral reforms must act in coordination with institutional arrangements, the resulting incentives should be aligned to promote the desired outcomes. Certain reforms would affect both the electoral and the institutional arenas. The first would be the introduction of a runoff for the presidency. Given the tripartisan system that Mexico has had since 1988, and the high degree of electoral volatility evident in the last two presidential contests, it is highly unlikely that anyone will soon win the presidency with more than 50 percent of the vote. Going to a runoff when no candidate exceeds a certain threshold seems like a plausible route to chief executives with surer mandates and hence a better chance of delivering on their campaign promises.

A runoff is likely to produce party atomization in Congress, especially when executive and legislative elections are concurrent, since small parties have an incentive to run in both in the first round in hopes of amassing votes that they can trade for their respective endorsements in the second round of the presidential election. A plausible method of decoupling these effects could come in the form of an *instant-runoff* (single transferable vote) system in which voters rank all the candidates from most to least preferred. By having this information available in the event that no candidate surpasses the prescribed threshold, electoral officials can instantly reassign votes according to the ranking of preferences that each voter has indicated in order to identify the winner without the added cost of an additional election. Such an arrangement also gives voters a strong incentive to cast sincere rather than strategic votes.

A second electoral-cum-institutional reform would be to eliminate the single-term limit that is currently attached to the presidency and seats in both houses of Congress. As the academic literature suggests, the prospect of standing for reelection at the end of one's term fosters accountability, professionalism, institutional memory, and policy continuity, to name just a few desirable consequences. Given these positive features and their notorious absence in the Mexican context, there seems to be no reason why elected officials in Congress and the executive branch should not have the option of seeking consecutive terms. Reelection could also, according to some, strengthen the parties' grip on politicians, but this effect will be moderated if other reforms such as open primaries, easier entry for independents, and funding changes are enacted.

Another reform with both electoral and institutional effects would be to readjust the use of proportional representation (PR) in Congress. Currently, 200 of the 500 seats in the Chamber of Deputies and 32 of the Senate's 128 seats are assigned according to a PR formula (a Hare quota with the largest remainder applied to 5 national lists of 40 seats for the Chamber of Deputies and a single national list of 32 seats for the Senate) which effectively ensures that most of these seats go to the three major parties. In other words, since usually none of the 300 plurality districts are won by minority parties, the three largest parties obtain both PR and majority seats ranging in the hundreds, minority parties rarely receive more than a dozen seats each, and their relative weight in the legislature is effectively diluted. A viable option to allow for more alternative voices to be heard would be to reduce the number of PR seats in the Chamber and assign them *only* to those parties that exceed a low percentage of the total nationwide vote, but fail to win any plurality seats. As for the Senate, since its basic principle is to represent all states equally, having PR seats in that body is plainly redundant.

Institutional reforms. Even when rules reorient the *individual* behavior of political actors, it is institutions that coordinate them to act *collectively* toward a given end. In Mexico, where petty political interests seem to be a dominant force, a different institutional setting might be what is needed to restrain individual interests in favor of long-lasting political stability.

No Mexican president is likely soon to enjoy an adequate legislative plurality, which makes coping with gridlock a major problem. What is needed is a system that generates sufficient majorities to govern while also reflecting the relative weights of the various parties in Congress. A variant of the semipresidential model seems like a natural candidate for the task: Such a system would feature a president chosen by universal suffrage, mainly equipped with veto power backed by sufficient support in Congress to make the threat credible. Coupled with this head of state would be a figure resembling a prime minister, appointed by the

president but subject to congressional approval, and responsible for making everyday executive decisions. The rationale for this reform lies in the observation that when a political party lacks a sufficient plurality to enact an agenda by itself and all other political parties have more to gain by maintaining the status quo, a mechanism for overcoming gridlock must be available. With a popularly elected president and a legislatively approved prime minister, parties will both be able to enjoy some of the responsibility of governing and be forced to internalize the costs of inaction.

Here we should pause to point out a crucial lesson that must be learned. It is that there is no single, technically correct institutional reform. Institutions are means to ends. Choosing a particular arrangement, therefore, is not a technical decision, but a political one. We advocate the reforms sketched above because we think that they will enhance the political stability which Mexico badly needs.

Making Choices

Returning to the current situation, one cannot avoid wondering what happened to López Obrador and the PRD. His own close advisor, Porfirio Muñoz Ledo, was a major figure in the writing of the 1996 rules that governed the 2006 election, rules that the PRD supported. Why, then, did the PRD complain about the rules only after the 2006 race rather than in 2000 or 2003? Why cry for a new set of rules *precisely* when they produce an unfavorable result? Furthermore, why not propose possible reforms to fix the rules that do not work, instead of calling for their destruction?

The one thing that democracy cannot tolerate is a player who denounces the faults of the game *only* when the rules are not beneficial to him. If fairness and an equitable competition were his concerns, López Obrador should have pushed the cause of reform in Congress, the proper channel to correct these biases, between 1996 and 1999 when he was the PRD's president.

López Obrador may be correct in complaining about flaws in Mexico's political institutions. This essay certainly points to some of them. Although the cause might be fair, the means—indefinitely extended street demonstrations, a refusal to recognize Calderón as president, and disregard for the rulings of electoral authorities, all of which later resulted in López Obrador becoming the "alternative" president—that López Obrador has chosen to achieve his desired result certainly are not. And one cannot dissociate the man from the means, especially when less disruptive alternatives are available. Making a point, even a fair one, cannot constitute a legitimate justification for disrupting the lawful workings of a democratic system of government.

The PRD candidate's actions are also likely to affect his party. When

one wing of the party takes over Mexico City's government while López Obrador carries on with his "alternative" presidency and government, it is likely that the party will split into radical and reformist factions which will struggle for control. The radicals seem to be the best positioned to dominate, at least early on, by virtue both of their higher visibility and the powerful posts that they hold within the party. If reformists begin to find themselves losing every intraparty contest, what will be their reason for staying rather than leaving to start their own party? The surprising thing, even at this early date, is that the PRD has been able to hold together despite the polarizing pressures that López Obrador is creating.

By now, our main conclusion should be clear: The most important and far-reaching imperative facing Mexico's democracy is the need to win congressional approval for an agenda of electoral and institutional reform. These reforms are essential for the country to be able to address what public opinion regards as the most pressing problems (unemployment, insecurity, and the like). This is so even if public opinion does not consider the enactment of electoral and institutional reform to be an urgent priority. When almost half the populace works in the informal sector of the economy and needs steadier jobs with higher pay, it may be hard to convince them to support an institutional and electoral reform program that will in the long run—but only in the long run—produce precisely the results that are so badly needed. It is a politically tough case to explain that job creation would be much easier if a president had a stronger mandate and a larger majority in Congress as a result of a well-designed runoff provision, or if members of Congress felt more keenly interested in serving their constituents thanks to a well-conceived reelection reform.

President Calderón has a choice to make. He can work to make the case for long-term reform's urgent importance to Mexico's future, even though people's most immediate concerns seemingly lie elsewhere. Or, like former president Fox, Calderón can postpone reform in order to focus on "what the people really want" and, like Fox, get nowhere. Recent polls have consistently shown that postelection Mexico, like Gaul, is divided into three parts: One third backs the new president, one third backs López Obrador, and the final third cares little about politics. This means that pressing the cause of reform will involve either trying to carry out a policy with two-thirds of the country in varying degrees of active or passive opposition, or building majority support by convincing the unengaged and peeling off as many supporters as possible from the López Obrador camp. This seems much harder than generating ad hoc coalitions to support each step of the reform process. But negotiating well will inevitably require a clear strategy to achieve a given goal, the use of creative tactics, and the willingness to play hardball to get a result as close as possible to the ideal reform.

What this ultimately means is that the future of the Mexican democracy rests not only on electoral rules and institutions that generate the "right" incentives, but on the ability to implement them as a means of addressing what public opinion considers the "most pressing problems" facing the country, thus making it possible to produce long-lasting solutions.

Any reader with some background in Mexican history will conclude—correctly—that the basic terms of the country's dilemma have not changed much in the last century: Mexico should redesign its political system to rely more on institutions and less on personalities. The ultimate aim should be to equip the Mexican polity with a baseline level of institutional performance that does not depend on having a particularly skilled leader at the helm. Given a "good draw" of political actors, democracy should perform well above this level. And even with a "bad draw," it should never perform below such a floor.

Just as no service to democracy will come from ignoring the need for reform, no service will flow from a disjointed reform. But it is also important to make a distinction: The issue at stake is not whether this or that administration meets this or that set of expectations, but whether Mexicans can devise and agree on means rationally calibrated to achieve crucial long-term ends. Passing the test that this issue poses will require decisions that cannot be postponed much longer.

NOTES

1. It should not be surprising, then, that some ballots cast for president were counted in the congressional elections and vice versa, or that some valid votes were counted as invalid by mere human error.

2. Alejandro Poiré, a former senior official of the IFE, has published a lucid account of the most important issues pertaining to electoral fairness in Mexico. See Alejandro Poiré, "Reflexiones sobre la equidad de la elección presidencial de 2006," *Este País: Tendencias y Opiniones,* July 2006, 16–23.

3. Since the PRD approved the rules under which the GC members were selected, the party's real objection cannot be to the selection process but rather must be to the candidates themselves. It is also worth noting that PRD spokespeople have called TEPJF justices "corrupt" for certifying Calderón's election, even when those justices owed their seats on that tribunal to PRD support.

4. For instance, an 8–11 September 2006 poll taken by the survey firm Parametría found 62 percent of Mexicans saying that they trusted the TEPJF, while 66 percent said that they trusted the IFE. These are slightly higher figures than those found in polls taken after the 2000 election. For Parametría's full analysis and data on historical trends, see "El Tribunal Electoral pasó la prueba y aumentó la confianza en el IFE," *Excelsior* (Mexico City), 18 September 2006.