

“MEXICO BEYOND CAPTURE”

EXECUTIVE SUMMARY

Introduction

1. Mexico is in the midst of a transition. The defeat of the Revolutionary Institutional Party (PRI) in the 2000 presidential election marked a watershed, and with the repeated defeat of the PRI in the 2006 election, the era of the single-party dominance appears to be long gone. The demise of the one-party system may have been expected to usher in a new era where benefits of the government policies and economic development are more widely shared. But, such a change has yet to take place. Why not? At the same time, there is a strong perception that the pace of much-needed economic reforms slowed down under the new political arrangement. Why? This Institutional and Governance Review (IGR) addresses these crucial questions, and in so doing tries to offer some insights into how Mexico’s democratic governance may be strengthened over time. Taking into consideration the evidence collected for this work, the study argues that Mexico is well positioned to start its second transition towards effective democratic governance in the country, but to do so will require addressing certain socio-political obstacles that continue to limit the full effects of democratic accountability.

Incomplete Transition, Special Interest Politics, and the Challenge of Democratic Governance

2. As Mexico has shifted from a single-party regime to a multi-party democracy characterized by competitive elections, citizens are taking increasingly active roles in deciding the future of their society. The long-term dominance of a hegemonic party – characterized by high levels of political power concentration and meta-constitutional powers invested in the President – has been replaced with democratic institutions based on division and decentralization of powers and increased checks and balances. Political competition at all levels of government has resulted in party turnover and greater public access to government information, although the pace of progress varies between the federal and the sub-national levels and among the sub-national jurisdictions.

3. The increased salience of elections has expectedly led to a shift in the policy directions in some sectors. Thus, public spending in Mexico has generally become much more pro-poor, and the coverage of basic social services such as primary health care and basic education has improved since the early 1990s. Still the pending reform agenda is long, and the quality, equity, and effectiveness of basic public services such as public

health, education, and public security leave much room for improvement. Mexico's remaining policy challenges are not trivial.

4. In many ways, the remaining policy distortions are due to undue influence of interest groups such as some of the public sector labor unions and certain economic elites. These groups are mediating – and many times capturing – the relationship between the political leadership and the citizens in general (as voters) – affecting the provision of public goods and services. Their influence has been due in part to their own specific leverage over the policy making process, particularly the ability to strike or otherwise disrupt key state functions or sources of revenue, or the ability to buy politicians' allegiance with their financial clout.

5. Numerous examples of reform efforts since 2000 indicate that, despite the political pressures to appeal to voters broadly, vested interests have in many areas continued to be an immovable obstacle to reform intended to deepen pro-poor social policies in Mexico. Chapter 2 presents several examples of this, including the partial reform of the social security program, the difficult reorganization of the education system, truncated fiscal efforts necessary for even more pro-poor policies, and the ineffective provision of public security. These groups had gained entrenched positions thanks to decades of privileged access to power, despite often not representing a majority's interests in their own segments, and continue to take advantage of their positions and organizational capabilities to thwart those reforms that threaten their long-enjoyed privileges.

6. As documented in Chapter 3, pernicious presence of special interests is visible in the economic arena as well. Although the market-oriented reforms of the 1990s, such as trade liberalization, have brought many benefits to the Mexican economy, in some specific instances, these same reforms have yielded fewer results in terms of making Mexico more competitive. The most notable example is the privatization of the telecom sector, which merely replaced a public monopoly with a private monopoly. Market concentration, at least in some sectors, and the high level of wealth concentration work hand in hand to make Mexico's political playing field far from level. Economic power translates into political influence, and weakens the relative weight of an average voter preference in the political process.

7. In sum, our review of policy episodes in social and economic policy domains shows how, even in the more democratic environment, privileged abilities of special interests to exert their influence over policy content remain strong. Competitive elections have empowered ordinary citizens and increased their ability to stand up against special interest politics. But, the capacity of special interests to mobilize resistance outside of formal electoral and legislative arenas mitigates the accountability effects of elections. These resistances not only block or dilute reforms when they are attempted, but they naturally make politicians reluctant to take on ambitious reform agenda, knowing the difficulty of overcoming special interest pressure. In turn, the

voters can (rightly) grow skeptical of politicians' ability to overcome the resistance and start asking for tangible, particularistic benefits rather than fundamental reforms that can improve the country's general welfare in the long run.

The Alleged Case of Reform Deceleration and the Need for Political Reforms

8. Our analysis highlights the role of special interests in subverting democratic processes in Mexico and undermining the quality of public policies, be they more equitable provision of public health, more effective public education, or more efficient economic regulation. Of equal or perhaps even greater salience within the ongoing Mexican debate on governance challenges is the question about the efficacy of the Mexican state, arising from the inability of the government to pass pending structural reforms. A number of observers have pointed their fingers at institutional weaknesses of the Mexican state, especially the difficulties the executive branch has had in forging consensus and form a sufficient legislative coalition in Congress to pass reform bills. These observers have suggested a variety of so-called political reforms to change the contour of Mexico's constitutional design and either to give the executive greater political powers and clearer mandates (e.g., by switching to a parliamentary system) or to make politicians more responsive to voters (e.g., by eliminating the proportional representation voting system and adopting a US-style winner-take-all electoral system).

9. Constitutional reengineering is not a panacea, however, and international experience suggests a need for caution. Behavioral effects of institutional change are hardly predictable, and available empirical evidence shows very little effect of a particular institutional choice on the quality of policies (see Tables 4.7 and 4.8 in the main text). Indeed, empirical evidence is mixed regarding whether a particular feature of the current institutional configuration, divided government, is mainly responsible for slowing down structural reforms. The information on "legislative productivity" we have collected shows evidence of a slowdown in constitutional reforms, which are needed for some of the pending reforms such as a comprehensive reform of the petroleum sector. But it also shows that the number of federal laws passed (either anew or as revisions to existing laws) actually increased during the period of divided government because of the heightened legislative activities of the political parties (table 1).¹

¹ It is possible that the higher incidence of the passage of opposition-sponsored bills reflects the influence of the special interests that we highlight in this report, but to ascertain such an argument, a far more detailed analysis of individual bills is necessary. But such an exercise was beyond the scope of this study.

Table 1 Constitutional Reforms by Legislative Period, 1988 – 2006

Legislative Period	President	No. of Arts. Reformed/1	Avg. duration/2	Avg vote/3	% avg/4
1988-91 (54)	Salinas I	10	178	315.6	63%
1991-94 (55)	Salinas II	42	83	325.9	66%
1994-97 (56)	Zedillo I	54	124	396.6	79%
1997-00 (57)	Zedillo II	22	186	380.6	76%
2000-03 (58)	Fox I	13	565	399.8	80%
2003-06 (59)	Fox II	2	552	393.0	79%
		143	281	368.2	74%

1. Does not include transitory articles.

2. Average calendar days between the date of initial submission and publication in *Diario Oficial de la Federación*.

3. Requires two-thirds of the Lower House ($500 \times 2/3 = 334$).

4. Percentage does not take into account quorum in each session.

Source: *Gaceta Parlamentaria*, and <http://www.diputados.gob.mx/leyinfo/refcns/index.htm>

10. If the same executive-legislation arrangement can produce a high frequency of legislative reforms, then it is unlikely that the main source of the reform paralysis is in the institutional design of executive-legislative relations as such. Moreover, the difficulty in passing reforms seems to be limited to certain policy domains where vested interests are particularly powerful. A cursory look at the frequency of federal law reforms in different policy areas, although not systematic, is illustrative of the overall pattern where certain sectors have proven resistant to reform throughout the last three *sexenios*. Table 2 shows that the federal laws governing the four contentious areas of structural reforms – energy/petroleum, pension, and labor – together have gone through far fewer changes than those related to other policy areas such as criminal justice and fiscal affairs. These tallies should be interpreted with caution. They offer no insight into the quality and the relative significance of the legal changes. Nonetheless, they do generally support the contention that these reforms have always been difficult even during the height of the reformist PRI presidencies.

Table 2 Reforms to Selected Federal Laws, 1988 – 2005

Laws with frequent reforms				
Sector	Law	Salinas	Zedillo	Fox
Criminal Justice	CÓDIGO PENAL FEDERAL	13	13	13
	CÓDIGO FEDERAL DE PROCEDIMIENTOS PENALES	8	9	9
Taxation*	LEY DEL IMPUESTO AL VALOR AGREGADO	7	8	12
	LEY DEL IMPUESTO ESPECIAL SOBRE PRODUCCIÓN Y SERVICIOS	6	8	7
	LEY DEL IMPUESTO SOBRE LA RENTA	-	-	11
Health	LEY GENERAL DE SALUD	1	3	22
	Total	35	41	74
Laws with limited reforms				
Energy	LEY DEL SERVICIO PÚBLICO DE ENERGÍA ELÉCTRICA	3	-	-
Petroleum	LEY REGLAMENTARIA DEL ART. 27 CONSTIT. EN EL RAMO DEL PETRÓLEO	-	2	2
Pensions	LEY DE LOS SISTEMAS DE AHORRO PARA EL RETIRO	-	4	4
Labor	LEY FEDERAL DE LOS TRABAJADORES AL SERVICIO DEL ESTADO, REGLAMENTARIA DEL APDO. B DEL ART. 123	-	1	1
	LEY FEDERAL DEL TRABAJO	-	1	1
	Total	3	8	8

Source: Aparicio (2005) based on "Sumario de Reformas a las Leyes Federales Vigentes", Cámara de Diputados, Sep. 19, 2006.

* Selected tax laws for illustration only.

11. In sum, while the Fox administration's failure to pass the currently pending energy, labor and public sector pension reforms has been disappointing, it appears that the sources of these reform failures are not simply because of the presence of divided government. In fact, the inability to have these particular reforms enacted is not unique to the current administration. No previous administration, even at the height of PRI hegemony, was able to make significant headway with them, either. The vested interests that have blocked reform since 2000 seem to have been at least as influential prior to 2000.

12. On the basis of the evidence reviewed, we contend that the core of the governance problems in Mexico, both in terms of the demonstrated difficulty in

strengthening the state's capacity to provide public goods and passing contentious economic reforms, has its roots in the country's socio-political reality rather than in its institutional arrangements. Besides the role of special interests, the political polarization of the Mexican population so clearly demonstrated in the last presidential election is an aspect of this reality that is not directly due to Mexico's institutional arrangement. Therefore, we contend that the case for political reforms is weak in today's Mexican context not because political institutions are not important but because they do not seem to address fundamental causes of Mexico's governance challenges as we have identified in this study and their outcomes are inherently quite uncertain, while the political cost of a major state overhaul is necessarily high.

13. In a cross-country regression analysis reported in Chapter 4, we find that most variables related to specific political institutions fail to explain Mexico's policy performance vis-à-vis international comparators. In the same analysis, however, one variable shows up as statistically significant in explaining Mexico's performance in public spending and corruption. This is the degree of democratic consolidation, measured as the number of continuous years that a country has had competitive elections. To say that democratic consolidation improves governance is not to resign oneself to the view that Mexico simply has to wait for decades to see its political system mature. We argue that specific measures can be taken to sharpen the beneficial effects of a key aspect of a mature democracy, competitive elections, so that citizen voice influences government decision-making more effectively.

Obstacles to Full Electoral Accountability and Priorities for Reform

14. In Mexico, the role of special interests and the political polarization serve as countervailing factors that dampen effects of the competitive elections and limit the political parties' incentives to seek votes on the basis of their programmatic reputations. Aware of these challenges, this paper identifies a number of priority areas for attention from the point of view of strengthening Mexico's burgeoning democratic governance. The driving concern is to strengthen electoral accountability in Mexican politics so as to restrain the pervasive influence of special interest groups. We suggest that special interests' influence could be controlled with transparency measures that allow the general public to scrutinize their political behavior. Ultimately, however, relevant sectoral reforms, such as deepening of education decentralization or reduction in market concentration, would be necessary to disperse the political power currently concentrated in few hands.

15. A complementary set of reforms would be needed to strengthen electoral accountability of politicians. Here we advocate policy-based competition among well-institutionalized political parties as an ideal situation. For this, our suggestion is to consider lifting the electoral rule so peculiar to Mexico that prohibits legislators from running for immediate reelection. Other possible reforms to the electoral system, such as to change the current mixed system to a single-member district system or to a

proportional representation system, seem unlikely to effectuate desired results, that is, to encourage policy-based competition among well-institutionalized political parties. Combined with the above-mentioned transparency measures that focus citizen attention to substantive policy issues and government performance, the lifting of reelection ban may create incentives for political parties to seek votes (for reelections) on the basis of their good records in elected offices.

16. Increasing politicians' incentives to respond to citizen demand is only one side of the coin. The other side is to strengthen voters' own incentives to demand public goods as opposed to particularistic benefits. In this sense, addressing polarization is perhaps a higher priority in the short run. No amount of policy proposal will be taken as credible or sincere if the environment is so polarized and mistrust reigns. When policy proposals are not credible, voters will demand tangible, short-term benefits, and politicians will respond accordingly, thus leaving the political exchange between voters and politicians at low levels of policy equilibrium.

17. Policy credibility can only be built on the basis of an actual record of delivering good policies. But, even this becomes difficult when socio-political polarization pits one group of society against another. It then becomes necessary and highly important for the government to take measures to build credibility among those voters who sit on the opposite camp of the polarized political map, which seems to characterize Mexico today. One set of options would be to launch a visible program to strengthen statutory autonomy of a range of government institutions such as the civil service or the police force. For several reasons, granting independence to regulatory agencies within transparent public accountability arrangements might be a fitting entry point. If successful, such reforms could also contribute to the country's competitiveness agenda, and, especially for the incoming administration that is seen as business friendly, would send the signal to the population in general that the government is not captured by powerful business interests.

Another critical theme would be strict adherence to the rule of law and concerted efforts to strengthen the country's legal and judicial institutions. This is obviously easier said than done, but the emphasis on the rule of law, together with the earlier point about transparency should form the backbone of the governing principle of the democratic Mexico, no matter who is in power.