

### **Mexican Electoral Institutions. A bumpy path to a successful democracy.**

Mexico is celebrating its biggest “democratic” elections this year. After being absent for twelve years the actual government from the “Partido Revolucionario Institucional” (PRI) for the past five and a half years has been marked by corruption scandals, increased violence, structural reforms that have not given the expected results and lately an increasingly tense relationship with the government of the United States, its biggest commercial partner.

Prospects for the future don’t look promising, parties from the opposition are forming “un-natural” alliances (liberals with conservatives), the proposals in the presidential campaign vary from populism to regression, to debt, to dissolve institutions, to decentralize the government and so on. The group in power is using government institutions to chase the opposition candidates while a more local level, the opposition might win the majority in congress but the PR lists are full with inconsistencies that leave much to be desired and fill the environment with uncertainty. Same factor that has put on hold foreign direct investment and the flow of money for social programs.

Since 1946 elections have taken place in Mexico. The Constitution from 1917 established three institutions that were in charged of organizing and qualifying the elections for President and Congress. These institutions might have already fulfilled the procedural definition of a democracy and yet there wasn’t one at the time. Nowadays Mexico has a couple of institutions that look after the electoral processes and the rules and regulations that surround it, including the party system. These Institutions have suffered many changes and constitutional modifications that have been coherent with the history of the country. But there is still uncertainty on the legitimacy of the processes and on the fairness and enforcement of the law.

On the first part of this paper I will briefly analyze the evolution of the electoral institutions and the context in which they have done so. In the second section I will analyze one of the five laws that rule the electoral system. I will briefly explain what is the jurisdiction of each of the institutions to then move towards how are inclusion, procedures and representation fulfilled in the legal framework. The third part of this paper will then try to answer the questions of: How well are electoral institutions structured to promote and fulfill the procedural definition of democracy? Can electoral institutions prevent democracy from failing in a country in which democracy is really inconsistent? What could change in the electoral institutions that would make them more prone to promote democracy and its values? Are the electoral institutions ready for a really divided election that is in risk of fraud and conflict?

#### **Historical Context**

The Mexican Constitution of 1917 was the first one to include civil rights. Ever since it has been divided in two sections, organic and pragmatic<sup>1</sup>. The first contains the structure of the country and its institutions and division of powers whereas the second one refers only to civil rights. It is in this constitution that the government was established as a republic, which is democratic, representative and federal. This constitution established direct

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<sup>1</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

election system that at that time was taken care of by three different departments within the federal government: “Junta Empradronadora”, “Juntas computadoras locales”, and electoral colleges<sup>2</sup>. Their main function established in that constitution was to organize and overlook the elections for President and Congress.

After the dictatorship of Porfirio Diaz, the constitution was amended to prohibit reelection<sup>3</sup>. Presidents from Mexico were either liberals or conservatives but there were no established political parties until 1920 when the “Partido Revolucionario Institucional” (PRI) was founded<sup>4</sup>. The party was born to protect workers rights; it had a mostly socialist influence, opposite to the fascist movements that were taking place in Europe. The party needed to have a solid base that could give resources and structure if it was to survive. This led to the creation of Labor Unions such as the “Confederación de Trabajadores de Mexico” (CTM), which gained the party social power<sup>5</sup>.

The party in government had all control over social movements, education, taxes, land reform and also state owned enterprises of great importance as “Petróleos Mexicanos” (PEMEX)<sup>6</sup>. The PRI party existed on its own until 1939 when Manuel Gómez Morín founds an opposition party now know as “Partido Acción Nacional” (PAN). Its main objective was to institutionalize democracy to prevent and/or defeat authoritarianism.<sup>7</sup> In response to this, the president in 1946, Manuel Ávila Camacho enacted the Federal Electoral Law, which established the coordination and vigilance of the electoral processes through the already existing but improved governmental departments, “Comisión Federal de Vigilancia Electoral”, “Comisiones electorales locales” and “Consejo del Padron Electoral”<sup>8</sup>. That same year the Party PAN won a congressman seat and a municipality in the state of Michoacán<sup>9</sup>.

The law was amended again 1951 to include better rules for the register and validation of new political parties, this amendment also gave the commissions the job of providing with the majority record documents<sup>10</sup>. The election of 1952 had an opposition candidate for the first time since the party system was established. The opposition candidate, Efraín Gonzalez Luna got 13% of the votes in that election; a good number considering that it was a one-party ruled sate<sup>11</sup>.

In 1970, Mexico had 48.3 million people with a GDP per capita of 690 USD. It had recently gone through the biggest repression of students involved in the global 1968 movements<sup>12</sup>. The international situation included the end of the patron-gold standard, the end of the Vietnam War, the severe energetic crisis and in Latin America there were coups taking place in Chile, Argentina, Uruguay and Bolivia<sup>13</sup>. During the third wave of democratization

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<sup>2</sup> IBID

<sup>3</sup> Krauze, Enrique. “Siglo de caudillos” (Mexico: TusQuetes editors, 1994),

<sup>4</sup> PRI, Partido Revolucionario Institucional (<http://pri.org.mx/SomosPRI/NuestroPartido/Documentos.aspx>) accessed on 04/10/2018

<sup>5</sup> IBID

<sup>6</sup> Krauze, Enrique. “Biografía del poder” (Mexico: TusQuetes editors, 1997),

<sup>7</sup> PAN, Partido Accion Nacional (<https://www.pan.org.mx/historiadelpan/>) accessed on 04/10/2018

<sup>8</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>9</sup> PAN, Partido Accion Nacional (<https://www.pan.org.mx/historiadelpan/>) accessed on 04/10/2018

<sup>10</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>11</sup> PAN, Partido Accion Nacional (<https://www.pan.org.mx/historiadelpan/>) accessed on 04/10/2018

<sup>12</sup> Castañeda, Jorge. La Herencia. Arqueología de la Sucesión Presidencial en Mexico. (Mexico, Debolsillo, 2015), 26-530

<sup>13</sup> IBID

Mexico remained to be governed by the PRI party. By the end of 1976 the country was growing at an annual 6.1% and the per capita GDP was 1670 USD<sup>14</sup>. In 1973, the Vigilance commission became the “Comision Federal Electoral” in which, representatives from all registered political parties were included with a voice and the right to vote.<sup>15</sup>

In the period from 1977 to 1987, the law of political organizations and electoral procedures was enacted, in it were established the rules for participation and competence in the electoral system. A new federal electoral code was created; it included and regulated the times in the media and the financing of the political parties. In addition, the proportional representation system was introduced at the federal electoral commission level<sup>16</sup>.

Mexico started growing macro economically really fast but so was inequality. The presidential mandate of Jose Lopez Portillo started with an inflation of 32.7% and rose up to 98.9% the annual growth was of 6.2%<sup>17</sup>. In the next presidential term, inflation rose up to 159.2% and annual growth went down to a 0.2%<sup>18</sup>. Adding to the terrible financial crisis that the country was going through came the earthquake in 1985. Mexico didn't have the amount of resources it needed to raise back from the catastrophe so debt was contracted and with it came the nationalization of the bank<sup>19</sup>.

Later on, the elections of 1986 in Chihuahua one of the 32 states in Mexico were significantly controversial and some authors suggest that they were fraudulent<sup>20</sup>. The thing worth pointing out from this process is that independent journalists and reporters at the time, started gathering information from labor unions members, what they found out was that they were threatened not to support the PAN party candidate and that the media was coerced to publish in favor of the PRI candidate<sup>21</sup>.

By the elections from 1988 Mexico had an external debt of 81,003.2 million USD<sup>22</sup>. After the scandal in Chihuahua in 1986 Cuauhtémoc Cardenas, a referent in the Mexican political history decided to run for the presidency skipping the informal practice of candidate selection by the president in turn. This got him kicked out of the PRI party, which was confident that he was not going to fulfill his candidacy due to the lack of party structure, yet the small leftists parties that existed at the time accepted him as their official candidate<sup>23</sup>.

The elections had three candidates, Manuel Clouthier (PAN), Carlos Salinas de Gortari (PRI) and Cuahutemoc Cardenas (Leftist Party Alliance-PMT). The electoral system in place was used not only to run the procedures and logistics of the electoral processes but also to ensure their results. They did so by manipulating the National Registry of Voters, taking advantage of the lack of a vote counting mechanism. Votes were picked up and

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<sup>14</sup> IBID

<sup>15</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>16</sup> IBID

<sup>17</sup> Castañeda, Jorge. La Herencia. Arqueología de la Sucesión Presidencial en Mexico. (Mexico, Debolsillo, 2015), 26-530

<sup>18</sup> IBID

<sup>19</sup> IBID

<sup>20</sup> Krauze, Enrique. “La Presidencia Imperial” (Mexico: TusQuetes editors, 1997),

<sup>21</sup> IBID

<sup>22</sup> Castañeda, Jorge. La Herencia. Arqueología de la Sucesión Presidencial en Mexico. (Mexico, Debolsillo, 2015), 26-530

<sup>23</sup> PRD, Partido de la Revolucion Democrática, ([http://www.prd.org.mx/documentos/prd\\_historia\\_pagina.doc](http://www.prd.org.mx/documentos/prd_historia_pagina.doc)) accessed 04/05/2018.

taken to the central offices. In the elections day, the counting digital system (that registered the voting as they came from the voting sites) fell for a couple of minutes at midnight. When the system came back the president of the electoral commission at the time Manuel Barlett said that the winner of the election was the candidate of the PRI Party, Carlos Salinas de Gortari with a 50.36% of the votes<sup>24</sup>. After that, the electoral tickets were sent to burn by Carlos Salinas itself<sup>25</sup>.

In the state elections the subsequent year, the PRI party lost the state of Baja California in which Ernesto Ruffo candidate from the PAN party won the governor election<sup>26</sup>. That was the first time that an opposition party won a complete state. Previous events from 1988-89 resulted in the creation of a new party “Partido de la Revolucion Democratica” (PRD) founded by former candidate, Cuahutemoc Cardenas<sup>27</sup>. The creation of an opposition party was the result of the social unrest that existed in the country and the unconformity that existed due to the electoral events. To legitimize his presidency, Salinas created in 1990 the “Instituto Federal Electoral” an impartial institution whose fundamental objective was to provide transparency and legality to the elections to come. This institution came with a federal code of institutions and procedures that determines the organizational structure of the institution<sup>28</sup>.

In the period from 1990 to 1994, the electoral card was created, the law was amended to include the profiles for the people working in electoral public organizations and the limiting on to the political party financing was established in the law<sup>29</sup>. In this period of time, the country went through a lot of political and social changes such as the privatization of banks and other state owned companies, the autonomy of the Mexican central bank, the renegotiation of foreign debt and lastly NAFTA. The economy during this period of time grew at an annual 3.7% with an inflation of 15.9% and a per capita GDP of 4,180 USD<sup>30</sup>.

Two things stand out in the elections of 1994, as NAFTA was being signed, a group called “Movimiento Zapatista de Liberación Nacional” an army formed by indigenous populations mostly, threatened to mobilize society and create massive disrupt<sup>31</sup>. Their objective (according to their leader at the time) was to stand up for the rights of the indigenous populations and to be part of the democratic and decision-making life of country<sup>32</sup>. At that time, the selected candidate was Luis Donaldo Colosio a very peaceful character that recognized corruption and injustices in the Mexican system. He ideologically separated from the PRI party, which brought hope and illusion to the voters. During his campaign he was shot at a tour in Tijuana<sup>33</sup>.

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<sup>24</sup> Krauze, Enrique. “La Presidencia Imperial” (Mexico: TusQuetes editors, 1997),

<sup>25</sup> IBID

<sup>26</sup> PAN, Partido Accion Nacional (<https://www.pan.org.mx/historiadelpan/>) accessed on 04/10/2018

<sup>27</sup> PRD, Partido de la Revolucion Democrática, ([http://www.prd.org.mx/documentos/prd\\_historia\\_pagina.doc](http://www.prd.org.mx/documentos/prd_historia_pagina.doc)) accessed 04/05/2018.

<sup>28</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>29</sup> IBID

<sup>30</sup> Castañeda, Jorge. La Herencia. Arqueología de la Sucesión Presidencial en Mexico. (Mexico, Debolsillo, 2015), 26-530

<sup>31</sup> IBID

<sup>32</sup> Krauze, Enrique. “La Presidencia Imperial” (Mexico: TusQuetes editors, 1997),

<sup>33</sup> IBID

The social instability of the country and the lack to an agreement between the former and the new cabinet led to a financial crisis in the next presidential period. Simultaneously the Constitution was amended to provide the Electoral Institution (IFE) with autonomy and independence from the central government<sup>34</sup>. In the presidential election of 2000 for the first time in the last 70 years an opposition candidate from the PAN party was elected president. Vicente Fox was the executive director of Coca Cola and was very fluent and relatable to people. It was a strong and concise win<sup>35</sup>. The big mistake of his presidency was failing to negotiate his reforms in congress. He was a strong proponent of indigenous rights and had one of the best economic reforms the country could have had, yet he wasn't able to pass them through congress because he didn't have a majority<sup>36</sup>.

The PAN party stayed in power for the next presidential period that went from 2006 to 2012. In 2005 the IFE established the right for Mexicans to vote outside of the country that is if their residence is not in Mexico. In 2007 the institution was reformed and got more attributes to it such as, promoting citizen participation, assuring conditions of equity and civility in electoral campaigns and strengthening the trust and credibility of the citizens in the electoral processes amongst others. In 2011, the threshold for women participation in politics was set at a 60/40% representation in all candidacies<sup>37</sup>.

In the election of 2012, for the first time in history the PAN party had a women as candidate for the presidency<sup>38</sup>, the PRD party had the same candidate that they have had on the 2006 elections and the PRI party candidate had been governor of the State of Mexico and had earned a lot of popularity. Freedom of speech had greatly improved during the presidential periods of the PAN party and at the time there were a lot of criticism to the PRI candidate due to the many mistakes he made in his campaign. The uncertainty of not wanting to have the PRI party back in power but disliking the other options made a lot of citizens nullify their votes.

The lack of electoral alternatives made the PRI party won again but positively led to the inclusion of independent candidates, which were added to the electoral law in 2012<sup>39</sup>. In the state elections of 2015 for the first time in history an independent candidate won as governor of one of the most powerful and rich states in Mexico, Nuevo Leon. In Michoacan a city hall was won and in Jalisco a congressmen seat<sup>40</sup>.

In 2014 the electoral institution transitioned from IFE to "Instituto Nacional Electoral" (INE). It is changed so that it becomes a national authority and to standardize the electoral procedures in coordination with the electoral institutions of each state<sup>41</sup>. New obligations to it are added such as organizing the elections for party presidents, guaranteeing that the independent candidates have access to radio and television times and checking and qualifying the monetary resources of the political parties during the campaigns not until the end<sup>42</sup>.

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<sup>34</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>35</sup> Preston, Julia and Dillon, Samuel. "El despertar de Mexico: Episodios de una busqueda de la Democracia". (OCEANO, 2004)

<sup>36</sup> Sanchez Susarrey, Jaime, "Los cuatro errores de Fox" (NEXOS, 2001) [www.nexos.com.mx](http://www.nexos.com.mx)

<sup>37</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>38</sup> PAN, Partido Accion Nacional (<https://www.pan.org.mx/historiadelpan/>) accessed on 04/10/2018

<sup>39</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>40</sup> Espinosa, Martín. "¿Por qué los candidatos independientes? (Excelsior, 2012) [www.excelsior.com.mx](http://www.excelsior.com.mx)

<sup>41</sup> INE, Instituto Nacional Electoral. ([www.ine.mx/sobre-el-ine/historia/](http://www.ine.mx/sobre-el-ine/historia/)) accessed on 04/10/2018.

<sup>42</sup> IBID

Civil society has also played a fundamental role in the transformation of the electoral institutions. A remarkable example was the introduction of the #3de3, an initiative that forces candidates and public servants to publish their tax forms and their declarations of goods<sup>43</sup>.

## Electoral System

Three main institutions form the Mexican electoral system, the “*Instituto Nacional Electoral*” (INE), the “*Tribunal Electoral del Poder Judicial de la Federación*” (TEPJF) and the “*Fiscalía Especial para la Atención de Delitos Electorales*” (FEPADE). All three institutions are autonomous from the central government. They exist at the federal and state level they are all ruled by the same five laws<sup>44</sup>. For the purpose of this paper, in this section I will only analyze the General Law of Institutions and Electoral Procedures because it is the broader one and it addresses jurisdictions, procedures, administration and representation of the electoral institutions.

Some of the most important INE’s competencies stipulated in this law (Article 29), are the organization of periodic elections, contributing to the development of a democratic regime, regulation of spots in both television and radio, updating of the Electoral Register, ensuring the right to vote freely and effectively, and delivering and monitoring the amount of money that each party receives from the state. The FEPADE is responsible for the investigation of illicit behavior by the Electoral Institution Members and the Parties while the TEPJF is of sentencing and holding accountable those responsible of electoral crimes. This institution is responsible of justice of all electoral matters, it is the only institution that can reverse or challenge an electoral result or a decision from the INE with regards to independent candidates or irregularities in the electoral processes.

Before going further in, the fundamentals of an electoral system start with regulating who can vote. Article 9 of the General Law of Institutions and Electoral Procedures, establishes that:

*“To vote, citizens must fulfill the requirements from Article 34 of the Constitution in addition to being registered in the National Registry of Voters and having a voting card. On each electoral district, citizens will vote based on their registered address...”*

Article 34 of the Constitution establishes that “...*those Mexicans that become citizens under the constitution must be 18 years old and have an honest modus vivendi.*” In Article 35 the Constitution then establishes the legal right to vote, be voted and form pacific associations.

Mexico has a mixed bicameral representation system, 300 congressmen are selected by majority rule, whereas 200 are designated by formula of proportional representation. On a different but similar case, there are 128 senators selected on each state, two of them get elected with majority rule and one is assigned to the first minority. Only 32 of the 128 senators are selected by formula of proportional representation.

To avoid over-representation Article 15 in the Law establishes that: “... *no political party can have a number of congressman that exceeds in eight points their percentage of the national voting...*” The formula then established in Article 18 to distribute the proportional representation seats, takes into account only the valid

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<sup>43</sup> #3de3 (<http://tresdetres.mx/>) accessed 04/10/2018

<sup>44</sup> Compendio de leyes electorales, Tomo II. INE, Instituto Nacional Electoral (<https://www.ine.mx/compendio-legislacion-nacional-electoral/>) accessed 04/10/2018.

effective voting, referring to the voting that takes in consideration those null or for independent candidates votes and proportionally distributes them. The valid effective voting then gets divided in the number of seats that are being distributed. This formula is the same that applies for the designation of public resources to the political parties.

This law promotes democratic participation of vulnerable groups and minorities, especially of indigenous populations. Article 26 establishes on paragraphs 3 and 4 that “...indigenous communities have the right to chose their own representatives in their towns and municipalities in the way they are accustomed to. At the federal level, they must adhere to the normal procedures...” The local electoral institution is responsible of observing these procedures without intervening as a way of ensuring and promoting a democratic life.

An ordinary electoral procedure requests that citizen’s work together with civil society, political parties and electoral institutions. On Election Day there are citizens boards (Article 81) on each voting section. These are in charged of installing and closing the voting site, receiving, counting and registering the votes (Article 84). The president of this board at closing time needs to make sure that the results of that voting site are visible for all. The board is conformed by random citizens, party representatives on each electoral district and in some cases international observers (Article 217). Citizens in the board are selected trough a raffle and have to attend training sessions provided by the institution.

Voting sites can’t have more than 3,000 electors registered, there must be a voting box for each 750 electors registered to vote in one site. Voting sites are regulated on Article 255, which establishes that they must be located in places that have free and easy access; they can’t be set in private places that are inhabited by public servants or places in which there are illegal or unhealthy activities. Schools and Public Offices are the preferable sites for the installation of the voting sites.

Once the elections begin, they can’t be canceled and the voting sites cannot be closed unless there are confirmed threats or constraints that that impede people to go and vote freely. To promote freedom of election, there is the secrecy principle, people cannot go to the voting space accompanied by anyone and it is illegal to take pictures of their ballots. Once the voting is closed and the votes are counted a couple of times, a statement is created and uploaded to a system that is centralized to one of the 32 local offices (Article 277).

An elector, that is Mexican citizens over the age of 18, must register in the National Registry to get a voting card that is freely provided by the Institution. In addition to this the INE has to do a door-to-door census to collect the information on voters per district (Article 132). This information is complemented and contrasted with the people that go get their cards. Voting cards have personal information such as address, age and year of register, the personal code number (equivalent to the social security number) as well as a picture and digital prints.

The Mexican party system is mostly funded with tax money. Article 190 establishes the conditions on which parties need to be supervised and audited constantly to ensure that they are using the money in legal ways. The most important threshold on private financing is that parties cannot receive private investments that exceed the amount of resources given by the institution. During the campaigns the auditing process is more frequent and more important, the law regulates the maximum money to be spent, printed propaganda, debates, TV and radio times, and campaign time.

The procedure to become an independent candidate is regulated on Articles 368 and 369. These establish the threshold to obtain the formal candidacy, which says that "...for President, the candidate must get the signatures of citizen support equivalent to 1% of the electoral nominal list, distributed minimum among 17 federal entities..." This year, the amount of signatures requested to become a presidential candidate was 866, 593. In the cases of senators and congressmen, the formula only requires a 2% of local signatures of their entities.

## Discussion

It is impossible to come to an agreement of when did the transition to democracy take place in Mexico. Based only on the definition that democracy is having free and fair elections<sup>45</sup> then democracy has existed in the country since 1946 and it was even institutionalized within the government. But the debate about democracy is never so simple. At the time, the way the electoral system worked was as an apparatus of the state, one more protocol. The president in turn selected who his successor was going to be and then arranged the process to make that happen. They did so by manipulating the National Registry to include even dead or inexistent people so the party members could vote five to six times<sup>46</sup>.

Interestingly the creation of the PRI party took into account the importance of having an organized working class<sup>47</sup> and they channeled it into the structure of their party through labor unions. Nowadays, they continue to use those existing structures to mobilize people to vote in favor of whoever benefits the regime. This party structure helped the PRI party to stay in power for the 70 years that it did. Having the right and freedom to associate in a labor union or organization is also seen as a high value freedom that leads to democracy<sup>48</sup>, yet the state intervention in this case is too big to assume that people were really free instead of being coerced to become part of them.

If we then take into account that for a country to transition to democracy there has to be opposition participation with real chances of winning<sup>49</sup>, then the country might have transitioned to democracy in 1988, the year in which the most contested elections took place. Some authors say that the PRI party had the chance to transition to democracy, but neglected the opportunity<sup>50</sup>. In 1989 it was inevitable that the opposition party won something and then in 2000 the real transition took place at the federal level now with a 10-year-old institution that provided with better rules and logistics to accomplish it. This could serve as a confirmation of Huntington's statement that one party systems have a relatively high institutionalization which makes it easier for the transition

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<sup>45</sup> Rueschmeyer, Dietrich, Huber Stephens, Evelyne and Stephens, John, "Capitalist Development and Democracy" (Chicago: University of Chicago Press, 1993).

<sup>46</sup> Castañeda, Jorge. *La Herencia. Arqueología de la Sucesión Presidencial en México*. (Mexico, Debolsillo, 2015), 26-530

<sup>47</sup> Rueschmeyer, Dietrich, Huber Stephens, Evelyne and Stephens, John, "Capitalist Development and Democracy" (Chicago: University of Chicago Press, 1993).

<sup>48</sup> Lipset, Martin Seymour, "Some social requisites of Democracy" (APSR, 1959).

<sup>49</sup> Linz, Juan and Stepan, Al, "Problems of Democratic Transition and Consolidation" (Baltimore: Johns Hopkins University Press, 1996).

<sup>50</sup> Krauze, Enrique. "La Presidencia Imperial" (Mexico: TusQuetes editors, 1997),

to happen<sup>51</sup>. As we see in the history of the country, the structure of the electoral institutions existed within the system, after the fraud from 1988 the need to legitimize the presidency led to the decentralization and autonomy of the electoral institution.

Based on Rueschemeyer, Huber and Stephens definition, democracy is a three part concept, (1) Regular, free and fair elections of representatives with universal and equal suffrage, (2) responsibility of the state apparatus to the elected parliament and (3) the freedoms of expression and association as well as the protection of individual rights against arbitrary state action. Furthermore their substantive definition of democracy speaks of giving the many a real voice in the formal collective decision making of a country<sup>52</sup>.

These concepts are institutionalized through the three electoral institutions existing nowadays. The Mexican electoral system has a very good legal framework to protect the institution from frauds and mismanagement. Institutions complement each other and the five laws provide a jurisdictional framework that has little to no loopholes for misinterpreting. The Institutions per se do promote democracy and fulfill the processes of it. Furthermore, the electoral system is designed to promote participation of all the existing parties in congress, the mixed system guarantees that every party (which in theory has an ideology and represents a voice for the population) has a seat in congress (decision making process) and it provides the mechanisms to avoid overrepresentations, so that no political party can take full control over the chambers as happened during the PRI Party rule.

The improvements of the institution in terms of the National Registry are highly significant for democracy. Adding the voting card means that the voting lists are now being contrasted with real citizens, making the process more transparent and tangible. The involvement of citizens throughout the electoral process empowers citizens to not only legitimize the electoral systems, but also the results of the processes<sup>53</sup>. In a country with various indigenous populations, it is of great importance to include and represent their voices. The fact that the electoral systems respect but overlook their democratic autonomous processes is a way to distribute power to those most vulnerable<sup>54</sup>.

Lastly, giving autonomy to the institution and providing the financing to the party system protects both the intervention of the government in the decision making of the institution, it legitimizes the results and it allows the process to be more equal and to keep corporatism or delinquent groups out of the political life of the country. The idea of the public financing is to respond only to the interests of the population.

It would only be fair to say that the Mexican electoral institutions have improved considerably. Their design does promote all of the values of not only a procedural but also a substantive democracy. The institutions have been really coherent with the evolution of the country and they have must certainly adapted to the transformation waves and requests of the people. Yet, the fact that the electoral institutions in Mexico are well-

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<sup>51</sup> Huntington, Samuel, "The Third Wave: Democratization in the Late Twentieth Century" (Norman: University of Oklahoma Press, 1991).

<sup>52</sup> Rueschmeyer, Dietrich, Huber Stephens, Evelyne and Stephens, John, "Capitalist Development and Democracy" (Chicago: University of Chicago Press, 1993).

<sup>53</sup> Karl, Terry Lynn, "Dilemmas of Democratization in Latin America" (Comparative politics, 1990)

<sup>54</sup> Bermeo, Nancy, "The Import of Institutions" Journal of Democracy, 2002.

functioning institutions makes them vulnerable to be taken over by operative practices such as clientelism, patrimonialism and corruption<sup>55</sup>.

Like Woldedenberg says “Between the democratic ideal and the democratic reality there is normally a gap”<sup>56</sup>. The size of the gap in the Mexican democracy is what has the Fund for peace ranking Mexico as an “in danger” democracy<sup>57</sup>. The problem does not happen inside the institutions but outside from them. A country in which bureaucracy is the easiest way to become rich demonstrates that the system is failing and that the gap is really big<sup>58</sup>.

The Institutional Design is correct and coherent; the modifications to the law and the terrible precedent from 1988 make frauds very difficult to be committed within the system. All of the resources are always being reviewed, there are strict campaigning times, there are official debates, the processes are internationally overlooked and because of the procedure itself it is really hard to break down or crash the legal processes. But in a country in which richness is inequitably distributed and where most people don’t have education, the fraud can be committed outside of the institution. A very clear example would be that of the elections of 2012 in which there is evidence enough that suggests that the PRI party gave people debit cards for a specific supermarket in exchange for their vote. Both opposition candidates made this public and presented the lawsuit in the FEPADE<sup>59</sup>. The institution acted and presented the case to the TEPJF, but the PRI party said that the money from those cards was not to coerce vote but was a social program of the government of the Estate of Mexico. The PRI party used the labor union structure to pass on this “program” making it untraceable. Unable to legally prove the fraud, the crime went unpunished.

Respecting the autonomy of the democratic processes of the indigenous groups is also a good measure to have a democratic-united country<sup>60</sup>. Only in the state of Oaxaca, 417 municipalities select their representatives by costumes and tradition. Still, having juridical equity does not end with social inequity<sup>61</sup>. The fact that the institution is designed to do so doesn’t mean that these groups are represented in the way they should be. The system is built only as a policy option to deal with a territorial problematic<sup>62</sup>, but their inclusion in society remains an open question. To a lesser degree, when speaking about inclusion, the voting card discriminates those that do not have an address, which makes sense for the process and the way it is established but then again in a poor country this might be seen as a discriminatory measure.

Independent candidates are the result of very fragmented and ideologically broken political parties. Legalizing and regulating their participation in the electoral process is a great step forward to an inclusive democracy, yet the

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<sup>55</sup> O’Donnell, Guillermo “Delegative Democracy” (Journal of Democracy, 1994)

<sup>56</sup> Woldenberg, Jose. “Cartas a una joven desencantada con la democracia” (Mexico, Editorial Sexto Piso, 2017)

<sup>57</sup> Fund for Peace, Fragile State Index, 2017 (<http://fundforpeace.org/fsi/>) accessed 04/10/2018.

<sup>58</sup> Tello, Javier, 2018 “Es la hora de opinar” (<https://jorgecastaneda.org/notas/tag/javier-tello/>) accessed 04/10/2018.

<sup>59</sup> Estrop, Armando, “Sorinagate, soriana en la mira” (Reporte indigo, 2012) (<https://www.reporteindigo.com/tema/sorinagate/>) accessed 04/10/2018.

Vergara, Rosalia, “Elección Comprada: el escándalo Peña Nieto-Soriana” (Proceso, 2012)

<sup>60</sup> Bermeo, Nancy, “The Import of Institutions” Journal of Democracy, 2002.

<sup>61</sup> Woldenberg, Jose. “Cartas a una joven desencantada con la democracia” (Mexico, Editorial Sexto Piso, 2017)

<sup>62</sup> Bermeo, Nancy, “The Import of Institutions” Journal of Democracy, 2002.

playing field is far from even for those trying to contest in this arena. The threshold to create a political party is to have 3,000 members distributed among 20 different federal entities, in order for the party to continue to exist through time it needs to obtain 3% of the total voting on each election<sup>63</sup>. It is significantly a lower threshold than being an independent candidate. The fact that the thresholds are different has to do with the fact that the party system is involved in the law modification processes; therefore they are protecting their best interests only<sup>64</sup>.

The major problem that institutions are facing up front to this years election is legitimacy. Taking us back to the presidential election of 2012, there was only a 63.34% of participation, the candidate of the PRI party won with only a 32.62% of the votes<sup>65</sup>. Clearly the majority of the citizens didn't want that candidate but because of the way the system is structured (without a second round and with too many parties<sup>66</sup>) the PRI party went back to power. Even more shocking 36.66% of the National Registry didn't even vote<sup>67</sup>. There is a permanent idea in the Mexican society that voting won't change the results.

For the elections this year, the alliance between PAN and PRD seem only logical, because only the opposition can get together to overthrow the regime. The question is, in case they won, how would they ideologically govern and it is precisely at this point where the conceptual terms of democracy and reality encounter a problem<sup>68</sup>. Even more so, for this election there are two very controversial independent candidates that have shined the light on a systematic problem. The INE denied one of the candidates the register to become an independent candidate due to inconsistencies in his signatures (signature simulations are considered electoral crimes). He naturally objected that resolution and took it to the FEPADE, which turned it over to the TEPJF. As this paper is being written the TEPJF overruled in favor of the independent candidate and reversed the decision from the INE to have him contest in this years elections<sup>69</sup>. The fact that institutions are designed to cover each other's loopholes, as a "patchwork"<sup>70</sup> of compromises happens to be a very dangerous thing in unstable democracies because if one of the three institutions is corrupted then the functioning of the other two are compromised.

## Conclusions

The history of the Mexican democracy has been mysteriously different from other democracies around the world. It seems to break all the paradigms of what the pre requisites for democracy look like. It is theoretically and virtually a good democracy but the context in which it is trying to survive is very challenging.

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<sup>63</sup> Law of Institutions and Electoral Procedures (Mexico, 2014).

<sup>64</sup> Horowitz, Donald L. "Constitutional Design: Proposals Versus Processes" (Institutional Design in Divided Societies, 2002)

<sup>65</sup> INE, Instituto Nacional Electoral. ([http://pac.ife.org.mx/2012/eleccion\\_en\\_numeros.html](http://pac.ife.org.mx/2012/eleccion_en_numeros.html)) accessed on 04/10/2018.

<sup>66</sup> Karl, Terry Lynn, "Dilemas of Democratization in Latin America" (Comparative politics, 1990)

<sup>67</sup> INE, Instituto Nacional Electoral. ([http://pac.ife.org.mx/2012/eleccion\\_en\\_numeros.html](http://pac.ife.org.mx/2012/eleccion_en_numeros.html)) accessed on 04/10/2018.

<sup>68</sup> Woldenberg, Jose. "Cartas a una joven desencantada con la democracia" (Mexico, Editorial Sexto Piso, 2017)

<sup>69</sup> Aroche Aguilar, Ernesto, "El Bronco si estará en la boleta electoral; no se respeto su derecho de audiencia: Tribunal", 2018 (Animal politico: <https://www.animalpolitico.com/2018/04/bronco-boletaelectoral-candidato-riospiter/>) accessed 04/10/2018

<sup>70</sup> Norris, Pippa, "Electoral Engineering: Voting Rules and Political Behavior" (Cambridge University Press, 2004)

There is no rule of law some institutions have been overwritten with informal institutions that have damaged the whole system making it really difficult for electoral institutions to be completely clean from corruption. The institutional framework has been at the height of the challenges that the country has had in terms of democracy. It has evolved as it has been designed to, which proves the theory of successful institutional design but it has limits to it and those are unfortunately the economic and social arenas in the overall picture of the country.

To answer what should change in the institutions I will use a metaphor, democracy in Mexico is like a huge piñata. When looking at it from the outside, it is very beautiful, colorful and strong. In it you put candy, which in this case are public servants and political parties. If candy is rotten, then the piñata is not good. Same thing applies to the Mexican democracy; if public servants and parties are corrupted the structures fail to achieve their purposes.

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