

The Death of Mexican Democracy and the Birth of a Police State

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Since the end of the 1920s, even though Mexico's 1917 Constitution stipulated democracy as the country's political regime, the formal and informal rules were such that, for a long time, political parties other than the PRI -my party- had no chance of winning those periodic elections. At the national and local levels, governments, both executive and legislative, repeatedly came from the same party, albeit with the golden rule of non-re-election. Those same governments were responsible for organizing and validating the elections. The Constitution also mandated the independence and impartiality of the Judiciary, but a succession of reforms soon ignored that principle. Ultimately, those reforms generally sought to expand the president's ability to influence, and even control, the Supreme Court, with the goal of allowing his governing actions to be carried out unhindered by an independent Judiciary. There were multiple means of executive control over it, from the appointment of justices and judges to the control of its budget. For most of the 20TH century, the judiciary was simply part of Mexico's political system, essentially subservient to the current leadership.

The political stability allowed by all state powers being under the control of a single dominant party produced significant economic and social progress for several decades and allowed for the creation of important and useful institutions. But it also came at a high cost: an arbitrary exercise of power permitted by the lack of checks and balances by Congress and the Judiciary. Contrary to the Constitution, Congress failed to regulate the president's actions and instead gave unconditional support to the executive branch. For its part, the Supreme Court and in general the Judiciary, frequently failed to protect individual rights, approved wrongheaded government policies and actions that lacked a constitutional basis, and limited citizens' access to justice. Although the political continuity thus provided was conceivably beneficial sometimes for certain purposes, it is also undisputable, that at times of the biggest challenges, it also condoned

the abuse of authority, resulting in misguided policies that led to severe economic crises and even political repression.

That is why from my nomination as a presidential candidate, throughout my electoral campaign, and upon taking office, I pledged to undertake the necessary reforms to make Mexico a true democracy, including, of course, its indispensable element: an independent Judiciary. With the latter purpose, just five days into my term as president --I was sworn on December 1, 1994, I sent a constitutional reform initiative to Congress and engaged in a direct dialogue with all political parties to promote my proposal. With modifications introduced by Congress itself in the exercise of its powers, the reform was soon approved, frankly marking a break with Mexico's quasi-authoritarian past, to which a Court essentially subordinated to the president had been an unfortunate key element.

The 1994 reform significantly and sensibly strengthened the constitutional powers of the Court, ensure its independence and raised strongly the professional standards for members of the judiciary.

Once the judicial reform was enacted, I called again on all political parties to begin negotiations for an electoral reform that would make Mexico a full and functioning democracy. The country had made progress in that direction since a political reform in 1977, which was followed by others over the years, although none achieved an ideal result. True, electoral rules and procedures had evolved to guarantee an accurate vote count, but electoral competition remained inequitable. I did not hesitate to publicly affirm that my election had been legal, but not fair. This was my way of signaling my firm intention to seriously and in good faith negotiate the proposed reform.

The negotiations that followed were extremely arduous, for many reasons. Not only were the issues complex and required overcoming mistrust among the parties, but they also had to be conducted amidst a terrible financial crisis that hit the country at the start of the new administration. With the support of the multilateral financial institutions and the governments of our main trading partners, particularly the US government led by President Clinton, we resolutely confronted the economic turmoil, with painful but necessary—and obviously unpopular—actions, all of which created a political environment unfavorable to

negotiations. It was clear to me that the tough decisions I had to make to confront the crisis would encourage opportunistic and demagogic politicians to profit politically from the situation. I didn't care, as my duty wasn't to be popular but to do what was necessary for Mexico to overcome soon the threat of sinking into economic stagnation and social decline for many years. It was achieved, with everyone's efforts. In the next five years, the country's economy grew at an annual average considerably higher than that recorded in two decades, a level that unfortunately has not been repeated. At the same time, social policies that directly combated poverty were implemented successfully. Despite the difficulties, after eighteen months of arduous efforts, the process reached a satisfactory conclusion: all parties agreed on a major constitutional reform that radically changed electoral institutions, rules, and procedures.

As a result of this reform, the Federal Electoral Institute (IFE) became truly autonomous from the executive branch. Among many important outcomes, the reform established precise conditions for the financing and media access of political parties and their candidates to guarantee fairness in electoral competition. It also stipulated the principle that the electoral authority must have sufficient budgetary resources to meet the highest standards in human resources, equipment, and all other necessary capabilities required to fulfill its crucial responsibility of protecting the citizens' vote. The defense of this right was reinforced with the creation of an autonomous Federal Electoral Tribunal within the judiciary to resolve all electoral disputes, while also giving the Supreme Court the power to decide on the constitutionality of electoral laws at both the federal and state levels.

The 1996 reform established the conditions for Mexico to finally have competitive, impartial, and fair elections as I had committed. That reform, along with the 1994 reform of the Judiciary, provided the conditions for a democracy with a true division of powers and a presidency effectively balanced by the other branches of government. This marked the end of the autocratic and abusive presidency and the long-awaited arrival of a truly democratic presidency.

With the institutions, rules, and procedures created by both reforms, elections to the federal Congress were held in 1997. My party lost the absolute majority it had enjoyed for

almost seven decades, and a new era of "divided" but certainly democratic government began. Furthermore, the 2000 elections produced, for the first time in modern Mexican history, a president from an opposition party.

Although these reforms transformed Mexico into a truly democratic nation, I did not think of them as never requiring changes. I was confident, however, that any new reform would strengthen our democracy until it became solid and irreversible, and that the legality, competence, and independence of both the electoral institutions and the judiciary, as cornerstones of the system, would always be respected.

Unfortunately, this condition, essential for the existence of democracy, was systematically violated by Andrés Manuel López Obrador (AMLO), even many years before becoming president of the country and undoubtedly with much greater aggressiveness since sworn in that position in 2018. The now former president relentlessly attacked the independence and institutional capacity of the National Electoral Institute (INE, as it was renamed). For no good reason, he did not hesitate to slander, insult, and threaten both the institution and the people elected to ensure that the INE fulfilled its constitutional mission. In addition, he pursued with success an arbitrary and significant reduction in the resources necessary for the INE's proper functioning.

AMLO always showed open and defiant disregard for the rules and procedures established by law regarding what the government should not do before, during, and after election campaigns. The then president, along with the high-ranking members of his administration and party, repeatedly violated the principles of impartiality, neutrality, and equity during federal and state elections to favor the ruling party's candidates. Every time the INE warned the Executive Branch about any illegality, the response was always rejection, mockery, and contempt.

He was equally aggressive with the Judiciary for not only did he question, outside of legal proceedings, the rulings of judges, magistrates, and justices when their opinions or sentences were not to his liking, but he also slandered and insulted the institution and individual members of the Judiciary.

Among all of López Obrador's attacks on the independence of electoral authorities and the Judiciary, what was by far politically the most profitable for him, was his strategy of maneuvering, including the use of extortion, to fill vacancies in the Supreme Court, the INE , and the Electoral Tribunal with not few individuals lacking the required ethical and professional standards to hold those positions, but willing to obey his instructions.

The appointment of unfit but obedient persons to fill vacant positions on the electoral authorities (the INE and the Electoral Tribunal), was what ultimately facilitated the commission of serious illegalities by AMLO and his party (Morena). Those appointees, who evidently failed their duty of care and obedience to the Constitution, dared to grant the ruling party and its coalition partners 74% of the seats in the Chamber of Deputies, despite having obtained 54% of the votes. This blatant overrepresentation, which flagrantly violated the Mexican Constitution, was justified through a twisted and ill-intentioned interpretation of the rules for allocating seats to coalitions. Thus, Morena and its allies were handed out a supermajority (more than two-thirds) in the Chamber of Deputies, giving them the power to approve constitutional reform initiatives. In the Senate, they were one vote short of a supermajority. They obtained it obscenely by offering an opposition senator impunity for himself and his family members, all of whom were accused of serious crimes. The alleged violations of the law by that family have now been shelved.

AMLO soon used the supermajorities, obtained through constitutional fraud and a mafia-style move, to exact his revenge against the Supreme Court, which, having kept a majority enough to act with integrity and simply apply the Constitution, had gotten in his autocratic way. He had his "reform" initiative ready to demolish the federal Judiciary that had existed since 1995, with a clear objective of destroying its independence, professional standards, and other capacities to administer justice.

The Chamber of Deputies of the new Legislature began its sessions on September 1, 2024; 80% of the deputies were serving for the first time. Without sufficient time to read, study or discuss the judicial reform initiative, the ruling party's supermajority approved it on September 3. The Senate followed suit eight days later. Also obscene was the two-day period in which state legislatures with pro-government majorities ratified what had been approved by the federal

Congress, without adhering to the procedures established by law. Thus, the legislative process for the approval of AMLO's initiative was a gross fraud to the Constitution, the laws, and the internal regulations of the chambers of Congress. Its approval categorically became a historic felony.

With the so-called "judicial reform," all judges, magistrates, and justices of the federal judiciary will be removed and replaced by people supposedly elected by popular vote. These elections -whose first round is due to happen on June 3, 2025-- are a farce not only in their justification but also in their execution, as has already been clearly demonstrated by events during recent months. The government selected most of the candidates, evidently without ensuring that they truly possess the professional and ethical qualifications to administer justice. The formal requirements to be a candidate for judge or magistrate are patently ridiculous. Furthermore, the conditions for voting in conditions of fairness, integrity, and transparency are not being met. Resorting to grotesque trickery, the rules and practices that guaranteed respect for the Mexican people's vote, which have existed since the 1996 electoral reform, are being discarded, including the procedure to count the votes bound to abandon transparency with the concurrence of citizens, and will happen in secrecy. The June judicial election seems more like a rehearsal for what is to come for future federal and state electoral processes, where opacity and fraud, even worse than in the old days, will be the dominant features. It's clear that the entire scheme is designed to create a federal judicial system subject to the will of the party that already controls the executive and legislative branches, a party that in turn remains fully controlled by López Obrador.

The "election" procedure will be replicated for the state judiciaries. The individuals thus installed will not owe their positions to the people who happen to vote in the judicial elections— since those elections will be a monumental sham— but rather, those individuals will owe their positions to their political patrons who included them on the electoral lists, as well as to other questionable promoters who could well be criminals who finance and support their campaigns.

There will, therefore, be judges, magistrates, and justices who will obey not the law, but the dominant political power. And if there were any doubt, the new regime will also have the means to punish the "disobedient," the shameful Judicial Disciplinary Tribunal, included.

The AMLO reform offers nothing to improve the State's capacity to seek and deliver justice. It lacks the necessary institutional changes and additional resources—human and material—to make the fundamental right to justice effective. Furthermore, it falls far short of what should exist in any democracy: equality before the law, protection of rights, impartiality, access to justice, responsiveness, transparency, due process, and proportionality. In fact, it is designed to violate virtually every one of these principles. Its intention, to put it simply, is to obliterate the judiciary as an independent and professional entity and place it at the service of those who hold political power.

All the arguments put forward by the former president, and sadly repeated by his successor, in defense of this legal and political atrocity are fallacious from start to finish. They have said, for example, that judges are also elected by popular vote in other parts of the world, citing the United States as a reference. However, they fail to clarify that this never occurs at the federal level and that only some states do so at the local level. In fact, the consensus of serious constitutional scholars around the world is crystal clear: the election of judges by popular vote undermines, and even nullifies, judicial impartiality, independence, and integrity.

López-Obrador's objective was all along to subordinate the judiciary to the executive branch, in no way to make it independent and strengthen it as had been achieved thirty years ago. Regrettably, the public defense of the anti-democratic reform has recently been led by president Sheinbaum herself, who has not been shy about repeating the rhetoric—including the insults—that her predecessor used to justify his egregious initiative; nor has she been shy about copying the questionable methods used to impose it.

The now AMLO-Sheinbaum reform is plainly antidemocratic, as it not only violates the necessary separation of powers, but also fatally undermines the Supreme Court's constitutional oversight function, which it must perform: to review and evaluate whether the acts and laws of the Executive and Legislative branches comply with the Constitution and, if not, to annul or declare them inapplicable.

As expected, the opprobrious reform was appealed to the Supreme Court of Justice. Eight of the Court's eleven justices were required to approve the draft ruling that would have declared it substantially unconstitutional. It was a given that three justices, appointed during the previous

president's term and who systematically and docilely supported AMLO's actions, would vote against the proposed ruling. At the last minute, a fourth justice joined this group to oppose the ruling, thus preventing its approval. Frankly, this about-face was reminiscent of the extortionary approach by which Morena achieved a supermajority in the Senate. The justice himself tried to justify his sudden alignment with the ruling party, but his reasons only fueled suspicion. His claim that he did not vote for the draft ruling because the Supreme Court had never declared a constitutional reform unconstitutional is grotesque. Simply put, the Court had never been faced with such a predicament because there had not been any attempt to autocratically and radically change the political regime inherited from the Mexican Revolution. Not even during the hegemonic PRI regime did its governments dare to formally discard—although their practice left much to be desired—the institutional architecture of democracy, separation of powers, and fundamental rights, envisioned in the 1917 Constitution, a destruction that Morena's judicial and other reforms clearly seek. With his dissenting vote, to his dishonored, the justice allowed a fundamental change in the country's political regime for which, contrary to what the president and the former president falsely claimed, the people of Mexico have never been consulted, certainly not in the last federal elections.

In its pursuit of ensuring that the Supreme Court would not declare AMLO's reform unconstitutional, the Morena regime carried out another outrageous offense: a constitutional amendment deceitfully called "of constitutional supremacy." Approved also in a hush-hush manner, with the full support of President Sheinbaum, this change establishes that any modification to the Constitution approved by the federal Congress and ratified by a majority of state congresses will be final and cannot be reviewed or declared invalid by the Supreme Court, even if it conflicts with other articles of the Constitution.

This appalling action eliminates the Court's ability to exercise control over the content of constitutional reforms, including reviewing their compatibility with principles of the highest hierarchy, such as fundamental rights or those essential to regard Mexico a democratic nation. In other words, the Morena government has granted itself the prerogative to implement constitutional changes without any judicial oversight, even if these violate unalienable rights, the separation of powers, and other essential foundations on which democracy and the rule of law

must be based. Undoubtedly, this enormous step toward a tyrannical regime places Mexico in contempt of international treaties that, among other important matters, exist to promote, respect, protect, and guarantee the supremacy of human rights in international law.

Imagination is the only limit to the atrocities the Morena government is already committing and could commit with the elimination of judicial oversight over changes to the Constitution. Consider that with its "constitutional supremacy," the regime could drastically restrict freedom of expression and association and even go so far as to eliminate the presidential non-reelection—no less of what gave rise to the Mexican Revolution.

The wide door to authoritarianism that the Morena government has paved through a series of illegal and undemocratic acts is being used shamelessly. This is clear in the case of their judicial reform, but also in the constitutional elimination of the so-called autonomous bodies responsible for sensitive matters such as access to information and data protection, the promotion of competition and the prevention of monopolistic practices, regulation in the energy sector, regulation of telecommunications and broadcasting, and the measurement of poverty and evaluation of social policy.

These bodies were granted, through the Constitution itself or through laws, formal independence from the government, with commissioners appointed through processes, involving not only Congress but also civil society, which sought to reduce direct interference from the executive branch. They were also legally mandated to operate with technical, not political, criteria, consistent with decisions based on studies and objective evidence, with the obligation to be accountable to Congress and to make their performance transparent through public reports. By transferring these functions to government control, greater opportunities will be created for arbitrariness, decisions with exclusively political ends, opacity, and concealment, and, of course, corruption. Consequently, the government will have additional instruments to increase political clienteles and sources of covert financing for its party, in addition to facilitating the corruption of government officials.

The regime took advantage of its fraudulent control of Congress to commit another act of savagery against democracy and the individual rights of Mexicans: establishing solid foundations for the creation of a police state. This starts with the co-optation of the armed forces

which historically --unlike in other Latin American countries-- had been constitutionally and functionally subject to civilian power. Now they are being captured, by not only handing them the national police—something that has only occurred in non-democratic countries—but, perhaps more sinisterly, also by leaving them open to becoming a stakeholder in the preservation of an authoritarian and corrupt regime. The principle, established since the 1857 Constitution, that the armed forces may only perform functions that are strictly related to military discipline, has now been abolished. From now on, this important clarification disappears, and the armed forces will have to do whatever the laws, drafted by the ruling party, indicate. Yet, they will preserve their military jurisdiction and will not be subject to the conditions of transparency and accountability applicable to civilians participating in similar activities. Turning armies and their commanders into accomplices of Latin American and other dictatorships has yielded excellent results for despotic rulers. This experience is now being institutionalized in Mexico with Morena in power. But that's not all: the national police—now an arm of the military—will be able to investigate crimes autonomously and independently of the public prosecutor's office. Recent reforms have also expanded the grounds for the ominous official pretrial detention, which will make it easier for a person under investigation to be imprisoned, at the mere request of an authority, regardless of the merits of the accusation, for the duration of the criminal proceedings against them. Added to this atrocity, which is incompatible with international human rights standards, are the limitations that the Morena congress has also imposed on the amparo trial.

Thus, with the militarization of security and criminal investigation; with the corrupt co-optation of the armed forces; with the official pretrial detention; with the illegal prosecutorial intimidation already practiced daily; with the elimination of the effective right to information and transparency—which also includes the elimination of the portal that existed for twenty-eight years to review and investigate federal government contracts; and above all, with the absence of an independent judiciary, a clear portrait of the structure of a police state characteristic of an authoritarian and repressive regime is now in place. These tools will be available to the ruling party to be fully utilized when its other methods of political control lose effectiveness. The Morena government will be immensely powerful to oppress any dissent and trampling on all essential principles of the rule of law.

The disappearance of the independent judiciary and autonomous bodies, as well as the preparations for a police state, seriously harm Mexican democracy, but the final nail in its coffin will come from the ongoing electoral counter-reform, another dishonorable legacy of AMLO that President Sheinbaum has also come out to support. If this counter-reform is implemented, the National Electoral Institute and state electoral bodies would be eliminated, replacing them with a National Institute of Elections and Consultations, administered by councilors elected by popular vote. This means in practice that they would be chosen by the government, just as in the ongoing fraudulent simulation of the judicial election. To be precise, the organization of elections will return to government control. Likewise, the Chamber of Deputies is intended to be reduced to 300 legislators and the Senate to 64. The announced pure proportional representation would mean that if the ruling party were to regain 54% of the votes—as they did through clientelism and violating the electoral laws in the recent federal elections, it would control more than 80% of the deputies and more than 90% of the senators. This would result in a return to the situation prior to the 1977 electoral reform, when pluralities and minorities had no representation in Congress and the hegemonic party won systematically everything. To close the loop on electoral control, the plan is also to narrow the list of violations of electoral laws, reduce the penalties for such violations, and substantially reduce funding for parties and electoral campaigns.

It should be noted that the projected reduction in fiscal resources for opposition parties, their campaigns, and the organization of elections will occur in parallel with changes in other legal provisions that will exempt the state oil and electricity companies as well as the armed forces from complying with transparency rules in public works contracting. One need not be a believer of conspiracy theories to be suspicious of what lies behind, on the one hand of allocating fewer resources to the opposition parties and, on the other, creating a "big cash box" for the ruling party flowing from government contracts.

Mexican President Claudia Sheinbaum has so far kept her promise to continue her predecessor's projects without deviation. There is no doubt that, in the most significant of these—the destruction of Mexican democracy—she deserves a “distinction” grade.

To be considered democratic, a nation must have the rule of law; free and competitive elections; the separation and balance of powers; an independent and professional judiciary; the

guarantee and respect for civil rights and liberties; access to information and transparency, with effective accountability; and respect for political participation and representation, including that of minorities. All of this is being destroyed by the current Mexican government and its party. Without these essential components, there can be no talk of respect for popular sovereignty since this only exists in democracy. Therefore, when president Sheinbaum affirms that Mexico is about to become the most democratic country in the world with the abhorrent judicial election, she is ferociously lying to all Mexicans. Let us not be fooled: Mexico's young democracy has been murdered and its place taken by a tyranny endowed with a police state.

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