

INSTITUTIONS AND DEVELOPMENT IN MEXICO. ARE FORMAL ECONOMIC REFORMS ENOUGH?*

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Abstract

This paper examines whether the current political arrangements framing the Mexican politics help in consolidating and advancing those economic reforms that have been implemented in Mexico since the 1982 severe economic crises. I will argue that these arrangements create impediments to the co-ordination required to sustain and advance those policy changes that are needed under the new economic model. Formal and informal institutional environments that do not provide for the adequate enforcement of political exchanges also generate high transaction costs. Politicians will have to design complex mechanisms to protect their rent allocation. Many political transactions will not be implemented, and those that may be so will tend to generate relatively inefficient public policies. The capability of the political system to enforce the new economic rules as well as property and other legal rights is also weak. As these factors play a key role for the allocative efficiency of markets and, consequently, for growth and development, the paper concludes that formal macroeconomic and structural reforms in economic sectors may not be enough.

Keywords: Legislative Coalitions, Property Rights, Institutions, Economic Reform, Presidential System, Mexican Politics.

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If economic growth simply was a function of the growth in the stock of knowledge and technology then the future well-being of the human race would appear to be assured.

Douglass North (2005), *Understanding the Process of Economic Change*.

I. Introduction

From the mid-1970s to the mid-1990s major transformations in the international economy and internal structural problems gave rise to a long series of economic reforms in Latin America whose objectives were broadly to move away from protection and central control and instead develop a market-based economy. The major elements of this attempt were summarised in the so-called Washington Consensus, which was very much based on the assumption that an exclusive reliance on markets could of itself bring a massive reallocation of resources and growth if macroeconomic stabilization was assured and pro-markets structural reforms implemented.¹ However, the construction of a state through which political agents could also perform the redistribution and regulatory functions attributed to the state is more complex, whatever the role played by sub-national levels of government. This task demands the involvement of a large number of political actors and new institutions have to be created.

As Keefer (2004) has argued the problem of underdevelopment is in substantial measure one of government failure, particularly a failure in building an appropriate institutional framework. However, most of the literature on the politics of economic reform has usually focused on overcoming obstacles to launching reforms under the assumption that any government attempting stabilisation and market-oriented economic reforms, whether democratic or not, must cope with political problems inherent in the nature of these measures as both reforms impose costs that are immediate, certain and often concentrated on specific groups.²

The purpose of the paper is to examine whether the current political arrangements framing the Mexican politics help in consolidating and advancing those economic reforms that have been implemented in Mexico since the 1982 severe economic crises. I will argue that current Mexican political arrangements create impediments to the coordination required to sustain and advance those policy changes that are needed under the new economic model in place. The capability of the political system to enforce the new economic rules and property rights is also weak. These two variables –high public policy implementation costs and weak protection of the rule of law– play a key role for the allocative efficiency of markets and, consequently, for growth and development. Formal macroeconomic and structural economic reforms may not be enough.

What follows is organized in four sections. First it addresses the role of the Mexican presidentialism. Secondly, it analyses the rise of a multiparty system and its implications with transaction costs. Thirdly, it focuses on property rights and the rule of law, and finally, it addresses the connection of rule of law and the future of economic reforms.

II. Has the Key Role of Presidentialism Rules Come to an End?

In recent years, Mexico has been experiencing a transition to a plural and competitive political regime. From 1977 to 1996 Mexico implemented six electoral reforms that significantly improved competition and fairness in the electoral processes as well as the distribution of political power.

Concerning the old regime, there is no doubt that its main characteristic has been stability. Mexico is the only country of Latin America that has not undergone some type of military coup since 1913. Since 1934 all presidents completed their term in office and yielded later control to their successor without exception. To make this possible the old political regime established a peculiar electoral system in which the electoral process was a formality to confirm and legitimize current political relations. Over those years the key political resource was the absolute government control of the electoral arena (Molinar, 1991).

The strong presidential rule of Mexican politics has also been one of its most distinctive and enduring aspects; it explains the regime's most authoritarian features as well as the high stakes of presidential elections (Meyer, 1992). The president exercised an extraordinary range of powers despite the fact that the Constitution provides a list of constitutional norms on the political powers' checks and balances. This ample capability has been traditionally explained by the highly presidential rule created by the 1917 Constitution and also by the extra-constitutional powers of the presidency based on the president's role as head of the government party.³ A study by Casar (1999) also shows that a difference between the formal constitutional powers and the "real" powers of Mexico's presidency have existed over those years mainly due to the nature of the party system. In contrast to the legal traditional assumption that the government party (*Partido Revolucionario Institucional-PRI* over those years) was weak because it was subordinated to the president, Weldon (1997) states that the PRI was the key political resource that made presidents so strong. Assuming an historical approach, Weldon observes that *presidencialismo* took hold just when the president strengthened its party leadership. If a constitutional presidential rule, a unified government where the ruling party controls the presidency and both houses of Congress, a disciplined ruling party, and a president who is the recognised leader of the ruling party are necessary conditions for *presidencialismo*, it can be said that these have been the most salient characteristics of the Mexican political system till the late 1990's.

But what about the present and future of Mexican presidentialism? As the major transformations recently experienced have substantially modified the political system, including the traditional powers of the presidency, it appears that the political and institutional conditions that make *presidencialismo* possible are now in doubt because even if the 1917 Constitution created a presidential rule of government, several circumstances are relevant for finally determining how much control the President enjoys.

First, complete, strong *presidencialismo* requires that the same party control the presidency and both houses of Congress. If an opposition party controls one of the two chambers, then the other two mechanisms behind *presidencialismo* –party discipline and party leadership– will have little effect.⁴ Since it was founded in 1929, the PRI

has won every presidential election –until 2000– and controlled a majority in both chambers of Congress until 1997. However, as shown in Table 1, in the 1988-1991 Congress the PRI lost its absolute majority (375 deputies) and then president Salinas was discouraged from submitting to Congress his proposals for economic and social reforms. Later, in the 1997-2000 Congress, the official party lost its relative majority (251 deputies) and the opposition controlled the lower chamber.

In the 2000 general election the PRI lost the presidency, and in the 2000-2003 and 2003-2006 Congresses, the new ruling party *Partido Acción Nacional* (PAN) also faced opposition. As Table 1 shows, since 1988 the ruling party lost its absolute majority in the lower chamber thus reducing the scope of *presidencialismo*.

TABLE 1

COMPOSITION OF THE LOWER CHAMBER: RULING PARTY AND OPPOSITION, 1988-2006

Year	PRI		Opposition		Total
	Deputies	%	Deputies	%	
1988	260	52	240	48	500
1991	320	64	180	36	500
1994	300	60	200	40	500
1997	239	47.8	261	52.2	500
	PAN		Opposition		
2000	207	41.4	293	58.6	500
2003	148	39.8	352	60.2	500

Source: Based on Casar (1999) and composition of the Mexico's Chamber of Deputies 2000 and 2003.

Concerning another requirement for *presidencialismo*, the high level of discipline within the ruling party, there is no doubt that the PRI traditionally had been a very highly disciplined party. The PRI's elected officials knew that their next potential political opportunity depended not on the public opinion but on the presidency. This political control, the non-reelection rule and the closed-listed electoral system created strong incentives to vote for government proposals. However, concerning the president's leadership in his party, this condition depends on internal party politics. Traditionally under the PRI's regime the president was the head of the party and shared part of its power with the formal PRI leader that the president himself chose (Gonzales and Lomelí, 2000). The work of Casar (1999) shows that in recent years the president's partisan powers have been declining. Another study by Hernández (1998) shows, for instance, that president Zedillo's (1994-2000) capacity to manoeuvre to decide the PRI's presidential candidate was limited because of internal party politics.

Currently, according to the internal rules of the new ruling party (PAN), the presidential candidate is elected by a democratic convention, not designated by the party leadership, what also curtails the possibility of *presidencialismo*. Historically

the PAN has elected its candidates in this way and it is viewed as being the party with the highest standards of democratic internal rules in the party system (Loaeza, 1999). To quote from Weldon (1997, p. 256): "If the PAN should win the presidency and also maintain its present methods of candidate selection, it is unlikely that *presidencialismo* will survive, even if the PAN wins a majority in the Congress a panista president would not be *presidencialista*." Moreover the current president is not a traditional PAN member. He joined PAN as recently as 1987 when the party enjoyed the addition of a group of new people from the business class, irritated by the ruling PRI's handling on the economic crisis. Three days after being elected the president declared that he would govern, not the PAN. The evidence seems to indicate that the traditional strong Mexican *presidencialismo* is finally broken down.

Moreover, because his partisan powers are being severely undermined, if we exclusively consider the president's constitutional powers, these do not in fact seem to be very decisive or strong. According to the Constitution the president, the federal deputies and senators, and the states' legislatures have the power of submit to Congress their initiatives (Art. 71).⁵ Also, the president has veto power in some specific areas but the Congress may override presidential vetoes with a two-thirds vote in both chambers of Congress (Art. 72). In contrast to the Argentine, Brazilian and Colombian presidents who have the power to issue new laws by decree practically on any policy area (Mainwaring and Shugart, 1997), the provisions related to the decree power of the Mexican president included only some emergency cases and legislation on trade tariff policy (Arts. 29 and 131). Casar (1999) has expressed a similar view, drawing attention to the fact that in contrast to other Latin American presidential systems the Mexican president is not constitutionally strong.

Even though it is clear that the extra-constitutional powers of the presidency could be attributed significantly to a series of informal rules, it is a fact that these rules are in one way or another still in place in the present political system. The old regime was sustained by two pillars; the President and his political party. As was argued, the Mexican political system stemmed from this perfect symbiosis which allowed the President to amplify his authority to the degree of having a political system dependant on his will.

One of the key extra-constitutional powers of the presidency was the election of the new president. The presidential succession was the summit of the political system. The President, by way of a complex mechanism of personal considerations and external consultations, unilaterally designated the PRI candidate that would eventually and automatically succeed him. The outgoing President did not only get involved in the Presidential election, he conducted it. He did this by constructing a candidacy for someone in his closest team of collaborators. He would make alliances, obtain financial support, legitimise and project the chosen one, prepare the political party, contain the other potential candidates, and finally manipulate the process.

This extra-constitutional power of the presidency of choosing the presidential successor was finally abolished by democracy. Elected officials are now decided by institutions, laws, political parties, campaigns, and the popular vote. Unfortunately, transition and electoral change did not have a political and institutional expression. There were no significant political reforms and the so called "second generation"

reforms that were meant to guarantee the consolidation of Mexican democracy are still yet to come.

As North (2005) has argued, there is an intimate relationship between beliefs systems and the institutional framework. In other words, the path dependence of Mexico's political arrangement influences present choices. The new institutional arrangement is widely based on the old presidential and political systems. It maintains several authoritarian strongholds, the same political actors remain, and undemocratic practices and institutions have survived. One example is the relationship between the government and labour unions.

The problem is that the resources that make corporatists relationships work are no longer there. In the past, an all-powerful presidency was able to give something to the workers and at the same time accept many of the demands of the business class. In the past, the president was able, for instance, to give something to the peasants and at the same time protect the landowners. Therefore, the contradictions were not solved but managed through the resources of the state. However, in the new economic system, the state does not have the resources. Now the market is managing the majority of those resources, and the logic of the market is not exactly the same.

Because of this, and the absence of sufficient regulation, the political system has generated a true necessity for political pacts and informal agreements that imply the President's ability to undertake a certain level of political activism to benefit or damage interest groups. Furthermore, in Mexico's case, and given the rocky change in government and incomplete transition, an informal political system has been generated. This informal system is a breeding ground for all kinds of mafias that represent strong interest groups, and for the first time act without the authoritarian control of the old regime and without the legal controls of the new one.

III. The Rise of a Multiparty System, Transaction Costs and Coordination Problems

There is no doubt that the Mexican institutional design has now moved from an authoritarian presidency, together with a domineering party and elections without choice, to a *presidential system* with a *multiple-party system* in which competitive elections exist (Méndez, 2003). It is also well-known that political institutions create incentives and disincentives for political actors and even shape actors' identities. They, therefore, establish the context in which policy-making occurs and greatly determine the policies that result. They also can help or hinder in the task of consolidating a stable political regimes. As the literature and the empirical evidence also reveal, the move to a multiple-party system and competitive elections usually encourages the fragmentation and polarisation of the political system, factors that tend to generate an increase in those transaction costs suffered by participants in the political arena. This makes coordination more difficult if the situation is compared with the former one.⁶ In the present and following sections I will explain why the Mexico's new political institutions of policy-making tend to produce delays and unstable public policies that do not help in consolidating and advancing economic reforms.

First of all, concerning stability of the system of government, it is usually acknowledged that presidential systems are generally less conducive to stable democracy than parliamentary systems, particularly those in western developed countries.⁷ The starting point of these assessments has been empirical evidence indicating that presidential systems have not sustained democracy for long periods of time. Stepan and Skach (1994) presented empirical evidence to demonstrate the superior record of parliamentary systems. They note that among 43 consolidated democracies in the world between 1979 and 1989 there were 34 parliamentary systems, 2 semi-presidential ones, and only 5 presidential regimes. A final remarkable fact revealed by the empirical evidence is the extent to which presidential rule is a “less developed country” phenomenon.

Mainwaring (1993) has gone a step further, stating that the combination of presidential rule and a multiparty system seems especially inimical to stable democracy. His work gives three reasons to explain why this institutional combination is problematic. First, multiparty presidential regimes are especially likely to produce immobilising executive-legislative deadlock, and such deadlock can destabilise democracy. Second, multiparty systems are more likely than two-party systems to produce ideological polarisation. Two-party systems are also likely to be more compatible with presidential democracy because ideological polarisation is less likely with only two parties. Hence, high-entry barriers keep radical actors out of the party system, and the need to win votes from the centre encourages moderation. Finally, the combination of presidential rule and multiparty system is complicated by the difficulties of inter-party coalition building in presidential democracies. In contrast to parliamentary systems, presidential systems do not have mechanisms intended to ensure legislative majorities, so presidents are often forced to build new legislative coalitions on every issue.⁸

The claim that multiparty presidential systems may be especially problematic for democratic stability is also suggested by the scarcity of stable democracies with this institutional combination. Mainwaring *et al.* (1997) provided a list of stable democracies in which only 4 of 25 stable democracies have presidential systems in spite of the abundance of such systems.⁹ In a list of 31 presidential democracies only 1 in a list of 15 multiparty presidential democracies –Chile– lasted for at least 25 years, compared to 5 of 10 two-party presidential systems.¹⁰ This evidence suggests that a number of two-party presidential systems have worked well enough to allow democracy to endure for at least 25 years. In addition, it looks like the combination of presidential rule and multiparty systems makes it more difficult to achieve stable democracy.

Mainwaring provides a list of stable democracies according to the Rae index of party system fragmentation (F_s) and the Laalso/Taagepera effective number of parties (N_s).¹¹ The means for the four stable presidential democracies are an F_s of .55 and 2.2 effective parties. Early data on the last two and current composition of Mexico’s chamber of deputies suggest that multipartism in Mexico may be increasing as shown Table 3. The means for Mexico from 1994 to 2000 are an F_s of .61 and 2.6 effective parties.

TABLE 2

PARTY SYSTEM FRAGMENTATION AND NUMBER OF EFFECTIVE PARTIES IN STABLE PRESIDENTIAL DEMOCRACIES AND MEXICO

Country	Year	F _s	N _s
United States	1988	0.48	1.9
Colombia	1986	0.53	2.1
Costa Rica	1986	0.55	2.2
Venezuela	1988	0.65	2.8
Mexico	1994	0.57	2.3
Mexico	1997	0.65	2.8
Mexico	2000	0.63	2.7

Source: Based on Mainwaring (1993) and composition of the Mexican Chamber of Deputies from 1994 to 2003.

Comparing these indexes with the previous table it may be inferred that, of the two democratic Latin American countries to have potentially marginal presidential authority, Costa Rica has a two-party system and Venezuela has a multi-party system. So, the latter is the only democratic country in Latin America that has potentially marginal presidential authorities combined with a multi-party system. Even there, however, the traditional party system has been changing over recent years with consequences that as yet cannot be predicted.

Another study conducted by Jones (1995) presents examples and data from Latin America to examine the relationship between four key electoral rules and the relative prosperity of a system to provide the president with sufficient partisan support in the legislature.¹² His work presents evidence that supports the hypothesis that the weaker the presidential support in the legislature the higher the levels of executive/legislative conflict will be.

Although they are not conclusive, the above data suggests that with the rise of multipartism the Mexican president needs to build inter-party coalitions to pass measures through the legislature to make the future of economic reform viable. In comparing the legislative process between the period of “unified government” (1991-1997) and “divided government” (1997-2003) –see Table 1 above– Lehoucq *et al.* (2005) have shown that unlike the 1991-1997 period in which the success rate of an executive bill proposal was very high, the 1997-2003 period shows a decline in this indicator. Most important however, is the contribution of each source to the legislation enacted by the Chamber. As the next Tables 3 and 4 show, in the third column the contribution of the president in the total volume of legislation far surpassed that of the other sources combined. In contrast, the 1997-2003 period shows a decline in the share of laws the president proposes.

TABLE 3
THE LEGISLATIVE PROCESS IN THE CHAMBER OF DEPUTIES
UNDER UNIFIED GOVERNMENT (1991-1997)^a

Source	Bills introduced		Bills approved		Contribution ^b		Success rate ^c	
	1991-94	1994-97	1991-94	1994-97	1991-94	1994-97	1991-94	1994-97
Executive	124	84	122	83	81.9	76.9	98.4	98.8
PRI	30	19	11	7	7.4	6.5	36.7	36.8
PAN	26	79	4	8	2.7	7.4	15.4	10.1
PRD	32	45	2	3	1.3	2.8	6.3	6.7
PARM	9	–	1	–	0.7	–	11.1	–
PPS	5	–	0	–	0.0	–	0.0	–
PFCRN	4	–	0	–	0.0	–	0.0	–
PT	–	8	–	3	–	2.8	–	37.5
Independent	1	12	0	2	0.0	1.9	0.0	16.7
State legislatures ^d	2	2	1	1	1.7	0.9	50.0	50.0
Other	10	2	8	1	5.4	0.9	80.0	50.0
Total	243	251	149	108	100.0	100.0	61.3	43.0

Source: Lehoucq *et al.* (2005). "Political Institutions, Policymaking Processes, and Policy Outcomes in Mexico", Research Networking Paper R-52, Inter-American Development Bank.

^a The data includes legislative bills originated in the Chamber of Deputies, Permits and symbolic legislation. Bills originated in the Senate were excluded.

^b (Bills approved by source/Total of bills approved) x 100

^c (Bills approved / Bills introduced) x 100

^d Including the Mexico City Council.

During the first half of the 2000-2006 administration, executive-initiated legislation represented 18.2 per cent of the total volume of legislation. Although Table 4 shows that divided government has not involved any reduction in the total legislative output, the experience of the 2000-2006 government shows that no economic reform of importance such as fiscal, labour, or energy reforms have been approved by Congress as Lehoucq *et al.* (2005, p. 34) argues "it is possible that part of the explanation for the greater volume of legislation during the period of divided government lies in an increase in non-significant changes to legislation".

TABLE 4

THE LEGISLATIVE PROCESS IN THE CHAMBER OF DEPUTIES UNDER DIVIDED GOVERNMENT (1997-2003)^a

Source	Bills introduced		Bills approved		Contribution ^b		Success rate ^c	
	1997	2000	1997-	2000-	1997-	2000-03	1997-00	2000-03
Executive	32	61	28	50	20.4	18.2	87.5	82.0
PRI	86	306	15	54	10.9	19.6	17.4	17.6
PAN	168	265	31	65	22.6	23.6	18.5	24.5
PRD	157	294	20	45	14.6	16.4	12.7	15.3
PT	23	41	7	6	5.1	2.2	30.4	14.6
PVEM	44	74	8	14	5.8	5.1	18.2	18.9
State	25	86	1	15	0.7	5.5	4	17.4
Independent	10	11	2	1	1.5	0.4	20	9.1
PAS	–	13	–	0	–	0.0	–	0.0
PSN	–	8	–	0	–	0.0	–	0.0
CDPPN	–	6	–	0	–	0.0	–	0.0
Joint	–	42	–	25	–	9.1	–	59.2
Other	61	–	25	–	18.3	–	40.9	–
Total	606	1207	137	275	100	100	22.6	22.8

Source: Lehoucq *et al.* (2005). "Political Institutions, Policymaking Processes, and Policy Outcomes in Mexico", Research Networking Paper R-52, Inter-American Development Bank.

- ^a The data includes legislative bills originated in the Chamber of Deputies. Permits, and symbolic legislation. Bills originated in the Senate were excluded.
- ^b (Bills approved by source / Total of bills approved) x 100.
- ^c (Bills approved / Bills introduced) x 100.
- ^d Including the Mexico City Council.

Besides, a study by Moreno (1999) indicates that because of the conclusion of the political and ideological debate on democratic transition, combined with the rise of new issues on the political agenda, such as education, economic welfare, and human rights, ideological polarisation may increase in coming years.¹³ However, the Mexican political design does not include any incentives for inter-party coalition building, increasing the potential likelihood of executive/legislative deadlock. Aghion, Alesina and Trebbi (2004) have shown that a political system that establishes a high share

of votes needed to veto any legislation implies that leaders are more insulated. The optimal amount of this “insulation” depends, among other variables, on the polarisation of society and the protection of property rights.

In Mexico’s experience the political system’s support of the economic reform was the product of both an exceptional political regime and the reform’s relative simple political-administrative requirements as former president Miguel de la Madrid (1982-1988) wrote (1998, p. 166), “without the presidency and political system’s institutional strength the serious economic problems could not have been resolved.” Although this depends to a certain extent on the distinction between implementing a macroeconomic or a microeconomic reform, the above evidence leads to the question of what political institutions are conducive to economic reform and consolidating reform. In the Mexican experience the institutions that expanded political discretion facilitated the initiation and implementation of the economic reform. The new political arrangements may, however, create impediments to initiate and sustain policy changes in the long run.

These problems are compounded as stressed above by: 1) the collapse of *presidencialismo*; 2) the potentially marginal president’s legislative authority and, 3) the rise of multiparty system in a context of lack of incentives for inter-party coalition building. These problems provide incentives to parties and politicians to cultivate particularistic policies. This is only one side of the problem because consolidation of the reform depends basically on the allocative efficiency of the market, and a condition for this is a proper enforcement of property and other legal rights.¹⁴ In this matter, as the next section will argue, the capability of those state organizations and agents in charge, as the legislative and judiciary, is uncertain.

IV. Property Rights and the Rule of Law: Some Empirical Comparative Studies

As known, in the neo-institutional economics literature the term property rights generally refers to the rights of an actor to use valuable assets.¹⁵ The political agents through the State, as policy-makers of formal-legal rules, as well as the judiciary as enforcers, play a fundamental role in shaping this legal-property rights system and getting it respected. Formal institutions are credible to the extent that people believe that they are not subject to arbitrary change. Therefore, the credibility of formal rules established by the government plays an especially important role in the credibility of the persistence of property rights. Unless property and other legal rights are credible, economic reforms are unlikely to be effective in promoting economic growth and political stability.

Several studies have argued that differences in the institutional structures of societies and on how property rights and contracts are defined and enforced are an important part of the explanation of why some countries prosper while others do not.¹⁶ Until now almost all empirical measures of these institutional characteristics are based on subjective measures of “institutional quality”.¹⁷

Keefer and Knack (1995), for instance, reveals that measures of institutional quality help to explain why poor countries have not grown faster than rich ones as neo-clas-

sical analyses predicted. They show that variations in growth rates across nations are unrelated to initial per capita income levels. Poorer countries have grown somewhat less rapidly because they have failed to establish mechanisms for securing property rights and enforcing contracts. Clague *et al* (1997) have expressed a similar view using a multivariate test control for other common factors included in cross-country tests of economic performance. Their study concludes that institutional variables have a positive and statistically significant impact on investment and growth.¹⁸ In the case of Mexico the point now is whether the move from authoritarian rule to democracy may enhance the enforcement of property rights.

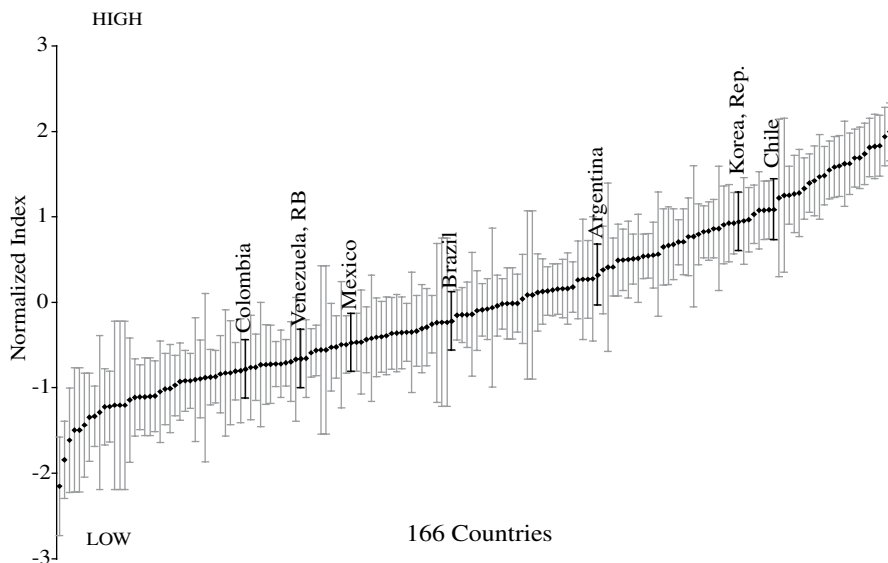
Following this approach of measuring institutional aspects and taking profit from the proliferation of cross-country indicators of various aspects of perceived policy governance, Kaufmann *et al* (1999a; 1999b) presented a large database compiling several hundred cross-country indicators produced by thirteen different organisations and covering 178 countries. These composite indicators show the statistical compilation of perceptions on a wide range of issues such as rule of law, corruption, voice and accountability, regulatory framework and political stability of a large number of enterprises, citizens and expert survey respondents in industrial and developing countries, as well as non-governmental organisations, and commercial risk rating agencies. Authors also estimated the variance of the disturbance term of each indicator.¹⁹ As a result the variance of the conditional distribution of each indicator provides an estimate of the precision of the institutional measure obtained for each country.

Of course, these indicators must be looked at carefully. They are *statistical compilations of subjective opinions* about *different concepts* of rule of law, corruption, political stability, etcetera. The countries' relative positions on these indicators are subject to margins of error and consequently it is inappropriate to infer precise country rankings based on this data. Also, as Bardhan (2005) has noted, the operationalisation of the "rule of law" variable very often ignored important features such as the democratic rights of political participation or the expression of "voice". Nevertheless, these statistical compilations may serve as imperfect proxies of the quality of those basic institutional aspects here considered if we assume that perceptions correspond with realities, which cannot be always assured as will be indicated.

The following Figures 1, 2 and 3 show the rule of law index of Mexico in a comparative perspective, first in the Latin American context, later among a group of Asian countries, and finally in a group of OECD countries. As the graphs show, Mexico's position is not very good in any group. On one hand, assuming that the rule of law implies well enforced property rights, Figure 2 surprisingly shows that Mexico's position is perceived as better than Venezuela, one of the longest standing democracies in Latin America. On the other hand, Figure 3 illustrates that a country with an authoritarian political system such as Singapore is seen as a country with a high standard of rule of law. The relationship between perceived property rights and the economic growth countries in fact experience seems to be clearer than the relationship between regime type and perceived property rights. As Greif (2005) has stated contract enforcement institutions can lead market economies along distinct institutional paths.

FIGURE 1

RULE OF LAW: MEXICO AND SOME LATIN AMERICAN COUNTRIES



Note: Dots represent mean estimates for the indicator. The thin vertical lines represent standard errors around these estimates.

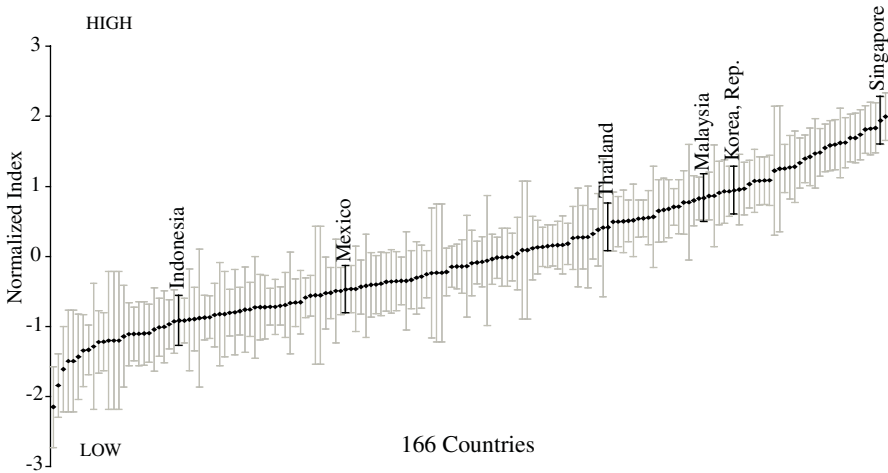
Source: "Governance Matters" by Daniel Kaufmann, Aart Kraay and Pablo Zoldo-Lobaton. May 1999. <http://imf.org/external/pubs/ft/fandd/2000/06/kauf.htm>.

V. Property Rights, the Rule of Law and the Future of the Economic Reforms in Mexico

The main purpose of Mexico's structural reforms has been to secure the long-term efficiency of the economy by imposing competition. As a result of this reform the Mexican economy has a formal institutional framework. The new rules of the economic game offer more certainty and security to investors. Nevertheless, it is not enough that clear formal rules exist. The most important thing is that the rules be in effect. In Mexico laws and regulations exist for everything. However, the fact that all economic, political and social activity has a legal framework is not equivalent to living within a rule of law in all these arenas. A study conducted by Rubio (1994, p. 20) stated this very clearly:

FIGURE 2

RULE OF LAW: MEXICO AND SOME EAST ASIAN COUNTRIES



Note: Dots represent mean estimates for the indicator. The thin vertical lines represent standard errors around these estimates.

Source: "Governance Matters" by Daniel Kaufmann, Aart Kraay and Pablo Zoldo-Lobaton. May 1999. <http://imf.org/external/pubs/ft/fandd/2000/06/kauf.htm>.

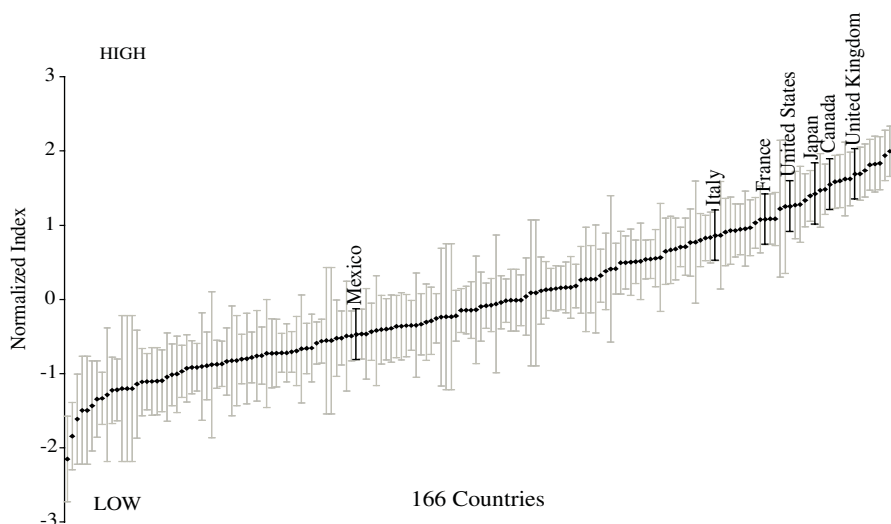
The laws that govern the Mexican society are on the one hand contradictory and on the other obsolete. In addition, authorities apply them at their discretion. Citizens do not have an efficient, economically accessible means of legal defence. Conflicts between individuals are solved in general outside the legal system. If taken to the court it is common practice to deny sentences on second and even third appeals given the poor quality of the first trial. The executive exerts an excessive influence on the administration of justice and the judicial power in general. The Supreme Court has been unable to carry out its function to control the constitutionality and legality of the acts of the other constitutional powers.²¹

Katz (2004) argued that the Mexican legal system deficiencies run from the Constitution to a simple mercantile contract between individuals. In this sense, the Mexican constitution is more a list of intentions that formal rules to be obeyed. For this reason, a remarkable divergence between the formal constitutional norms and this practice obtains.

If political institutions are the result of the strategic interaction between the political actors competing to promote their interests and values, then institutional

FIGURE 3

RULE OF LAW: MEXICO AND SOME OECD COUNTRIES



Note: Dots represent mean estimates for the indicator. The thin vertical lines represent standard errors around these estimates.

Source: "Governance Matters" by Daniel Kaufmann, Aart Kraay and Pablo Zoldo-Lobaton. May 1999. <http://imf.org/external/pubs/ft/fandd/2000/06/kauf.htm>.

consensus will more likely take place when the relevant political actors find it best to continue to submit their interests and values to the uncertain interplay of institutions.²² In democracies this game is uncertain by nature as democracy is a system of processing conflicts in which outcomes depend on what participants do but no single force can control what will occur. Outcomes are not even known *ex ante* by any of the competing relevant actors because the consequences of their actions depend on the actions of others.

Following this argument, the Mexican constitutional order is not the result of any specific political culture or any level of economic development but a consequence of the distribution of preferences, the predominant ideology at the time, as well as the power of the relevant political actors that participated in its creation and reform (Ayala, 2003). In accordance with the political cycle necessity and the interests of a majority of groups in political power, the Mexican Constitution of 1917 was modified more than 438 times up to 2006.²³ For this reason, it can be said that the Constitution no longer represents a "fundamental and stable social pact" but a combination of different, and often contradictory, political projects.

As a result, the Mexican legal system shows on the one hand the configuration of the existing political forces at the time of its creation –established by the groups that won power after the Revolution of 1910–, and on the other hand the efforts to consolidate the power relations that emerge with each presidential succession. This political arrangement has made economic reform possible but may not be enough to consolidate that reform.

The long-lasting history of Mexico's political stability can be best understood by recognising the existence of a cohesive network of power which controls the most important political processes. Three features of the old Mexican political regime made it stable. First, its facade of liberal-democratic institutions and its elaborate network of state-corporatist associations helped fragment and isolate opposition groups. Second, its concentration of authority in one institution, the presidency, provided a mechanism for the definitive resolution of conflicts, and third, the combination of formal and informal rules for power transfer.

Hence, different forces competed for power even though the president wields the greatest amount of it. This competition functioned within an informal system of discipline and loyalty. Ideological and political competition was controlled and contained by the president and the PRI until the moment when the system was disrupted by forces unwilling to accept the new economic policy consensus.

The theoretical developments and empirical evidence presented above suggest that an adequate regime of property and other legal rights is a necessary condition for economic development. The rule of law must, of course, be effective. When enforcement of intertemporal political exchanges is relatively weak, we may observe highly volatile or highly inflexible policies. Spiller and Tommasi (2003) have noted this kind of features in analysing Argentina's impact of political institutions on public policy and Alston, Melo, Mueller and Pereira (2006) in analysing Brazil's policymaking processes. Following their argument Mexico's institutional environment does not facilitate cooperation and the cost of enforcing the policies is high.

To support a market economy and long-term development, Mexico needs the development of an effective rule of law. That is an institutional legal framework in which at least four basic elements are guaranteed. First both civil liberties and property rights must be guaranteed. The existence of an efficient judicial branch to cut transaction costs and effectively limit the predatory behaviour of authorities is also a necessary requirement that now is not guaranteed. The third is legal security such that citizens can plan their goals in the context of well-known rules, certain that the authorities will not use coercive power arbitrarily against them. The fourth is the guarantee that the authority of the rule of law will always be enforced on other rules of the game when the latter are not in line with the rule of law.

What makes these institutional arrangements function as factors for growth and development is that they provide a set of rules and incentives that make the gains of the game –political or economic– limited, and on the other hand assure the players that the rules will be enforced and that there will be other opportunities. They tend to increase the incentives for social groups to cooperate by reducing the payoff for socially uncooperative strategies. The electoral rules that govern the selection of governments and the constitutional structures that define how policy is to be made provide the basic

institutions of conflict management and policy-making. If political institutions are the rules of the political game, thus it is evident that they are basic factors influencing public policies. Expectations about future policies are also key determinants of economic behaviour and outcomes. Economic agents form their expectations about future policies based on their understanding of the policy generation process. Efficient inter-temporal transactions require the appropriate alignment of the political actors' temporal incentives, which, in turn, are determined by the nature of the country's institutions. Since the way these transactions are implemented is affected by the need to safeguard the interests at stake, the country's institutional characteristics greatly impact on the substance and feasibility of political transactions (Dixit, 1996).

Environments that do not provide for the adequate enforcement of political exchanges will generate high transaction costs, as politicians will have to design complex mechanisms to protect their rent allocation. The associated high implementation costs imply that many political transactions will not be implemented, and those that may be implemented will tend to generate relatively inefficient public policies. These may turn out to be too rigid –i.e. not able to adjust to changing economic circumstances– and also too unstable –i.e. too dependent on political outcomes– (Cox and McCubbins, 1998). Societies with such environments will tend to generate poor quality public policies with the consequent impact on economic performance. A significant literature argues that economic interests and institutions affect growth not simply because of their effect on policy, but because of the ability they give policy makers to make credible policy commitments (Keefer, 2003). It is precisely at this point that the capabilities of the Mexican political system are in doubt.

VI. Conclusion

The successful implementation of the economic reform in Mexico initiated twenty years ago was possible due in part to the role of the political institutions. The political system was able to support this difficult process because of its institutional capabilities and the design of the policy itself. However, because of the rise of competition in the electoral arena since 1988, these institutional capabilities are now in transition. Although it is currently not possible to make a strong statement about this, and the evidence presented suggests that these institutional capabilities are now in doubt. This is particularly true regarding the presidential powers and the constitutional structures that define policy-making.

In order to consolidate the reforms this policy environment tends to generate public policies too dependent on the expected political consequences and too rigid to adjust to economic circumstances. Consolidation of market reforms, like consolidation of democracy, is less a matter of specific macroeconomic or structural measures than of changes in the institutional framework and social values and attitudes of agents in order to influence upon their behaviour. As Greif (2006, p. 10) has argued “understanding the impact of the state requires examining the motivation of the agents involved”. If the rules of the game (institutions) are to have an impact, individuals must be motivated to follow them, they have to internalise norms.

Like democratic politics, market economies provide rules of the game but do not guarantee outcomes to specific actors. These rules of the game, and particularly the definition and protection of property and other legal rights are the basis for the allocative efficiency of markets, and in the long run for the stability of the political system as well.

As a result of the economic reform, the Mexican economy has a formal framework for business. However, and contradictorily, the evidence suggests that the Mexican political organizations in charge are incapable of effectively implementing the rule of law. Therefore, neither the end of the liberalisation program nor the conclusion of the transition to democracy –in procedural terms- is enough to consolidate the economic reform in the long run.

Notes

- ¹ Williamson (1990).
- ² Although this assumption is widespread, according to Haggard (2000) there are few studies that had test that proposition.
- ³ See the fundamental work of Carpizo (1978).
- ⁴ Mexico's Congress is divided in Chamber of Deputies and Chamber of Senators.
- ⁵ In the case of the annual appropriation bill the executive has the exclusive power of legislative introduction but the Congress has an unlimited power to change the whole bill.
- ⁶ See Mainwaring (1993).
- ⁷ See, for example, Linz (1994) and Stepan and Skach (1994).
- ⁸ For instance, another study conducted by Shugart and Carey (1992) shows the good performance of presidential regimes when looking at democratic failures throughout the twentieth century. They identified 12 presidential regimes and 21 parliamentary regimes that have experienced breakdown in the twentieth century.
- ⁹ Their definition of democracy included three criteria. First, democracies must have competitive elections. Second, there must be universal adult suffrage. Third, there must be guarantees of traditional civil rights. His definition of presidential democracy has two criteria. First, the head of the government is elected independently of the legislature. Second, the president is elected for a fixed time period. Finally, a stable democracy is defined on the basis of democratic longevity: at least 30 years of uninterrupted democracy.
- ¹⁰ Chile (1932-1973) represents the only case of a multiparty system where presidential government survived for more than 25 years. Even there, the democratic system finally collapsed due in part to the strains imposed by Chile's multiparty system (Valenzuela, 1989).
- ¹¹ The Rae index (F_s) measures the probability that two randomly selected legislators belong to different parties. It ranges from zero (all legislators are members of the same party) to one (each legislator is the only representative of his/her party). The Laakso/Taapera effective number of parties (N_s) measures how many parties are in the party system, weighted according to size.
- ¹² Four electoral law dimensions have an especially strong impact on the size of the presidents' party in the legislature. They are: 1) the electoral formula employed to select the president; 2) the timing of the presidential and legislative election; 3) the effective magnitude of the legislative districts and; 4) the electoral formula used to allocate the legislative seats (Jones, 1995).
- ¹³ This study reveals that in Mexico there is a strong relationship between ideological positions and electoral preferences, and that democracy and the democratic transition was an influential issue in the political and ideological debate.
- ¹⁴ According to (Shirley, 2005) this two sets of institutions are indispensable for development but not necessarily complementary.

- ¹⁵ See the classic Demsetz (1967).
- ¹⁶ See Clague (1997).
- ¹⁷ The contract-intensive activity (CIM) has also been used as a measure of the state of contract compliance and security of property rights in a country. This variable is defined as the ratio of non-concurrency money to the total money supply. The basic idea is that in countries where the secure of property rights is low, people will make extensive use of currency to carry out their transactions (Clague *et al.*, 1997).
- ¹⁸ These factors included initial income levels, human capital levels, and the relative price of investment goods.
- ¹⁹ Their model expresses the observed data as a linear function of unobserved governance plus a disturbance term capturing perception errors. Then they compute the mean of the conditional distribution of governance.
- ²⁰ The estimated index of the rule of law of Mexico is -0.474 , the standard error is 0.28 and the number of indicators is 8.
- ²¹ Own translation from Spanish. Anglade (1994) argues that the rule of law is defined both by its form and its substance, or in other words, by the extent to which the law is implemented.
- ²² See Preworski (1991).
- ²³ According to the web page of the Chamber of Deputies.

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