

**Delegation without Discretion**

The Bureaucratization of Electoral Administration in Mexico

Andreas Schedler

FLACSO  
Facultad Latinoamericana de Ciencias Sociales  
Sede México  
Camino al Ajusco 377  
Col. Héroes de Padierna  
Delegación Alvaro Obregón  
CP 14200 Mexico, DF  
Mexico

E-mail [andreas@flacso.flacso.edu.mx](mailto:andreas@flacso.flacso.edu.mx)  
T & F +52/246/276-58 (home office)

Paper prepared for presentation at the XXI International Congress  
of the Latin American Studies Association (LASA),  
Chicago, 24-26 September 1998

Draft  
Comments welcome!

Less than a decade ago, Mexico's electoral institutions still worked as a machinery of fraud, subservient to the hegemonic Party of the Institutional Revolution (PRI). Vote rigging as a mechanism of last instance to protect the ruling party from losing an election was certainly not the only, but nevertheless a fundamental pillar of the post-revolutionary authoritarian regime. Between 1990 and 1996, however, the country went through a series of negotiated electoral reforms which have profoundly altered the institutional bases of political elections. While ten years ago, it was still the Secretaría de Gobernación, the Ministry of the Interior, which was in charge of organizing federal elections, today this responsibility lies in the hands of an independent, non-partisan administrative body, the Federal Electoral Institute (IFE). As a consequence, today elections are widely perceived to operate in a fundamentally democratic way - as free, competitive, even fair, and above all, clean, contests. Irregularities still occur but appear to be neither systematic nor decisive any more, and in any case affected parties can seek redress through newly created electoral tribunals.<sup>1</sup>

But how did electoral designers accomplish this remarkable transition from electoral fraud to electoral fairness? Which kind of institutional solutions did they put into practice in order to effect such a dramatic change in patterns of interaction and expectation. How did they manage to subject the Mexican Leviathan to democratic rules, despite its historic reputation of

subverting or breaking these rules at its convenience? The paper approaches this question by first conceptualizing the basic problem in general terms: the institutionalization of "credible restraints" on abusive power. It then argues that Mexico's electoral reformers did not follow the most commonly prescribed solution to this problem, namely, power sharing between regime and opposition parties. Rather political parties implemented an original combination of "delegation without discretion" by transferring power to a "third party" (the IFE) while at the same time reducing its margins of administrative discretion.

The paper does not and cannot analyze the complex package of interlocking "safety measures" reformers designed to keep the IFE - the new "depository of the electoral authority," as Article 68 of the electoral Code holds it - under control. Instead, it limits its attention to five specific institutional mechanisms which can be grouped under the abstract category of "bureaucratization" (and which all aim at reducing administrative degrees of freedom): professionalization, record keeping, identity checks, time schedules, and universalism.

Given the centrality of formal rules to bureaucratic organization as well as the pivotal importance of formal regulation to Mexico's electoral reforms, the paper will focus almost entirely on the analysis on formal rules as codified in the 1996 Federal Code of Electoral Institutions and Procedures (COFIPE) and, to a lesser extent (in the section on the professionalization of

electoral administration), the Statute of the Professional Electoral Service (still in its 1992 version, currently under revision). Therefore, throughout the text, all references given in squared brackets will refer to COFIPE articles, except in the section on the process of professionalization, where bracketed references refer to the Statute of the Professional Electoral Service.<sup>2</sup>

### **Power and Restraint**

At the beginning of Mexico's transition from authoritarian rule, the democratic opposition faced, to say the least, a difficult situation. As late as in the early 1990s, the ruling PRI wielded iron control over the electoral apparatus; and it was known to use this position of power to organize electoral fraud whenever it should find it convenient (for many others, see Molinar 1991). For opposition parties, these two elements combined, the PRI's monopoly of power and its historical willingness to abuse of it, added up to an extreme version of a classical problem - the problem of "credible restraint": How can we make "sovereigns" abandon a trajectory of abuse and arbitrariness and accept institutional restraints on their behavior that are not just effective but believed to be so by their "subjects"?

The neo-institutionalist literature analyzes this problem of controlling arbitrary power (from the perspective of the power holder) as a problem of "credible commitment": How can rulers who

have played foul in the past credibly commit themselves to fair play in the future? According to this strand of analysis, the solution to the dilemma lies in balancing the relationship by empowering the powerless. Neo-institutionalist historians, for example, have analyzed the development of secure property rights in Western Europe in these terms. According to North and Weingast (1996), seventeenth century England established lasting constraints on the King by introducing the Parliament as an effective veto player. Or else, following Greif and others (1995), in medieval Europe, merchant guilds allowed individual merchants to act in concert and thus, establish an effective countervailing power to confiscatory rulers. Or, in the realm of contemporary intra-firm relations, diverse forms of power sharing and joint decision making may help managers to overcome the credibility problems they entertain vis-à-vis their employees (see Miller 1992: 225-32).

Indeed, balancing or sharing power is certainly a both logically and intuitively appealing solution to problems of asymmetric power: If two players, A and B, face each other, one powerful, the other powerless, the most evident thing they can do to change this structure of interaction is to redress the balance and redistribute power between the unequal contenders, giving an equal voice (or at least effective veto powers) to both. This, however, was not the route Mexico's electoral reformers chose to take.

In order to understand the Mexican solution we have to understand that there is more than one way of subjecting political power to credible institutional constraints. If the key problem underlying the problem of "credible commitment" lies in asymmetries of power, there is no way of resolving the latter without dissolving the former. In other words, there is no way of restraining power, in some effective as well as credible manner, without changing the prior structure of power. There is no way of restraining power without disempowering the powerful (in either relative or absolute terms): If somebody has the capacity to do me harm, and has done so in the past, the only way of making me feel safe in the future is by taking this capacity away from him. Yet, to make me as powerful as him, either by reducing his powers or increasing mine (power sharing), is just one possible solution. Two further powerful strategies of disempowerment exist: the delegation of power and the elimination of power.

Delegation shifts power from the powerful actor A not to its adversary B but to some trusted, external "third party" C. Rather than redistributing power "internally" (within the protagonists), it redistributes power "externally" (to some impartial outside actor). The "elimination" of power, by contrast, does not transfer decision-making capacities to anywhere. Instead, it tries to do away with them. It tries to combat the abuse and arbitrariness of power by eliminating power altogether. The underlying idea is simple: Fraud is a child of discretion; if we want to fight it we have to cut discretion. Actors can only abuse

the power they have; if we reduce their margins of freedom we deprive them of opportunities to cheat. The designers of Mexico's electoral institutions combined both strategies of disempowerment. They chose (1) to delegate the organization of federal elections to an independent body, while (2) systematically minimizing the decision-making authority of this "third party."

(1) The main axis of electoral reforms in Mexico was the delegation of power through the creation of a new, autonomous body of electoral administration, the Federal Electoral Institute (IFE).<sup>3</sup> Today, after an incremental process of "departization" or "ciudadanización," its supreme governing body, the General Council, is entirely dominated by non-partisan Electoral Councilors. Party representatives still have seats, but no voting rights any more, while the executive has quit the picture altogether. This new independence of electoral administration implies a sharp break with the country's, so to speak, continental European tradition of entrusting the organization of elections to the central state bureaucracy (the Ministry of the Interior).

(2) If Mexico's political parties entrusted the authority of organizing federal elections to an autonomous body, they did not do it blindly. Rather than taking the risk of betting on some inherent reliability and impartiality of the new locus of power, they devised a complex set of "safety mechanisms" to ensure the

Electoral Institute would work the way it was expected to. (a) Narrow delegation: IFE does not have a broad and vague but a reasonably clear and narrow mission. It was not given any dark and fuzzy assignment such as, say, "implementing democracy" but rather was set up to fulfill the very specific task of organizing democratic elections.<sup>4</sup> (b) The consensual selection of agents: Political parties were keen to keep their lid over the nomination of IFE's top managers, the President and the Electoral Councilors. Parties in the legislature propose the candidates for these functions, whose approval then requires a two thirds majority in the Chamber of Deputies. In this critical field of personnel policies, parties in fact did institutionalize a neat power sharing arrangement. (c) Judicial accountability: A newly established system of specialized electoral tribunals forms a second layer of "third party delegation" that controls the first one, the Federal Electoral Institute (as well as all other actors involved in the realization of political elections). In addition, electoral reforms introduced a new set of "electoral crimes" into the penal code, backed up with the threat of draconian sanctions as well as with a new public prosecutor's office specialized on electoral offenses.<sup>5</sup> (d) Party accountability: The electoral Code provides political parties with comprehensive rights of supervision. Extensive publicity and reporting requirements imposed on electoral authorities, on the one hand, and seamless information rights and rights of access to all steps of the electoral process conceded to political parties, on the other, allow parties to monitor and check about any aspect of electoral



organization they might possibly be interested in monitoring and checking. (e) Internal accountability: The law, in its Article 73, institutes IFE's non-partisan General Council as the key agent of accountability within the Institute, in charge of supervising and, in the last instance, guaranteeing the fulfillment of its legal mission. (e) The reduction of discretion: Last but not least, the designers of Mexico's electoral institutions put a great deal of political energy and imagination into the task of reducing the Electoral Institute's degrees of freedom. Basically, they employed three broad bundles of measures for "eliminating" administrative power: the reliance on scientific methods and technological devices, conceived as authoritative sources of certainty and neutral instruments outside the partisan struggle;<sup>6</sup> the reliance on random procedures, conceived as reliable mechanisms immune to partisan manipulation; and finally ... the bureaucratization of the electoral process.<sup>7</sup>

As this listing makes immediately clear, the reduction of administrative discretion through bureaucratization is only one small fragment in a picture much wider and richer. What, however, is the term "bureaucratization" meant to mean here? I take it as a technical term (dissociated from the connotation of contempt it carries in ordinary language) that describes a complex, multi-dimensional process: the definition of impersonal rules that constrain a group of professional agents who make a living in administering these rules within a formal, hierarchical

organization. The reduction of administrative discretion is not a by-product of this process. Rather it constitutes its very rationale. As Max Weber taught us, modern bureaucratic rule aims at a maximum of "precision, constancy, discipline, tightness, and reliability, hence: calculability" (1972: 128). In other words, it pretends to minimize administrative discretion. All the institutional devices we consider to be typically bureaucratic - such as hierarchization, professionalization, and formal regulation - serve one superior purpose: the purpose of institutionalizing what Max Weber held to be a basic distinction in any bureaucratic system: the distinction between politics and administration, that is, the distinction between a sphere of leadership at the peak and a world of discipline at the lower levels of the bureaucratic pyramid (see e.g. Weber 1972: 127 and 836-7). In this sense, ideal-typical bureaucratization (never to be found anywhere in the real world) concentrates all decision-making capacity at the top while assimilating the rest to a machine-like mechanical apparatus with no will of its own nor any capacity to act on its own.

### **Professionalization**

A modern "rational" bureaucracy, according to Weber, is an organization run by full-time officials who: occupy positions in a hierarchy that defines rights to command and obligations to obey; act according to universal rules within determinate domains of competence; follow impersonal principles of public duty in an

objective, dispassionate fashion; get their job and get it done on the basis of knowledge and technical qualification; receive a monetary remuneration in accordance with rank and seniority; and acquire rights of life-time occupation and corresponding guarantees against arbitrary dismissal.<sup>8</sup> The Statute of the Professional Electoral Service (PES) – based on COFIPE articles 168-72 – guides the Federal Electoral Institute’s process of “professionalization.” In essence, this body of rules aims at creating a quasi-Weberian civil service that contains all the defining features of modern bureaucratic rule listed above.

To begin with, the Statute defines a hierarchical system of ranks: It draws a distinction between professional, administrative, and temporal positions [5-8], divides the former into “directive” versus “technical” officials [26-30], sets up a six-level hierarchy of ranks for each of these two categories [31-38 and 63], and links monetary remunerations to ranks [36]. It demands a general catalogue of posts and positions to be drawn up in order to delineate the functions as well as the lines of authority and communication of each position [39-42]. The Statute also aims at establishing a career system: It conceives the members of the PES as life-time civil servants who should be granted tenure as soon as they fulfill certain requisites [6 and 57] and who should accordingly be able to develop “secure expectations” about their continuing employment at the Institute [4.V]. And it calls to institutionalize a merit system (rather than personnel policies based on patronage, personal sympathy, or

partisan loyalty): For all career steps - entrance, permanence, and promotion - the Statute establishes bundles of quasi-objective criteria of decision-making, such as formal education, vocational training, performance in office, regular examinations, and periodic evaluation by superiors [48-54, 57, 67-72, 95]. Furthermore, it explicitly endorses the principle of equality of opportunities for all job applicants [14] and urges decision-makers to "strictly" respect the results of all evaluation procedures [54].

At several points, the Statute states the explicit goal that IFE officials carry out their work with a distinct sense of public duty and institutional loyalty. It calls upon the Electoral Institute to translate its constitutional principles - certainty, legality, independence, impartiality, and objectivity - into effective principles of action, by "encouraging" appropriate behavior on behalf of its staff [4.IV]. It formulates a catalogue of formal duties [109] that exhorts electoral officials to follow the principles of "impartiality and objectivity" as well as of "efficiency and efficacy" [109.III and 109.XI]. It confers tasks of moral education and identity building to the Electoral Institute: In order to fulfill its objectives, it contends, IFE has to promote "loyalty and identification," "the vocation for the development of democratic life," and "a high sense of responsibility" among its employees [4.II, 4.III, and 4.VII]. And the Statute also defines objectivity and impartiality as the core principles of vocational training [76] whose mission, as it

suggests, transcends mere cognitive and technical learning, but rather includes elements of normative education as well. Vocational training, apart from transmitting specialized knowledge and abilities, should also form the "necessary attitudes" for electoral administration [75].

The Statute does not limit itself to issuing moral exhortations though. It gives superiors an assortment of graded administrative sanctions at hand to ensure discipline and rule-abidingness of their subordinates. These administrative sanctions complement the stiff penal sanctions foreseen in the Penal Code for electoral crimes, with the forms of punishment ranging from mere censure and fines to suspension and destitution from office [178-87].

Last but not least, the PES' formal system of rules fully reflects the Weberian idea that specialized knowledge (expertise) forms the basis of bureaucratic superiority (as compared to "unprofessional" forms of rule).<sup>9</sup> The Statute stipulates minimum levels of formal education, the accreditation of training courses, and the approbation of entrance examinations at prerequisites of employment at the Institute [48.III, 48.VII, 49, and 77]. In general, it places a strong emphasis on vocational training at different levels [75-89] and in the regular attendance of training courses as a necessary condition to obtain tenure and promotion [29.II, 57.b, 77, 95.c, 109.IV].

Of course, drawing up an efficient and universalistic administrative apparatus on paper is one thing. Making it a tangible everyday reality is quite another. Apparently, much of the bureaucratic rationalism the PES Statute postulates is still more of a programmatic aspiration than an empirical feature. For instance, as Electoral Councilor Mauricio Merino observes, "en el sistema de ingresos al SPE no se ha privilegiado el concurso abierto de oposición para seleccionar a los mejores entre un universo amplio de candidatos posibles" (1998: 5-6). Formally meritocratic rules are always vulnerable to subversion through informal criteria. Yet, the failure to ensure fair procedures of admission may be due more than to anything else to a glaring loophole in formal design. The Statute eloquently lays out the various criteria of entrance, but remains silent on one of the most essential steps in any hiring procedure: job advertisement. It contains no obligation whatsoever to make job vacancies public.

Also, the IFE has not been able to make good on its promise of providing job security to its employees. Even after several waves of "lustration" which aimed at identifying and dismissing electoral officials who appeared to be too closely associated with the authoritarian past (that is, with the governing party and its historical practices of vote rigging), the Electoral Institute has not yet initiated the process of granting tenure to those of its staff members who fulfill the corresponding formal requisites. Tenure is a standard instrument to secure a given

institutional status quo against eventual future changes by adverse (or subversive) "governing coalitions" (see Horn 1995, Chapter 5). The fact that, above all, the IFE General Council still hesitates to deploy that instrument seems to be expressive of the its continuing distrust towards the Institute's administrative staff.<sup>10</sup>

### **Record Keeping**

The modern bureau, the modern office, is a warehouse of wood (in its processed form as paper). Bureaucratic rule, to paraphrase Lincoln, is the rule of the paper, by the paper, and for the paper. Forms and files are the souls of bureaucratic Leviathan, and the requirement to record and report everything official in writing represents one of its basic principles of action. Electoral administration in democratic Mexico is a neat case of bureaucratic organization based on record keeping (Schriftlichkeit). Here as anywhere else in the world of modern bureaucracy, the written form serves the main purpose of certainty and control. Red tape is, so to speak, the material basis of bureaucratic accountability. Hence, Mexico's electoral reformers drew up a complex network of interlocking pieces of paper - documents, applications, forms, files, originals, copies, minutes, certificates, notifications, receipts, and reports - in order to ensure that all administrative steps follow uniform, controlled, and, above all, controllable procedures that enable parties to trace eventual irregularities back to their original

sources. As a consequence, Mexico's electoral law, the Federal Code of Electoral Institutions and Procedures (COFIPE), requires each federal election to produce an impressive output of paper. Four particularly paper-intensive processes may illustrate this point: voter registry, candidate registry, voting, and vote counting.

Voter registry: Since the early 1990s, the construction and regular up-date of the voter registry in Mexico is a thoroughly computerized high-tech enterprise. For all its technological sophistication, however, the registration of voters still gives rise to considerable stocks and flows of paper. For instance, citizens, the main clients of the electoral bureaucracy besides political parties, have to fill out application forms to be included into the electoral list [143.1 and 148.1], submit documents that prove their identity [144.2], receive a receipt of their application [148.3], sign a receipt when being handed over their voter card [144.4], submit documents and application forms to up-date their personal data [146.4], fill in and submit forms to appeal against their eventual exclusion from the electoral list or against the eventual non-receipt of their voter card [151.6], and receive the notification of the corresponding rulings [151.7].

Candidate registry: The formal registration of electoral candidates follows the same principle as the registration of voters: Bureaucracies define the conditions under which external



agents may gain recognition as official objects of administration (clients) and trigger internal decision-making processes (administrative acts). More often than not, the bureaucratic conditions for external communication include rigid demands for written documentation and standardized forms. To register candidates for elective office at federal level, political parties have to submit, for each candidate, an application with the candidate's personal data, a declaration of acceptance, a copy of her or his birth certificate, a copy of her or his voter card, and a proof of her or his place of residence [178.1 and 2], a written confirmation that the candidate was selected according to prevailing party rules [178.3], and a certificate that the party has registered the minimum number of candidates it is required to register for plurality deputies [178.4] and plurality senators [178.5].

Voting: While the preparatory steps of Mexico's federal elections - such as the accreditation of electoral observers [5.3], the selection of polling station officials [193], the determination of polling station locations [195-6], the nomination of party representatives [202-4], and the delivery of the voting material to polling station officials [207-8] - already involve extensive paper work, the requirements for record keeping are particularly tight at voting day. The comprehensive polling station file (expediente de casilla) [234.1] that electoral officials have to compile in the course of the day must contain the voting day file (acta de la jornada electoral) [212.4] composed of a detailed

file recording the initiation of the voting process [212.5] and a another one reporting on the closure of the voting process [225]; a file that states the results of vote counting and computing (acta de escrutinio y cómputo) [232.1]; and eventual reports on public disorders [220.2] or other incidents [221] as well as eventual notes of protest submitted by party representatives [199.1.f and 234.1.d]. Once these documents are put together, political party representatives (who are free and in some cases even obliged to sign all of them) receive a "legible copy" of the complete file, against the obligatory receipt [235.1]. The formal requirement of legibility, of course, is symptomatic for the surviving assumption of bad will towards electoral officials who in the past displayed a considerable capacity of subverting formal rules.

Vote counting: If vote counting at district, state, and federal level constitutes the culminating event of the electoral process, it also marks the culmination of electoral paperwork. As before, COFIPE demands files and forms for everything: files to record the reception of voting materials from polling stations [238.6 and 242.2], forms to fill in the results computed at polling stations [243.1.c], forms to state the identity of polling station files and District Council files [247.1.a], files to document procedures and findings in case of altered electoral packages [247.1.d], files to report the aggregate results at district level [247.1.e and g], as well as detailed files to give a summary of vote counting at district level, including its

results, eventual incidents, and declarations of validity and eligibility [247.1.i]. Since there are up to three federal elections at a time (for the presidency and the two legislative chambers) which furthermore are conducted on the basis of a mixed electoral system (that combines plurality formula with proportional representation for both the Chamber of Deputies and the Senate), the paperwork associated with vote counting multiplies accordingly. At the end of the vote count, the whole process of large-scale paper production flows into a final, apothotic act of bureaucratic ingenuity: the distribution of those files to different points in the system of electoral administration and dispute adjudication. For the sake of illustration, it should suffice to quote two paragraphs:

El Presidente del Consejo Distrital deberá ... [i]ntegrar el expediente del cómputo distrital de la elección de diputados por principio de representación proporcional con una copia certificada de las actas de las casillas, el original del acta del cómputo distrital de representación proporcional, copia certificada del acta circunstanciada de la sesión de cómputo y copia del informe del propio Presidente sobre el desarrollo del proceso electoral [252.1.b].

El Presidente del Consejo Distrital, una vez integrados los expedientes procederá a ... [r]emitir al correspondiente Consejo Local con residencia en la cabecera de circunscripción el expediente del cómputo distrital que

contiene las actas originales y copias certificadas, y demás documentos de la elección de diputados por el principio de representación proporcional. De las actas y documentación contenidas en dicho expediente enviará copia certificada al Secretario Ejecutivo del Instituto Federal Electoral [253.1.e]

This pair of paragraphs only describes the paper flow presidents of District Councils must initiate once vote counting for PR Deputies has concluded. But equivalent procedures apply for the elections of the President, plurality Deputies, PR Senators, and plurality Senators. No wonder IFE puts so much emphasis on the need to train its officials. Who else could be expected to dominate the mysteries of record keeping and file distribution if not thoroughly trained bureaucratic professionals?

### **Identity Checks**

Any administrative apparatus, if it wants to make good on the bureaucratic promise of reliability, has to ensure clarity about and control over its basic units of operation (clients, files, and decisions). It has to define criteria of eligibility that allow to identify the beneficiaries (or victims) of its services. It has to set up systems of storage and communication that prevent files from getting lost, altered, or misdirected. And it has to issue documents that give some recognizable form to its final decisions. Given the country's history of electoral fraud,

the organization of elections in Mexico reflects a particularly intense concern with establishing and safeguarding the identity of its main administrative objects. In accordance with the nature of the task at hand - putting the democratic principle of "one man, one vote" into administrative practice - the federal electoral law focuses on two fundamental challenges: ensuring the identity of the its core clients (citizens) and guaranteeing the integrity of its core documents (ballots).

The identity of citizens: In the golden days of authoritarian PRI hegemony, the voter registry represented a renown major source of vote rigging. In essence, it worked as a mechanism of "weighting" voting rights: It denied suffrage to those people "shaved" from the list while multiplying the votes of those with various entries. While some of the inaccuracies may have had its origins in technical problems, opposition parties always suspected, and with good reasons, that the voter list's deficiencies were not randomly distributed but rather reflected a clear political bias - over-representing regime loyalists while under-representing presumptive protest voters. As soon as questions of electoral cleanness (as different from issues of political representation) entered Mexico's electoral reform agenda in the 1980s, it was clear that the country was not to have clean elections without first setting up an accurate voter registry. It was clear as well that this was not to be an easy assignment - in a country where the State does a lousy job in identifying its subjects at birth, counting them in regular national censuses, and registering them

for military service, the payment of taxes, or the provision of welfare services; as well as in a country where population mobility (internal and external migration), problems of personal identification (most people do not have a passport), problems of location in space (homonymous and anonymous streets), not to speak of sheer factors of size (numbers and spatial distances), pose formidable objective obstacles to any pretension of subjecting the population to the statistical requirements of a modern state bureaucracy. This is not the place to recount the enormous efforts - in terms of time, money, personnel, expertise, and technology - both the IFE and political parties have invested since 1990 in order to set up and run a new fully computerized voter registry as well as to issue (twice) a new high-tech and maximum-security voter card (for an exhaustive review and analysis, see Luján 1997). In accordance with the "legalistic" approach of this paper, I would just like to list some of the mechanisms COFIPE establishes in order to prevent that voter lists and voter cards (as well as other related documents) be altered or misused.

The law establishes that voter cards have to fulfill minimum standards of safety (which actual cards exceed by far) in order to render them forgery-proof [164.1 and 2], that non-utilized blanks of voter card will be stored in "a place that guarantees their integrity" [144.5], that voter cards replaced for whatever reason have to be destroyed [150.2], that invalidated voter cards have to be destroyed [163.4], that District Councils must double-

check whether the official voter list corresponds to the list parties received for purposes of control [161.3], that the General Council may carry out further random checks in order to establish the identity of these lists [161.4], that polling station Secretaries mark the voter cards as well as the right-hand thumb (with indelible ink) of voters who have made use of the ballot [218.4], and that an "institution of renown reputation" certifies the quality of the indelible ink before election day [208.3], while the General Council must carry out a random check of its remainders after election day to make sure that it had not been replaced or altered [208.4]. It may be useful to recall that numerous mechanisms of accountability, that give parties as well as citizens a say in the prior stages of document production, complement the provisions designed to protect the integrity of those official documents and materials that serve to identify the enfranchised citizenry.<sup>11</sup>

The integrity of ballots: The elaborate safety measures the electoral law defines concerning ballots begin with their design. COFIPE determines the minimum information each ballot must contain [205.2-6], prescribes a paper design that allows to maintain full control over the number of ballots in circulation at any stage of the process [205.2.d], and asks the General Council to introduce any further security marks it should deem necessary [205.1]. Once printed, the law further stipulates, ballots cannot be changed anymore [206.1]. About three weeks before election day, IFE has to distribute the ballots to

District Councils. Naturally, the electoral Code contains detailed provisions for safeguarding the integrity of ballots throughout their delivery and subsequent storage [207].

"Authorized personnel" of the Institute must deliver the ballots at some pre-established day, hour, and place [207.2.a]. A detailed file of reception must record the quantity of ballots delivered, the way they are packaged, and the names and positions of the officials witnessing the act [207.2.b]. The District Council must then safeguard the material at some pre-established place, guarantee its integrity through wrappers stamped and signed by all persons present, and again record the whole process in writing [207.2.c]. The next day (at latest) the Council must recount the ballots, stamp them, and group them in packages to be delivered to polling stations the week before election day [207.2.d]. And so forth.

This pre-electoral stream of bureaucratic activities - planning, filing, counting, sealing, stamping, signing, storing, and recording - aims at retaining control over the number of ballots in circulation as well as at preventing the falsification, manipulation, and destruction of ballots before voting day. During voting day, transparent ballot boxes [209.1] fulfill essentially the same function. In addition, party representatives carry the duty to certify the authenticity of all election day files through their personal signatures [200.2, 214.1, 233.1, 216.3, 220.2, and 225.2]. They may even sign ballots if they wish, both before voting day [207.3] and at the initiation of the



voting process [212.3], as well as the whole package of documents and materials polling station officials put together at the end of the voting day [233.1]. Incidentally, this must be considered a sweet irony of bureaucratic control: a bureaucratic apparatus, the archetypal expression of modern impersonal rule, making use of the signature, a typical manifestation of modern individual identity.

Once polling stations close, complex counting procedures try to ensure that ballots enter the electoral equation the way they should: one ballot, one vote. None lost, none added, none altered. The legal set of rules of vote counting includes rules about the sequencing of vote counts [228 and 229.1]; rules of distinction between valid and nil votes [227.2, 230, and 232.3]; an elaborate division of work and mutual controls between polling station officials [229.1]; the requirement of crossing out counted ballots and putting them into a special envelope [229.1.a], extensive requirements of reporting and record keeping [232.1 and 2]; and the continuing presence of party representatives until the end of the process [237.1].

After this operation, the ballots together with all other files and materials take their way from the polling station to the District Council where they are not just summed up to aggregate results but also double-checked and eventually recounted. In these later phases of vote counting, the electoral law does not lessen at all its firm grip over the ballots and all other

electoral documents [see 234, 235, 238, and 242-63]. But at this point, tracing this further and seemingly endless chain of "identity checks" would only come at an unacceptable price: the price of boredom.<sup>12</sup>

### **Time Rules**

As José Woldenberg, the President of the Federal Electoral Institute, rightly states, COFIPE, with all its detailed procedural regulation, represents more than just a legal framework for electoral administration. It rather resembles an exhaustive "manual of procedures" (1998: 29). One of the most prominent aspects of procedural regulation as contained in the electoral Code concerns time rules. These time rules are of diverse nature. They include rules of duration, rules of sequencing, rules of frequency, and rules of initiation and termination. But most of them are rules of timing that define schedules of administrative action, either by delineating periods or points in time when something may or must be done or by fixing deadlines up to which something may or must be done. Let us give just four instructive examples of aspects of the electoral process which are embedded in a dense network of formal temporal constraints: nominal lists, voter cards, candidate registration, and voting day.

(a) To begin with, one of IFE's core activities which is thoroughly constrained by legal time rules is the management of

the nominal voter list. Among other things temporal, the law stipulates a deadline for the annual delivery of nominal lists to District Juntas for public exhibition [156.1], a deadline for returning the lists from municipal authorities to District Juntas [157.1], another deadline for returning the lists from District to Local Juntas [157.2], an annual period when parties dispose of the nominal lists [158.1], a deadline for reporting eventual modifications made by the Institute [158.4], a time period during which parties may appeal against these changes [158.5], a day when IFE must deliver magnetic tapes of the nominal list to parties in election years [159.1], a day when it must deliver the hard copies [159.1], a deadline up to which parties may formulate their objections [159.2], a deadline to report about eventual ensuing modifications made by the IFE [159.3], a deadline for parties to appeal against these changes [159.4], a deadline for printing nominal lists with photographs [161.1], and a deadline for delivering them Local Councils [161.1].

(b) With regard to the distribution of voter cards, COFIPE determines deadlines for citizens to pick up their voter cards [144.1 and 163.1], a deadline up to which IFE has to hand over a list of cancelled voter cards to political parties [163.2], a period during which this list must be exhibited in public [163.3], a deadline for soliciting the replacement of lost cards [164.3], the requirement to immediately destroy replaced voter cards [150.2], a deadline for destroying the blanks of unsolicited cards [163.4], and a period during which IFE must

store the data of those citizens who, for whatever reason, have their name taken off the voter registry [163.9 and 10].

(c) With respect to the official registration of candidates, the electoral Code defines a period for registering campaign platforms [176.2], periods for registering diverse kinds of candidacies [177.1], a maximum time for IFE to check whether candidates fulfill all legal requisites [179.1], the requirement of immediate notification to parties [179.2], a maximum time for parties to meet missing requisites [179.2] as well as to remedy eventual multiple candidacies [179.3], a maximum time for IFE Councils at all levels to session after these deadlines have passed [179.5], the requirement that Local and District Councils immediately notify the registration of candidates to the General Council and the other way round [179.6 and 179.7], as well as, finally, deadlines for replacing candidates [181.1 and 2].

(d) Another phase in the electoral process whose formal temporal constraints are tightly set is, of course, voting day. The law establishes the day and hour when polling stations must be installed [212.2], an express prohibition of installing them before [212.6], a contingency schedule for installing polling stations in different ways in case the normal procedure cannot be followed [213.1 and 213.1.f], the requirement of permanent presence of polling station officials during election day [212.7], the provision that general party representatives may remain in polling stations only "the time necessary" to do their

job [219.4], a requirement of immediate notification in case the voting process has to be suspended [216.2], the hour of closure of the voting process plus rules of exception [224], deadlines for delivering electoral results and all documentation to District Councils [238.1], and provisions about their eventual extension [238.2 and 5].

This illustrative list of time rules is, of course, far from exhaustive. The Code sets further temporal constraints for the up-dating of the voter registry [146.1, 147.1, and 151.2 and 3], the distribution of electoral propaganda [190.2], the publication of opinion polls [190.4], the multiple-stage random selection of polling station officials [193.1], the nomination of party representatives at polling stations [198.1 and 201-3], the determination of polling stations' physical location [195.1], the delivery of voting material to polling station officials [208.1], vote counting at district and state levels [246.1-2 and 255.1], et cetera, et cetera.

Basically, the electoral law attaches a deadline to any right and obligation it assigns. This fulfills two basic functions. On the side of obligations, time rules limit power. Decision-makers do not just have an abstract obligation to do something. But they have to fulfill it within determinate time limits, and may be held accountable for it. On the side of rights, time rules legitimate power. If those who hold certain rights, be it political parties or individual citizens, do not make use of them

within the time frame set by the law, the responsibility of forfeiting their rights falls back on them themselves. In other words, subjecting administrative agents to deadlines shifts power to their clients, while subjecting claimants to deadlines shifts power to administrative authorities. In both cases, the responsibility for any eventual failure to act in a timely fashion lays with the one who ignores the legally established time limit.

However, in addition to their political functions of assigning power and responsibility, schedules, of course, also fulfill the important technical function of coordinating activities. In the case of electoral administration which works under the permanent shadow of the one, big, the mega-deadline - election day - this technical function of coordination is particularly salient.<sup>13</sup>

### **Rules of Exception**

A widespread critique of bureaucratic decision-making concerns the limits of human foresight: It is always possible (and even likely) that future contingencies make present administrative rules inappropriate, inefficient, or altogether inapplicable. Sophisticated bureaucratic regulation, however, does not ignore the possibility of surprise. Rather it tries to widen its regulatory grip on the unpredictable by establishing rules of exception.

Mexico's electoral law contains various rules on rule violation: It establishes severe penal as well as administrative sanctions for the willful violation of electoral rules, and it provides for contingency procedures that define, for example, what happens if vote counts at polling stations and District Councils yield divergent results, if voting documents show signs of alteration, or if they prove to be inconsistent with other documents [247.1.a, b, and d].

The law also contains the usual vacancy provisions that determine what happens if certain officials quit their positions, for example, the President of the Federal Electoral Institute [79.5], Local Councilors [102.3], District Councilors, [113.3], legislative representatives in the General Council [75], and candidates for elective office [181.2]. The Code regulates as well who replaces, in the eventuality of their temporary absence, certain figures, such as the President at General Council sessions [79.1], the Executive Secretary at General Council sessions [79.2], the Secretary of Local Councils at Local Council Sessions [104.4], the Secretary of District Councils at District Council session [115.4], and party representatives at Council sessions at whatever level [127.1]. The most elaborate cascade of rules concerns the eventual absence of those citizens who were selected to preside polling stations, at eight o'clock in the morning, the beginning of the voting process, on election day. In what may be read as an either desperate or ironic article, the Code specifies what happens if the President, the Secretary, the

vote counters, their substitutes, or all polling station officials together fail to show up at the crucial moment [213].

In addition, at some points, the electoral law foresees the possibility of, so to speak, either social or natural disasters that impede the regular continuation of electoral activities. For example, it tells electoral officials how to proceed if voting has to be suspended due to reasons of force majeure [216.2-4], if public disorders irrupt, or if other adverse "circumstances or conditions" impede voters to vote in a free, secret, and secure manner [122.1.e and 220.2]. At two occasions, the law even takes into account the possibility of human error, namely, when it refers to the eventualities of misplaced ballots [231.1] as well as of "evident errors" in vote counting [247.1.c].

These various contingency clauses, however, do not represent more than common minimum standards of foresight any rational designer of bureaucratic rules has to pay tribute to. In any case, they should not conceal the basic fact that COFIPE represents a fundamentally universalistic law that shies away from admitting rules of exception. Given its basic mission of undermining arbitrariness and providing certainty, it prefers rigid regulation over flexible decision-making. Rather than giving in to the uncertainty of the future, it embraces the bureaucratic project of controlling the future. It embraces bureaucratization as a willingness to legislate surprises out of existence, as an attempt to seize the future, against all odds.



## Conclusion

In pursuit of the bureaucratic ideal of calculable predictability, Mexico's electoral reformers devised a complex set of quasi-Weberian bureaucratic rules which set tight limits to the new electoral authority's degrees of administrative discretion. Creating such a democratically reliable administrative machine to organize political elections could not imaginably be an operation free of charge. In language of principal-agent theory, any pretension to reduce "agency costs" (the costs of administrative agents subverting the principal's goals) is costly itself. There is no such thing as a free hook on power. The Mexican package of bureaucratic regulation, however, may seem to represent a particularly expensive arrangement. The institutional devices studied in the preceding pages - a professional program of professionalization, burdensome requirements of record keeping, multiple integrity checks, rigid time rules, and universalistic regulation - apparently do a good job in depriving electoral administration of autonomous decision-making capacities that could derail political elections from their democratic course. But at the same time, the checks and demands they impose on electoral administration generate massive resource requirements in terms of money, time, and personnel, that may look disproportionate to the outside observer. In addition to the usual costs of bureaucratic regulation - costs of monitoring and enforcement, communication costs, costs of training, and so forth - one might even have to account for the

psychological costs of electoral officials, all being treated institutionally as potential vote-riggers who have to be chained away into a bureaucratic prison of redundant institutional checks.

Yet, given the country's point of departure - of opposition parties facing a state party apparently committed to perpetuate its hold on power by whatever means - the bureaucratization of electoral administration appears as an expensive but nevertheless entirely rational response to the existing problem of "credible restraint." If the costs of present institutional arrangements seem to be extreme, the initial situation of asymmetric power and mutual distrust, too, had to be considered an extreme one. After all its history of electoral manipulation, Mexico's authoritarian Leviathan could not possibly hope to remedy its bad reputation by implementing institutional solutions that were less than watertight against any eventual temptation to resuscitate old habits of fraud. Distrust as deep and entrenched as opposition parties entertained it cannot afford to rely on trust but rather compels actors to adopt high security solutions.

Hence, the bureaucratic regulation of electoral administration has been nothing but this: an integral part of Mexico's comprehensive "maximum security" package of institutional fraud prevention. As such, it is unlikely to come under serious attack on grounds of efficiency and expediency. Despite its costliness, it is likely to stay in place for quite some time because its

underlying rationale is likely to stay in place for quite some time: the necessity of the incumbent party (any incumbent party) to signal its continuing "credible commitment" to clean elections. After all, reducing the Electoral Institute's margins of discretion through bureaucratization does not generate trust but security (even though it may eventually give rise to routines of cooperation and norms of trust, in the long run). Therefore, well into the foreseeable future, any attempt to change the formal framework in the name of efficiency will be condemned to raise immediate suspicions of somebody wanting to cut loose the institutional safety.

## Notes

The present paper forms part of a three-year research project on "Institutional Change and Credibility: Building Democratic Electoral Institutions in Mexico, 1988-97," financed by the Austrian Academy of Science. I gratefully acknowledge the support the Academy provided for work on this paper through the Austrian Program for Advanced Research and Technology (APART).

- 
- 1 For an overview over Mexico's electoral reforms since 1977, with extensive bibliographic documentation, see Schedler 1997.
  - 2 In the following, I will sometimes use the terms "the Code" and "the Statute" as convenient shorthands for the two documents mentioned as well as "the Institute" for the Federal Electoral Institute (IFE).
  - 3 For a "brief history" of independent election commissions, which are actually a relatively late invention in the history of democratic elections, see Pastor 1998.
  - 4 It may be worth noting, however, that IFE's catalogue of legal tasks, while obviously not including fundamental choices about the nature of democracy to be realized, does contain some utterly vague assignments, such as its obligations "to contribute to the development of democratic life" [69.1.a], "to preserve the strengthening of the party

---

system" [69.1.b], and to promote "the diffusion of a democratic culture" [69.1.g].

- 5 On the judicialization of Mexico's electoral politics, see Eisenstadt 1998.
- 6 Luján 1998 is an extensive treatment of the introduction of sophisticated technology as a means to generate trust in the voter registry.
- 7 In scholarly literature, authors often tend to equate the term delegation with vagueness of jurisdiction, with open goals and unspecified instruments (see, for example, Horn 1995). By contrast, my usage of the term, which allows for the possibility of delegating specific tasks to be carried out within a tightly knit framework of institutional constraints ("delegation without discretion") - rather than delegating vague missions to be carried out at discretion ("delegation as vagueness") - dissolves this close definitional association of delegative acts with a lack of constraints on future action. The delegation of authority to Mexico's Federal Electoral Institute, embedded in multiple constraints and controls, represents about the exact opposite of the kind of delegation Guillermo O'Donnell (1994) has in mind when he talks about "delegative democracy," a type of regime characterized precisely by the weakness, or even absence, of any effective mechanisms of "horizontal" accountability. In other words, I agree with Kiewiet and

---

McCubbins (1991) in that delegation does not necessarily imply "abdication."

8 See, for example, Weber 1972: 128-30 and 551-6; and 1988: 475-7.

9 "Man hat nur die Wahl zwischen 'Bureaukratisierung' und 'Dilettantisierung' der Verwaltung, und das große Mittel der Überlegenheit der bueraukratischen Verwaltung ist: Fachwissen" (Weber 1972: 123).

10 Maurino speaks of a "vicious circle" of "distrust and provisionality" (1998: 11).

11 For instance, on the involvement of political parties in the elaboration of the Federal Voter Registry since 1991, see Luján 1997.

12 Let me provide just one further detail on "acts of identification" well worth a footnote: Torn between the desirability of revealing the identity of partisan actors (in contrast to impartial electoral officials), on the one side, and the legal prohibition of electoral campaigning inside polling stations, on the other, COFIPE regulates with great precision the way party representatives at polling stations are obliged to display their partisan identity: During the entire voting day, they have to wear "at a visible place" an emblem with a maximum extension of 2.5 by 2.5 centimeters, showing their party logo as well as the "visible" sign "representative" [198.3].

---

13 For some general reflections on time and democratic politics,  
see Schedler and Santiso 1998.

## References

Eisenstadt, Todd A. (1998), "Courting Democracy: Party Strategies, Electoral Institution-Building, and Political Opening - Mexico in Comparative Perspective," La Jolla: University of California, San Diego, forthcoming, PhD dissertation.

Greif, Avner, Paul Milgrom, and Barry R. Weingast (1995), "Coordination, Commitment, and Enforcement: The Case of the Merchant Guild," Explaining Social Institutions, eds. Jack Knight and Itai Sened, Ann Arbor: University of Michigan Press, pp. 27-56.

Horn, Murray J. (1995), The Political Economy of Public Administration: Institutional Choice in the Public Sector, Cambridge: Cambridge University Press.

Instituto Federal Electoral (1992), Estatuto del Servicio Profesional Electoral, México, DF: IFE.

Instituto Federal Electoral (1996), Código Federal de Instituciones y Procedimientos Electorales y otros ordenamientos electorales, México, DF: IFE.

Kiewiet, D. Roderick and Mathew D. McCubbins (1991), The Logic of Delegation: Congressional Parties and the Appropriations Process, Chicago: University of Chicago Press.

Luján Ponce, Noemí (1997), "Tecnología y procesos electorales en México (1988-1994): Entre la democracia y el control político," México, DF: Facultad Latinoamericana de Ciencias Sociales, PhD Dissertation.

Merino Huerta, Mauricio (1998), "La reforma al Servicio Profesional Electoral mexicano," paper prepared for presentation at the Third International Congress on Electoral Law, Federal Electoral Tribunal, Federal Electoral Institute, Institute for Judicial Research, (UNAM), University of Quintana Roo, and United Nations Development Program, Cancún, Quintana Roo, 22-25 March.

Miller, Gary J. (1992), Managerial Dilemmas: The Political Economy of Hierarchy, Cambridge: Cambridge University Press.

Molinar Horcasitas, Juan (1991), El tiempo de la legitimidad: Elecciones, autoritarismo y democracia en México, México, DF: Cal y arena.

North, Douglass C. and Barry R. Weingast (1996), "Constitutions and commitment: the evolution of institutions governing public choice in seventeenth century England," Empirical Studies in Institutional Change, eds. Lee J. Alston, Thráinn Eggertsson, and



Douglass C. North, Cambridge: Cambridge University Press, pp. 134-65.

O'Donnell, Guillermo, "Delegative Democracy," Journal of Democracy 5/1 (January 1994): 55-69.

Pastor, Robert, "A Brief History of Electoral Commissions," The Self-Restraining State: Power and Accountability in New Democracies, eds. Andreas Schedler, Larry Diamond, and Marc F. Plattner (Boulder and London: Lynne Rienner Publishers, 1998, forthcoming).

Schedler, Andreas (1997), "A Brief History of Electoral Reforms in Mexico," Vienna: Institute for Advanced Studies, unpublished manuscript.

Schedler, Andreas and Javier Santiso (1998), "Democracy and Time: An Invitation," International Political Science Review 19/1 (January 1998): 5-18.

Weber, Max (1972), Wirtschaft und Gesellschaft: Grundriß der verstehenden Soziologie, ed. Johannes Winckelmann, Tübingen: Mohr, 5<sup>th</sup> edition.

Weber, Max (1988), "Die drei reinen Typen der legitimen Herrschaft," Gesammelte Aufsätze zur Wissenschaftslehre, ed. Johannes Winckelmann, Tübingen: Mohr, 7<sup>th</sup> edition.

Woldenberg, José, (1998), "Votar en el extranjero: Hechos y preguntas antes un tema difícil," Etcétera 288 (6 August 1998): 26-30.