

Mexico: An historic election brings pressures for decentralization

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After more than 150 years with a federal system, Mexico has reached a consensus that its highly centralized allocation of powers must be reformed. In response to the historic elections in 2000, the states are seeking more powers in order to foster democracy and pluralism. However, in this dialogue between the federal government and 31 state governments, there is an emerging third party that asks for more autonomy and equality: local governments in the 2,300 municipalities. There are also concerns about the limited status of the Federal District, Mexico City, which encompasses one fifth of the total population of the country.

Despite this general agreement, reform will not be easy, because any changes would need to follow a constitutional amending process. So far, there has been a general lack of will from political actors to make concessions to the rest of the political community. In addition, there has been no agreement on the details of reform, although it is clear that the goal is the reversal of federal powers and increased participation of local governments.

Local governments are generally unprepared to face the challenges posed by this decentralization, with the exception of the big cities. Municipal governments generally lack powers delegated from the state or federal orders of government. Still, they have to solve issues where the confluence of such powers is so intertwined that a clear-cut separation among the different jurisdictions is impossible to make. Unfortunately, the closest order of government to the population, the local government, usually has to respond first on behalf of all the other orders. All municipalities have the same structural institutions, because asymmetry has never existed in Mexican federalism.

Some new state constitutional institutions have been established during these early years of the twenty-first century. The new state constitution of Veracruz (2000) has been a model in this process. However, states that have traditionally relied heavily on federal intervention and institutions have been more reluctant to act independently and in an innovative fashion.

For the federal government, the decentralization process is difficult and painful because it causes an erosion of the federal bureaucracy and a fundamental change in the distribution of fiscal resources. In 2004, there has been a call for a national fiscal convention that will gather all orders of government to discuss how taxation, spending, and fiscal resources will be reformed in the decentralization effort.

The debate on intergovernmental relations has not attracted much attention in Mexico, and so far, the discussion is focused on the more passive federalism of structures rather than the dynamic interaction between all orders of government. **Mexico has certainly become more democratic, but it is thanks to the change of political leadership rather than the fundamental reform of institutions.**

In other countries, the rigid distribution of powers between federal and state jurisdictions has been eased by the more flexible interpretation of judicial authorities. This has not been the case

in Mexico. Judicial intervention has been muted, so the federal constitutional framework will need more deliberate reform. One article of the federal Constitution limits the judicial interpretation of Supreme Court resolutions. However, another article does provide a way to resolve “constitutional controversy,” by which any order of government can submit a special controversy before the Supreme Court whenever it considers that another is infringing upon the allocation of powers established in the Constitution.

All federal powers are granted expressly in the Constitution, while the states possess “reserved” powers, not expressed in the Constitution and open to development in their respective constitutions. However, because the federal government has full responsibility for taxation and international affairs, it can levy taxes and make international agreements on any subject it deems appropriate, even on those matters reserved to states. The federal government has also benefited from a catch-all clause in the Constitution, known as the “implied” powers clause, that on rare occasions has been interpreted as an escape from the rigid general rule of the distribution of powers.

On the other hand, most states have not taken advantage of the possibilities of their unspecified reserved powers, by exhibiting self-restraint. One prominent example has been the lack of protection for human rights in the state constitutions. Mexican states have only expanded their own inhabitants’ human rights under exceptional circumstances and have rarely provided their own remedies to protect them. Another example of this restraint is the uniformity of state legislatures. All states have so far remained with a unicameral legislature, even though several have proposed a second chamber.

Political conditions in Mexico are ripe for reforming the current system. Opposition parties are all over the political and electoral map and the President does not control the federal Congress as in previous years. The same is true at the state order and proportional representation has introduced plurality in the composition of municipal bodies as well as state legislatures. Most of the state executives are from parties different than the federal executive. As a result, many states have successfully introduced governance changes and have imposed a stronger rule of law in elections.

While the political climate appears to be perfect for change, it also frustrates the quick and long-reaching reform of government institutions. The Senate of the federal Congress is now studying the best ways to decentralize power. It appears that the delegation or legislated transfer of powers from the federal government to the sub-units might work well within Mexico’s Civil Law tradition, where judicial intervention restrained.

Observers who used to understand the political realities of Mexico may be surprised to see the new developments on federalism and other political reforms. They may come to realize that the Mexico of today is now under construction.