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The Electoral Institutions

Party Subsidies, Campaign Decency, and Entry Barriers

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The 2012 presidential and congressional races took place under a different set of rules than in 2006. Although most of the electoral institutions of interest to political scientists (e.g., the translation of votes into seats) remained unchanged, Mexico imposed new campaign finance regulations and new limits on television and radio advertising. This chapter offers a description of and commentary on institutional changes that go to the heart of how modern campaigns are run.

In the last three presidential elections, each major party has seen its candidate finish a distant third at some point: Cuauhtémoc Cárdenas of the Partido de la Revolución Democrática (PRD) in 2000; Roberto Madrazo of the Partido Revolucionario Institucional (PRI) in 2006, and Josefina Vásquez Mota of the National Action Party (PAN) in 2012. And in all of these elections, the front-runner's lead has eroded significantly—enough to turn the tide in 2000 and 2006. These facts indicate how weak the links between Mexican parties and the electorate remain, despite decades of heavy subsidies and institutional protection from competition.

With parties unable to anchor themselves firmly in the mass public, campaigns have been key to making Mexican democracy work (Domínguez and Lawson 2004; Domínguez, Lawson, and Moreno 2009; Moreno 2003, 2009). By affecting the legal architecture under which competition for office is conducted, changes in campaign rules can have a great impact on electoral politics. This chapter argues that significant increases in public subsidies to the parties and the adoption of strict controls on campaign advertisements further insulated party leaders from potential challengers, both outside the party establishment and inside their own parties. Ultimately, this outcome tends to constrain the choices available to voters and does little to encourage closer linkages between the parties and the electorate.

I begin by revisiting the context under which the electoral reform was negotiated and highlighting two key elements of the reform package. The first is the expansion of subsidies to the parties: total transfers including indirect subsidies in election years went up by 20% in the 2009 midterm and by 120% in 2012. As a result of these subsidies, spending per vote in 2012 stood at $13 (compared to $18 per vote in the US presidential election that same year, and less than $2 per vote in France, both countries with several times the per-capita gross domestic product of Mexico). The key datum here is that, comparing 2012 to 2006, approximately a dozen times more campaign advertising was broadcast during an official campaign season that was half as long. Meanwhile, legal voluntary donations to parties were restricted to at most 5% of major party spending, ensuring that party leaders controlled messaging during the campaigns.

The second concerns rules on campaign advertisements: Mexican electoral authorities now control who can say what and when on radio and television for campaign purposes. The "who" in this case stands for the registered parties only; the Federal Electoral Institute (IFE) distributes time among the parties during the campaign season according to rigid, bureaucratic criteria. The "when" is also strictly enforced; campaigns have become drastically shorter, especially for primaries, and all attempts by candidates to advertise before the official campaign became illegal. Even the "what" is now strictly regulated; the IFE has the authority to verify campaign message content in order to remove attack advertisements from the airwaves. Although court rulings limiting these powers and lax censorship standards by the IFE allowed some "contrast" advertising to seep into the race, what American political actors would regard as freedom of speech remains a matter of regulatory discretion in Mexico. This chapter closes by showing how changes in campaign rules have added new entry barriers to the party system and further raised those already in place.

Origins of Reform

Electoral reform was the political elite's response to the 2006 fiasco, when candidate Andrés Manuel López Obrador cried foul, refused to concede, and mobilized supporters for weeks in an attempt to force a recount that would legally invalidate the presidential election. Mexico's main parties embraced the notion that campaigns dominated by the sort of attack advertisements that characterized the 2006 race—caricaturing López Obrador as a dangerous Hugo Chávez copycat or portraying Felipe Calderón's in-laws as white-collar criminals—lay at the root of political polarization. In their zeal to prevent negative ads and elevate political discourse, reformers prohibited any statements that would "denigrate" candidates. And in a radical attempt to redress the problematic relationship between parties and broadcasters, they abolished the market for political advertisements, replacing it with a direct allocation of time from the IFE to the parties. Finally, they further raised entry barriers against outsiders. All told, the reform gave precedence to equitable competition among existing parties, to "decency" over freedom of speech, to parties over other social actors, and to party leaders over the rank and file.

Party leaders and President Calderón stitched together the proposal in the second half of 2007. Political observers knew it was coming, yet few details leaked to the press. Submitted to the senate and sent to committee on August 31—the eve of Calderón's first state of the union address at the start of the congress's regular session, with all eyes turned at what López Obrador's supporters would do to protest the event—the constitutional reform was reported to the floor and approved, without amendment, by a nearly unanimous vote on September 12. It cleared the chamber of deputies two days later, again with no amendment and with the vote of every major-party representative save one. Smoke-filled-room negotiations, speedy adoption, and unanimous consent left a distinct scent of universalism, in which parties turned a blind eye to unpalatable requests in exchange for having their pet proposals included in the final bill. In fact, Calderón may have been aware that several items would hurt his party's chances in 2012 and accepted the reform anyway in exchange for the PRI's support for modest new federal taxes (Magar and Romero 2008).

What Changed?

The changes adopted were all encompassing. Nine of the constitution's 136 articles were amended, and most of the federal electoral code was rewritten (see IFE 2008 for text comparison). Of the 300 articles in the old code, only half survived substantively unchanged. The rest were rescinded or more or less amended, and many new points were added. The new code has 31% more articles and 35% more words than the one it replaced.

This chapter's focus is on a subset of reforms most intimately connected to campaigning.[1] The reforms of interest here fall in two groups, each of which matches a key stated objective of the reform. One of these was achieving "significant cuts in electoral campaign spending"; it involved four changes to the status quo regarding party financing:

1. The "ordinary" public subsidy to parties, used for party-building activities, was made proportional to the number of registered voters instead of the number of registered parties as an attempt to contain costs.
2. The supplemental campaign subsidy (additional public funding that can be spent during the legal campaign season) was reduced relative to the ordinary subsidy.
3. Party access to the mass media was based exclusively on allocations from a stock of television and radio time controlled by the IFE, an off-the-books subsidy that grew exponentially.
4. The ceiling for legal private donations to parties and candidates was lowered significantly, pushing this source of funding into relative insignificance.

Preventing "actors outside the electoral process from interfering with campaigns and outcomes" was another stated goal, and five reforms focused on establishing tighter control over political advertising:

1. The sale and purchase of advertising on radio and television aimed at "changing electoral preferences" was prohibited.
2. The legal campaign season was shortened significantly, to ninety days for a general election, and candidates were forbidden from "self-promoting with electoral aims" before the official start of the campaign.
3. All government advertising, in which the incumbent administration or other federal or state agencies might report their accomplishments, was suspended during the campaign season.
4. Negative advertisements were prohibited, and the IFE was authorized to order the summary suspension of advertisements deemed unlawful.
5. Harsh penalties, such as half-million-dollar fines for corporations that ran electoral ads and a ban from running for public office for anyone advertising on television before the legal beginning of the campaigns, were set for failure to comply with the new restrictions.

Granting the IFE powers "to overcome limitations with which [it has] been confronted" was the third general goal of the reform; though important for Mexican politics, these reforms are beyond the scope of this chapter.

Barely Dropping Cash Subsidies

The reform, proponents claimed, would halve the subsidy for general elections (when the president and all members of both houses of congress are elected) and reduce it by 70% in midterm elections (when the lower house of congress is replaced in full). These targets were not attained. A review of official reports shows that cash transfers to the parties in the 2009 and 2012 elections dropped by much smaller percentages. When the six-year cycle from one presidential race to the next is considered as a whole, the drop in cash transfers was a mere 2%.

Excessive campaign spending (however defined) is a problem, if at all, for those paying the bill. In the United States, private donations from citizens and interest groups primarily finance political campaigns. Questions remain about the adequacy of the regime to guaranteeing equal representation (Olson 1965), but those contributing do so willingly, making the scope of spending per se unproblematic. In Mexico, taxpayers foot the bill, and it has grown in constant prices nearly every fiscal year.

Since 1996, public subsidies have predominantly financed Mexican parties. Some room remained under the status quo for private campaign contributions, but they were capped at less than one-tenth of overall receipts, making public transfers the parties' dominant source of funding. Although the size of the subsidy was defined in statute, the IFE retained some discretion. Total funding "for sustaining parties' permanent ordinary activities," to which I refer as the ordinary subsidy, was set by a formula relating directly the legislative seats to be elected (fixed constitutionally), campaign duration (fixed in the election code), and the number of registered parties. An abstract "minimal cost of a congressional campaign" multiplied all these terms to determine the total amount. The IFE established the minimal yearly cost, and calibrating it gave the regulator scope to influence the amount of public subsidies that the chamber of deputies earmarked in the annual budget. The rule for distributing these funds—and most other subsidies for the parties since the late 1970s—was that 30% went to registered parties in equal parts, and the remaining 70% was allocated according to the vote share each party received in the last election for the chamber of deputies. The ordinary subsidy was then doubled in federal election years to finance campaign spending.

Reformers pushed through several changes. The subsidy formula became simpler. The total yearly subsidy for ordinary activities since fiscal year (FY) 2008 equals the number of registered voters multiplied by two-thirds of the minimum daily wage in Mexico City. This approach indexes parties' awards to inflation and removes most of the IFE's former discretion; it would need to meddle with voter registration in order to effect changes in the subsidy. It also bought federal deputies (only the lower house of congress passes appropriations) leverage to exert pressure on the IFE through cuts in its yearly budget—as occurred in 2006 and 2008—with no fear that the regulator might try to absorb part of the shock by cutting parties' public subsidies proportionately.

The 30/70 distribution remained unchanged, but incentives changed with the introduction of a formula that no longer takes the sheer number of parties into account. Registered parties have a greater incentive to prevent the creation of new parties in order to preserve their slice of a fixed pie.

In addition, each party received an extra 50% of its ordinary budget for presidential campaigns (30% for midterm elections), instead of the former 100%. Proponents' claim of public transfer cuts through reform was based exclusively on this provision, ignoring that the ordinary subsidy was also redefined, leading them to mischaracterize the reform. Figure 3.1 reports public transfers to the parties in constant 2012 prices. (Inflation was corrected in pesos, and the 2012 exchange rate was then used to produce figures in dollars.) Topping most bars are six-year percentage changes in public transfers to the parties. The allotment, then and now, of more generous subsidies in election years makes first differences inappropriate, and six-year changes pit more comparable years against one other than three-year differences. Without the white, dotted portions topping postreform columns for years 2009 and 2012—corresponding to noncash transfers that require some elaboration—the trend is clear: subsidies increased between 1% and 9% before the reform, except in 2007. Figures in parentheses at the foot of each bar report the number of registered parties eligible for public funding. The spike in 2003 (which 2002 would parallel had the series started earlier) was particularly acute owing to new entrants: eleven registered parties pushed the total subsidy upward. Five of those failed to clear the threshold to reregister in 2004, explaining the 7% drop observed in FY 2007.

Postreform changes are interesting. Figures in 2010, 2011, and 2013—all nonelection years, when campaign subsidies are not allotted—show that when all adopted changes are factored in, transfers grew despite the fact that the number of parties stayed roughly the same (one more or one less than six years before). With the change in ordinary subsidy formula, transfers in both 2010 and 2011 were up 24% and up 6% in 2013. In election years, cash transfers did recede compared to levels six years before, down 42% and 5% in 2009 and

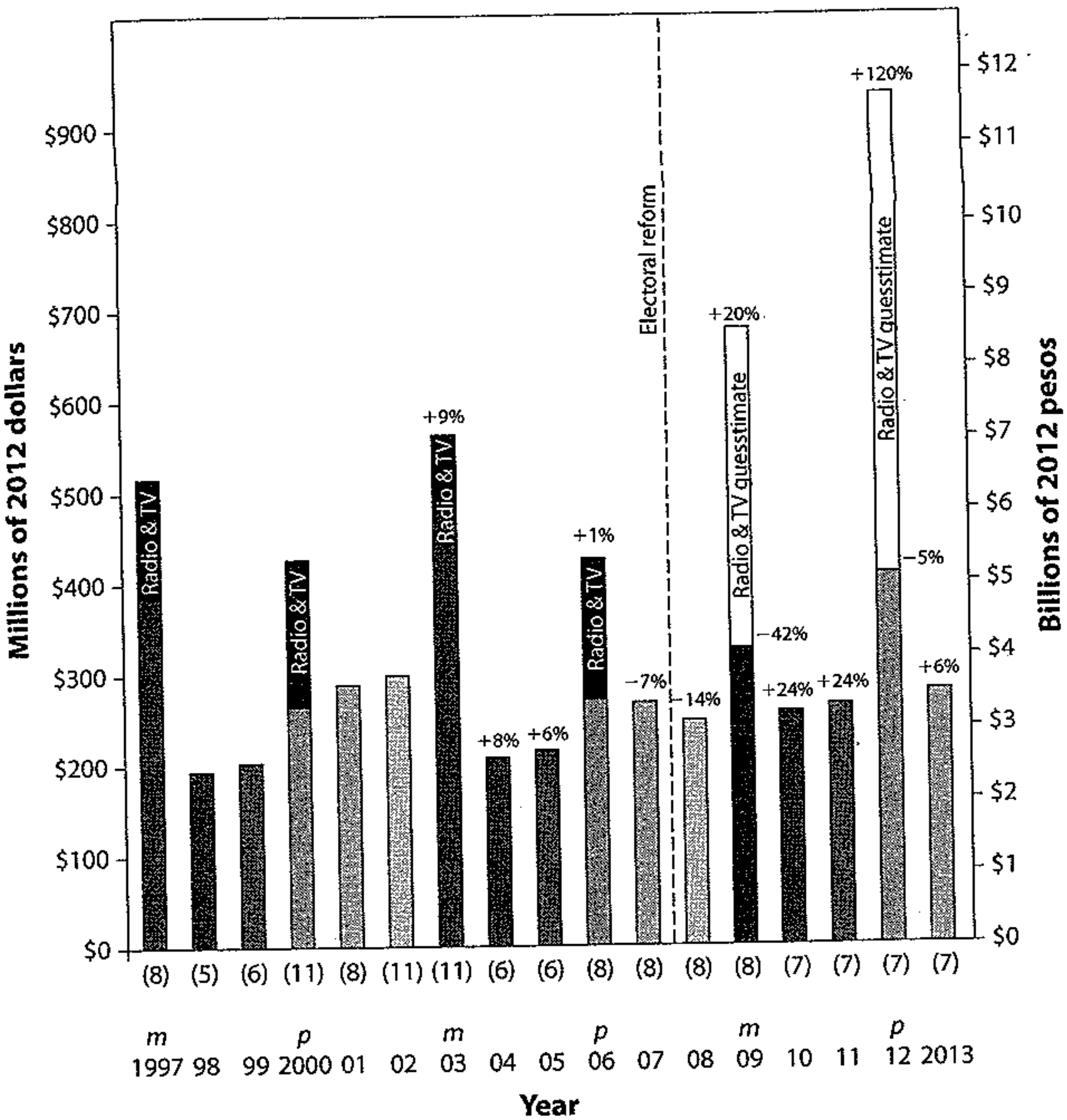

Figure 3.1. Parties' yearly public subsidy. *Note:* Letters *p* and *m* in the *x* axis indicate presidential and midterm election years, respectively. Columns report yearly total (ordinary and campaign) subsidies to parties. The black portions of columns in election years show the amount of total subsidy corresponding to radio and television advertisement spending by parties in 1997, 2000, 2003, and 2006. The white dotted portions of columns for years 2009 and 2012 report an attempt to valuate unaccounted advertisement subsidies. The numbers in parentheses below columns report the number of registered parties eligible for subsidies, and the numbers atop columns beginning in 2003 report the six-year percentage change in total subsidy. The exchange rate used is $1 = 12.50 pesos.

2012, respectively, but much less than the 70% and 50% drops announced by reform proponents.

Ballooning Total Public Subsidies

A more important element of the new law was the massive increase in a form of subsidy that was relatively small under the status quo: free time for the parties on radio and television. Once this element is accounted for, total public subsidies to the parties were actually 20% (in midterm elections) and 120% (in general elections) larger after the latest electoral reform.

In an attempt to address long-standing complaints about the relationship between parties and broadcasters (discussed below), reformers prohibited the sale and purchase of campaign advertising in the electronic media. Access to the mass media for election purposes is now allocated centrally by the IFE. Regulation of mass media franchises under the status quo was adapted to implement this key element of the reform. In addition to the corporate tax, broadcasters must grant the federal government thirty minutes of daily coverage on every station, free of charge. Rules adopted by executive order in 2002 formalized payment in kind of another 25% tax on commercial franchisees of government activity, such as broadcasters, the federal executive thus receiving eighteen minutes of free daily coverage on average between 6:00 a.m. and midnight.[2] It does not take long after a television is turned on to experience the so-called "official time"—recurrent federal government announcements from 6:00 a.m. to midnight. Under new electoral rules, however, the IFE administers 12% of official time (five minutes and forty-five seconds daily on every TV station) in off-election years, and its entirety (forty-eight minutes) in federal election years. From the start of primary season (known as the "precampaign") through Election Day, the IFE controls and allots to parties and electoral authorities advertisement spots adding up to between two and three minutes every hour on every channel and radio station nationwide. The party portion is split according to the 30/70 rule. In election years, parties receive advertising time totaling eighteen minutes daily during the primary season, and forty-one minutes daily during the official campaign season—enough for eighty-two thirty-second spots on every station in the country on a daily basis.

Perhaps more striking than its gargantuan proportions is the hidden nature of the subsidy. The claim that the new scheme saves taxpayer money rests implicitly on the premise that this advertising time is free. The IFE's claim in party finance reports, by leaving this huge item off the accounting books, rests explicitly on the same premise (México Evalúa 2013). Of course, opportunity costs do not vanish by giving television-advertising time to parties free of charge. The finance ministry, for example, foregoes revenue when it swaps the 25% tax on profitable networks for airtime, which is in turn given to campaigning parties. And this is just a small portion of the official time.

I therefore offer a conservative guesstimate of the monetary value of the advertising "ghost subsidy," using party reports of amounts purchased in 2006 (when they last went to the campaign advertising market) to compute an average unit price that can be projected to the 2012 campaign.[3] Not counting radio, parties acknowledged the purchase of more than 28,000 spots in their 2006 campaign spending reports. Most went to the major parties. The PRD-led coalition topped the ranking, reporting the purchase of 10,514 television spots (37% of all); the PRI-led coalition trailed with 7,723 spots (27%); and the PAN came in between them at 8,491 (30%). Smaller parties purchased about 6% of television spots altogether. The total bill for electronic media advertisement sums to nearly $140 million at the time, but parties rank differently than with amounts: the PAN and the PRI coalition reported similar figures of about $49 million (35% each), and the PRD reported about $36 million (26%). Not all spots are created equal: prices are higher for times and stations with better ratings, and the left seems to have purchased more but also cheaper spots. The PAN, and especially the PRI, did the opposite. These disbursements for communicating with voters through electronic media consumed much of parties' campaign resources, constituting three-quarters of the overall 2006 campaign subsidy and one-third of the total subsidy. Coalitions were able to keep the proportion spent on advertisement below the PAN's, which ran solo—and whose media bill nearly ate up its entire campaign subsidy. This is so by virtue of the "30" part of the 30/70 subsidy split rule. Each of the seven registered parties was worth 4.3% of the campaign subsidy distributed, plus the part proportional to its size in votes. Teaming up with the Green Ecologist Party in 2006, the PRI received 38% of the overall campaign subsidy instead of 30%; the left got 30% instead of 17% for the PRD alone.

Parties typically underreport campaign spending in order to evade legal limits, which would be desirable information to include in the figures used for the estimation. One study (IFE 2006) of all broadcasting from January 19 to June 28, 2006, on the 150 highest-rated television stations nationwide sheds light on the scope of underreporting. Out of 40,000 presidential television spots the study identified, about 12,000 went unreported. My projection therefore relies on the monitored figures. There were 224 hours of paid campaign advertisements by the PAN, 256 by the PRD coalition, 368 by the PRI coalition, and seventy for one minor party—918 hours in total. These figures pale by comparison to what parties would have received in these 150 stations under the new system: more than 9,000 hours over a ninety-day campaign period, a tenfold increase from 2006 to 2012. The allocation is thirteen instead of ten times larger if the primary season period is also considered; I chose to exclude them owing to restrictions for the use of advertisements by parties nominating candidates other than by primary elections. Factoring in that the 2012 campaigns were nearly half as long (discussed below), the increase is even more striking. Voters were incessantly bombarded with spots during the 2012 campaign period.

Dividing the reported total spent in advertisements in 2006 ($139.6 million) by the hours paid (918) yields an average price of $152,000 per advertisement hour. This figure is not far from costs reported for a controversial spot in support of a write-in candidate (Víctor González Torres, aka Dr. Simi) heard by the Federal Electoral Court (technically known as the Tribunal Electoral del Poder Judicial de la Federación, or TEPJF, but commonly referred to by its previous name, the TRIFE). Dr. Simi purchased one full minute during several news programs. Reported prices for broadcasting for four consecutive days fluctuated greatly: $3,000 around lunchtime, $11,000 during the morning news, and as much as $20,000 during the evening news (TEPJF 2006). Translated to dollars per hour, the $173,000 average price Dr. Simi paid was not far from the projection.

From another angle, however, projecting this average price linearly to 2012 would seem to overstate value. New rules homogeneously allocate the generous airwaves subsidy from 6:00 a.m. to midnight on every station, regardless of audience density and demographics. A network specializing in children's cartoons, for instance, is not excluded from airing party advertisements. It is unlikely that campaigns would express interest in many of the low-rated slots included in the award, if offered at the average price. Having them in the award is certain to lower the average price, and discounts for purchasing such massive amount of commercials would certainly apply. To be conservative, I divide the average price by three, leaving it at $50,000 per hour of advertisements,[4] which can be used to value the ghost subsidy.

The approximate price tag affixed to the formidable gift that parties received in 2012 (and, one-third smaller, in 2009) is $465 million in 2006 dollars, or $535 million in 2012 dollars.[5] Compared to a similar exercise carried out by

México Evalúa (2013), my guesstimate is indeed conservative. Their price tag on parties' "indirect" subsidy in the airwaves is three times larger, a staggering $1.5 billion in 2006 dollars or $1.75 billion in 2012 dollars. The magnitude is easier to appreciate when the unaccounted subsidy is plotted along with reported subsidies in figure 3.1, represented by the white, dotted portions of the 2009 and 2012 columns. With some variance, revised totals now drop markedly in all off-election years of the time series. Of more relevance, contrary to the official accounting, the six-year differences in federal election years surged markedly after the reform when the ghost subsidy was considered. Considering the approximated value of the television advertisements, party subsidies are actually 20% higher in midterm campaigns and 120% higher in general election years.

The regulator felt confident to "state categorically that Mexicans today spend less money in election campaigns . . . the aim of the reform was accomplished" (IFE 2010, 8). For this claim to be sound, the largest election-year source of funding must be omitted. When it is not, the explicit goal of saving money failed dramatically, contrary to the official line.

Spending per Vote

Federal campaign spending oversight was concluded in July 2013. The IFE audits revealed substantial amounts in excess of legal limits, and parties and coalitions were fined accordingly (Baños 2013; Córdova 2013; Cristalinas Kaulitz 2013). The finding that López Obrador's campaign spent $3.7 million above the nearly $27 million legal presidential candidate limit (nearly 15% more), but Peña Nieto's was right on target, captured most headlines (Vázquez Mota's campaign underspent $9 million). Because, under the argument that campaign spending has spillover effects, by law parties have the discretion to reclassify up to half the monies disbursed for their presidential campaign as congressional campaign spending (and vice versa), focus on presidential candidates masks much of what actually took place. Possibly in anticipation of judicial invalidation, the PRI-Green coalition opted to shield its presidential victor by reporting huge amounts as congressional campaign spending: in 149 of the 199 federal deputy campaigns they ran in tandem, and twenty-eight of the 101 where the PRI fielded candidates solo, spending surpassed the legal limit. The left coalition chose the opposite accounting strategy, consolidating the near-totality of overspending in the presidential campaign report (just nine of their 300 deputy campaigns exceeded the spending limit). When all federal campaigns are considered, the PRI-Green coalition surpassed the legal limits by $4.7 million and was penalized with $16 million in fines. The left coalition fines added to $11 million, and half a million for the PAN.

Looking at parties' spending reports in comparative perspective is revealing. Dividing all presidential candidates' reported monetary spending (nearly $85 million) by the valid votes they received (49 million) equals $1.73 per vote. Compared to the $18.35 per vote (or $8.81 per vote when super–political action committee [PAC] expenditures are subtracted; see Boaz 2013) that Barack Obama and Mitt Romney spent in the United States, the Mexican quantity looks small. And it is not far from the $1.65 per vote spent in both rounds of the French presidential race the same year (Commission nationale des comptes de campagne et des financements politiques 2013). But take the noncash media subsidy into consideration, and spending in the Mexican presidential race rises to $12.63 per vote. While still below spending by American presidential candidates, the data for Mexico exclude primary campaign spending and radio advertising. Because virtually all spending is public, the parties in 2012 extracted considerable rents from Mexican taxpayers. All told, reformers left the size of the public subsidy to the parties nearly untouched. Freed from the need to devote the bulk of their campaign subsidy to the purchase of television advertisement in 2012, parties had vast amounts to spend on ground operations.

Less (Legal) Private Money

If cutting party public subsidies was the goal reformers sought, the removal of caps on private campaign donations was one obvious way to achieve it. But campaign finance liberalization in Mexico has been anathema for decades. Reformers further limited private campaign contributions, choosing instead to confront the problem by tightening cash subsidies (with little success) and removing legal campaign spending opportunities.

By limiting small campaign donations from citizens and noncorporate, nonreligious groups for each party to at most 10% of the overall ordinary subsidy, the prereform regime guaranteed that the public subsidy dominated private money in party funding. Using the pooled subsidy to quantify the cap effectively made the legal belt much tighter on larger rather than smaller parties. To illustrate, assume that all parties had enough private donors to reach the legal prereform limit for 2007. The PAN, PRI, and PRD could have added an extra 36%, 52%, and 60%, respectively, to their ordinary public budget. The same figure ranged from 125% to nearly 200% for minor parties. Smaller parties would presumably find it harder to persuade strategic private contributors than larger parties (Cox and Magar 1999). But the scheme kept the door open for political entrepreneurs outside the party establishment to compete by joining forces with minor parties. By changing each party's legal limit to one-tenth of the previous presidential campaign expenditure ceiling, reformers drastically restricted private campaign contributions. Private donations will be capped at $2.7 million until 2018, when the IFE sets a new presidential campaign spending limit. To offer some comparative perspective, ninety donors contributing the yearly American individual donation limit to parties ($30,800) would surpass that amount; Jeffrey Katzenberg's super-PAC alone spent $2.6 million on behalf of the Obama campaign in 2012. Applying the new (inflation-corrected) rule to 2007 would have allowed major parties to add just 4–6% to their ordinary subsidy, and 12–19% for minor parties.

A system with mostly private campaign donations changed overnight in 1996 to one with predominantly public funding.[6] Reformers in 2007 continued the trend, bringing limits much further down. The new regulations have now virtually eliminated the market for political advertising; the purchase of spots survives only in off-cycle subnational contests and special elections, when official time may be insufficient and the IFE is entitled to purchase more for state parties and local election regulators.

This policy is unlikely to curb the influence of powerful private interests in politics, its alleged rationale. Lower limits to total private money have pushed such donations to the black market; the new policy did not prevent large private contributions to the 2012 campaigns, it just made them illegal. In one instance, federal police caught officials aboard a Veracruz government plane in January 2012 carrying bags full of cash totaling $2 million—three-fourths the total legal limit for a party—allegedly for Peña Nieto's campaign (though this relationship was never proven). A system that embraces legal private money in campaigns, with proper limits on individual contributions rather than attempting to expunge the influence of organized interests by making donations illegal, makes the relation between private interests and politicians easier to map (Romero 2012).

Furthermore, placing the great bulk of campaign spending in the hands of party leaders makes them more powerful actors, who inevitably have interests of their own to protect. Businessmen are at least social actors. To the extent that elected representatives dance to the tune of actors in a position to make or break their careers, it is not clear that party apparatchik are preferable pipers than oligarchs.

Much Shorter Campaigns

Reformers hailed the new system as creating a "new communication model between society and the parties." The time allocated to parties for political advertising is one element of this equation, but other provisions were adopted to control campaign message timing, messengers, and even message content. The changes tightening the regulator's control of political advertising were at the time much more controversial than party and campaign finance. Their adoption raised concerns that central tenets of liberalism were being sacrificed for equitable competition and decency in campaigns (Cantú 2009; Roldán Xopa 2010; Sarmiento 2007). The crowd of enthusiasts who welcomed these elements of the proposal was quick to dismiss such arguments as veiled attempts by powerful vested interests—two main television networks in particular—to defend the influence and immense profits earned under the oligopolistic status quo (Córdoba 2008; Dresser 2007; Murayama 2009; Salazar 2008). They may have been right about their opponents' motives, but the dangers that these opponents identified were real.

Defining the official duration of campaigns is not new to Mexican election law, but enforcement has been problematic. Decreeing an end point to campaigns by statute was quite straightforward: to ensure a period of national "reflection," mass rallies and public events by candidates and the parties were prohibited three days before the election, and for eight days prior to the election, no polling results could be published. (The reform reduced this time to three days but raised the penalties for violation.) With politicians in permanent campaigns to stay in office—campaigns that simply become more active and visible with approaching elections—enforcing a certain date for the start of the campaign was much harder. Delimiting the start and end of campaigns acquired new meaning with the adoption of strict controls on advertising, especially centralized allocation of radio and television advertisement.

Reformers broke campaigning into two distinct, nonoverlapping periods: primary season (the "precampaigns," when "pre-candidates" vie for nomination) and official campaign season. A precampaign can legally last up to sixty days in presidential election years and forty days in midterms, ending at most the day before the primary election. Precampaigns must start the third week of December before a presidential election and the fourth week of January otherwise. Because federal elections are held in early July, the latest a primary can take place is the last week of February. Such details would be trivial had reformers not also prohibited all pre-candidate advertising before the precampaign period officially starts. The penalty for not complying is ineligibility to run for public office, enabling enforcement of the new rules. Once candidates are selected, the official campaigns then last exactly ninety days in presidential election years (sixty in midterms). This change halved the length of presidential campaigns, clearly a substantial reduction. But it is really in precampaigns that the bite of duration limits was felt: formerly unregulated intraparty competition went from essentially continuous to limited.

Controlling Who Can Say What

Strict controls of election advertisement content complemented the centralized allocation of radio and television spots by the IFE. The explicit driving force was an attempt to guarantee equity in electoral competition. Reformers echoed faithfully the TRIFE ruling of September 5, 2006, reprimanding President Fox's "undue interventions" before, during, and after that year's presidential campaign. An incumbent campaigning on behalf of her party, if not on behalf of herself, is considered normal, even expected, in democracies such as Chile, France, or the United States. But the fact that outgoing presidents in Mexico once picked their own successors and because of the fear that incumbents would manipulate Mexico's federal apparatus have made the public leery, even normal campaigning by the outgoing president is generally perceived as inappropriate, especially among the elite (Lawson 2009, 11).[7] In the judges' unanimous opinion, Fox's use of such terms as "the Messiah," "the Enlightened," and "populist" when lampooning López Obrador, although ultimately not decisive for the outcome and therefore not warranting an invalidation of the election, "did affect the freedom of voting and the race's equity." In that spirit, reformers prevented the government from "including names, images, voices or symbols implying the personalized promotion of any public officeholder" in any advertisement. Limitations on citizen and interest group access to media for political goals follow the same general understanding that "outsider" actors—i.e., outside the party establishment—easily manipulate voters.

Content control went much further. Reacting to the negative campaigning that occurred in the 2006 race—a degree of negativity that would have been fairly typical in the United States—standards of decency in advertisements were adopted. Attack advertisements are now explicitly prohibited; parties and candidates are obliged to abstain in radio and television advertisements from using expressions that "denigrate institutions and political parties or slander any person." The term "denigrate" is ambiguous enough to leave ample discretion for regulators to interpret which messages are lawful and which are not. Enforcement was also strengthened. In addition to imposing fines, the IFE now has the authority to summarily order broadcasters to suspend any advertisement that it believes violates the decency standard. Censorship was thus adopted—a drastic measure to prevent campaigning that many believed pushed Mexico dangerously to the brink of violence in 2006. Survey evidence never warranted such interpretation; polarization in 2006 was largely confined to the elite, not the general population (Domínguez et al. 2009; Moreno 2009).

When the new campaign rules were first tested in the 2009 midterm campaigns, parties, business organizations, and even op-ed writers went to court to roll back some parts of the reforms on advertising. They sometimes won. TRIFE rescinded IFE-imposed penalties on the Green Ecologist Party for purchasing, with private money, television spots promoting its legislative achievements. A federal judge also granted individual exceptions to the ban on purchasing electoral spots in the mass media. The IFE dropped sanctions against broadcasters that, contrary to regulation, grouped party ads in three-minute blocks and interrupted popular soccer games with a sarcastic "we can't help it (*ni modo*); we are going to cut to ads from the IFE." It also chose to not rule on the difficult case of thinly veiled self-promotion by various mayors and governors—Governor Peña Nieto of the populous State of Mexico in particular—in the form of nightly infomercials on highly rated news programs. Reform enthusiasts denounced such actions as a de facto counterreform (Salazar 2009). Although the judges often argued their rulings in bizarre ways, and the principles of jurisprudence they invoked sometimes contradicted basic tenets of separation of power (Murayama 2009), the rulings testified eloquently to the tension between strict controls of political communication and fundamental rights of freedom of expression. With these in mind, Casar (2009) saw a "reform of the reform" as imminent.

Against such a background, the IFE proved more flexible in interpreting the law throughout the 2012 campaigns. The censor made little use of its authority despite the fact that campaigns featured a significant amount of negativity. Instead of subjecting messages to ex ante screenings, as done in the 2009 legislative races, the IFE chose to immediately send spots to the networks, and to react to party complaints instead. As a result, campaign advertisements could be broadcast three days after their delivery to the regulator. Still a far cry from allowing immediate reaction in the campaigns, it nonetheless represented a substantial improvement over the five to seven days that ex ante screening would otherwise have taken.

Just as important as the removal of red tape was the high bar for messages to qualify as "denigrating." Forty complaints regarding breach of communication rules were filed with the IFE between April 2 and June 30, 2012. In only four did the IFE order the summary removal of the offending piece from the airwaves: three by the PAN and one by PRI. (It once opted to fine the party without removal.) Attack advertisements were thus present to some degree in the 2012 campaigns without being thwarted by the IFE.

Partyocracy Reloaded

For critics, administrative controls on the eligibility, timing, and content of advertisements boded ill for the capacity of campaigns to invigorate the electorate. Devoid of negativity, presidential campaign messages ran the risk of turning into empty slogans incapable of mobilizing segments of voters with the least interest in politics (Lau, Sigelman, Heldman, and Babbitt 1999). The exponential growth in time devoted to such televised campaign spots available during much shorter periods seemed like a formula for losing the audience's attention. The audience for any television channel was bombarded with rigidly scheduled party spots (using the 30/70 rule) between 6:00 a.m. and 2:00 p.m. in a portion of the official campaign (see ancillary figure available at www.press.jhu.edu). Much shorter campaigns also removed opportunities for voters to assess candidates by watching them live on the campaign trail (Popkin 1991). And the process of bureaucratic verification of compliance by political advertisers threatened to remove the capacity of campaigns to respond rapidly to unfolding events and opponent mistakes.

Things went much better than expected. Turnout in the presidential election was the highest in the democratic era: 65% of registered voters, compared to 64% in 2000 and 59% in 2006. And, against all odds, the campaigns had effects on voters (a theme that Chappell Lawson and Kenneth F. Greene elaborate in chaps. 1 and 6, respectively, this volume). Peña Nieto won the presidency as expected (see Kathleen Bruhn, chap. 2, this volume), but the PRI's performance disappointed its enthusiasts. Although four out of five pollsters with national media coverage had reported a lead of more than twenty points for Peña Nieto throughout the campaign, the actual margin of victory on July 1 was less than seven points, just one-third of the preelection poll average. As Lawson notes in chapter 1 in this volume, *Reforma* polls were much closer to target than the modal pollster: *Reforma*'s predicted margin, consistently smaller than most measurements from start to end, stood at ten points in the last preelection survey at the end of June. Campaigns failed to move vote intentions quite as much as in the 2000 and 2006 campaigns, but its effects remained noticeable. The winner did not come from behind, as Fox did in 2000 and Calderón in 2006, but Peña Nieto lost two-thirds of his edge over the leading rival. Of even greater consequence, the PRI failed to capture the congressional majority that pundits had anticipated—a failing that may have caught even Peña Nieto by surprise, judging by his lackluster victory speech on election night.

Yet problems raised by the new electoral institutions remain. In political advertising, the IFE's tolerance of negativity is a matter of discretion. Nothing in the new law or the constitution prevents a U-turn if the IFE and especially the parties that indirectly control it (Estévez, Magar, and Rosas 2008) deem it necessary. Court rulings could make this lenient approach to censorship more robust. In the United States, Federal Election Commission policy since the 1970s and Supreme Court rulings more recently have excluded soft money (not used to pay for advertisements that promote a specific candidate) and independent expenditures (made without coordination with parties or campaigns) from contribution limits established in the law. Such a legal interpretation by the Mexican Supreme Court remains theoretically possible.

Reformers encouraged the partyocracy—as the party establishment is known in political commentary—to new extremes. Actors outside the party establishment have been handicapped for decades in the contest to influence policy. The status quo erected entry barriers of all sorts, from public subsidies for parties and fund-raising impediments for organizations without party registration to ineligibility to run for public office without a party nomination. But political entrepreneurs had never been prevented, as they now are, from buying airtime, which is arguably the cornerstone of modern campaigns. The ban raised barriers against groups seeking to mobilize support for new initiatives, react to government encroachment, or challenge the establishment. Potential buyers of television spots for those causes will no doubt argue that their efforts are not aimed at changing electoral preferences. Again, this view is a matter of perspective, and the regulator can order the removal of all advertisements it deems unlawful. It can also fine offenders with amounts set in statute at $2,500 for individual citizens infringing electoral regulation, $25,000 for interest groups, and $500,000 for corporations.[8] Networks in violation of the prohibition to sell advertising for electoral purposes may also face an embargo on selling any advertising for periods of one to thirty-six hours—blank screens with text explaining the IFE's penalty are mandated instead. The use of these remarkable powers is discretionary.

In addition to shifts favoring parties against social actors, the reform had distributive consequences within parties. The new balance favors party leaders against the rank and file. Prohibitions of personal promotion and impediments against buying advertisement spots affected incumbents with access to government televised communication (such as members of the cabinet, governors, and legislative party leaders) much less than other ambitious politicians. Although they are barred from explicitly campaigning before precampaigns start, the former can improve their name recognition through official advertisements (as well as in the ordinary course of their jobs). Governor Enrique Peña Nieto was particularly adept at circumventing the legal prohibitions on campaigning with nightly infomercials on major networks presented as official advertisements of the State of Mexico.

Conclusion

How strong Mexican parties appear depends on one's perspective. The party in power looks robust. Members of congress routinely toe the party line. Between 2006 and 2012, 99%, 98%, and 93% of PAN, PRI, and PRD federal deputies voted cohesively on typical roll call votes, respectively, with negligible drops when only votes pitting half or more of one party against half or more of another are considered; the latter are relatively rare (Magar 2012). Legislative parties represent different interests from each other, expressed in systematic differences in members' apparent policy positions (Cantú, Desposato, and Magar 2014) and attitudes (Estévez and Magaloni 2000). This assessment of the Mexican party system accords with Mainwaring and Scully's (1995) classification of Mexico as one of Latin America's institutionalized party systems.

The party in the electorate looks much less impressive, as Lawson (chap. 1), Greene (chap. 6), and Jorge I. Domínguez (chap. 11) demonstrate in this volume. Volatility in vote intentions across three presidential races, and also during each of them, remains much more pronounced than in established democracies. Two-fifths of interviewees in *Reforma*'s quarterly polls, and often more, are self-declared independents.

And herein lies a paradox of insulation, exacerbated by the electoral reforms of 2007. Failure to grow solid roots in society has led the parties to further insulate themselves from competition. Entry barriers to the party system have waxed and waned since the mid-twentieth century (Molinar 1991). The public subsidies and limits on private money adopted in 1996 began a new trend toward higher barriers; the new ban on paid advertising has built upon them. But preventing competition hardly seems like a formula for stronger parties in the longer term.

As Estévez (2007) pointed out, the perhaps most puzzling aspect of the 2007 reform is how politicians appear to have willingly abdicated their right to challenge party leaders in the future. The effects of blocking vertical mobility inside the parties would be felt more intensely as the new institutions age. Recent hopefuls rose to prominence in politics under the status quo, but next generations will be muzzled by and financially dependent on party leaders. Against all odds, the Pacto por México between major party leaders and president Peña Nieto to push major legislative reforms achieved historical change in 2013 by removing the eight-decade-long ban on immediate reelection for legislators and mayors. While many crucial details of the new electoral reform remain undefined, this major change promises to contribute greatly to the reversal of trends toward partyocracy discussed in this chapter. Incumbents and mayors in their districts now have incentives to pay systematic attention to the interests of core constituents, and not just to party leaders at the state and national level. As a result, examination of whether campaigns in Mexico continue to be shaped by a heavily regulated system dominated by party leaders who rely on large public subsidies or start being shaped more distinctly by local forces will open an exciting area for research in 2018, when the first set of elected officers will face no single-term limit.

NOTES

1. Important changes of less relevance to this volume were also adopted. See Casar (2009), Langston (2009), Serra (2012), and Woldenberg (2008) for comprehensive analytical descriptions of the reform, and essays in Córdoba and Salazar (2008) for detailed changes at the constitutional and statutory levels.

2. The executive order also allows networks that do not receive federal executive spots for broadcasting to use the corresponding time as they see fit. The president can thus raise or lower network taxes at will. The Interior Ministry's bimonthly reports of official time usage for 2010 and the start of 2011 (at http://www.rtc.gob.mx/NuevoSitio/tiempos_oficiales.php) reveal that, in nonelection years, the size of "state time" (thirty minutes daily) relative to "fiscal time" (up to eighteen minutes daily) varies widely. On average, the latter add to 31%, down substantively from the 37.5% it could weigh if the executive were extracting the full extent of the tax. In election years, however, the working breakdown mandated by Article 59 of the *Ley Federal de Radio y Televisión* and the

Decreto presidencial of October 10, 2002, is less important, as networks are forced to grant exactly forty-eight minutes daily to the IFE, who also instructs them what to broadcast.

3. These calculations are available from the author upon request.

4. Computing a rating-weighted average price with Dr. Simi's produces the following: Reported broadcasting prices between April 25 and 28, 2006, were 33,240 pesos ($3,022 on channel 4, 3:18 p.m., news), 120,000 pesos ($10,900 on channel 4, 9:27 p.m., *Noticas con Adela*), 123,000 pesos ($11,182 on channel 4, 8:25 a.m., *Cristal con que se mira*), 144,900 pesos ($13,173 on channel 2, 6:20 a.m., *Primero noticias*), and 222,500 pesos ($20,227 on channel 13, 8:40 p.m., *Noticias de 7 a 9*). If two high-rating, three medium-rating, and thirteen low-rating television hours are assumed between 6:00 a.m. and midnight, with prices per four daily minutes at 200,000, 100,000, and 25,000 pesos, respectively, the average hourly cost is 854,000 pesos, or about half the original average. The volume discount would be a further 33%, yielding a final figure of 555,000 pesos or $50,000.

5. The figures were corrected for inflation (5.1 billion 2006 pesos are 6.7 billion 2012 pesos), and the actual exchange rates (11 to 1 in 2006, 12.5 to 1 in 2012) were used to obtain the figures reported in the text.

6. No attempt to estimate the public subsidy to private donations ratio before the 1996 reform could be found. Yet public subsidies were far from generous at the time, sufficing maybe for the survival of minor parties who routinely nominated the PRI's presidential candidate and needed fewer campaign funds. The medium (PAN) and large (PRI) parties needed funds from supporters, and private donations were unregulated prior to 1996 (Prud'homme, Morales, Apreza, and Villavicencio 1993, 85). So it is fair to infer that private money (legal or not) was the dominant party-funding source at the time.

7. A national telephone poll taken within days of the TRIFE's decision revealed that 45% of respondents considered the reprimand to be an insufficient penalty for Fox's interventions, versus 41% who saw it sufficient (*Reforma* 2006).

8. Article 354.d of the Federal Electoral Code also contemplated an additional fine, double the price paid by citizens and corporation for spots purchased. The Mexican Supreme Court invalidated this provision in 2008.

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