The Politics of Salinastroika: Institutionalizing Impunity?

By Andrew Reding

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With the new rules governing electoral competition in Mexico, the president is telling the international community that key members of the nation’s most important electoral oversight council — the General Council of the Federal Electoral Institute — are independent and must be approved by a two-thirds majority of Congress. Yet a close look at the fine print reveals such statements to be disingenuous.

Under the new laws, the Council is headed by the Minister of the Interior and includes six “independent” counselor magistrates, along with representatives from the various political parties. This Council, as the highest federal electoral authority, determines the outcome of all federal elections.

The first problem with the constitution of this Council is that the counselor magistrates are not independent in any meaningful sense of the word. True, the nominees for the position cannot hold membership in any political party. However, in Mexico what matters most is loyalty to the president and to the presidential system, not party affiliation.

Whereas in the Soviet Union the government was an outgrowth of the party, in Mexico it was the opposite: the party was merely an outgrowth of the government. The PRI is little more than a tool of the government and of the president. In practical terms, this means that those who have made their careers in government bureaucracies of the judiciary can be presented to the public as “independent” — since they do not officially belong to the PRI — while in fact the government is made up of persons whose primary loyalty is to a self-perpetuating presidency whose powers are not checked by any other branch of government.

The way the nominating process for electoral counselor magistrates works is that the president puts forward at least 12 nominees, six of whom will eventually fill the counselor magistrate positions. Each of the president’s nominees are then voted for by the Congress. If they receive a two-thirds approval, they are immediately given one of the positions of counselor magistrate. If they do not get a two-thirds vote in their favor, however, they are not rejected and are by no means removed from contention.
Let’s say that none of the president’s nominees are approved by a two-thirds majority of Congress. Now, the 12 “rejected” nominees are merely put into a lottery and the six names drawn become counselor magistrates.

In effect, because there is no consequence for not getting the two-thirds vote initially, there is no way the president’s nominees can lose.

Of the people who have actually been appointed to the six counselor magistrate positions under the new procedures, three came from either the state or federal judiciary, two came from the federal bureaucracy, and the remaining position was filled by someone from the bureaucracy of UNAM, the state university. Technically, all of the magistrates are “independent” — they do not belong to the PRI or any other political party. But this fact ceases to have meaning within the “patronage” structure of Mexico’s political system.

The other problem with this General Council is that the Minister of the Interior presides over the group. Further, he has the operational authority both in terms of budgetary considerations and of staffing. Nowhere else in the Americas, with the exception of Cuba, does the man who runs the nation’s internal security also preside over the overall electoral process of that nation.

Indeed, if Tomas Borge had been in charge of Nicaragua’s elections, nobody would have taken the election results there seriously, and with reason. His dual position as Interior Minister and head of Nicaragua’s elections would have been completely unjustifiable. The same must be said of Mexico’s Minister of the Interior.

**Deformation, Not Reformation**

The new electoral reforms that have been championed by the Salinas administration actually make legitimate opposition to the PRI more, rather than less, difficult.

For instance, there is now a provision in the reform laws that makes it illegal for the members of any party to publicize electoral returns that differ in any way from those announced by the electoral authorities. The law states that there will be “imprisonment of from three months to five years for a party functionary who…deceitfully divulges false information with respect to official results contained in precinct tally sheets or overall final counts.” The purpose of this law is to make certain that other parties do not do independent vote counts. In this new version of Catch 22, the electoral laws give poll watchers belonging to opposition parties the right to a certified copy of the tally sheet for that precinct, but if they add up those tally sheets and come up with a total different from the “official” number they can be thrown in jail for “deceitfully divulging false information.” Again, the problem comes not so much in that they cannot publish the differing vote counts but that the body that decides what is “deceitful” and what isn’t — the General Council of the Federal Electoral Institute — is controlled by the presidency and the PRI, and so are the courts.