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Mexico's Judicial Elections and the Politics of Reform

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A panel of scholars examines Mexico's judicial reforms, exploring how direct elections, political control, and institutional design are reshaping the judiciary, its independence, and public trust in the courts.

The 2024–25 judicial reform in Mexico represents one of the most sweeping overhauls of a national judiciary in recent history. The reform replaced nearly all federal and state judges through direct popular elections, restructured the country's highest court, and created new administrative and disciplinary bodies that expanded political influence over judicial decision-making.

Here, in a conversation with *Judicature International*, **AMANDA DRISCOLL**, the Dr. J. Elizabeth Garraway Professor of Political Science at Florida State University, **MICHAEL J. NELSON**, Professor and Head of the Department of Political Science at Penn State, and **JULIO RÍOS-FIGUEROA**, Professor of Law at the Instituto Tecnológico Autónomo de México (ITAM) in Mexico City, bring their expertise on comparative judicial politics and the Mexican legal system. They analyze the design, implementation, and consequences of these reforms, assessing what they reveal about judicial independence, democratic legitimacy, and the potential risks of politicizing the judiciary.

JUDICATURE INTERNATIONAL (JI): Thank you for joining us. To start, could each of you highlight what you consider the most significant aspect or consequence of the Mexican judicial reform?

DRISCOLL: The constitutional reforms called for direct popular elections for every federal judge and justice, the elimination of the Federal Judicial Council (CJF), and the creation of new disciplinary and administrative bodies that would give political actors far more power to sanction or even remove judges who were seen as going against the “popular will.” It also aimed to shrink the size and authority of Mexico’s Supreme Court (<https://gaceta.diputados.gob.mx/PDF/65/2024/feb/20240205-15.pdf>), including by limiting its ability to suspend laws while reviewing them (<https://www.wilsoncenter.org/article/mexicos-constitutional-reforms-series-judicial-reform>).

Of the various components of the reform, judicial elections have garnered the most attention, as they represent a wholesale replacement of virtually all judges and magistrates across the entire judicial system. Half of the national and subnational jurists were replaced by direct election in June of 2025, with the second half being scheduled for replacement in the summer of 2027.

NELSON: Although the elections are the highest profile aspect of the judicial reforms, the new disciplinary administrative body that Amanda mentioned is the newly created Judicial Discipline Tribunal (El Tribunal de Disciplina Judicial). This tribunal is empowered to oversee judicial authorities, and their decisions are equally, if not more, impactful on judicial behavior than the elections. This will allow members of the Tribunal (who are themselves elected) to review the decisions of judicial magistrates, judges, and other judicial officials, reverse them if deemed necessary, and remove or sanction judges or officials if their decisions do not align with the Disciplinary Tribunal’s priorities or principles. We

have seen that the government can easily organize the candidate selection process and the election so that pro-government magistrates are appointed to the Disciplinary Tribunal. This institutionalizes for the government an additional layer of ex-post control over all judicial decision-making.

RÍOS-FIGUEROA: This judicial reform is unprecedented both in depth and width. As both Amanda and Michael have said, the reform involves firing every single judge in Mexico, about 5,800 (approximately 4,000 state and 1,800 federal judges), and replacing them with popularly elected judges. Half of them were elected on June 1, 2025, and perhaps the most salient feature when comparing the newly elected judges with old career judges is the significant drop in legal experience and academic background among the former. Thus, if I must pick one implication of the reform, I would say it is the hollowing out of the Mexican judicial system's capacity and professionalism.

Jl: What political or institutional factors made such a sweeping judicial reform possible in Mexico? Were there early warning signs that this kind of transformation was coming?

DRISCOLL: The current judicial reform in Mexico has its roots in the rise of Morena and its founder, former president Andrés Manuel López Obrador (AMLO). Throughout his six-year term, AMLO regularly clashed with independent institutions

(<https://www.journalofdemocracy.org/articles/is-mexico-at-the-gates-of-authoritarianism/>) — from electoral authorities and transparency

bodies to research organizations and the press — accusing them of being out of touch, elitist, or corrupt

(<https://www.cepc.gob.es/publicaciones/revistas/revista-de-estudios-politicos/numero-198-octubre-diciembre-2022/el-poder-judicial-ante-el-populismo-y-la-erosion-democratica-el-caso-de-mexico-2018-2021>). When many of his broader reform efforts ran into roadblocks in the

courts, the Supreme Court and the federal judiciary quickly became the main focus of his push to remake Mexico's institutional landscape.

AMLO's successor, President Claudia Sheinbaum, won the June 2024 election with nearly 60% of the vote. When the new Congress was seated in September, the judicial overhaul became a top legislative priority, facilitated by the near-supermajority held by the government party, a supermajority with coalition partners. The constitutional amendments were passed with supermajority support in both chambers and in most state legislatures and were published in the *Federal Gazette* on September 15. A second constitutional amendment was passed in early November 2024, effectively shutting down any legal challenges to the judicial reforms by stripping the federal judiciary of the power to review them.

The conditions that allowed this to occur are not unlike those that led to the adoption of national judicial elections in Bolivia. Since the constitutional reform in 2009, Bolivia has selected jurists to the Constitutional Court, Supreme Court, the Judicial Council, and the Agricultural Court via direct popular elections. These national elections were held in 2011, 2017, and 2024. The Mexican reforms are much more comprehensive.

NELSON: Amanda's and my previous research on the adoption of judicial elections in the United States and Bolivia

(https://www.researchgate.net/publication/286941201_The_political_origins_of_judicial_elections_Evedense_from_the_United_States_and_Bolivia)

is instructive here as well, as the same factors contributed to their adoption in Mexico. First, in all three cases, the adoption of judicial elections coincided with a period of pronounced political populism. As with the Jacksonian Democrats who introduced judicial elections to the U.S.

states in the 18th century, the administrations of Presidents Lopez Obrador and Sheinbaum prioritized an anti-establishment devolution away from traditional elites and institutions they claimed were corrupted. Second, there was broad public support for reforming the judiciary, a general feeling that the judicial system writ large could use some improvement, and the reforms were advanced by governments that promised these changes would yield better results. Indeed, advocates of the adoption of judicial elections in Mexico, the United States, and Bolivia suggest that the direct election of judges will ensure their independence, removing judges from partisan legislative appointment processes.

RÍOS-FIGUEROA: I agree with Amanda and Michael. I would add, echoing Michael, that by the time López Obrador and Morena won in 2018, the levels of distrust and perception of corruption in the judicial system were relatively high. According to the Latinobarometer

(<https://www.latinobarometro.org/>), in the 1994-2018 period, 40% was the highest percentage of people with "some or much trust in the

judiciary," with an average of 26% — other surveys report somewhat higher percentages, but this does not alter the central fact that popular support for the judiciary was relatively low. On the other hand, according to surveys by the Instituto Nacional de Estadística, Geografía e Informática (INEGI), by 2017, a whopping 71% of respondents considered corruption in the judiciary to be "very frequent."

(https://www.oecd.org/content/dam/oecd/en/publications/reports/2019/02/oecd-integrity-review-of-mexico-city_g1g95a36/9789264306547-en.pdf)

A crucial caveat is in order. In their responses to those surveys, the citizens did not distinguish between state or federal judges, prosecutors, or even police officers. Actually, they are very confused about it. It did not matter, for example, that the federal judiciary was considerably more effective and less corrupt than state judiciaries, or that the most relevant focus of corruption lies with prosecutors and the police. In general, people put all those very different actors in the same bag. López Obrador exploited this confusion; he constantly trash-talked the federal judges, promoting a spill-over of the distrust and bad perception that many people have of the other actors

(<https://doi.org/10.1177/00104140251328024>). Yet the reform affected only the judges; it did not touch the prosecutorial organs at either the state or federal levels, even though one of the rhetorical motivations was to fight corruption within the justice system.

To be clear, the federal judiciary, and even more so the state judiciaries, faced many challenges and strong criticism. But the reform, instead of proceeding surgically, took advantage of the generalized distrust of the justice system and went after the more professional and more independent parts of it.

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Jl: The elections were framed as a democratizing reform, giving citizens a direct say in choosing judges. In your view, did the structure of the reform live up to that promise?

DRISCOLL: The direct election of judges does carry with it the sheen of representative democracy, insofar as it involves the popular participation in selecting judicial representatives; ideally, candidates might seek voters' support who are then chosen by an informed electorate. Yet procedurally speaking, there are a number of aspects of the candidate selection and electoral environment in Mexico such that the 2025 judicial elections did not conform to this democratic ideal.

First, the constitutional reform designates that the three branches of government—the executive, legislative, and judicial branches — are all responsible for assembling a committee to review the judicial aspirants' candidacies. The government party controlled the committees in both the executive and legislative branches, owing to its control of those two branches of government. A majority of the members of the judicial committee resigned midway in the candidate vetting process, so the work of that body was transferred to the Senate, which again is controlled by the government party. All of this implies the government party, Morena, was able to nominate candidates without the involvement of opposition parties. Selection committees approved numerous candidates with longstanding ties to Morena. The institutions responsible for vetting the applicants reviewed tens of thousands of them in a matter of weeks, suggesting that their review of the candidates was cursory at best; in the end, the control of candidate selection was dominated by the government party, which then ostensibly chose candidates to populate the ballot by a random draw.

Voters were then asked to sort through dozens of judicial candidates across as many as six ballots, all with very limited information about the candidates themselves, and without the usual cues of partisanship or similar heuristics.

Consequently, the candidate selection process fell short of meritocratic evaluation, was neither competitive nor open to deliberation about candidate qualities. The public, by all available metrics, was not well informed about the process or the candidates.

Interestingly, this is a similar dynamic to what we observed in Bolivia since the first direct election of national judges and magistrates in that system (2011). The supermajority control of the government party implied that the ruling party could unilaterally nominate judges to the electoral slate. Consequently, all the judges elected under that system had the *de facto* stamp of government approval. In that country, the strongest predictor of candidates' voteshare was their position on the ballot, which was randomly assigned. In those elections, voter information was also very low (<https://ladd.law.wisc.edu/2025/08/21/driscoll-nelson-2015-judicial-selection-and-the-democratization-of-justice-lessons-from-the-bolivian-judicial-elections/>).

NELSON: The judicial elections could be viewed in a different sense as a “democratizing reform” in so far that they opened the door to a more pluralistic representation of different sorts of jurists that have previously occupied the bench. Some of this is baked into the judicial reform: previously judges and magistrates were appointed to the federal bench based on meritocratic evaluation through a series of competitive exams, as well as a number of years of experience (more than 10 to be a Supreme Court judge). Prior to the reform, it took a person about 15 years of experience to become a federal judge, and closer to 20 to obtain a position higher in the federal judicial hierarchy. All of that professional experience is now no longer required. Under the new reforms, aspirants must hold a law degree, have a minimum GPA, and have one to five years' experience. Applicants submitted documentation, including a statement of purpose, CV, and personal references.

Although this lowered the experience and educational requirements, the electoral rules required parity among male and female judicial candidates and require gender parity in the composition of the bench. For the first time in history, a jurist of indigenous descent has been elected to the Supreme Court, and because he was the largest vote-getter in that contest, he has assumed the position of president of that court. On the other hand, investigations by civil society organizations uncovered that several approved candidates at both federal and subnational levels had credible links to convicted drug traffickers (<https://www.nytimes.com/es/2025/05/29/estados-mexico-cartero.html>) and violent criminal groups. Several of these individuals ultimately won office in the 2025 elections.

RÍOS-FIGUEROA: What does “making the judiciary more democratic” actually mean? Do elections make judges more “representative,” more “accountable,” “more accessible”? What is the net result for “democracy” if judges are elected but judicial independence is gutted? As the quotation marks indicate, a lot of this discussion depends on how those concepts are defined and measured. But, for politicians, things work differently. The election of all judges in the country, López Obrador and Sheinbaum have said, makes Mexico “the most democratic country in the world.” This was a good, effective slogan for the presidential campaign in 2024. However, like other campaign slogans, it was a trap. The specific design of the judicial election in Mexico transparently reveals that it had more to do with the political capture of the judiciary than with a genuine effort to improve access to justice or to make the judiciary more “democratic” in any other sense.

In addition to the references mentioned before, the chapters in the book *The Judicial Storm: Implications of Mexico's 2024 Reform* (<https://eljuegodelacorte.nexos.com.mx/wp-content/uploads/2025/05/the-judicial-storm.pdf>), edited by Saúl López-Noriega and Javier Martín-Reyes, explicitly highlight the design features that subordinate judges to politicians throughout the electoral process once judges are elected. We are already witnessing politically motivated transfers of judges critical of the reform to dangerous places (see here (<https://www.proceso.com.mx/nacional/2025/11/17/magistrada-detractora-de-la-reforma-judicial-es-reubicada-de-tribunal-de-cdmx-guerrero-362970.html>) for a recent case, in Spanish) or sanctions by the Tribunal of Judicial Discipline to judges whose rulings are rejected by prominent political actors (see here (<https://www.eluniversal.com.mx/nacion/tribunal-de-disciplina-suspende-a-jueza-del-edomex-investigan-presuntas-irregularidades-en-juicios-de-amparo/>)).

JL: Candidate selection and campaigning were tightly controlled, and voters faced complex ballots with thousands of names. How did those design choices shape the quality and fairness of the elections?

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NELSON: In an effort to ensure that the judicial elections were “apolitical,” candidates were prohibited from reporting partisan affiliation or from campaigning openly. There was no public funding available to candidates, who were also prohibited from accepting donations from private entities, much less parties. This meant candidates, for the most part, self-funded their campaigns, and much of their campaigning took place online and via social media. In place of traditional campaigns, the National Electoral Institute (or INE, its Spanish acronym) launched a centralized online portal (<https://ine.mx/conoceles-practica-y-ubica/>) that provided candidate biographies, contact information, social media links, candidate numbers, sample ballots, and a ballot simulation tool. Voters reported that the sheer number of candidates made it difficult to navigate and accurately identify candidates they most preferred.

RÍOS-FIGUEROA: Given that formal electoral campaigns for the judicial election are prohibited by Mexico's Constitution, members of the governing coalition coordinated voters through widely distributed “how-to-vote” cards, essentially telling them how to fill in the complex ballot. The result was that the most important predictor of winning the election was appearing on those official cheat-sheets, especially for the most relevant positions, including those at the Supreme Court and the Tribunal of Judicial Discipline, as Amanda and Michael have shown in their research. See, as well, this report (<https://www.nexos.com.mx/documentos/informe-1.pdf>) on the election by former Justice José Ramón Cossío Díaz and Jorge Alberto Medellín Pino. Therefore, if you are a candidate, you need to know how to get your name on those cards. And the answer was to approach the relevant politicians from the governing coalition with the capacity to mobilize the votes. So, the electoral competition was not fair. This mechanism, of course, also compromises the independence of the elected judges since, at some point, the actor who helped you get elected will want to claim the return on their investment.

DRISCOLL: In practice, there were large disparities in promotional resources available to candidates (<https://www.foreignaffairs.com/mexico/mexicos-vote-autocracy>), and uneven enforcement resulted in some government-backed candidates reportedly accessing external resources for self-promotion. There were well-documented cases (<https://repositoriodocumental.ine.mx/xmlui/handle/123456789/183464>) of interest groups and political parties distributing voter guides (https://www.oas.org/fpdb/%20%20press/2025_MEXICO_MOE_Elecciones_Judiciales_-Informe_Preliminar_ESP.pdf) (“acordeones”) that endorsed specific lists of candidates, sometimes accompanied by explicit endorsements by key elites and opinion leaders. Preliminary research by Michael, Rachel Canino, Matheus Zanetti, and me suggests that these guides had an outsized influence on voter choice on election day and largely benefited government-affiliated candidates.

We might never know the true impact these “how to vote” cards had on the election, but it is objectively true that the informational burden placed on voters was considerable; and the design of the ballots and the various races only served to make the informational environment more complicated. Accordingly, it's not surprising that voters were looking for decisional shortcuts to simplify a very complex and informationally demanding electoral environment.

Jl: How would you characterize the role of political parties and the executive in the process? To what extent was the judiciary's independence preserved or compromised in the design of these elections?

NELSON: Despite the formal prohibition on partisan involvement, the government party had an upper hand in almost every aspect of the reform implementation. The near supermajority control of the bicameral legislature along with the executive meant that they controlled both the legislative and executive candidate selection committees, as well as that of the judiciary when that committee resigned. So, essentially, total control of the candidate selection process.

DRISCOLL: Another facet of partisan or executive control relates to a feature of the ballot design: alongside each candidate's name and number, there was an indicator of which of the three candidate selection committees had approved the candidate. So, “PE” if the candidate was cleared by the executive (“poder ejecutivo”), “PL” if the legislative branch assessed them, and so on. This was a clear indicator to supporters of the president — if you knew nothing else about the candidates on the ballot, you could vote for someone with a “PE” by their name and be assured you were picking someone who the president approved. This, along with the candidates' voter numbers, was the sort of information communicated in the “how to vote” guides that were circulated in advance of the election.

RÍOS-FIGUEROA: The reform sets the institutional incentives for independent behavior at a historical low. The design of the judicial election promotes the view that judges' preferences will be very close to those of the governing coalition. First, to appear on the ballot, a candidate must pass a politically charged filter: a green light from at least one of the three selection committees in the executive, legislative, and judicial branches. At least two of them were dominated by members of the official party. In contrast, the members of the judiciary committee ended up resigning, and their job was absorbed by the legislative committee. Second, as was already said, to win the electoral race, the successful were those who made alliances with political actors capable of mobilizing votes. Finally, once elected, the judges face yet another ex-post check on their behavior by the Tribunal of Judicial Discipline, also popularly elected and with judges with close ties to the government, a quite disturbing feature of the reform as highlighted by Amanda and Michael.

Jl: Turnout was strikingly low despite the historic nature of the event. What do you think explains the limited public engagement?

RÍOS-FIGUEROA: The turnout in the judicial election, held on June 1, 2025, was 12% of eligible voters (and 2% of those votes were null). This low turnout was partly the result of a deliberate boycott promoted by opponents of the reform to protest its arbitrariness and carelessness. There was an open campaign by the opposition and citizens who do not support Morena to promote abstention from voting as a form of civil disobedience against what they portray as a reform to subordinate the judiciary politically. But the election involved 3,423 candidates for 881 positions, and this was only for electing federal judges (including the Supreme Court and the Tribunal of Judicial Discipline), as 19 out of 32 states also elected their judges on that same day. Therefore, the low turnout was also due to genuine perplexity and a lack of enthusiasm among many voters, stemming from the complexity of a poorly planned election.

DRISCOLL: I agree with Julio here. As a point of comparison, the national presidential elections the year before had 61% voter turnout. Civic engagement and public involvement in vote-counting and oversight have been the norm in Mexican elections since the transition to democracy, both of which were absent in this electoral process. The National Electoral Institute (INE) has been professionalized and very institutionally capable for nearly 30 years, but in this process was tasked with administrating a new and very complicated electoral process, on a very tight timeline, and with severe budgetary restrictions.

We have conducted surveys in the field over this period, asking people about their participation and the reasons for not participating. Among those who self-reported abstention, a large plurality (about 45%) expressed skepticism about the trustworthiness of the process overall, with another 30% suggesting they lacked adequate information to know how to participate or which candidates to choose.

NELSON: We do have some preliminary statistical analyses of voter participation and have found evidence of a decidedly political dimension to participation. Our analyses of voter turnout and participation show that turnout was higher and ballot spoiling less frequent in areas where presidential supporters were concentrated.

JL: What do we know so far about how these elections are affecting the judiciary's composition — for example, the experience levels or backgrounds of newly elected judges?

RÍOS-FIGUEROA: The erosion of professionalism and judicial capacity is, I think, perhaps the worst of the consequences of this judicial reform, one that Mexico will suffer for a considerable time.

For starters, the formal requisites to register as a candidate in the judicial election are minimal: three to five years of “experience” (depending on the position sought), a GPA of at least 8 out of 10 (9 in the subjects that are specific to the tribunal that you are running for, e.g., criminal law if you aim at joining a specialized criminal district court), and five letters of recommendation by family or friends. That’s it.

Moreover, as we have said before, the reform entails the dismissal of all career judges. To gauge the magnitude of the reform, consider that in the period from 1994 (when another big judicial reform was enacted, this one attempting to promote independence and capacity in the federal judiciary), it took an average of 19 years and merit examinations to arrive at an appeals court after entering the lower echelons of the judicial career. The current judicial reform entails firing all those career judges on whom Mexico invested significant resources and replacing them with much younger lawyers, many of whom have never set foot in a courtroom.

In joint work with colleagues at the Georgetown Americas Institute, the University of Notre Dame, and the World Justice Project (see here (<https://eljuegodelacorte.nexos.com.mx/eleccion-popular-de-jueces-federales-en-mexico-2025/>) and here (<https://eljuegodelacorte.nexos.com.mx/mapa-para-navegar-la-incertidumbre-judicial/>)), we found that, on average, the elected judges have 14 years less “experience” than the career judges (we captured experience by counting the years from when someone earned their law degree to 2025). We also found that 7% of elected judges have a PhD (compared to 17% of career judges), and 48% have a master’s degree (compared to 60% of career judges). Half of the career judges randomly chosen to be fired for the June 2025 election had the right to be candidates and go directly to the ballot (without having to be greenlit by the selection committees). Still, only 25% of them appeared on the ballot. Of those, only 10% were elected. Another 37% of the elected judges had worked in the federal judiciary before becoming candidates but held lower-level positions such as clerks or judicial officials. Of all the federal judges elected last June 2025, 49% had never set foot in the federal judiciary, either as judges or as lower-level judicial officials of any kind. In other words, the capacity and professionalism of the new judges are set at historic lows.

DRISCOLL: In addition to the gutting of professional capacity that Julio describes, these reforms have introduced a serious pipeline problem as well. This is because of the elections, new mechanisms of governmental involvement and oversight, and cuts to salaries. Judicial careers are no longer an attractive opportunity for capable legal professionals. Many distinguished jurists and lawyers, as well as former federal judges, simply declined to run in the judicial elections. We anticipate that many others who might have entertained this career path in the past will now seek professional advancement elsewhere.

JL: How are the reforms being received domestically now that the elections are over? Do public attitudes appear to be shifting?

NELSON: Since the beginning of the reform process, we have observed broad public support, with roughly 40% of those surveyed expressing their support for the reform. This level of support is unchanged in the aftermath of the election. Where we do see a shift is in the support for the judiciary and expectations of independence. Opposition supporters now view the Supreme Court’s independence in stark terms: less than 20% believe it is independent of the government, down from about 50% before the elections. For supporters of the government party, by contrast, their perceptions of judicial independence are unchanged.

DRISCOLL: As Julio described above, this broad support is in part due to the public’s perception that these reforms would improve longstanding problems in the justice system (relating to police, prosecutors, the carceral system and other aspects) that they are not well designed to resolve. There is also a broad base of the public that is glad to see the government party make big institutional changes, which represents a definitive break with the previous system of partisan control.

This polarization of public support is similar to what we found in the aftermath of the Bolivian elections. Trust in the judiciary diminished overall, but especially amongst those who were not aligned with then-President Evo Morales, who was responsible for implementing those judicial elections. Judicial elections have also polarized opinions regarding public confidence in the judiciary. By continuing to be divisive, political institutions and judges are explicitly political actors aligned with the policies and party of the president. This polarized state of public faith is especially detrimental to judicial institutions, which rely on public goodwill for voluntary compliance and acceptance of their rulings.

Jl: The United States has long been the outlier in using judicial elections. What lessons, if any, might the United States or other countries take from Mexico's experience?

RÍOS-FIGUEROA: I hope other countries see the judicial election in Mexico for what it truly is, a political capture of the judiciary, and not what former president López Obrador or current president Claudia Sheinbaum claim it is: an effort to “democratize the judiciary and bring it closer to the people” and to “eradicate corruption” from the justice system. If the stated goals had been the true goals, then the design of the reform should have been very different: it should have included the prosecutorial organs at the state and federal levels, it should have improved access to justice through less cumbersome procedures or a reform to the legal profession, it should not have denigrated and fired a lot of professional and respected career judges who were involved in no corruption scandals, it should have provided for a better more merit-based screening for selecting judicial candidates. And a long et cetera.

NELSON: I agree with Julio wholeheartedly. It is easy to naively look at these elections and think they provided citizens with an opportunity to shape the direction of the judiciary, as the rhetoric around the elections implied they would. But in practice, the prescreening process, the lack of campaigning, and the difficult election-day experience served the government's ends. I think the Mexican elections provide us with a good sense of “what not to do” if you are going to elect judges. People can — and should — debate the merits and demerits of judicial elections. But, if a country is going to decide to elect its judges, it should do so in a way that provides free and fair opportunities for citizens to make meaningful and informed choices between candidates. Mexico's judicial elections could have done a better job of meeting this mandate.

Jl: Given the populist framing behind these reforms, do you see this as an isolated event or part of a broader global trend toward politicizing the judiciary?

RÍOS-FIGUEROA: Mexico, after the legitimate and sweeping electoral victory of López Obrador and Morena in 2018, initiated a process of democratic erosion: a process of executive aggrandizement and concentration of power in a party and its leader through relatively small but significant and seemingly democratic reforms (<https://www.journalofdemocracy.org/articles/on-democratic-backsliding/>) that, in the aggregate, have made it much harder for the governing coalition to loose future elections. Viewed through this lens, the judicial reform in Mexico is similar to other efforts to capture, or at least neutralize, the judiciary in countries such as Hungary under Viktor Orbán, Brazil under Jair Bolsonaro, Poland under Jarosław Kaczyński, Venezuela under Hugo Chávez, or El Salvador under Nayib Bukele. Mexico's reform is deeper and broader than any previous attempts. Plus, resistance to the reform was organized and relevant but ultimately insufficient to stop it. So, Mexico crossed a line that other countries have not yet crossed.

DRISCOLL: I am very concerned that would-be autocrats or populists will look to Mexico as a playbook of how to effectively and efficiently capture the judiciary for their own benefit, under the auspices of democratic transformation. The scope of these reforms implies that it is perhaps the most efficient government takeover of an otherwise independent judiciary in the history of the world.

NELSON: I echo both Amanda and Julio. The United States has long been seen as unique in its use of judicial elections. Then, when Bolivia adopted elections about 15 years ago, it seemed like a quaint anomaly. Mexico's use of elections — particularly with the sorts of rules that enhance government control over who gets elected — makes me worried that judicial elections could become more popular worldwide but be adopted in ways that make the composition of the bench more responsive to governmental majorities, less reflective of the people, and summarily less independent.

Jl: Looking ahead to the next phase of elections in 2027, what will you be watching most closely?

RÍOS-FIGUEROA: I am not optimistic regarding judicial independence in Mexico. Not only is the political context of unified government favorable to judicial deference towards the main political party and its coalition, but also the new institutional incentives set in the constitution by the reform promote proximity of preferences between judges and the government. For judicial independence to improve in Mexico, a more balanced electoral competition and, thus, a more plural representation in the elected branches would be necessary. This is not only difficult to foresee in the near future, but it would also not be sufficient to foster independent judicial behavior as it would need to be accompanied by an additional constitutional reform that changes the selection and sanctioning mechanisms of judges. In other words, new institutional incentives promote distance between the preferences of elected politicians and judges.

But the judicial reform also deeply eroded judicial capacity, and this is a feature that, together with low independence, is generating a lot of uncertainty among different political, economic, and social actors not only in Mexico but also in the United States, Canada, and other of Mexico's economic partners. Therefore, I would be watching closely potential micro-reforms regarding qualifications to become a judicial candidate in 2027, the reform of the selection committees so that they can do a much better job screening the candidates based on merit and capacity, or the deferral of the election to perhaps 2028 so that it does not coincide with the midterms.

NELSON: It is likely that some actors within the legal system, especially those with the capacity to do so, will simply move to alternative venues for dispute resolution. For example, bilateral agreements will be rewritten to resolve contracts in arbitration, or at least outside the Mexican judicial hierarchy. I also worry that the elections will change who wants to become a judge. If you feel like you need to have connections with the government party to become a judge, people who would otherwise be excellent jurists might choose other career paths. In this way, there could be important downstream consequences for judicial quality in Mexico.

DRISCOLL: To echo Julio's and Michael's concerns, I anticipate a loss of independence, as well as a loss of capacity. Mexican judges will now be incentivized to attend to public opinion and to rule with an eye to the preferences of the Disciplinary Tribunal or their eventual election, otherwise risking their careers. The move from the professionalized federal judicial career track to the direct election of judges represents a

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tremendous loss of professional capacity and legal expertise, the effects of which will take years to fully realize. If the next round of elections coincides with the midterms as Julio suggested, we will likely see broader public participation but a more polarized and partisan electoral process. I believe the bad would outweigh the good in this eventuality. I hope this outcome can be avoided.

I do not believe these reforms will be undone; the wheels are in motion, and it is too late to reverse course on a dime. There are earnest efforts underway by many to propose and enact improvements within the system, to help to mitigate some of the shortcomings we observed in the inaugural electoral process. I hope very much the government is receptive to some of these suggestions.

Jl: If you could offer one takeaway or caution to other countries considering judicial elections, what would it be?

NELSON: I said earlier that I think these elections provide a solid “what not to do” in terms of electing judges, and I think that is the big takeaway here. Where judicial elections can be positive for the judiciary, they provide voters with an opportunity to weigh in on the direction of the bench, based on information about the candidates, as they select among high-quality candidates. If countries see the United States, Mexico, and Bolivia and want to adopt judicial elections, they should opt for institutional rules more similar to the United States — where ballot access is broad, candidates have the opportunity to campaign, and ballot designs are relatively simple — than to Mexico or Bolivia, where these aspects are absent.

DRISCOLL: One thing the Mexican elections teach us is that there are lots of ways countries could elect judges, and the “devil is in the details,” so to speak. Those “behind the curtains” choices about things like candidate selection, ballot design, and candidates’ campaign ability — all might seem technical or mundane but are hugely consequential in their impact. These decisions shape the bench’s composition after Election Day and the extent to which we might evaluate the elections as a net positive or negative once the election is over.

Rather than making big pronouncements about whether judicial elections are “good” or “bad” in the abstract, it is important to have conversations about what exactly reforms are intended to solve, and scrutinize the cumulative effect of institutional design choices, to objectively weigh the costs and benefits that this particular approach to judicial selection may carry.

Critically, the process by which these reforms occur is hugely consequential for the public’s perceptions of the legitimacy of the entire reform process, the elections themselves, and the legitimacy of the resulting judicial system. In Mexico, these reforms were viewed by many to have been a partisan play to take over the courts. These perceptions undermined participation and have polarized public support for the judiciary. Building back the public faith in the judiciary will be a considerable challenge for the future.

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