

Autonomous Constitutional Bodies, horizontal accountability, and liberal democracy in Mexico: 1990-2020

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Summary: The objective of this research is to describe the state of horizontal accountability and analyse the quality of democracy in Mexico. In addition to a documentary review, for this purpose, the V-Dem databases were used in what corresponds to two indicators: Executive Oversight and Liberal Democracy Index. The results show the return of the old Mexican presidentialism, a disappointing performance of this country in both indices, and most worryingly, in decline. Among the conclusions, it is noted that, as a result, it cannot be affirmed that in Mexico there is a true rule of law, a complete separation of powers, and a full democracy.

Keywords: democracy, horizontal accountability, executive branch, autonomous constitutional bodies, Mexico.

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1. Introduction

Twenty-two years ago, Carpizo (2001) compared the elements that defined presidentialism in Mexico, which he had originally described in 1978 (Carpizo, 2004), with those that were present in the year 2000 (also twenty-two years later), the year in which the first president from a political party other than the Institutional Revolutionary Party (PRI) came to power. The conclusion reached by this author at that time was that the country was undergoing major transformations and was transitioning from a vertical, hierarchical system with excessive concentration of power, to one in which the other branches of government were fulfilling their constitutional duties, there were checks and balances, and various social and political actors were emerging with vitality. Unfortunately, that transition has slowed as of 2018 since, as will be explained below, the evidence points, forty-five years after Carpizo's first work, towards the return of a marked presidentialism to the country.

This is worrisome because the quality of democracy, the separation of powers and the rule of law, in addition to representing signs regarding the health of any political system, constitute a triad in which a circular or mutual relationship is established: these elements cannot emerge in isolation, they require the others to make sense. Likewise, in political science it is accepted that an indicator of the condition of this triad is horizontal accountability, which obliges public organisations and officials, essentially the executive, to account for their actions to other state institutions, including autonomous bodies.

This, together with the series of questions from the head of the executive branch in Mexico to the other branches of government and to the Autonomous Constitutional Bodies (OCAs) that we have recently witnessed motivated this research. In addition to the analysis of horizontal accountability behaviour, another register closely associated with it, that of liberal democracy, is also included, thus complementing the study. This originates the posing of two research questions: 1. What is Mexico's performance in horizontal accountability in the period 1990-2020 and 2. What is Mexico's record on the liberal democracy index for the period 1990-2020?

To answer these questions, in addition to an extensive documentary review, the databases offered by the V-Dem Institute, which generates the largest amount of data on democracy worldwide, were analysed and managed. As for the structure of the paper, in the second part or theoretical framework, to understand the results that will be presented later, the historical characteristics of presidentialism in Mexico are described and, based on various sources of information, it is argued that these characteristics are back.

The third section discusses the particularities of the OCAs, fundamental institutions for any country wishing to successfully consolidate its democratic transition, and its horizontal accountability practices. It also describes their creation process in Mexico and the questions they have faced in recent years. The fourth chapter presents the methodology used in this research, while the results achieved are explained in the fourth section. Conclusions are presented at the end.

2. The presidential system and presidentialism in Mexico

As has been suggested by authors such as Nohlen (1998), there are two dominant systems of government: the parliamentary and the presidential, which is, as is well known, the one in force in Mexico. According to Carey (2006), the general characteristics of presidential regimes are as follows: 1. The head of the executive branch is elected by popular vote, 2. The terms of office of the chief executive and congress are fixed and not subject to mutual trust, and 3. The person in charge of the executive defines the integration of the government

and directs it, in addition to having certain legislative powers granted by the Constitution. According to Carpizo (2004), the peculiarities of the presidential system, although not present in all cases and even less so in an exact manner, are the following:

- a. The executive branch is unitary. It is vested in a president who is both head of state and head of government.
- b. The president is elected by the people and not by the legislative branch, which gives him independence from the latter.
- c. The president freely appoints and removes the secretaries of the state.
- d. Neither the president nor the secretaries of state are politically accountable to congress.
- e. Neither the president nor the secretaries of state may be members of congress.
- f. The president may be affiliated with a political party different from that of the majority of the congress.
- g. The president cannot dissolve the congress, but the congress cannot give him a vote of no confidence. (Carpizo, 2004: 14)

Carbonell (2002) rightly pointed out that, in Mexico, the executive branch has represented the axis of the political system, since the country chose, rather than a presidential system, an exacerbated presidentialism², where the division of powers stipulated in the Constitution does not really apply in practice. In such a way that presidentialism, he adds, represents the core of the political system and from where power is articulated. Carpizo (2001) argued that the characteristics that structured Mexican presidentialism ceased to apply, in general terms, with the democratic transition that culminated, in an initial phase, in the year 2000³. However, evidence suggests that since 2018 these traits have re-emerged. These historical attributes, shaped when the PRI remained in power, are summarized below:

1. The president is the head of the predominant party.
2. The weakening of the legislative branch (the great majority of legislators are members of the preponderant party, which in practice are subordinate to the president).
3. The Supreme Court of Justice of the Nation (SCJN) is composed, to a large extent, of members who do not oppose the president's interests.
4. The clear influence on the economy through, among other mechanisms, the Bank of Mexico, decentralised bodies and state-owned companies.
5. The submission of the army to the president.

² Leal (2016) and Dacasa (2019) concur with that assertion. In the case of the former, political pluralism and the fact that the Supreme Court of Justice of the Nation (thanks to the strengthening of its functions contemplated in the 1994 constitutional reform promoted by Ernesto Zedillo), emerged as a more powerful arbiter, represent key factors for this. In the case of the latter, political and institutional changes, as well as reforms that transferred power from the executive in strategic areas, represent the exegetical variables.

³ "Presidentialism constitutes a deformed application of the classical presidential regime, by weakening the powers of parliament and hypertrophying the powers of the president: hence its name". It works especially in Latin American countries that have transported the constitutional institutions of the United States to a different society" (Duverger, 1992, as cited in Carbonell, 2002: 56).

6. The marked influence on public opinion through mechanisms to control the mass media.
7. The centralization of economic resources in the federation, basically in the executive branch.
8. The obvious constitutional and extra-constitutional powers enjoyed by the president of the republic, such as the power to appoint his successor and the governors of the states.⁴
9. The definition of all international affairs in which Mexico intervenes, without there being any kind of brake in this regard in the senate.
10. The direct government of the nation's capital.
11. The acceptance of the preponderant role of the executive, represented by the president, concerning the other branches of government (Carpizo, 2001).

Even though the previous typology lost validity just before the entry of the new century, evidence indicates that, since 2018, the characters of the old Mexican presidentialism have largely resurfaced. Thus, we have a president, Andrés Manuel López Obrador, who is the founder and absolute leader of Morena (National Regeneration Movement), a party that also holds the most numerous legislative fractions in the Federal Congress, where together with its allies it has the majority of seats. In addition, Morena dominates 18 of the 32 congresses of the federal entities, as of the June 6, 2021, elections, half of the state governments (first political force) and, in alliance, the largest number of municipalities (Badillo, 2021).

In a complementary manner and as reported by Arista and Badillo (2019), today we observe a hyper-presidentialism, in which the executive agglutinates competencies to the detriment of the other powers, markedly the legislative, which is seen as a political bishop.⁵ In this sense, the president's meta-constitutional powers,⁶ they cite, could be making a comeback. The president's interference in the SCJN and the entire judicial branch is also well known (Jiménez, 2021a; Vázquez, 2021a) to enjoy greater room for manoeuvring in the economic and political agendas, including the disappearance of autonomous bodies.

On the other hand, several analysts (Barragán, 2021; Cossío, 2021a; Silva-Herzog, 2021) recognize that along with the militarisation process that is taking place in Mexico and the fact that the armed forces have gradually been given greater responsibilities (ranging, among others, from the distribution of textbooks and vaccines, the construction of public infrastructure -including an international airport and a section of the Mayan

⁴ Cárdenas (2012) points out that the Mexican president has excessive (undesirable) formal powers and attributions in legislative, jurisdictional, and judicial, and executive matters (embodied in Article 89 of the Constitution), which encourage confrontation rather than agreements.

⁵ In this regard, it is recorded in the public anecdotal record that the Energy Commission of the Chamber of Deputies determined, on April 7, 2021, not to change "a single comma" of López Obrador's oil counter-reform. In it, for fundamentally ideological reasons, permits to private companies for the production or distribution of hydrocarbons were cancelled (Jiménez, 2021b).

⁶ In a recent discussion, politicians, academics, and intellectuals expressed their concern about the existence of an "undesirable concentration of power" in the executive. In the same forum, Porfirio Muñoz Ledo indicated that in Mexico a "mega-presidentialism" has been established, and that allowing the government to concentrate once again in an omnipresent executive branch would represent a historical regression for democracy (López and Jiménez, 2021).

Train-, the management of customs and seaports, to public security)⁷, their subordination, beyond constitutional guidelines, to the president is clear (Brooks, 2020).

It is also known that the president, through his morning conferences, generates a great influence on public opinion and, in addition, sets a good part of the country's political agenda. Unfortunately, these exercises are not acts of accountability and, regardless of the criticisms made daily to politicians, businessmen, media, journalists (these have generated national and international rejection), intellectuals, academics, and sectors of society with ideologies different from the government, they present many inaccuracies. In this sense, Vázquez (2021b) reports that, in 3 years of government, López Obrador has said more than 56,181 false statements (88 per day on average).

On the other hand, the president has been accused of political proselytism through the public media, particularly television, where personalities related to the current regime, coming from different fields, have been placed to support this work. Likewise, other features are perceived as an excessive centralization of financial resources, along with great discretion in the way the executive determines public spending (Casar, 2021a), which has allowed the implementation of mega-projects at the president's liking, which for some represent "white elephants" (Negrete, 2019).

Furthermore, it has been evidenced that he removes and appoints governors (Camarena, 2021) and although he does not directly govern the capital of the country, the political subordination of Claudia Sheinbaum, the current Chief of Government of Mexico City, to the President of the Republic, who has publicly expressed that she is his candidate to succeed him in 2024, is evident (Camacho, 2021). Finally, in addition to the fact that it is beyond discussion that the voice of the president is the prevailing one in the definition of Mexico's⁸ domestic (Silva-Herzog, 2021) and foreign policy, the hegemonic role of the executive concerning the other branches of government and the autonomous bodies is evident (Domínguez, 2021; Reveles, 2021).

3. OCAs and their creation in Mexico

For Ruiz (2017a), the OCAs are spaces to promote the premises of open government,⁹ while Moscoso and Villavicencio (2021) rightly point out that one of the purposes of their creation is to contribute to horizontal accountability. According to Lührmann et al. (2020), horizontal accountability represents the degree to which state institutions hold the executive branch accountable. This implies the existence of institutions of the legislative and judicial branches, and other oversight bodies, which can demand information and punish unlawful conduct. For O'Donnell (2004), horizontal accountability is undertaken by a series of state agencies to prevent, stop or penalise actions of another organisation or state agent that are presumed to be illegal, either by transgression or corruption.

⁷ As noted by Barragan (2021), the National Guard, created in 2019 to take on public security tasks, is in essence a military organisation. As if anything were missing, and regardless of the fact that in practice it is a fait accompli, the government announced on June 15, 2021, that it will promote a constitutional reform to change this institution from the Secretariat of Security and Citizen Protection (SSPC) to the Secretariat of National Defense (Sedena).

⁸ "... President López Obrador continues to favour two things: one, 95% loyalty and 5% knowledge, or competence, or expertise [...] and the second [...] he conceives (the Secretaries of State) [...] that they are [...] in charge of the office, [...] they are not ministers with some autonomy as in other countries [...]" (Casar, 2021b).

⁹ As cited by Mariñez (2016), the premises of this management model include transparency, accountability, and citizen participation in public affairs.

The same author warned that, despite its importance for the functioning of the democratic regime, in much of Latin America there was an absence or weakness in this type of mechanism. In many of the region's nations, the executive strives to eliminate or weaken all types of institutions linked to horizontal accountability, which seriously damages the quality of democracy (O'Donnell, 2004). Thus, in this type of accountability, there are "three essential entities: the judiciary, the legislature, and the special bodies designed for this purpose, i.e., the OCAs" (Moscoso and Villavicencio, 2021: 112). This corresponds to the approach of Ugalde (2010), who considers that, with the creation of the OCAs, whose origin is located in Europe,¹⁰ the aim was, in addition to addressing fundamental rights, to control legality and excesses in the activities of public authorities.

In agreement with O'Donnell (2004), Cárdenas (2012) indicates that the OCAs represent a strategy to boost the democracy of the traditional branches, of economic and social sectors, and of the political system in general.¹¹ Likewise, Filgueiras (2018) notes that the development of horizontal accountability organisations stimulates democracy. In this sense, it is accepted that the OCAs are those institutions created in the Constitution, which do not correspond to the typical branches of the state (legislative, executive, and judicial) and which are "depositories of state functions that are sought to be de-monopolised, specialised, streamlined, independent, controlled and/or transparent to society" (Ugalde, 2010: 254). The OCAs seek to control the branches of the government due to the clear presence of political parties in them. These are technical control bodies that are not driven by partisan or short-term criteria and act independently (Cárdenas, 2012). Its characteristics are as follows:

- a. They must be established and configured directly in the Constitution, thus having legal independence from the classic powers of the state, which translates into organic and functional autonomy. [...]
- b. Attribution of one or more primary functions of the state, implying technical autonomy, [...].
- c. Power to issue the rules that govern them (regulatory autonomy).
- d. Capacity to define their budgetary needs and to manage and use the economic resources allocated to them (financial-budgetary and administrative autonomy).
- e. They must maintain coordination relations with the other organs of the state (Ugalde, 2010: 255-256).

In the case of Mexico, before acquiring their current legal status (with which they become a public power distinct from the three typical branches) given the importance of their tasks, most OCAs were deconcentrated or decentralised bodies of the federal public administration, i.e., their functions were executed by the executive branch (Ruiz, 2017b). Thus, an OCA must stand out for its specialisation in its area and be guided by adherence to legality, not by partisan criteria (Ugalde, 2010). Therefore, according to this author, the reasons that justify their existence include: the need to have technically specialised organisations; the need to face the

¹⁰ Leal's (2016) research reviews the particular case of Spain, in addition to interesting experiences recorded in the United States and Latin America (Argentina, Chile and Venezuela).

¹¹ De Miguel Bárcena (2009) adds that the complex interaction between the state, society and the market demands the elimination of the institutional verticality of government, to give way to a horizontal governance that brings together the interests of social and business actors, in addition to those of the public administration.

harmful effects of partiocracy; the need to have institutions whose activities, essential for the state, are not subject to political circumstances; and, in the case of electoral bodies, the importance of guaranteeing impartiality in political contests.

As noted by Ruiz (2017b), starting in 1993, the year in which the Bank of Mexico received its autonomy, there was an increase in the number of OCAs. Thus, in 1996 the Federal Electoral Institute (IFE, today known as the National Electoral Institute, INE) was added to the list, and in 1999 the National Human Rights Commission (CNDH). More recently, what the author identifies as the "second generation" of OCAs in Mexico has been presented, as shown in Table 1, by the following institutions: the National Institute of Statistics and Geography (INEGI), the Federal Economic Competition Commission (COFECE), the Federal Telecommunications Institute (IFT), the National Institute for the Evaluation of Education (INEE),¹² the National Council for the Evaluation of Social Development Policy (CONEVAL), the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI), and the Federal Attorney General's Office (FGR) (Ruiz, 2017b).

Table 1: Mexico's Autonomous Constitutional Bodies

Institution	Año en recibir el estatus de OCA	Chair ¹³
Bank of Mexico [Banxico]	1993	Carlos Salinas de Gortari
National Electoral Institute [INE] (formerly Federal Electoral Institute [IFE])	1996	Ernesto Zedillo Ponce de León
National Human Rights Commission [CNDH]	1999	Ernesto Zedillo Ponce de León
National Institute of Statistics and Geography [INEGI]	2008	Felipe Calderón Hinojosa
Federal Economic Competition Commission [COFECE]	2013	Enrique Peña Nieto
National Institute for the Evaluation of Education [INEE] (eliminated in 2019)	2013	Enrique Peña Nieto
Federal Institute of Telecommunications [IFT] (formerly Federal Telecommunications Commission)	2013	Enrique Peña Nieto
National Institute for Transparency, Access to Information and Protection of Personal Data [INAI] (formerly the Federal Institute for Access to Public Information [IFAI])	2013	Enrique Peña Nieto
National Council for the Evaluation of Social Development Policy [CONEVAL]	2014	Enrique Peña Nieto
Office of the Attorney General of the Republic [FGR] (formerly Office of the Attorney General of the Republic [PGR])	2014	Enrique Peña Nieto

Source: Own elaboration based on Ruiz (2017a, 2017b) and Dacasa (2019).

¹² It was dissolved on May 15, 2019, the date on which the educational reform promoted by President López Obrador was published in the Official Gazette of the Federation. In its place, the National Commission for the Continuous Improvement of Education was created as a decentralised, non-sectorised body of the Federal Public Administration (executive branch).

¹³ Although Vicente Fox does not appear in the table, during his administration the IFAI, INEE and CONEVAL were created.

However, in the López Obrador administration the OCAs have been under constant pressure (Silva-Herzog, 2021). The work of León and Ortega (2019) exposes that the government seeks to control them; that they face criticism from the president and legislators about their legitimacy before the citizens and regarding the management of their resources; and that they seek to co-opt them by imposing in several of them people close to the president (such are the cases of the heads of the CNDH¹⁴ and the FGR), although they do not necessarily meet the capabilities required for the position. While Sanchez (2021) refers that one of the hallmarks of the current government is the fight against the OCAs, which he considers "a product of corruption and the neoliberal regime".

In addition to the aforementioned disappearance of the INEE, on January 7, 2021, the president, with the argument that "they have been very expensive for the country", indicated that he was preparing an administrative reform with the intention that the INAI¹⁵ and the IFT would become part of federal government agencies, which in addition to the loss of their autonomy, would virtually imply their elimination.¹⁶ In the case of the IFT, he mentioned that the Ministry of Communications and Transportation (SCT) could take over its functions, while those of the INAI could be assumed by the Ministry of Public Function (SFP), the Federal Superior Audit Office (ASF) or the Anti-Corruption Prosecutor's Office (IMCO, 2021). Days later, he said that they were fine-tuning a constitutional reform initiative that seeks to have the OCAs absorbed by government secretariats. To this end, he would review the specific situation of each organ with the secretaries of state to determine which bodies would be affected and which would not (Caso, 2021).

4. Methodology

In this work, desk research was carried out, analysing various documents, mainly scientific articles, books, and newspaper publications on the subject. In addition, an assessment and manipulation of figures was carried out to determine the behaviour of the indicators addressed. This division of actions gives rise to the sections presented.

¹⁴ According to Marín (2021a), since the appointment of Rosario Piedra as head of the CNDH, this institution has undergone a process of degradation that has led it to confuse the nature of the mission for which it was created.

¹⁵ This would represent a clear step backwards since this government continues to present opaque practices that justify the existence and autonomy of INAI. For example, 2019 was the year in which the most review appeals were processed against the Office of the Presidency of the Republic (513, equivalent to an increase of 817% over 2018). Also in 2019, there was a marked increase in declarations of non-existence of information requested by citizens (381, compared to 152 in 2018). Furthermore, despite the fact that between 2015 and 2019 not a single case was filed, in 2020 the Office of the Presidency declared itself incompetent 389 times to respond to requests for information (Instituto Mexicano para la Competitividad-IMCO-, 2021).

¹⁶ The most recent attack of the Chief Executive to the OCAs occurred in December 2022, when, not having the votes of two thirds of the Chamber of Deputies, his attempt at an electoral constitutional reform that would imply far-reaching changes to INE (which would violate its autonomy and would also change its name) and also to the Electoral Tribunal of the Judiciary of the Federation (TEPJF) failed. However, by means of a simple majority of the ruling party and its allies, the President's so-called "plan B", consisting of changes to the secondary laws on electoral matters, was approved. Among these, which still need to be ratified by the Senate, are the reduction of INE's structure and its reduced powers to sanction political parties (Camhaji, 2022).

The data analysis is based on information provided by the V-Dem Institute¹⁷ at the University of Gothenburg, which measures hundreds of different attributes linked to democracy. The methodology used by V-Dem is based on the opinion of experts (generally data are collected from five experts per country in the year of observation), who provide valid estimates on different concepts and cases (V-Dem Institute, 2021a). This aspect is fundamental because many key characteristics of democracy cannot be observed directly. Using the V-Dem database, we analysed and calculated the behaviour of two indicators regarding the state of democracy in Mexico over the last thirty years (1990-2020): Executive oversight and Liberal democracy index.

The year 1990 was chosen as the starting point because it is the year that inaugurates the decade in which, according to the evidence and as has been reported in several works (Castañeda, 2001; Woldenberg, 2012), the democratic transition in Mexico gained strength (a period in which, coincidentally, the so-called neoliberal period formally began in this country, which, in theory, ended in 2018).¹⁸ One of the first achievements of this process occurred in 1997, when the PRI, once the hegemonic political force, lost its absolute majority in the Chamber of Deputies for the first time, and the Party of the Democratic Revolution (PRD) won the government of the country's capital city. This conversion ended, at least in its first stage,¹⁹ with the arrival of an opposition party, the National Action Party (PAN), to the Presidency of the Republic, for the first time, in the year 2000.

4.1. Executive oversight

As pointed out by Moscoso and Villavicencio (2021), Executive oversight is an indicator of horizontal accountability, that is, the degree to which the state can hold the executive branch responsible for its actions. V-Dem (2021b) generates this index based on the following question: "If executive branch officials were involved in unconstitutional, illegal, or unethical activities, how likely is it that a body (other than the legislature), such as a comptroller general, attorney general, or ombudsman,²⁰ would question or investigate them and issue an unfavourable decision or report?".

¹⁷ V-Dem (Varieties of Democracy) produces the largest global dataset (about 30 million data) on democracy in 202 countries, from 1789 to date. In such an effort, in addition to leading researchers, more than 3,500 academics and experts from around the world participate, which makes it possible to generate new ways of studying the nature, causes and consequences of democracy, also accepting its diverse meanings (V-Dem Institute, 2021a).

¹⁸ Ruiz (2017a) rightly reminds us that, in addition, a series of changes in the institutional structure of the Mexican government began in that decade, highlighting the creation of the OCAs, whereby the traditional model of government, supported by basic functions, gave way to a more flexible design, in which they integrate other functions.

¹⁹ The observation made by Leal (2016) is true in the sense that, lacking sufficient structure (that would allow moving from a non-democratic environment to one that fully allows achieving society's goals in this matter), the transition process in Mexico cannot be considered a completed process. For this author, the OCAs represent one of the basic variables to complete this transformation, which can provide an adequate institutional framework (by creating a specific chapter in the Constitution).

²⁰ In Mexico, unlike in Spain and other Latin American countries, there is no Ombudsman's office, and the weakened CNDH is the organisation responsible for dealing with these matters. In addition to the political-administrative limitations that this entails, Leal (2016) accurately notes that this generates the term *pueblo* to be part of the demagogic vocabulary.

Responses are analysed on a numerical ordinal scale converted to interval by the measurement model,²¹ ranging from 0 to 4, where 0 means that it is extremely unlikely that a state body (primarily an OCA) would act in response to the Executive. While, respectively, ratings of 1, 2 and 3 represent an improbable, very uncertain, and probable situation; 4 expresses a certain or almost certain condition.

4.2. Liberal Democracy Index (LDI)

The LDI gauges liberal and electoral aspects of democracy based on 71 indicators included in both the Liberal Component Index (LCI) and the Electoral Democracy Index (EDI).²² EDI proposes an inspiring concept of electoral democracy, in which a series of institutional characteristics guarantee free and fair elections. It is composed of the following sub-indices: freedom of expression, freedom of association, percentage of the population with suffrage, fair elections, and elected officials (this measures the degree to which government policy is vested in elected officials).

The LCI goes further by considering the limits imposed on governments in two central aspects: the protection of individual liberties and checks and balances between institutions. In this sense, it also incorporates horizontal accountability mechanisms that ensure, as mentioned above, the existence of adequate control processes between institutions and especially those that limit the power of the executive. Thus, it is composed of the following sub-indices: equality before the law and individual liberties, judicial restrictions on the executive, and legislative limitations also on the executive (V-Dem Institute, 2021a).²³ To evaluate the components of this index, an interval scale from 0 to 1 is used, where 0, being the lowest value, indicates the non-existence of democracy, while 1 indicates absolute liberal democracy.

5. Results

5.1. Executive Insight

According to what can be seen in Graph 1, three conclusions can be drawn: 1. Starting in the first half of the 1990s, there was a notable improvement in the components of this indicator, 2. This situation continued until 2001; in the rest of that decade there was a stabilisation with high records and 3. In 2013 and 2018 there is a clear drop, but this is more alarming from 2019 onwards.

²¹ Moscoso and Villavicencio (2021) add that the V-Dem Institute (2021b) data result from ratings that are sometimes discrepant. In order to take into account these differences, this institute's database offers confidence intervals on the estimated values of each index when making the calculations. More information on data management and graphical tools can be found in V-Dem Institute (2019) and on the methodology used in V-Dem Institute (2020).

²² "The liberal principle of democracy emphasizes the importance of protecting individual and minority rights against the power of the state and the power of majorities. The liberal model has a (negative) view of political power insofar as it judges the quality of democracy by the limits imposed on government. This is achieved through constitutionally protected civil liberties, a strong rule of law, an independent judiciary, and effective checks and balances that together constrain the exercise of executive branch. For this to be a measure of liberal democracy, the index also takes into account the level of electoral democracy" (V-Dem Institute (2021b, own translation).

²³ This idea is consistent with De Miguel Bárcena (2009), who suggests that, given the multiple contextual changes, it is necessary to rethink the traditional model of government, where the functions of the state are concurrent with the new economic and political reality associated with the new liberalism (new political governance).

Specifically, during the mandate of President Carlos Salinas de Gortari (1988-1994)²⁴, despite a slight upturn in the last year of his term, very low, clearly unsatisfactory records were recorded (ranging from 0.98 to 1.28 points out of 4). Salinas, a Harvard-trained economist, emphasised the privatisation of public agencies and a model of economic and social liberalism in the design of public policies.²⁵ In doing so, he distanced himself from the ideology of revolutionary nationalism, present in previous presidents, all of them from the PRI; however, his six-year term was overshadowed by acts of corruption. During his mandate the IFE (which would later have autonomy and become the INE, as noted above) and the National Human Rights Commission were created, and the Bank of Mexico was granted autonomy (Dacasa, 2019).

Figure 1: Executive Insight in Mexico 1990-2020 by president



Source: Own elaboration through the V-Dem Institute platform (2021b).

The government of Ernesto Zedillo Ponce de León (1994-2000), also an economist with a doctorate from Yale, experienced a very notable and constant growth in this indicator, going from a score of 1.28 to 1.98. In addition to consolidating the neoliberal economic model, he promoted important changes in the administrative sphere, such as the Public Administration Modernisation Program. On the political level, it should be recognized that it accompanied the democratic transition process, which was reflected in the fact that the opposition took the power of several states and obtained, as mentioned above, a majority in Congress. But his most important legacy is that he did not interfere and recognized the results of the elections that allowed a non-PRI candidate to become president for the first time. While Zedillo was in power, the Federal Telecommunications Commission (COFETEL, which would become the IFT in 2013) was created and the CNDH was given autonomy (Dacasa, 2019).

²⁴ Until the 2012-2018 term, presidential terms in Mexico began on December 1 and ended on November 30. However, due to a constitutional reform, the current federal government (2018-2024) will end its functions on October 1.

²⁵ His government's actions include the implementation of the National Economic Solidarity Program, the signing of the North American Free Trade Agreement (NAFTA) and the enactment of the Federal Economic Competition Law.

With Vicente Fox Quesada in office (2000-2006), the Executive Insight had a significant growth, reaching 2.41 points in 2001 and 2.47 in 2003 (historical maximum), remaining at that level until the end of his mandate. Despite not meeting the great expectations surrounding his government, according to Dacasa (2019), the achievements of Fox, a business administrator with experience in the private sector, include the enactment of the Federal Law on Transparency and Access to Public Government Information, and the creation, as noted above, of the Federal Institute for Access to Public Information (IFAI, the predecessor of INAI), INEE and CONEVAL.

During the mandate of Felipe Calderón Hinojosa (2006-2012), the second PAN president, this indicator remained practically at its highest level (starting at 2.47 and closing at 2.40 points). A lawyer by profession, Calderón, like Fox, maintained economic liberalism as a hallmark of his government (it should be noted that the PAN is a party with a political ideology considered right-wing). Politically, he promoted the constitutional reform on access to public information in the three branches and levels of government, in addition to the Federal Anti-Corruption Law in Public Procurement and, as noted by Dacasa (2019), the autonomy of INEGI (formerly called the National Institute of Statistics, Geography and Informatics).

In the first years of Enrique Peña Nieto's mandate (2012-2018), a drop is observed, as the score between 2013 and 2015 is 2.10, while in 2016 and 2017 it experienced a significant recovery, placing the indicator at 2.30 and 2.33, respectively. Finally, the 1.96 points recorded in 2018 represent a further decline, under 1.98 in 2000. The beginning of Peña's mandate, a lawyer and administrator, was favourable when he signed the so-called Pact for Mexico with the different political forces of the country and bring to fruition a series of far-reaching structural reforms (education, electoral, energy and telecommunications), but it ended in a very bad way, involved in corruption cases. As a result of these reforms, the COFECCE and the IFT were created, in addition to the autonomy of the INEE, the IFAI (which in 2015 would become INAI), the CONEVAL and the Attorney General's Office (Dacasa, 2019).²⁶

However, it is during the first years of Andrés Manuel López Obrador's mandate (2018-2024) that the most severe drop in Executive Insight in Mexico is experienced, registering 1.56 points in 2019 and only 1.42 in 2020 (returning to pre-1997 levels). Undoubtedly, the actions inherent to the unipersonal and even authoritarian style of his government are reflected in these scores. In this regard, it is well known that López Obrador, who has a degree in Political Science and Public Administration, intends to influence both the legislative and judicial branches as well as the Autonomous Constitutional Bodies, in addition to protecting close collaborators linked to acts of corruption.²⁷

²⁶ Undoubtedly, the decline in this indicator is largely due to the event known as "the white house", made public in 2014 and which deals with Peña Nieto's unclear acquisition of a residence valued at 86 million pesos (7 million dollars at the time) in Lomas de Chapultepec, one of the most luxurious areas of Mexico City, from Grupo Higa, the federal government's favourite contractor at the time. In response, the then president commissioned the SFP (headed by a person close to him) to investigate the matter in order to verify that there was nothing illegal or conflict of interest. The result was discouraging for society, but predictable: Peña Nieto was finally exonerated (Cabrera et al., 2014).

Another significant event that explains the behaviour of the index under study was the scandal that arose as a result of three former executives of the firm Odebrecht claiming that Emilio Lozoya, former director of Pemex (who in addition to being a close friend of the president collaborated in his electoral campaign), received 10 million dollars in bribes between 2012 and 2016 in exchange for the signing of contracts (Lafuente, 2017).

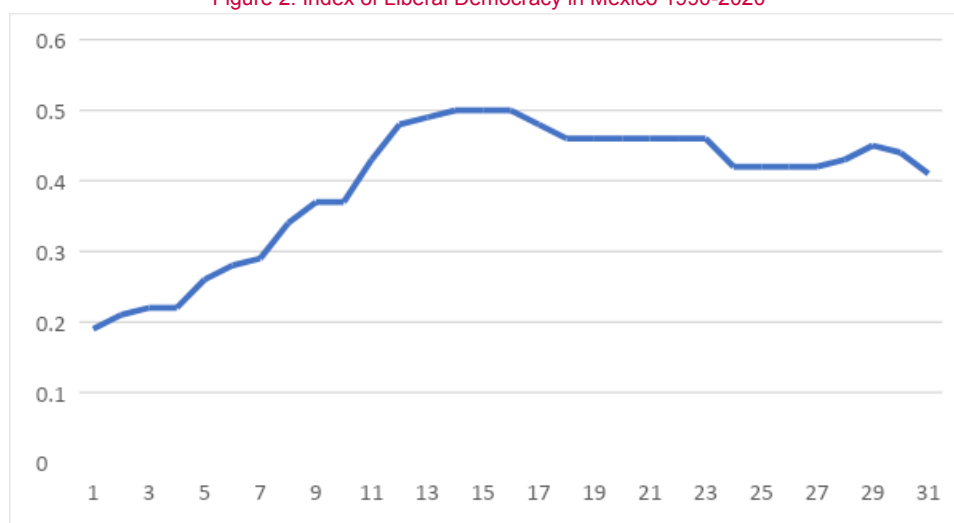
²⁷ In a recent article, Casar (2021c) states that this scourge is still present in force and in different ways, including the defense of high-level officials involved in corruption, in a government that declared that this

5.2. Liberal democracy index

Notably, the LDI results (see Figure 2) are coincident with those of Executive Insight: 1. Substantial growth throughout the 1990s, 2. The latter is maintained until the beginning of the first decade of the 2000s, and then, in general terms, it stabilised and 3. Also in 2013 there is a drop (not as marked as that of Executive insight) and, after a lapse of some increase, there is another one in 2019, and a more visible one in 2020.

Accordingly, during the Salinas de Gortari mandate, regardless of (or perhaps because of) the fact that this index was at clearly unsatisfactory levels, there was a significant increase (from 0.19 to 0.26 points). A similar situation occurred during the Zedillo mandate, where the index reached 0.43 points. Under Vicente Fox, there were also increases and in 2003 Mexico's highest score was reached (0.50 points, which is half of the scale).

Figure 2: Index of Liberal Democracy in Mexico 1990-2020



Source: Own elaboration through the V-Dem Institute platform (2021b).

phenomenon is a thing of the past. Some manifestations of this: 1. Contracts agreed by direct award recorded 80.3% at the global level, 2. In Petróleos Mexicanos (Pemex) 90% of the purchasing processes present irregularities (such as concentration in a single supplier), 3. In the Mexican Social Security Institute (IMSS), companies belonging to the family of its director were hired, 4. Contracts were awarded to Manuel Bartlett's son (head of the Federal Electricity Commission, CFE) with an 85% overprice in the commercialization of fans to face Covid-19, 5.. Bartlett himself and Olga Sánchez (former Secretary of the Interior and now President of the Senate) were exonerated by the SFP due to "inaccuracies" in their asset declarations, 6. Four files related to the mismanagement and triangulation of public resources against the National Commission of Physical Culture and Sports (Conade) were practically frozen and 7. The resources received by Pío López Obrador (action exhibited in video), which imply illegal financing for the president's own campaign. It also states that 61% of Mexicans believe that corruption is the same or worse than under the Peña Nieto government. Another case of the absence of full horizontal accountability is represented by the maneuver led by Delfina Gómez (former Secretary of Public Education and now pre-candidate for the government of the State of Mexico), when she was mayor of the municipality of Texcoco, to illegally deduct part of the salary of the 550 workers of the municipality for partisan and political-electoral purposes (Marín, 2021b).

Under Calderón there is a slight decrease, but the index closes at high levels (in relative terms), with 0.46 points. In Peña Nieto's term in office, as already noted, there is a drop in 2013 (0.42 points), but then the index grows to end at 0.45 points. Finally, with López Obrador in power, the Liberal Democracy Index has registered drops, the most notorious, as noted, in 2020 (0.41 points). This situation can be explained, as mentioned above, by the disproportionate concentration of power in the executive, which has given rise to the emergence of terms such as "hyper-presidentialism" and "mega-presidentialism".

On the one hand, there are constant attempts by the president, to promote a series of constitutional reforms that are in his interest, to subjugate the bodies of the judicial branch through pressure and criticism of its representatives.²⁸ According to several analysts, this is a clear violation of the independence of branches (Manetto, 2021; Cossío, 2021b). On the other hand, it is even more notorious that the submission of the legislative branch (particularly the lower house), particularly the Morena benches and the parties with which it is allied (Labor Party and Green Party), to the representative of the executive branch. A paradigmatic case in this sense is represented by the fact that legislators did not "change a single comma", as was also pointed out, to the oil and electricity reform initiatives proposed by the President of the Republic (Jiménez, 2021b; Villa et al., 2021).

6. Conclusions

Referring originally to the 1990s, Cárdenas (2012) pointed out that the rule of law was not a complete reality in the Mexican republic. Despite the democratic advances experienced in recent years, what has been presented in this research allows us to corroborate that the rule of law does not fully exist and is very much in question in Mexico today. To a large extent this is so because one of its inescapable requirements is the clear separation of powers, a condition that, at present, as we have seen, is visibly eroded. Following Soto's (2020) classification, the Mexican political system can be generally classified as democratic but given that no democracy can operate if it is not supported by the rule of law, the quality of Mexican democracy suffers a clear process of degradation that is proven by the indicators presented.

In this sense, it is no coincidence that there has been a clear drop for Mexico as of 2018 in the Executive insight index presented by V-Dem Institute, which, as explained, is a key indicator of horizontal accountability and with a trend, moreover, that is not at all favourable. Something similar happens with the Liberal Democracy index, where after a slight upturn in that same year, there has been a declining tendency in the following years. In addition to the attacks registered against institutions and the democratic life of the country, including repeatedly the INE (Marcial, 2021), it is understood that the low score registered in the Executive insight in some way explains those of the Liberal Democracy index, due to its strong positive correlation (Moscoso and Villavicencio, 2021).

This is consistent with the warning of O'Donnel (2004), who noted that in Latin America the executive branches are inclined to disappear or undermine the bodies responsible for horizontal accountability, which in turn undermines the quality of democracy. Unfortunately, this scenario is being played out in Mexico and

²⁸ "Unfortunately, the judiciary is rotten. There are honourable exceptions, not to generalize, but judges, magistrates, ministers, are at the service of vested interest groups and have a very conservative, ultra-conservative mentality" (Andrés Manuel López Obrador, quoted by Cossío, 2021b).

undoubtedly corresponds to the return to the country of the manifestation identified as hyper-presidentialism. Apart from the inadequate metaconstitutional powers, it was shown, according to Cárdenas (2012), that the president has too many powers in various substantive matters (including the appointment of the heads of the OCAs); we now see that this researcher was not wrong.

Contrary to the observed practice of diminishing the capacities and structures of the OCAs, which has even led to their dissolution, or their functions being absorbed by the federal government, political science suggests that these institutions must be strengthened to inhibit the abuse of power by the executive (Molina, 2021) and foster democratic consolidation in Mexico (Leal, 2016). This is true because the OCAs, regardless of the aspects that need to be amended, promote liberal principles such as democracy along with economic openness and liberalization; suppressing them means going back to the past and encouraging conservatism. In this sense, the fact that the INEE was transformed into a public administration body and the intention to do the same with the INAI and the IFT, indicates, in addition to a setback in horizontal accountability, that a government vision prevails, not a state vision.

The evidence also indicates that, given the display of power shown by the current executive branch, together with the opacity in its management and the still high incidence of corruption cases, the existence of OCAs such as INAI is more than justified. Without them, as indicated above, horizontal accountability processes would be very limited in scope (the responsible bodies would be judge and jury) and there would not be sufficient counterweights to government excesses. But we must go even further, therefore, one proposal of this research is for the SFP, following the example of other countries, such as Ecuador (where it is called the Comptroller General of the State),²⁹ to be transformed into an OCA; that is, into a state, non-governmental organization. Otherwise, the most complex cases under its jurisdiction, those that concentrate the interest of public opinion, will be resolved, as we have seen, with discouraging results.

On the other hand, it must be recognized that the most important limitation of this research was the impossibility, due to the health crisis we are going through, of doing fieldwork to gather impressions from public officials involved in horizontal accountability tasks. In this sense, it is necessary to carry out another study in the short term that, in addition to incorporating such considerations in order to grade the results, will allow us to explain the behaviour of the indexes studied. This is relevant in academic terms because, given the political situation we live in, as indicated by Cárdenas (2012: 26): "the state more than ever needs democracy to function rationally and legitimately".

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²⁹ Furthermore, the Ecuadorian experience is also useful for correcting evident errors in the design and operation of this type of institutions (Moscoso and Villavicencio, 2021).

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