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**The Fall of the Dominant Presidency:
Lawmaking Under Divided Government
in Mexico**

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Abstract

Transition from authoritarianism to democracy involved the dismantling of the hegemonic party system. Through a long and complex process that gained momentum after the 1988 presidential elections, the political hegemony of a single party gave way to a competitive three-party system. This development changed the balance of power within Congress and the role of the executive branch in the policy-making process, even before the old hegemonic party lost the presidency of the Republic in 2000. Given the mixed-member system through which the Chamber of Deputies and the Senate are elected, divided government is likely to be the regular mode of operation of the Mexican democracy in the future. What has been the effect of divided government on the balance of power? The argument advanced in this article is that democratization undermined the conditions that made centralization of power in the presidency possible. Divided government turned Congress into an autonomous decision-making center. As a consequence, the source of policy change returned to Congress. To be true, the Mexican president still retains a significant influence on policy-making. However, the dominant presidency has certainly ceased to exist.

Resumen

La transición del autoritarismo a la democracia involucró el desmantelamiento del sistema de partido hegemónico. A través de un largo y complejo proceso que adquiere ímpetu después de las elecciones presidenciales de 1988, la hegemonía política de partido único dio lugar a un sistema competitivo de tres partidos. Este desarrollo cambió el balance de poder en el Congreso y el papel de la rama ejecutiva en la hechura de políticas incluso antes de que el partido hegemónico perdiera la presidencia de la República en el año 2000. Considerando el sistema mixto de elecciones a través del cual la Cámara de Diputados y el Senado son electos, un gobierno dividido parece ser el modo regular de operación de la democracia mexicana en el futuro. ¿Cuál ha sido el efecto del gobierno dividido en el balance de poder? El argumento de este artículo es que la democratización mina las condiciones que hicieron posible la centralización del poder en la presidencia. El gobierno dividido convirtió al Congreso en un centro autónomo de toma de decisiones. En consecuencia, el origen del cambio en políticas se encuentra en el Congreso. Cabe mencionar que el presidente mexicano todavía retiene una influencia significativa en la hechura de políticas. Sin embargo, la presidencia dominante ha dejado de existir.

Introduction

The Mexican authoritarian regime had two distinctive features: the hegemony of a single political party, the Institutional Revolutionary Party (PRI), and concentration of power in the presidency (Padgett 1976; Cosío Villegas, 1972). Throughout decades, the PRI monopolized access to elective offices and to appoint positions in the federal, state and municipal governments. The federal chief executive, as *de facto* leader of the hegemonic party, had an enormous leverage over the other constitutional organs involved in the policy making process. Formally, the constitution provided for the separation of the executive and legislative branches of government, but in practice Congress was subordinated to presidential authority (González Casanova, 1967; Carpizo, 1977; Weldon, 1997; Casar, 2002).

The Mexican authoritarian regime had an enormous capacity to produce policy changes. Sometimes, the magnitude and speed of these changes took on a dramatic character, as when the government expropriated the oil industry in 1938 or the banking system in 1982. The presidency had the ability to deliver “policy shocks” in response to critical situations (Philip, 1992). Under normal circumstances, the chief executive had the power to bring about substantive policy change even when this involved the amending of the Constitution. As a matter of fact, Congress had certain influence, but was unable to stop the president (Padgett, 1976).

Transition from authoritarianism to democracy involved the dismantling of the hegemonic party system. Through a long and complex process that gained momentum after the 1988 presidential elections, the political hegemony of a single party gave way to a competitive three-party system (Lujambio, 2000). This development changed the balance of power within Congress and the role of the executive branch in the policy-making process, even before the old hegemonic party lost the presidency of the Republic in 2000.

In the 1997 mid-term election, the PRI lost its majority in the Chamber of Deputies for the first time since its foundation in 1929¹. Alternation of parties in the presidency further dispersed power within Congress. In 2000, the candidate of the center-right opposition National Action Party (PAN), Vicente Fox, won the presidency but the party failed to win the majority in Congress. Even more, the old hegemonic PRI remained as the largest political force in both the Chamber of Deputies and the Senate.

With the defeat of the PRI in the 2000 election, Mexico completed its transition from authoritarianism to a presidential democracy operating under divided government. Given the mixed-member system through which the

¹ The original denomination of the party that ruled Mexico from 1929 to 2000 was the National Revolutionary Party (PNR). In 1937 it changed its name to Mexican Revolutionary Party (PMR). It adopted its current denomination in 1946 (Garrido, 1982; Lajous, 1979).

Chamber of Deputies and the Senate are elected, divided government is likely to be the regular mode of operation of the Mexican democracy in the future. What has been the effect of divided government on the balance of power?

The argument advanced in this article is that transition to democracy undermined the conditions that made centralization of power in the presidency possible. Divided government turned Congress into an autonomous decision-making center. As a consequence, the source of policy change returned to Congress. To be true, the Mexican president still retains a significant influence on policy-making. By appealing directly to public opinion and wielding the executive veto power, the president can bring on congressional action and shape the content of legal change. But the dominant presidency has certainly ceased to exist.

The missing condition

The comparative study of the constitutional powers of chief executives in presidential regimes shows that the Mexican president is one of the least powerful in Latin America (Shugart and Carey, 1992; Mainwaring and Shugart 1997; Shugart and Haggard 2001). The constitutional instruments of the Mexican president to induce congressional action and mold policy outcomes are limited in comparison to other presidential regimes.

Throughout decades of single-party hegemony, concentration of power in the presidency was a regular practice in Mexican politics. Scholarly research shows that the source of this practice was not the Constitution itself, but a group of meta-constitutional factors sustained by the long-lasting hegemony of a single party (Carpizo, 1977; Weldon, 1997; Casar 2002). However, the development of a competitive party system undermined the conditions that made the meta-constitutional practice of a dominant presidency possible. Democratization did away with one of the necessary conditions for concentration of power within Mexico's presidential constitution: unified government.

Shugart and Haggard (2001) build an indicator of presidential power based on four constitutional instruments designed for presidents with the legislature: package veto, partial veto, decree authority and the exclusive initiation of legislation. They grant the highest possible value of eight to those presidents having the four instruments at their disposal. If the president has none of these powers the value of the indicator is zero.

The most powerful chief executive in Latin America is the Argentine president, followed by Chile, Colombia, Peru and Brazil. The countries in which, according to the powers of the executive branch to influence the law making process, the president plays a marginal role in the policy-making process are Nicaragua, Paraguay and Venezuela. The indicator for the Mexican presidency is one, which places it in the category of potentially marginal

presidencies. The most powerful instrument the Mexican president has in dealing with Congress is his veto power.

Even the veto power of the Mexican president seems quite limited in comparison with that of other Latin American presidents. The Argentine Constitution, for instance, provides the president with the power to partially veto bills passed by Congress. The partial veto allows the Argentine president to return to Congress the parts of a bill he objects to and promulgate the rest. In Mexico, the president has only the package veto. Although the Constitution allows the president to make observations to bills passed by Congress “on the whole or to parts of it”, he can only promulgate bills as they come from Congress.

What is more significant, the Mexican Constitution does not provide the president with any agenda-setting powers. Certainly, the president has the authority to initiate legislation. However, Congress has no constitutional obligation to pronounce itself on bills introduced by the president. In fact, except for the budget, executive initiated legislation goes through the same procedure as any other bill.²

In contrast, a number of Latin American presidents including Argentina, Brazil, Colombia, Ecuador and Peru, have the power to issue executive decrees and temporarily modify existing legislation without congressional consent. The Chilean president cannot issue executive decrees with full force of law, but has -together with the authority to introduce legislation- the power to declare bills “of urgent resolution” and to force Congress to vote on them within a certain number of days (Siavelis, 2000).

In the case of the budget, the Chilean president does not only have the exclusive authority to introduce the budget bill, also the executive proposal has a special constitutional status: it becomes the reversion point in the negotiation between Congress and the president. The executive’s budget proposal becomes law if Congress fails to produce a budget bill within the time accorded by the Constitution or if the president vetoes the congressional version of the budget and the Congress fails in its attempt to override the veto. In contrast, the Mexican president has the exclusive authority to initiate the budget bill, but once in the Congress, his powers to shape the outcome are very limited.³

² The standing orders of the Mexican Congress stipulate that standing committees have the obligation to report on bills within five working days after referral. However, the absence of enforcement mechanisms has rendered this provision totally ineffective.

³ In Mexico, the budget involves two different bills each one going through distinct legislative procedures. Firstly, there is the public revenues bill that has to be approved by the Chamber of Deputies and the Senate. Secondly, there is the budget bill dealing with government expenditures. The Chamber of Deputies has the exclusive prerogative to approve the budget bill (Weldon, 2002). This special procedure raised a long-lasting controversy among constitutional scholars about whether the budget bill was immune to the presidential veto or not (Tena Ramírez, 1987; Valades and Lujambio, 2000). Finally, president Fox challenged this academic interpretation of the Constitution in December 2005, after the Chamber of Deputies decided to ignore his observations to the budget

How was it possible that a president with constitutional powers so limited had a dominant role in the policy-making process? According to Weldon (1997), there were three conditions that made the dominant presidency possible. The first one was “unified government” –control of the single party over the presidency of the Republic and the majority in both chambers of the Congress-. The second condition was party discipline –the capacity of the congressional PRI to vote as a single bloc in both chambers of the Congress-. Finally, the third condition was presidential leadership over his party which specifically meant that the president had the ability to define the party position and the resources to sanction uncooperative behavior within the congressional PRI.

The three necessary conditions were first met in the late 1930s with the consolidation of the single-party authoritarian regime. In fact, the dominant presidency was the constitutional expression of the hegemony of a single political party (Casar, 2002). As the *de facto* leader of the PRI, the president was able to influence congressional decisions in a much more thorough way than any constitutional power would have allowed. In his hands not only lie the appointment to all administrative positions in the federal government, but also the nomination of the candidates of the PRI to elective office in the federal, state and municipal governments. The ability of Mexican presidents to dispense patronage was in itself impressive enough, but within a context in which the Constitution prohibited federal and state legislators to run for reelection in consecutive terms it meant that the chief executive had control over the immediate political survival of congressmen (Nacif, 1997, 2002).

As the hegemony of a single political party waned, the Mexican president lost most of his meta-constitutional powers. The transformation of the party system that took place between 1988 and 1997 was the main source of change in constitutional practice. During this period, the PRI lost its hegemonic position and gave way to a competitive party system. The opposition, mainly the PAN and the center-left Party of the Democratic Revolution (PRD), experienced substantial growth both in their share of the national vote and in their share of congressional seats.

The 1997 mid-term congressional elections were a turning point in this process. The PRI suffered a 10 percent fall in voter support and lost its majority in the Chamber of Deputies for the first time since its foundation as the National Revolutionary Party (PNR) in 1929. The PRI fell 13 seats short of the majority in the Chamber of Deputies, but managed to cling to its majority in the Senate.

The loss of the PRI congressional majority had an enormous impact on the constitutional balance of power. It did away with the first of the three

bill. The Supreme Court settled the controversy by upholding the power of the president to veto to the budget bill (Constitutional Controversy 109/2004, May, 17 2005).

necessary conditions -unified government- for concentration of power in the presidency (Weldon, 1997). In effect, with divided government the partisan powers of the president became insufficient to forge lawmaking majorities in the legislature. The sharing of the legislative power between several parties forced the president to negotiate his legislative program with the opposition. Opposition parties became pivotal players with the ability to block the president and his party in any attempt to change the legislative *status quo*.

The 2000 elections brought about alternation of power in the presidency of the Republic after 70 years of uninterrupted control by a single political party. Also, the long-lasting grip of the PRI over the Senate came to an end. But, despite the enormous significance of these changes, the 2000 elections reinforced rather than altered the constitutional balance of power established in 1997.

On the one hand, dispersion of power away from the party of the president was taken one step further. The size of the legislative contingent of the PAN after 2000 was even smaller than the legislative contingent of the PRI during the second half of the Zedillo administration. In 1997, the PRI lost its majority in the Chamber of Deputies, but retained its position as first political force. Even more, president Zedillo had the support of a PRI majority in the Senate up until the end of his administration. In contrast, the legislative contingent of the PAN was reduced to second political force in both chambers of Congress.

Dispersion of power remained within certain limits as to allow the president and his party to maintain its position as a veto point in the lawmaking process. By controlling one third of seats in the Chamber of Deputies and the Senate, the PAN was able to sustain the veto power of the president and prevent opposition parties from imposing legislative change on his administration.

Changing patterns in lawmaking

The analysis of the constitutional powers of the Mexican president shows that, in the absence of unified government, the dominant presidency ceases to exist. Divided government made its first appearance in Mexican politics in 1997, but dispersion of power away from the party of the president has continued ever since. Yet, it still remains unclear what kind of empirical evidence we need to confirm this change in constitutional practice.

The most important indicator proving the end of the dominant presidency in Mexico is the contribution of the executive branch to the total volume of legislation. What this indicator shows is that under unified government the president was the agenda setter and the role of Congress was reduced to that of revising and approving executive-initiated legislation; whereas under

divided government the initiative returns to Congress and the president ceases to be the main source of legislative change.

The data for this study are bills (processed both) in the Chamber of Deputies and the Senate during the last four legislatures between 1991 and 2003. The sources used for the Chamber of Deputies are *Cuadernos de Apoyo* (Sistema Integral de Información y Documentación de la Cámara de Diputados) and *Gaceta Parlamentaria de la Cámara de Diputados*. *Cuadernos de Apoyo* is a periodical publication that compiles information about bills presented and processed through the Chamber of Deputies. Its own sources are *Diario de Debates de la Cámara de Diputados*, *Diario Oficial de la Federación* and *Gaceta Parlamentaria*. Since this series does not cover the 58th Legislature (2000-2003), the source used for this period was *Gaceta Parlamentaria*. The *Gaceta* is an electronic publication (<http://gaceta.diputados.gob.mx>) updated periodically by the *Secretaría de Servicios Parlamentarios de la Cámara de Diputados*. The sources of data for the process of legislation in the Senate are the *Diario de los Debates del Senado de la República* for the period from 1991 to 2000 and the webpage of the Mexican Senate (www.senado.gob.mx) for the period from 2000 to 2003.

The sources used in this study register bills initiated in each chamber and follow them through the two legislative stages within the originating chamber: committee stage and the plenary. At committees, bills can be ignored, rejected or reported back to the plenary (with or without amendments). In the plenary, committee reports can be approved (with or without amendments), rejected or returned to committees. Legislative initiatives do not reach the plenary as they were originally presented. Often, committee reports deal with more than one initiative. Occasionally, committees split bills into several parts and report on them separately.

The sources used in this study allow for the creation of a time series from 1991 to 2003 covering the last four legislatures. The first two legislatures of the series (1991-1997) operated under unified government with the PRI controlling the presidency and both chambers of Congress. The last two legislatures in the series (1997-2003) operated under divided government, although the PRI retained the presidency and the Senate majority up to 2000. In fact, the 58th Legislature (2000-2003) is the first one in which no single-party majority was controlling neither the Senate nor the Chamber of Deputies.

The data used for this study for the Chamber of Deputies differ from data reported by previous research on the legislative process such as Nava, Weldon and Yañez (2000), Casar (2001) and Weldon (2004). The advantages of using the *Cuadernos de Apoyo* and the *Gaceta Parlamentaria* are twofold: the

database is available to the public and allows us to continue the time series up to end of the 58th Legislature (2000-2003).⁴

Tables 1 and 2 respectively show the number of bills initiated in and approved by the Chamber of Deputies and the Senate in each of the last four legislatures. The data is disaggregated according to the source that initiated the legislation. The Mexican Constitution grants the authority to initiate federal legislation to three possible sources: members of Congress (deputies and senators), the president and state legislatures⁵. In each cell there is a figure in parenthesis indicating the percentage that the number of bills represents with respect to the total that appears at the bottom of each column.

Bills initiated by the members of each chamber are broken down according to the congressional party they belong to. Bills initiated by legislators from more than one congressional party appear under the category of joint bills. Bills that appear under the opposition category include the legislation initiated by all parties except the party of the president and joint bills. This is an indicator of the amount of legislation initiated by the opposition and approved by each chamber.

Some kind of legislation has been excluded from the data reported in tables 1 and 2. The figures in both tables consist of only bills for which each chamber –the Chamber of Deputies in table 1 and the Senate in table 2– was the “chamber of origin” with the other one playing the role as “revising chamber”. Table 1, for instance, excludes bills passed by the Senate that reached the Chamber of Deputies for revision as Senate drafts (*minutas*). Drafts of the Chamber of Deputies are also excluded in table 2. Finally, the data reported in tables 1 and 2 take into account only bills involving changes in law statutes and constitutional amendments, leaving out permits and symbolic legislation.⁶

There are important limitations in the data presented in tables 1 and 2. One of them is that by attaching the same value to each bill, the data conceals important differences in significance. Another limitation is that the data ascribes approved bills to its original source without taking into consideration the number of amendments they might have been subjected to during the process of legislation. These limitations notwithstanding, the data reveals changes in lawmaking patterns, which reflect the transformation in

⁴ Nava, Weldon and Yañez (2000) and Casar (2002) report only partial information about the 57th Legislature (1997-2000), the first to operate under divided government. Nava, Weldon and Yañez (2000) gathered their data directly from the *Diario de Debates* de la H. Cámara de Diputados.

⁵ Including the Asamblea Legislativa del Distrito Federal, which can only initiate legislation pertaining to the government of Mexico City.

⁶ Table 2 also leaves out international treaties. This is a kind of legislation that goes through a special procedure. The president of the Republic has the exclusive authority to negotiate international treaties and submit them for ratification to the Senate. The Senate deals with international treaties on strictly closed rules; it can only ratify or fail to ratify international treaties, but no amendments are allowed. The Constitution requires only a single majority in the Senate to ratify international treaties.

executive-legislative relations over the period when Mexico moved from single-party hegemony to divided government.

There are large differences between the number of bills initiated and the number of bills passed by the Chamber of Deputies. These differences reflect that the process of legislation begins truly at committee stage, where the fate of a bill is decided. Standing committees are formally the agenda setters in each chamber, for what is debated and voted upon on the floor are committee reports, not the original bills. A large proportion of bills, ranging from 40 to 77 percent in the Chamber of Deputies throughout the four legislatures, died off at committee stage without ever reaching the floor. In the Senate, the proportion of bills dying at committee stage was as much as 87 percent in the 58th Legislature (2000-2003).

Table 1

Bills initiated in and approved by the Mexican Chamber of Deputies (1991-2003)^b

SOURCE	55 TH LEGISLATURE		56 TH LEGISLATURE		57 TH LEGISLATURE		58 TH LEGISLATURE	
	1991-1994		1994-1997		1997-2000		2000-2003	
	Initiated	Approved	Initiated	Approved	Initiated	Approved	Initiated	Approved
Executive	124 (51)	122 (82)	84 (33)	83 (77)	32 (5)	28 (20)	61 (5)	50 (18)
Deputies	117 (48)	26 (17)	165 (66)	24 (22)	549 (91)	108 (79)	1060 (88)	210 (76)
<i>PRI</i>	30 (12)	11 (7)	19 (8)	7 (6)	86 (14)	15 (11)	306 (25)	54 (20)
<i>PAN</i>	26 (11)	4 (3)	79 (31)	8 (7)	168 (28)	31 (23)	265 (22)	65 (24)
<i>PRD</i>	32 (13)	2 (1)	45 (18)	3 (3)	157 (26)	20 (15)	294 (24)	45 (16)
<i>PT</i>	-	-	8 (3)	3 (3)	23 (4)	7 (5)	41 (3)	6 (2)
<i>PVEM</i>	-	-	-	-	44 (7)	8 (6)	74 (6)	14 (5)
<i>CDPPN</i>	-	-	-	-	-	-	6 (0)	0 (0)
<i>Other parties</i>	18 (5)	1 (1)	0 (0)	0 (0)	0 (0)	0 (0)	21 (2)	0 (0)
<i>Joint</i>	10 (4)	8 (5)	2 (1)	1 (1)	61 (10)	25 (18)	42 (3)	25 (9)
<i>Independent</i>	1 (0)	0 (0)	12 (5)	2 (2)	10 (2)	2 (1)	11 (1)	1 (0)
<i>OPPOSITION</i>	77 (31)	7 (5)	144 (57)	16 (15)	402 (66)	68 (50)	732 (61)	120 (44)
State leg. ^b	2 (1)	1 (1)	2 (1)	1 (1)	25 (4)	1 (1)	86 (7)	15 (5)
Total	243 (100)	149 (100)	251 (100)	108 (100)	606 (100)	137 (100)	1207 (100)	275 (100)

Source: Sistema Integral de Información y Documentación de la Cámara de Diputados for the period from 1991 to 2000 and Gaceta Parlamentaria (<http://gaceta.cddhcu.org.mx>) for the 58th Legislatura (2000-2003).

Note: Percentages are in parenthesis.

^a The data includes legislative bills originated in the Chamber of Deputies. Permits, symbolic legislation and bills originated in the Senate were excluded.

^b Including the Asamblea Legislativa del Distrito Federal.

Table 1 shows the different operation of the Chamber of Deputies under unified government and under divided government. When the PRI had the majority in both chambers of the Congress (the 55th and the 56th legislatures), executive-initiated legislation represented between 82 and 77 percent of the total volume of bills approved by the Chamber of Deputies. The contribution of the executive branch to the total volume of legislative production

surpassed by far that of the other sources taken together, including the congressional PRI.

The overwhelming contribution of the executive branch confirms presidential leadership over the congressional PRI. Leadership involves delegation. The degree to which the congressional PRI delegated lawmaking authority to the executive branch was substantial. Most of the legislation enacted by the Congress was drafted in executive departments. As table 1 shows, deputy-initiated legislation represented only between 17 and 22 percent of the total number of bills approved by the Chamber of Deputies from 1991 to 1997.

The contribution of the PRI parliamentary fraction to the total volume of legislation ranged from 6 to 7 percent, even though they had the majority of votes in the Chamber of Deputies. Even more, only a third of the bills initiated by the congressional PRI were approved, which suggests that PRI legislators were not the agents in charge of drafting the party's legislative program.

Table 1 also shows that under unified government opposition parties were disallowed to interfere with the government's legislative program. Even though opposition parties initiated a significant amount of legislation, the bills introduced by the opposition seldom went beyond committee stage. Legislative bills initiated by opposition parties ranged from 31 to 57 percent, but their contribution to the total volume of legislation produced by the Chamber of Deputies was only 5 and 15 percent.

In sum, table 1 confirms that under unified government PRI congressional majorities limited the role of the Chamber of Deputies to that of revising and approving the legislative program as defined by the administration. The president was in fact not only chief executive but chief legislator as well. As a consequence, a centralized policy-making model prevailed; one in which the executive branch defined the content of policy change, with very little contribution from other actors.

Table 1 also shows that the impact of divided government on the process of legislation has been very significant; the Chamber of Deputies took back much of the territory relinquished to the executive branch under unified government. Under divided government, the Chamber of Deputies has experienced an unprecedented surge in legislative activism. The volume of deputy-initiated legislation increased from 117 and 165 bills during the last two legislatures under PRI rule to 549 and 1060 for the first two legislatures under divided government. What is more important, the contribution of deputy-initiated legislation to the volume of legislation passed by the Chamber of Deputies, which oscillated between 17 and 22 percent from 1991 to 1997, grew to 79 and 76 percent for the first two legislatures under divided government.

Much of the legislative activism displayed by the Chamber of Deputies after 1997 stems from opposition parties. The number of bills introduced by opposition parties increased substantially at the same time that the number of executive-initiated legislation went down. All actors made an adjustment in their lawmaking behavior as the balance of power changed. Opposition legislators anticipated that their capacity to influence the process of legislation had increased substantially. Accordingly, they responded by introducing bills in areas of legislation which were exclusively reserved to the executive.

But more significantly, the opposition parties became relevant of legislative change. Under PRI rule the contribution of opposition-initiated bills to the total volume of legislation ranged from 5 to 15 percent. This indicator soared to 50 and 44 percent during the first two legislatures under divided government. The significance of this change can hardly be exaggerated. Under divided government, the contribution of opposition parties to the total volume of legislation has been larger than that of the president and his party taken together

On the contrary, anticipating that the probability of his initiatives to be reported by committees and voted through on the floor of the Chamber of Deputies had decreased, president Zedillo reduced the number of bills he sent to Congress. During the second half of his administration, the number of executive-initiated bills dropped from 84 to 32. The legislative agenda of the administration increased quite notably as president Fox took office in 2000, but it still remained far below the levels that prevailed under unified government.

The most important indicator of the impact of divided government on the constitutional balance of power is perhaps the contribution of the executive branch to the total volume of legislation produced by the Chamber of Deputies. In the last two legislatures in which the PRI had the majority, executive-initiated legislation represented from 82 to 77 percent of the total number of bills passed by the Chamber of Deputies. As the PRI lost its majority in 1997, this indicator fell to 20 percent. During the first half of the Fox administration executive-initiated legislation represented a mere 18 percent of the total volume of legislation. Clearly, under divided government the president is no longer chief executive and chief legislator.

Table 2 shows the process of legislation in the Senate from 1991 to 2003. During this period, the Senate went through a transformation that affected its size, the institutions regulating access to office and the partisan balance of power. In 1994, the size of the Senate doubled with the introduction of two extra seats for each federal state; three to be accorded to the party winning the plurality in the state, and one to go to the “first minority” -the second-ranking party at state level.

Another constitutional reform in 1996 introduced the current system, according to which there are three Senate seats for each of the 32 federal states and a national circumscription of 32 Senate seats. Of the three seats disputed at state level, two are accorded to the party winning the plurality and the remaining one goes to the first minority. The 32 seats disputed at national level are distributed following proportional representation and largest remainder (Molinar and Weldon 2001; Diaz-Cayeros 2005).

As a consequence of changes in institutional design and the growth of electoral support for opposition parties, PRI control over the Senate decreased from 1991 to 2000. In the 55th and 56th legislatures, the PRI had more than 70 percent of the Senate seats. In 1997, when the period of divided government began due to the collapse of the PRI majority in the Chamber of Deputies, the PRI was still able to cling to its majority in the Senate. The 58th Legislature (2000-2003) was the first one without a clear PRI majority in the Senate.

Table 2

Bills initiated in and passed by the Mexican Senate (1991-2003)^a

SOURCE	55 TH LEGISLATURE		56 TH LEGISLATURE		57 TH LEGISLATURE		58 TH LEGISLATURE	
	1991-1994		1994-1997		1997-2000		2000-2003	
	Initiated	Passed	Initiated	Passed	Initiated	Passed	Initiated	Passed
Executive	40	40	23	23	18	17	23	15
	(89)	(93)	(28)	(100)	(15)	(42)	(5)	(29)
Senators	5	3	47	0	96	22	403	36
	(11)	(7)	(57)	(0)	(82)	(55)	(91)	(71)
<i>PRI</i>	1	1	5	0	32	13	171	18
	(2)	(2)	(6)	(0)	(27)	(32)	(39)	(35)
<i>PAN</i>	-	-	33	0	41	4	74	7
	-	-	(40)	(0)	(35)	(10)	(17)	(14)
<i>PRD</i>	3	1	5	0	19	2	62	1
	(6)	(2)	(6)	(0)	(16)	(5)	(14)	(2)
<i>PVEM</i>	-	-	-	-	-	-	59	5
	-	-	-	-	-	-	(13)	(10)
<i>Joint</i>	1	1	5	0	4	3	37	5
	(2)	(2)	(6)	(0)	(3)	(7)	(8)	(10)
OPPOSITION	3	1	38	0	60	6	292	24
	(6)	(2)	(46)	(0)	(51)	(15)	(66)	(47)
State leg.^b	0	0	12	0	3	1	0	0
	(0)	(0)	(14)	(0)	(3)	(2)	(0)	(0)
Total	45	43	83	23	117	40	441	51
	(100)	(100)	(100)	(100)	(100)	(100)	(100)	(100)

Source: Senado de la República, Dirección General de Archivo Histórico y Memoria Legislativa, *Diario de los debates*, 1875-2000, (Mexico D.F., 2004) for the period 1997 to 2000 and <http://www.senado.gob.mx/mesa> and <http://sil.gobernacion.gob.mx> for the 58th Legislature.

^a The data includes legislative bills originated in the Senate. Permits, symbolic legislation and bills originated in the Chamber of Deputies were excluded.

^b Including the Asamblea Legislativa del Distrito Federal.

Table 2 reflects these changes in the partisan balance of power. During the 55th and 56th legislatures, a period of complete PRI dominance, the executive branch controlled the process of legislation in the Senate. Executive-initiated legislation represented between 93 and 100 percent of the total number of bills passed by the Senate. Truly, the role of the Senate was merely revising and approving the legislative program of the president.

The contribution of senator-initiated legislation to the total volume of bills passed by the Senate was rather marginal during the period of PRI dominance. The PRI majority in the Senate seemed to have relinquished any independent contribution to the lawmaking process delegating all the initiative to the executive branch. PRI senators seldom initiated legislation at all. The opposition was too small to make a significant contribution. When it grew, as in the 56th Legislature (1994-1997), the volume of senator-initiated legislation increased. But, opposition parties in the Senate were still too weak to push their proposals through committee stage.

The process of legislation in the Senate changed significantly as the PRI lost its majority in the Chamber of Deputies and the size of the opposition in the upper chamber increased in 1997. Even though the PRI retained its majority in the Senate, its ability to control decision making in this body diminished. Since the passage of Senate drafts through the Chamber of Deputies required the forging of multiparty coalitions, the PRI majority in the Senate had to agree to a much greater involvement of the opposition in the lawmaking process.

As a consequence, the ability of the president of the Republic to set the legislative agenda and direct the lawmaking process in the Senate plummeted. The contribution of executive-initiated legislation to the total number of bills passed by the Senate dropped to 42 percent in the 57th Legislature (1997-2000), even though the president managed to get through most of his proposals.

On the contrary, the contribution of senator-initiated bills to the total volume of legislation passed by the Senate surged to 55 percent. Surprisingly, this change was mainly the result of greater participation of PRI senators in the process of legislation. The number of bills initiated by PRI senators grew notoriously after 1997, and so did their contribution to the total volume legislation. Clearly, PRI senators were cutting down on delegation of lawmaking authority to the president. As congressional politics grew in complexity it was no longer possible to run the process legislation from the executive departments.

The 2000 elections furthered dispersion of power within the Senate and, as a consequence, the process of legislation became much similar to that of Chamber of Deputies under divided government. In the 58th Legislature (2000-2003), the contribution of executive-initiated legislation to the total volume of bills passed by the Senate continued to fall to a mere 29 percent. At the

same time, the contribution of legislation initiated by senators continued to grow reaching the unprecedented level of 71 percent.

What makes the 58th Legislature in the Senate different from the past was the strength of the opposition. With the party of president Fox –the PAN– reduced to a second political force, decision making in the Senate was in the hands of an opposition commanded by the old hegemonic PRI. The PRI and its ally, the PVEM, which together had a slim majority in the Senate, contributed with 45 percent of the total number bills passed by this chamber –above the 43 percent mustered by the president and his party taken together.⁷

The Senate experienced the same kind of legislative revival as the Chamber of Deputies under divided government. The amount of senator-initiated legislation grew from 5 bills in the 55th Legislature (1991-1994) to 403 in the 58th Legislature (2000-2003). Most of the new legislative activism sprung from the opposition. Opposition parties initiated 66 percent of bills introduced to the Senate in the period from 2000 to 2003. But the PAN also displayed a considerable amount of legislative activity. It initiated more bills than president Fox, confirming that high levels of delegation of legislative authority to executive departments was a thing of the past.

Finally, the data reported in tables 1 and 2 show that divided government has not involved any reduction in legislative output. In fact, the total volume of legislation measured by the number of bills passed by the Chamber of Deputies and the Senate has been higher during the period of divided government than during the last two legislatures in which the PRI controlled both chambers of the Congress and the presidential office. The average of bills passed by the Senate during a single legislature –a period of three years– grew from 33 under unified government to 45 under divided government. In the Chamber of Deputies the rise in legislative output was even more dramatic, from an average of 128.5 bills under unified government to 206 under divided government.

The increase in legislative output under divided government is to some extent paradoxical. Linz (1996) anticipated that the costs of coalition-making and the little benefits derived from it by opposition parties in presidential regimes would lead to gridlock –a severe contraction in significant legislative change– under divided government. The data reported in tables 1 and 2 does not distinguish significant from minor legislative change, and to that extent the question of gridlock remains open. However, it is very difficult to dismiss the increase in legislative output as a mere outburst of non-significant legislative change. Besides, the fact that most of the increase in legislative output came from bills initiated by opposition parties runs against

⁷ PVEM stands for Mexican Green and Environmentalist Party. In the 2000 presidential elections, the PAN and the PVEM forged a coalition, the Alliance for Change, to support Vicente Fox's presidential campaign. After the 2000 elections, however, the Alliance for Change broke apart and the PVEM became an informal ally of the PRI in Congress and then a regular partner in electoral coalitions at local and federal level.

the main premise of Linz's argument –that the opposition is lacking in incentives to get involved in the lawmaking process.

On the contrary, the evidence seems to confirm that divided government leads to greater competition for influence in the policy-making process, and that this vying for the definition of policy content increases the incidence of policy change (Ceaser, 1986). Divided government undermined the near-monopoly over the lawmaking process exercised by the executive branch during the long-lasting era of PRI political hegemony. For this reason, divided government is associated with less executive-initiated legislation both in relative and absolute terms. But the liberalization of the executive monopoly did not involve a drop in legislative output because the contribution from other sources of law change, notably the opposition parties, grew substantially with divided government.

A model for the new era of divided government

The analysis of bills introduced and processed in the Mexican Congress shows that divided government has had a very significant impact on the policy-making process. Basically, two new patterns have developed: a limited role for the president in lawmaking and the dispersion of the relevant sponsors of legislative change among the parties represented in the Congress. This new patterns, however, need an explanation. Under which conditions does competition among different political actors to shape the content of policy lead to legislative change? How and to what extent can the president influence the outcome of the lawmaking process under divided government?

To explain the strategic interaction between the president and the Congress in Mexico, this study draws on the pivotal politics model as developed by Keith Krehbiel (1996, 1998).⁸ The original pivotal politics model was designed to fit the U.S. case. Krehbiel argues that in the U.S. individual legislators vote following their own policy preferences, and political parties are unimportant in shaping voting behavior.

Following Colomer (2005), the model developed here introduces strong party discipline as an additional restriction to the original pivotal actors model. A second modification, however, is in order for the original model to fit the Mexican case –the president as party leader–. According to this restriction, the president plays a crucial role in selecting policy positions within his party.

An institutional arrangement based on non-consecutive reelection, mixed-member electoral system and closed party lists, together with a party-centered system of campaign funding, account for the persistence of

⁸ The proponent-elector model was first formulated by Romer and Rosenthal (1978). For other applications of the model to the lawmaking process and veto bargaining in the U.S. see Matthews (1989) and Cameron (2000).

the centralized party model in the Mexican Congress (Nacif, 2002). In his contribution to this volume, Weldon provides ample evidence to document the high levels of discipline that prevail among congressional parties after transition from single-party hegemony to democracy.

Strong presidential leadership over his party is less well-documented. Certainly, the ascendancy of the president over his party has declined as levels of electoral competitiveness increased and other political parties gained access to office opportunities in local, state and federal governments. Yet, the federal chief executive remains as the major dispenser of political patronage and the most visible source of leadership within his party. The electoral fortune of the president's party is tied to the public's perception of presidential performance. There is, therefore, a price to be paid in openly defying presidential leadership as Romero argues in his contribution to this volume.

The model developed to explain changing patterns of lawmaking in Mexico has three components or sets of assumptions: representation of policy preferences, decision rules and pivotal actors.

Representation of policy preferences

In this model, actors have spatial-preference functions that can be located in a single-dimension policy space. This means that the level of satisfaction is higher the closer the proposal is to the actor's ideal point. An additional assumption is that preference functions are symmetrical (a deviation from the ideal point of the same magnitude in opposite directions produces a similar reduction in welfare levels). Finally, actors are assumed to have perfect information (they know the rules of the game and the ideal points of the other actors).

Policy preferences can be represented as functions in one or several policy spaces or dimensions. For simplicity's sake, this analysis represents policy preferences as functions in a single policy dimension –the traditional ideological left-right or liberal-conservative dimension.

Certainly, lawmaking is multidimensional and a literal representation of complex legislation would require several dimensions. However, using single-dimension models is justified on two grounds. Firstly, inter-branch bargaining phenomena become intractable with existing modeling techniques by incorporating more than two policy dimensions. Even with two policy dimensions, identifying equilibrium outcomes is highly complicated. Secondly, Poole and Rosenthal (1991) have shown that a single dimension accounts for as much as 85 percent of the variance of roll-call voting in the U.S. Congress. A replication of this study for the Mexican Chamber of Deputies by Jeffrey Weldon confirms that a single dimension accounts for a substantive

amount of variance in roll call-voting, although less than in the U.S. Congress.⁹

Decision rules

Also for the sake of simplicity, in the model the Mexican Congress is represented as a unicameral legislature that approves legislation by majority. Standing committees hold no agenda-setting powers. Law-making majorities on the floor deal with committee reports under open-rules –there are no restrictions on amendments–. These parliamentary procedures enable the Congress to pass legislation that always reflects the ideal point of the median legislator. Given the assumption of disciplined congressional parties, the open-rules procedure also implies that the most preferred policy of the “median party” –the party containing the median legislator– prevails in roll-call votes.¹⁰

There are other two important decision-making rules. Firstly, the president may veto legislation passed by the Congress. Secondly, the Congress can override the president’s veto by a two-third majority. The decision-making rules assumed in the model provide the Congress with full agenda-setting powers over the president. Each time the Congress passes a bill, the president has to choose between using his veto or signing the bill into law; it is a take-or-leave-it sort of decision.

Pivotal actors

In the original pivotal politics model developed by Krehbiel, where individual legislators vote according to their policy preferences and political parties are unimportant, there are three central players:

- a) The median legislator,
- b) the president,
- c) and the veto pivot or veto legislator.

The veto pivot is the legislator who, given his or her position on the policy space, casts the decisive vote on motions to override presidential vetoes. One third of the legislators are located either to the left or to the right of the veto pivot depending on the position of the president with respect to the median legislator. The veto pivot will always be located on the side of the president

⁹ Personal communication with Jeffrey Weldon.

¹⁰ The median position has two qualities that make it very important in decision making by majority rule. Firstly, if an actor is located at the median position no majority can be formed neither to its right nor to its left. Secondly, the proposal or ideal point of the actor located at the median position beats all other proposals, including the status quo, in binary elections (Black, 1957; Hinich and Munger, 1997).

with respect to the median legislator. If the president is to the right of the median legislator, one third of the legislators will be located to the right of the veto pivot.

The introduction of disciplined political parties changes the nature of the actors involved. Instead of individual legislators, the key players are now groups of legislators whose size and position on the policy space allow them to play a pivotal role in the decision-making process. Parties are groups of legislators with contiguous preferences on the policy space that are committed to act as a single actor (Colomer, 2005). They can adopt their policy preferences by simple majority or by supermajorities, but all party members are expected to vote according to the preference adopted.

In the model, the party of the president adopts what can be termed leadership-induced preferences. The president, as the main source of leadership within his party, is modeled as holding a combination of strong agenda-setting powers and a veto power over decisions adopted by the majority of the party in Congress. The president has the ability to lead the party into adopting policy preferences that are more extreme than the party's median member. Discipline within the president's party is reinforced by the power of the president to reward cooperative behavior among party members through the dispensation of patronage and other clientelistic goods.

Given the assumptions of party discipline and strong presidential leadership over his party, the new actors in the model are the following:

- a) The median party, the party containing the median legislator;
- b) the party of the president;
- c) the veto party, the party containing the veto pivot.

A single party can capture all three relevant actors in the model, as was the case during the long-lasting period of PRI hegemony. Given the assumptions of party discipline and strong presidential leadership, unified government renders the president the dominant actor in the policy-making process. Figure 1 shows the equilibrium policy outcomes in unified government (the black lines) and compares them with the outcomes that obtained are in the original Krehbiel model (the grey lines), where legislators vote according to their individual preferences and political parties are irrelevant. The variable moving along the horizontal axis is the status quo policy, and on the vertical axis we have the outcomes -the new policies agreed by the congressional majority and the president.

vetoed from 1917-2000 suggests that the president's party was not monolithic even during the heyday of PRI hegemony.¹¹

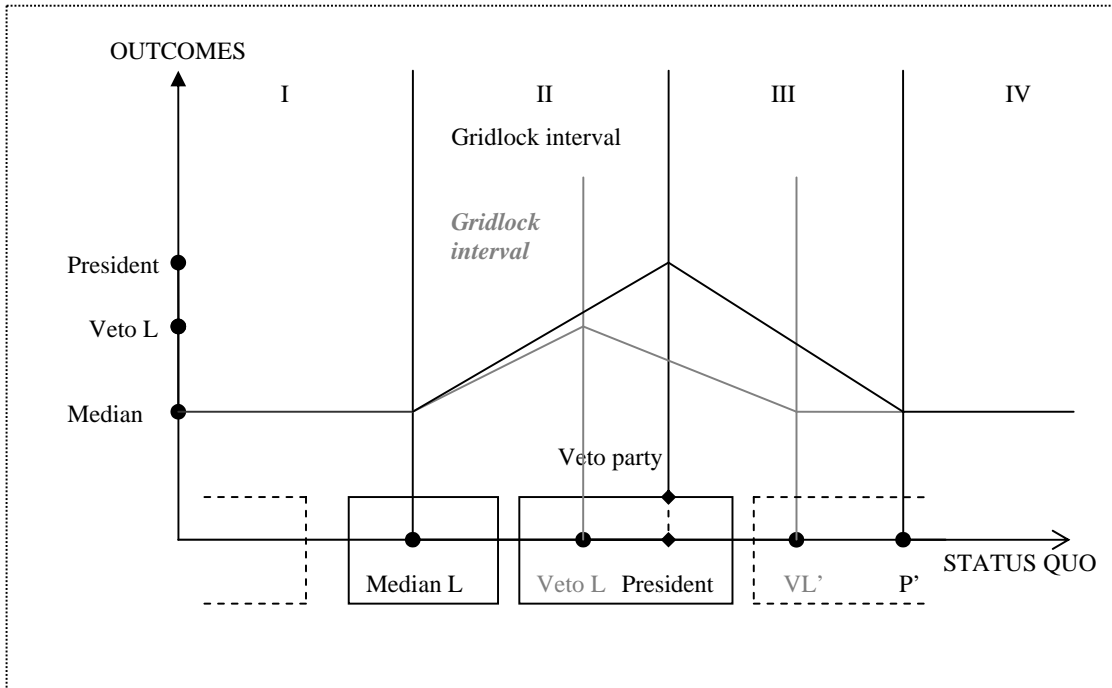
Introducing party discipline and strong presidential leadership into the model has a second consequence: -the gridlock interval disappears. The gridlock interval is the set of policies that lie between the ideal points of the median and the veto legislators in the original Krehbiel model. Policies within the gridlock interval are in equilibrium; they remain stable, because any move away from them would make one of the actors whose support is necessary to change the status quo (the median legislator or the veto legislator in the Krehbiel model) worse off.

But ruling out gridlock in unified government is to some extent misleading. We can also argue that, given a president with extreme policy preferences, gridlock becomes a regular outcome under unified government. This is so because there will frequently be a majority in the Congress that would vote for an alternative to the policies sustained by the chief executive, if legislators were allowed to follow their own preferences. But, party discipline and strong presidential leadership in unified government render the concept of gridlock confusing by turning the Congress into an irrelevant actor.

Figure 2 shows the effect of divided government over policy outcomes holding party discipline and strong presidential leadership constant. Divided government gives way to two possibilities depending on which party is located at the median position on the policy space. If the president's party is the median party, the executive veto becomes irrelevant; policy outcomes will simply reflect the preference of the median party. However, if an opposition party contains the median legislator—the policy preferences of the president are extreme—, policy outcomes will vary according to the location of the status quo with respect to the most preferred policies of the median party and the president's party.

¹¹ The Chamber of Deputies concurred with the executive either actively or passively in 85 percent of the vetoes between 1940 and 2000. But, there were 8 cases in which the Chamber of Deputies moved successfully to override the executive veto, six against president Aleman (1946-1952) and two against president Díaz Ordaz (1964-1970).

Figure 2
Equilibrium policy outcomes with divided government



In Figure 2, the median party is an opposition party and the president's most preferred policy is located on the extreme right of the policy space. One important assumption in figure 2 is that the president's party contains the veto legislator, and therefore becomes the veto party. To contain the veto legislator the president's party needs to control at least one third of the seats in the Congress. Failure to win this share of seats renders the president's party less powerful. In fact, without the ability to uphold the executive veto, the president's party becomes irrelevant if its most preferred policy is more extreme than the opposition party containing the veto legislator.

Figure 2 shows that divided government, even if the president's party contains the veto legislator, restrains the ability of the president to enact extreme policies. Divided government restores the centrist tendencies in the policy-making process that party discipline and strong presidential leadership can avert under unified government. When the status quo moves to extreme positions (intervals I and II), the most preferred policy of the median party prevails; the model anticipates that the president's party will take on an accommodating position in the bargaining process.

If the status quo falls within interval III—the existing policy lies between the president's ideal point and the president's utility equivalent of

enacting the median party's ideal point (P')—, the president and the median party face incentives to compromise and reach an agreement. Given the agenda-setting powers of the Congress, the optimal behavior of median party is to pass legislation that makes the president slightly better off than the status quo. Policy outcomes tend to move from extreme positions to a point closer to the center near the president's utility equivalent of maintaining the status quo. In general, if the status quo falls within interval III, policy outcomes will converge increasingly to the center as the status quo moves towards P' .

Figure 2 shows another important consequence of divided government: the emergence of a gridlock interval. Within the gridlock interval, policies remain stable even if a majority in the Congress supports an alternative to the status quo. The ideal points of the median party and the president's party define the extent of the gridlock interval. Status quo policies within this space are in equilibrium, because any change would make either the median party or the president's party worse off. If the median party passes legislation to modify policies lying within the deadlock interval, the president's optimal response is to veto the proposed change. With the veto legislator on the president's side, the median party is condemned to fail in its attempt to change existing policies.

Under divided government, party discipline and strong presidential leadership still make a significant difference with respect to the original Krehbiel model. The grey line in figure 2 represents equilibrium outcomes when individual legislators vote according to their own policy preferences, and the veto is the only instrument the president has to influence legislation. The gridlock interval goes from the ideal point of the median legislator (Median L) to the ideal point of the veto legislator (Veto L). Party discipline and strong presidential leadership increase the size of the gridlock interval, now going from Median L up to the president's ideal point. A larger gridlock interval means that the president has the ability to sustain more extreme policies against the will of the congressional majority.

But figure 2 also confirms that party discipline and strong presidential leadership enables a radical chief executive to exact more extreme outcomes from the Congress than in the original Krehbiel model. Without party discipline and strong presidential leadership a radical president becomes irrelevant if his policy preferences are more extreme than Veto L; the veto legislator begins to deflect policies away from the median legislator at VL' (the veto legislator's utility equivalent of enacting the median party's ideal policy). After introducing party discipline and strong presidential leadership, the president remains a pivotal actor no matter how extreme his policy preferences are. The president's party begins to deflect policies away from the median legislator at P' rather than at VL' .

In sum, in a system where party discipline and strong presidential leadership prevails, the transition from unitary to divided government has two important consequences: it sets off a tendency to move extreme policies to the center, and reduces the opportunity for radical policy experiments. The system moves closer to the original Krehbiel model, where the centripetal forces are even stronger and the president's ability to maintain extreme policies more restricted.

The pivotal actors model with party discipline and strong presidential leadership helps explain the impact of divided government upon the policy-making process in Mexico. One effect of divided government was that the president lost the ability to control the congressional agenda, a power presidents had under unified government by virtue of their unrivaled leadership of the ruling party. The collapse of the agenda-setting powers of the president gave way to a competition for influence on policy decisions between the political parties represented in the Congress. This explains why the number of deputy-sponsored bills picked up right after the PRI lost its majority in the Congress in 1997, and continued to do so after the 2000 elections.

The pivotal actors model also shows how the role of the president and his party changes with divided government. The chief executive loses the ability to direct policy change and his chances of shaping public policy depend on his position with respect to the median party. If the president's ideal policy lie at the center of the policy space –splitting up the opposition parties into two parts– his proposals will prevail. But if an opposition party contains the median legislator –all opposition parties are located either to the left or to the right of the president's party–, the president will play a purely reactive role; the initiative will originate in the opposition.

The decline in executive-sponsored legislation as a percentage of total legislative output right after the PRI lost its majority confirms that president Zedillo had extreme policy preferences in comparison to the median legislator. Anticipating defeat in the Congress he cut down on his legislative agenda. President Fox was less extreme than his predecessor, but with the realignment of the PRI to the left after its defeat in the 2000 elections, his ambition of leading a proactive administration went astray. As a consequence, the contribution of president Fox to the total amount of legislation enacted by the Congress was even smaller than president Zedillo's.

In the pivotal actors model opposition parties are motivated by the desire to shape public policy. They are expected to become major sponsors of legislation under divided government, for their new role as pivotal players provides them the opportunity to move policies in their desired direction. The evidence about the lawmaking process in Mexico seems to confirm both the policy-oriented behavior of opposition parties and their new leverage in the policy-making process.

The pivotal actors model helps to explain one of the paradoxical consequences of divided government in Mexico: the increase in the total volume of legislation. To be sure, the model does not predict that divided government will involve an increase in legislative production. In fact, the model anticipates that in divided government some policies will become gridlocked. But the model also specifies two conditions for policy change: a change in the preferences of pivotal actors and a devaluation of the status quo produced by an external policy shock. Elections may induce changes in the policy preferences of pivotal actors, leaving existing policies out of equilibrium. By definition, existing policies are out of equilibrium when the pivotal actors face incentives to cooperate to change the status quo.

Changes in the policy preferences of pivotal actors are one of the driving forces behind the increase in the total volume of legislation after 1997. A ten percent drop in voter support for the PRI did not only bring about divided government; it also moved the median party to the left of the policy space on various issues, leaving a number of policies out of equilibrium. After 1997, the PAN became the median party on many issues, and therefore a major sponsor of policy initiatives enacted by the Congress.

The 2000 elections changed all this. The triumph of Vicente Fox moved the presidency to the left of where it was in the previous administration. The realignment of the PRI to left of the PAN was perhaps the major change in policy preferences after the 2000 elections. The repositioning of pivotal actors left a large number of policies out of equilibrium, and rapidly rendered possible some legislative deals which had previously been dismissed. A case in point is the reform concerning the rights and culture of indigenous peoples approved shortly after president Fox took office.

The pivotal actors model shows how divided government turns the executive veto into a very important instrument for the president's party to shape the content of policy. Without the executive veto, the influence of the president's party would be significantly restricted. However, the pivotal actors model falls short of making specific predictions about the incidence of vetoes under divided government. The president can make the influence of his veto felt without actually using it. The logic of anticipated reactions suggests that in equilibrium no vetoes should take place. According to this logic, the incidence of vetoes is an aberration that responds to two possible causes: incomplete information, including mistaken evaluations of the president's preferences, or attempts to publicize policy positions (Baron and Ferejohn, 1989; Cameron, 2000).

Magar and Weldon (2002) show that executive vetoes were rather common during the heyday of PRI hegemony, although the practice disappeared from 1970 to 2000. The return of the executive veto as a constitutional practice seems to respond to the process of dispersion of power. Certainly, from 1997 to 2000 no single veto occurred, even though the president's party had lost its

majority in the Chamber of Deputies. But president Zedillo did not have to use his veto; with the support of the disciplined PRI majority in the Senate he was able to stop almost any attempt from the opposition to impose legislative change on his administration.¹²

The only case in which president Fox and the opposition majority in the Chamber of Deputies resorted to the veto as an instrument of publicity was the 2005 budget bill. The opposition used the 2005 budget bill to challenge executive authority by unilaterally approving their own version of the budget bill. President Fox responded by returning the bill to the Chamber of Deputies with his veto, knowing that the opposition majority had enough votes for a veto override. But had the opposition opted for a veto override, they would have been implicitly recognizing the president's authority to veto the budget bill. For this reason, the Governing Board (*Mesa Directiva*) of the Chamber of Deputies dismissed the president's observations as unconstitutional. President Fox appealed to the Supreme Court and eventually won case¹³.

Policy cases

A case that illustrates how parties capture the gains of cooperation in changing the status quo under divided government is the passage of legislation to recapitalize the banking system in 1998. This legislation was the sequel to the banking rescue operation launched by president Zedillo in the aftermath of the bungled devaluation of the peso in December 1994. As the value of the peso plummeted, interest rates sky-rocketed and the economy shrank by 7 percent in 1995, making an alarming number of bank debtors unable to pay their contracted debts, the explosive growth in non-performing loans led Mexican banks into insolvency.

To fulfill its legal mandate to protect bank savings, the federal government took away all except the three largest banking institutions, which still had enough capital to guarantee bank deposits. However, the Zedillo administration concluded that allowing one of these institutions to go into bankruptcy would have devastating consequences for the whole banking system. They offered the three surviving banking institutions an exchange of bad credit for fresh capital. For each peso of fresh capital that bank owners invested, the federal administration through the Banking Fund for Savings Protection (FOBAPROA) would buy two pesos of bad loans. Banks were to decide which part of their portfolio they would sell to FOBAPROA. The purchase was completed with promissory notes signed by FOBAPROA.

The exchange of bad loans for FOBAPROA promissory notes might have averted the collapse of the banking system, but it certainly failed to raise

¹² The one exception was the budget, which president Zedillo had to negotiate with the opposition majority in the Chamber of Deputies.

¹³ Constitutional Controversy 109/2004 (May 17, 2005).

levels of capitalization. By 1998, all Mexican banks were still in bad shape despite the enormous amount of public money committed to them. In addition, without congressional endorsement there was uncertainty about the legality of the rescue operation. Opposition parties argued publicly that FOBAPROA lacked authority to issue notes with the implicit backing of the federal government.

To solve this problem, president Zedillo sent a bill to the Congress to switch the FOBAPROA promissory notes held by banking institutions into government debt bonds. As government bonds, they would trade in secondary markets allowing banks to recover their capital. The president's proposal arrived in the Congress in March 1998, shortly after the PRI had lost its majority in the Chamber of Deputies.

The center-right PAN, which supported the privatization of the banking system in 1989, was divided on the issue of the banking rescue operation. The PAN agreed with the PRD that the whole FOBAPROA operation was unconstitutional and lacking in transparency, but it was closer to the Zedillo administration on the substantive aspects of the banking rescue policy. The PAN wanted banking institutions to remain in private hands and agreed with the main purpose of the FOBAPROA initiative—the reactivation of bank lending.

The Zedillo administration and the PRI were to the right of the PAN both on the procedural and the substantive aspects of the policy. The Zedillo administration defended the banking secrecy and the constitutionality of the rescue operation. Its first priority was providing legal certainty and liquidity to the FOBAPROA promissory notes. The PAN ended up in the middle between the president and the left-center opposition.

But the banking recapitalization policy represents a case in which the value of the status quo was deteriorating, rendering the president more accommodating as time passed. The depreciation of the collateral of the bad credits purchased by FOBAPROA was increasing the total cost of the banking rescue program. The uncertainty about the FOBAPROA promissory notes was undermining the financial situation of Mexican banks. In September 1998, the value of bank shares in the stock market had dropped below their book value per share, indicating that Mexican banks were facing imminent bankruptcy.

As the deadline for approval of the 1999 federal budget approached, the PAN had to decide either to maintain the status quo by simply servicing the debt contracted on by FOBAPROA or redefine the status of the FOBAPROA promissory notes for the long term. In the end, the PAN proposed the following plan to the Zedillo administration: the FOBAPROA promissory notes would not be converted into public debt bonds but exchanged, instead, for bonds issued by a new banking fund for savings deposit—the Institute for the Protection of Banking Savings (IPAB)—that would replace FOBAPROA starting

in 1999. The new IPAB bonds would trade in secondary markets to allow for the recapitalization of the banks.

The second part of the plan proposed that the bad loans acquired by FOBAPROA go through an independent audit with the provision that irregular credits be returned to the banking institutions that contracted them in first place. The PAN's proposal was accepted by the PRI and the Congress approved it with the opposition of the PRD and its allies on the left.

One of the rare instances of gridlock arising from a recalcitrant president took place during the second half of Zedillo's administration in 1997. Two years earlier, the PRI had approved an initiative of president Zedillo to increase the Value Added Tax (VAT) from 10 to 15 percent. The VAT rise responded to the fiscal imbalance resulting from a sudden drop in tax revenues that the 1995 economic contraction brought about. All opposition parties criticized the VAT rise as a desperate measure to please international financial markets that would punish the poor.

The VAT rise was certainly an unpopular measure, and when the PRI lost its majority in the Chamber of Deputies in 1997, opposition parties felt they had a mandate to redress this grievance. Despite consensus among opposition parties concerning the cut of the VAT rate, there were some differences about the size of the cut. The PRD called for a one-third cut to bring the VAT rate back to 10 percent. The PAN put forward a moderate proposal to reduce the VAT rate 2.5 percentage points. President Zedillo and the PRI, arguing a tax cut would seriously threaten the fragile fiscal balance, rejected any cut on the VAT rate.

The position of each player on the VAT vote is represented in Figure 3. The policy space goes from lower to higher taxes. Notice that the status quo – a VAT rate of 15 percent- and the ideal point of the PRI administration are identical. The reason for this is that the existing VAT rate was fixed when the PRI had the majority in the Congress, and therefore the ability to enact its most preferred policy. Given the allocation of seats in the Chamber of Deputies and the preferences of the main parties on the issue, the PAN was located in the median position.

As expected from the model, the PAN absorbed the PRD, and the PAN's proposal defeated the status quo on the floor of the Chamber of Deputies. In fact, the coalition backing a new VAT rate of 12.5 percent included all parties except the PRI. Any move away from the status quo in the direction of the median party in the Chamber of Deputies would leave the PRI administration worse off. For this reason, as the bill went for revision to the Senate, the PRI majority in this chamber shot it down. The opposition majority in the Chamber of Deputies represented the bill.

Conclusions

According to the Mexican Constitution, the president is more a guardian of policy stability than a promoter of change. In fact, the constitutional powers of the president do not enable him to effectively direct policy change. The powers of the Mexican president *vis-à-vis* the Congress are essentially negative. The source of change according to the Constitution lies in the Congress. However, throughout decades of single party hegemony, the source of change moved to the executive branch of government. The president of the Republic became the dominant actor in the lawmaking process and the role of the Congress was reduced to revising and approving executive-initiated legislation. However, with the coming about of divided government this meta constitutional practice ceased to exist. The dispersion of power that the process of democratization ensued put an end to the dominant presidency.

The end of dominant presidency has not reduced the ability of the system to generate policy changes. Instead, available information on the legislative process shows that with divided government the executive branch lost its grip over the policy-making process. The contribution of the executive-initiated bills to the total volume of legislation has diminished substantially. At the same time, the parliamentary groups of the political parties represented in the Congress have come to the fore. In fact, under divided government opposition parties have become the main source of law change.

The new patterns of legislative behavior reflect the strategic interaction between the president and the legislature under divided government. The strategic interaction has two stages. At the congressional stage, we have a collection of highly disciplined and cohesive parties sharing the legislative power and making decisions by majority rule. The model that best applies to decision making within the Congress is that of the median voter. According to this model, winning bills will converge around the ideal point of the median party. At the post-congressional stage, the model that best represents decision making is the proponent-electoral model according to which the Congress proposes but the president disposes. The real power of the Congress lies in its ability to force the president into a "take it or leave it" situation each time it passes a bill.

As we put these two stages together there appears a system moving policies from extreme positions to centrist positions once the parties agree on an alternative to the status quo. In this process, the president is not a passive spectator. With the support of his party, the president can mold the content of policy change limiting convergence around the median party or protecting the status quo when it is his interests to do so.

Presidential democracies, such as Mexico have been criticized for their propensity to deadlock, especially when they operate under divided

government. The difficulties that presidents Zedillo and Fox have faced as they tried to push their legislative program through the Congress seem to confirm the propensity to deadlock. However, it remains unclear whether they represent cases of deadlock. As a minimal requirement for change, democracies demand the existence of a majority in the legislature backing an alternative to the status quo. If the status quo prevails it might be reflecting the absence of a consensus around an alternative to it.

Certainly, the Mexican Constitution demands more than this “minimal requirement” for change. The support of a majority in the Congress is not enough for a new policy to be adopted, the endorsement of the president is necessary too. If the president does not stamp his seal of approval, a two-third majority in both chambers of the Congress will be required to override the executive veto. This means that the president and a minority of one third of the membership of a single chamber have the authority to prevent change from happening even if there is a majority supporting an alternative to the status quo. In other words, the executive veto is in practice a “subsidy” to the status quo. The justification of this subsidy lies in the value attached by the framers of the Constitution to stability in legislation and public policy.

With the available information it is not possible to measure the amount of gridlock that divided government has produced. We do not know how many bills have been dropped at some stage in the legislative process anticipating that they will not survive the executive-veto test. What the available information allows us to do is to measure the number of bills initiated, count the effective number of legislative changes and identify their source. This evidence shows clearly that the frequency of change has increased as divided government came about and that the sources of legislative change have diversified. There are two possible explanations for this outcome: the collapse of the president’s near monopoly of the lawmaking process and the change in policy preferences of pivotal actors induced by more competitive elections.

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