ELECTORAL REFORM

Report instructed by the President Councillor for the Executive Secretariat to inform the General Council of the National Electoral Institute about the impact on the electoral function of the Bills that reform, introduce and repeal various provisions of the general laws on Social Outreach, on Administrative Liabilities, on Electoral Institutions and Procedures and on Political Parties, as well as to the Organic Law of the Federal Judicial Branch, and that issue the General Law on Impugnation Means on the Electoral Matter.

As this Report was being translated, the second Bill was enacted by the Senate on 22 February 2023 and was promulgated with its publication in the Federal Official Gazette on 2 March 2023.

Introduction

On Tuesday, 6 December 2022, two Bills were introduced to the Chamber of Deputies of the Congress of the Union by the Federal Executive Branch to amend several laws of the electoral legal framework. One of them proposed reforming, introducing and repealing several provisions of the General Law on Social Outreach (*Ley General de Comunicación Social*, LGCS) and the General Law on Administrative Liabilities (*Ley General de Responsabilidades Administrativas*). The other, focused on amending the General Law on Electoral Institutions and Procedures (*Ley General de Instituciones y Procedimientos Electorales*, LGIPE), the General Law on Political Parties (*Ley General de Partidos Políticos*, LGPP), the Organic Law of the Federal Judicial Branch (*Ley Orgánica del Poder Judicial de la Federación*) and on issuing a General Law on Impugnation Means on the Electoral Matter (*Ley General de Impugnación en Materia Electoral*).

With the purpose of exempting parliamentary procedures, Morena's parliamentary group submitted both Bills as their own and were passed within a few hours. The minutes of those proceedings were then sent to the Senate, where, once its corresponding procedures were completed, the respective Bills were issued on Thursday, 15 December 2022, and sent back to the Chamber of Deputies, for there had been modifications to what the introducing Chamber had initially approved. That same day, and after several hours of negotiation among the parties endorsing the Bills, they were passed. The first Bill was sent to the Federal Executive for its promulgation and publication. However, the second one was sent back to the Senate to comply with the last part of Article 72, section e), of the Political Constitution of the Mexican United States.

The Bill that reforms, introduces and repeals several provisions of the General Law on Social Outreach and the General Law on Administrative Liabilities was published in the Federal Official Gazette (*Diario Oficial de la Federación*, DOF) on Tuesday, 27 December 2022. The other Bill[1] still awaits for the Senate to discuss the modification made by the Chamber of Deputies to one of the provisions, so that it can be determined if it should be fully or partially enacted and published.

As previously explained, the modified legal provisions are almost completely defined. In fact, some of the amendments already came into effect as of 28 December 2022. Therefore, there is room for assessing the issues that will be

[1] As this Report was being translated, the Senate enacted the second Bill on 22 February 2023 and was promulgated with its publication in the Federal Official Gazette on 2 March 2023.

reformed, especially those that could have deeper effects in the current performance of the State function of organising elections and mechanisms of direct democracy.

This Report seeks to provide the members of the General Council of the National Electoral Institute, and the whole citizenry, with an orderly and clear assessment of the main guidelines on the amendments and the likely judicial and operational consequences of their implementation. In sum, it is intended to be a text that can offer its readers a crucial input (from the standpoint of those who manage the elections and who have technical and executive electoral experience) to fully understand the breadth of the legal electoral reform. This document is fundamentally built with the information provided by the core technical and executive departments of the National Electoral Institute, as well as from its decentralised bodies.

It must be pointed out, right from the start, that any legal electoral reform (like the ones prompting this Report or any other the future could bring) ought to be analysed through the steadfastness of democracy. That is, they should be the product of the mechanisms established in the legal framework in force to renovate itself and address the new social phenomena that continuously arise or to deal with new threats.

A quick glance to the legislative background of our country (from the earliest to the most recent) will indeed show the naturalness with which, in principle, the reforms to the different laws must be seen, since they are the legitimate democratic way to update the rules by which the political competition conditions to access representative public offices—through universal, free, secret, and direct voting—are defined.

In this sense, while new laws were successively issued throughout the 19th century following every founding, or at least significant, political movement that affected the arrangement of the actual power factors in the country (as they defined the plans, proclamations and battles of the moment), it was the Political Constitution of the Mexican United States (*Constitución Política de los Estados Unidos Mexicanos*, CPEUM) of 5 February 1917 which finally formalised the fundamental political order resulting from the Mexican Revolution. Through the years, a hegemonic party system was consolidated, providing—over most of the 20th century—a stable system of succession in public offices, starting with the Presidency of the Republic.

It is quite a paradox that, even through the years when the formal electoral system was an instrument to legitimate decisions made according to unwritten rules, the review to the electoral rules (established in the successive electoral laws through

which the constitutional provisions—also regularly updated—were developed) was also constant.

During the last 25 years of the 20th century, the frequency of the electoral reforms increased, as well as their intensity and complexity, to build a party system that would compile the ideological diversity of society's different existing political currents; to put together an electoral roll that—as the cornerstone of elections—would allow all enfranchised voters (and only them) to cast their vote; to design and implement an independent and reliable electoral authority that would guarantee the integrity of voting and its results according to the electoral system in place; and to establish equal circumstances in electoral competitions by instituting guarantees for freedom to vote and controls to enforce them.

While democratic transition normalised political alternation among those who won at the free, authentic and competitive elections, it did not implied that a definitive electoral reform of sorts had been attained. In 2007–2008—due to the results of a presidential election being called into question—the bases that had been laid down in 1996 were revised to strengthen the recount mechanisms during the tallies, to overhaul the model of political outreach (especially the rules for political parties to access State airtime) and to regulate expeditious administrative proceedings to halt and correct the deviations in the electoral processes that could lead to their ineffectiveness. A few years later, in 2013–2014, the trend to federate important aspects of the Mexican electoral system would come into being with the creation of a national electoral authority and the redistribution of jurisdictions with the state electoral authorities.

There is no definitive electoral reform per se. It will always be pertinent to review the rules of the democratic game. Regardless, there are certain requirements that any State with a constitutional rule of law must abide. A very important one is that all amendments should come from a wide consensus among the political forces represented in the constitutional legislatures. As the effects of electoral rules upon the different political actors are pondered, only the acquiescence of those competing for votes to access public power will imbue the reforms with sufficient legitimacy.

It is also necessary that the new election management rules are made known to the enforcing electoral authority in advance so that their feasibility and implementation times can be assessed from a strictly technical standpoint. Lastly, seeking the opinion of the addressees of the provisions has become an indispensable element of any decision-making process deemed to be democratic. The deliberative procedure to adopt relevant public decisions is indeed one of the main virtues of democracy, for it demands, above all, listening to others and trying to understand

their stance, which, in turn, requires acknowledging their dignity and, by extension, being tolerant towards what is different. Building technical diagnoses that take into account the cumulative institutional experience and knowledge of the technical electoral bodies is essential for a better design of the necessary and pertinent changes to the democratic game. When this premise is taken seriously, the bases for the outcome of the legislative and public discussions to, in some way, compile the interests and concerns of those with valuable contributions are laid down.

Unfortunately, that has not been the case this time around. Even though a significant portion of the proposed amendments relate to the organisational structure of the National Electoral Institute and to various procedures for preparing for and carrying out an electoral process, they were drafted without considering the experience and technical knowledge of the electoral authority and despite the collaborative stance towards all the Mexican government institutions that INE has always maintained.

Hence, for the purpose of facilitating an informed public opinion, this Report provides the citizenry with the specialised view of Mexico's institution in charge of the State function of organising the elections to renew all public authorities (along with the country's 32 local electoral management bodies) about the risks some of the amendments could produce and the dangers those would entail for the electoral function and, particularly, for safeguarding and exercising the Mexican citizens' political and electoral rights—to renew the authorities through free and authentic elections; to an identity; of political association; to election information and transparency; to the equality the secrecy of the ballot; to freely choose their representatives and rulers; to stand for office in equal circumstances and to be elected; to electoral justice; to political participation and to discuss the public agenda—listed in the applicable electoral laws and jurisprudence.

Therefore, since this Report is not meant to be an itemised summary of the legal content of the two previously mentioned Bills, only the aspects whose implementation is deemed inconvenient will be addressed. This explains the repeated referral to certain laws, while others (like the Organic Law of the Federal Judicial Branch; the General Law on Impugnation Means on the Electoral Matter; and the General Law on Administrative Responsibilities) will barely be mentioned.

Initialisms and acronyms

CAE	Electoral and Training Assistant
CAI	International Affairs Unit
CEVEM	Verification and Monitoring Centre
CG	General Council of the National Electoral Institute
CNCS	Unit for National Social Outreach
CPEUM / Constitution	Political Constitution of the Mexican United States
DEA	Administrative Executive Office
DECEyEC	Electoral Training and Civic Education Executive Office
DEOE	Electoral Organisation Executive Office
DERFE	Executive Office of the Federal Voters' Registry
DJ	Legal Affairs Unit
DS	Office of the Secretariat
INE / Institute	National Electoral Institute
JDE	District Executive Board
JLE	Local Executive Board
LGCS	General Law on Social Outreach
LGIPE	General Law on Electoral Institutions and Procedures
LGPDPPSO	General Law on Personal Data Protection in Possession of Regulated Entities
LGPP	General Law on Political Parties
LNERE	Overseas Voters' List
MAC	Voter Registration Office
MDC	Polling Station Directive Board
OPL	Local Electoral Management Body
PEF	Federal Electoral Process
PEL	Local Electoral Process
PPN	National Political Parties
PREP	Preliminary Electoral Results Programme
RFE	Federal Voters' Registry
SE	Electoral Supervisors
SNR	National System for the Registration of Pre-Candidates and Candidates
SPEN / Service	National Professional Electoral Service
TEPJF	Electoral Court of the Federal Judicial Branch
UTSI	Informatics Unit
UTCE	Electoral Litigation Unit
UTF	Auditing Unit
UTIGyND	Gender Equality and Non-Discrimination Unit
UTTyPDP	Transparency and Personal Data Protection Unit
UTVOPL	Liaison Unit with Local Electoral Management Bodies

I. Amendments to INE's operational structure and capacity

The Bill that reforms the General Law on Electoral Institutions and Procedures (LGIPE), among others, repeatedly proposes various changes to the constitutional design and nature of the organisational structure of INE. This infringes the indispensable constitutional provisions for its autonomy and independence so that it can properly comply with the constitutional mandate of carrying out the State function of organising free, authentic and periodic elections.

The above, because the Bill substantially changes the constitutional nature of INE's directive, executive, technical and surveillance bodies, which distorts and confounds their character by tasking them with attributions and functions different from the ones in the Constitution. This also includes INE's Internal Auditing Body, which is tasked with additional functions that go way beyond its constitutional role of auditing the income and expenditures of the national electoral authority.

Likewise, the Bill proposes a deep organisational restructuring of all of INE's areas and decentralised offices by dramatically downsizing them alleging savings and austerity, but without a proper assessment.

With this, INE's capacity to carry out its constitutional role of organising elections and mechanisms of direct democracy according to the established principles and standards is seriously threatened—not to mention other core permanent activities that affect, for instance, the fundamental political, identity and information rights.

This set of propositions would result in the weakening of INE's core and decentralised structure and, most significantly, of the National Professional Electoral Service (SPEN), since most of its members are deployed across the decentralised offices to make the implementation of the Institute's national electoral (both direct democracy mechanisms and elections) and permanent programmes and activities possible.

1. Organisational restructuring of INE's decentralised offices

a) Local Executive Boards (JLEs) and District Executive Boards (JDEs)

The Bill changes Articles 33, paragraph 1, 61, 62, 71 and 72, of the General Law on Electoral Institutions and Procedures (LGIPE) to eliminate the Local and District Executive Boards (JLEs and JDEs, respectively) and introduces an organisational design that differs to the one established by Article 41 of the Political Constitution of the Mexican United States (CPEUM). According to that, local bodies are created to

replace the JLEs, while auxiliary offices replace the JDEs, greatly reducing the current JLEs and JDEs' structure and significantly downsizing the professional personnel, which denatures the constitutional character of the executive bodies of the decentralised offices.

In the case of the JLEs, it is proposed they are replaced by a local body composed of three electoral officers, instead of the current five. Hence, the position of Secretarial Official disappears and those of Electoral Organisation Official and Electoral Training and Civic Education Official merge. In this scenario, 262 positions would be cut back across the JLEs and only 96 SPEN positions would be left.

Regarding the merger of the Electoral Organisation and Electoral Training Offices, simultaneous and early coordination is required for activities related to electoral logistics—refurbishing electoral warehouses; locating and installing polling stations; counting, stamping and bundling electoral ballots; putting together electoral packages; delivering electoral documents and materials to the chairpersons of the polling stations; furnishing the polling stations; conducting trial runs and mock-ups of computer systems, of communications from the polling stations about the development of Election Day and of information on quick counts; planning the mechanisms to fetch the electoral packages (bring them from the polling stations to the district offices) and the operations' model for receiving the electoral packages by the end of Election Day; conducting the district tallies and others—with the ones of electoral training—defining the electoral training strategy for the federal or local (if that were the case) electoral processes; recruiting Electoral and Training Assistants (CAEs) and their Supervisors (SEs); raffling citizens as (likely) polling officers (MDCs); training polling officers and carrying out election drills (with the participation of the polling officers); serving notices to the selected polling officers; supervising the installation of the polling stations and following up the polling stations' vote counting.

As for the JDEs, it is proposed that they be replaced by auxiliary offices managed by one single person, the Operational Official, who would substitute the JDE's Executive, Electoral Training and Civic Education, Electoral Organisation, Federal Voters' Registry and Secretarial Officials. According to this scenario, the JDEs would undergo a downsizing of 1,500 positions, plus those heading the follow-up and analysis offices (300). In the end, only 300 SPEN-positions—corresponding to that new Operational Official—would be left.

The disappearance of the JDEs means losing multi-member deliberation bodies whose collaborative decision-making allow for all actions, whether ordinary or election-related, to benefit from the experience of five professionals who are experts

in each of the substantive areas and programmes of the institution and, instead, leave it to one single person due to alleged budgetary savings.

In sum, it is proposed to downsize SPEN by 84.6 per cent.

Given the complexity of concurrent federal and local elections (where federal and local laws and jurisdictions overlap), as well as with mechanisms of direct democracy, the modification of the JLEs and JDEs (and the cutting back of the five positions in the latter) critically compromises the unfolding of INE's substantive processes because that personnel is part of the career civil service that has endowed the management of elections with certainty and credibility. Not only are the professional experience, knowledge of the social, political and cultural surroundings, and capability to react to the challenges and exigencies of each electoral process lost, but there is also a direct impact on the quality of the institutional work.

It ought to be noted that, according to the structure established in the Constitution and the laws, the district bodies are the closest electoral link between the citizens and the Mexican State (represented by INE), and it is there where the main activities for organising elections, as well as others previously described, take place.

Hence, it must also be noted that the drastic reduction of the professional structure—to three persons in charge of the activities at the 'local bodies' and one at the 'auxiliary bodies'—would result in disregarding the professional structure referred to in Article 41 of the Constitution about the personnel of the National Electoral Institute. This means that, against what is stated in the Constitution, the Institute's executive and technical bodies would lack the necessary qualified personnel to carry out its functions.

This is relevant because the members of the SPEN deployed across INE's decentralised executive bodies make up the professional and unbiased structure that ensures free and authentic elections are held and guarantees the exercise of the fundamental rights of Mexican citizens, such as:

- The **Right to an Identity**, since they provide the service of issuing cards and updating the Electoral Roll.

- The **Right of Political Association**, by verifying and certifying that the constitutive assemblies of the political parties take place.

- The **Right to the vote being equal and secret**, because they see after the installation of polling stations in each neighbourhood, community, town and

municipality, and the provision of electoral materials on Election Day, in addition to coordinating their retrieval, upkeep and reuse, which produce sizeable savings to the country. Likewise, the principle of equality of the vote is distorted because the weight it carries as it is translated into seats might change.

The elimination of the district structures will negatively impact the updating of electoral sections and the boundary delimitation work, which will affect the citizens' political representation.

- The **Right to freely choose their representatives and rulers**, for they carry out all the procedures to provide certainty to the issuing and counting of the votes, from bringing the appropriate polling officers together in each community and training them to receive and count the votes of their neighbours, filling in the polling station certificates and recording whatever happens throughout Election Day, to adding up, verifying and recounting the votes in each electoral district.

- The **Right to the renewal of the authorities through free and authentic elections**. This analysis reveals how unfeasible it will be for INE to uphold its standards of quality and efficiency as the electoral processes' preparation and organisation activities are carried out according to the set time frames. Therefore, free and authentic elections cannot be guaranteed.

  The above is closely related to the fact that the electoral function ought to abide by the constitutional guiding principles, including that of impartiality—provide equal, unbiased treatment and grant no individual preferences to neither political parties nor independent candidates, while also preventing that undue influence or interests affect the decision-making about the organisation of electoral processes.

- The **Right to election information and transparency**, since the district offices run the Preliminary Electoral Results Programme (PREP) and coordinate the gathering of the data for the Quick Count, which are the instruments that have made it possible to provide citizens and political actors with the accurate and transparent trends of the results on Election Night.

- The **Right to stand for office on equal circumstances and to be elected**, because they monitor all the radio and television broadcasters of the country,

verify the compliance with the regulations on electoral campaigning and compile the evidence of the political parties' expenditures for their audits.

- The **Right to electoral justice**, since they discharge the duties of the Electoral-Attesting Office (*Oficialía Electoral*) and of the Secretarial Office of the Electoral Councils—documenting and certifying every activity and decision at every stage of the electoral process—which enables the courts to solve the controversies among political actors and decide on the legality and validity of the elections or even declare the corresponding annulments.

- The **Right to political participation and to discuss the public agenda**, through the implementation of programmes across the national territory on civic education, democratic culture, encouragement of the vote and citizenry building.

Some substantial (permanent and election-related) activities that would be compromised and which could threaten the effective enjoyment of the abovementioned rights due to the lack of career personnel in the districts are:

Updating of the Electoral Roll and the electoral cartography

Substantial activities of the Federal Voters' Registry (RFE) that are essential for an updated, accurate, timely purged, sufficiently extensive and quality Electoral Roll—which is the base for trustworthy electoral processes—are compromised.

Should the current JLEs and JDEs be downsized, the quality and extent of the cartographic update activities, as well as the district purging and update of the Electoral Roll, would be compromised—especially at the metropolitan districts which would be run by one single auxiliary office. Hence, the position of the current Executive Official would be replaced by the Operational Official, who would be in charge of the registration tasks (in addition to others) without the assistance of an expert official from the National Professional Electoral Service (SPEN).

Some of the activities and procedures related to the Federal Voters' Registry (RFE) that would be especially and seriously weakened—and even threatened—due to the downsizing of the decentralised offices and of SPEN are:

- The **update of the Electoral Roll and the Voters' List**, which is directly related to registering and updating the citizens' data—enrolment; data correction; change of address; replacement of voting cards due to loss,

marked deterioration, address data correction and re-enrolment—and, consequently, with the issuance of the Photo–Voting Card.

- The **purge of the Electoral Roll**, which is directly related to technical and operational activities regarding, for instance, cancelled proceedings, double registries, registries with irregular or false personal data and addresses, suspension of political and electoral rights, re-enrolment of citizens once the suspension of their rights is lifted, deceased citizens, dated Photo–Voting Cards.

Beyond the mentioned consequences, the disappearance of the district structure would bring the District Surveillance Committee's involvement in supervising and verifying the Electoral Roll and the Voters' List to an end.

Furthermore, the supervision and follow-up activities carried out at the Voter Registration Offices (MACs)—which happen in tandem with other tasks—would also be affected.

As for the electoral cartography, the following are some of processes and activities that would be affected: update of the district electoral cartography, including the tasks to re-draw the electoral sections and balance the number of voters in each of them within the range of 1,000 and 3,000 voters; those necessary to accomplish the national and local district boundary delimitation; field operations; desk analysis; digitisation of electoral cartography; generating printable files of the different cartographic products; allocation of geo-electoral and polling station data; cartographic applications; cartographic infrastructure; those related to the Voter Registration Offices (MACs), such as the National Cartographic Consignment that is distributed among the MACs of each federal electoral district. Additionally, the processes related to locating polling stations and electoral training would also be compromised, for they depend on accurately geo-referencing the citizens and on updated cartography.

The impairment of these activities would undermine the work to properly identify and geo-reference the citizens and guarantee their rights to vote and to political participation.

It cannot be ignored that the Photo–Voting Card is also a means that guarantee the right to identity that demands a permanent national infrastructure (personnel and facilities) for its issuance and permanent update.

Likewise, the proper coordination for dividing the national territory—so that the electoral operation and the exercise of political and electoral rights are possible—is put at risk with the elimination of the position of Federal Voters' Registry Official at the JDEs. Besides, the timely and accurate district-level communication of the changes in the electoral geography—so that citizens and political party representatives alike can equally participate in the development of the electoral processes—is jeopardised.

The boundary delimitation work would be compromised by the incapacity to tread an updated electoral geography—starting with the electoral sections, of which electoral districts are made up. The constitutional mandate to carry out consultations with the indigenous peoples and communities—established by the Third Transitional Article of the Law enacted on 18 July 2001 (and published in the Federal Official Gazette on 14 August 2001) to amend Article 2 of the Political Constitution of the Mexican United States—would also be compromised, because it is the District Federal Voters' Registry Officials who are in charge of the necessary tasks.

Currently, fulfilling all the different intrinsic activities of the JDE Officials, especially those of the Federal Voters' Registry—whether there is an ongoing electoral process or not—often demand everyone to work overtime as a team. Hence, the, at times, excessive workload of some areas is effectively and efficiently redistributed and completed.

As for the Voter Registration Offices (MACs), the modification to the law establishes that they will be preferably installed at government-owned properties for lease saving; although there is no study on the actual availability of public spaces or on whether they meet the requirements—of appropriate location, room, functionality, accessibility, security and operational independence—for ensuring the minimum quality needed to fully guarantee the citizens' rights to vote and stand for office, as well as to an identity.

The Bill does not take into account IFE and INE's experience about locating Voter Registration Offices (MACs) in public spaces that, with some exceptions, lack the minimum requirements to guarantee a quality service. This decision disregards the fact that INE has come to build a network of suitable and refurbished facilities—according to an Institutional MAC-blueprint that considers technical criteria to assess their operation and improve it—where citizens are optimally served and can wait for their enrolment data to be registered at ease. Along with the institutional brand, the MACs' specific layout depends on the previously decided number of workstations, furnishings and fixtures that will guarantee all persons can access and be served—especially persons with disabilities.

Lastly, the fact that citizens already know the MACs' location is just as important. Their relocation would raise uncertainty among the persons who are used to them being at a certain place and to the quality service the electoral authority provides there.

It is precisely for the purpose of guaranteeing a quality service that INE has made great efforts to have the MACs certified under the ISO 9001:2015 (Quality management systems) standard. There are actions that need to be taken to maintain this certification, including those related to internal audit procedures in which the JDEs' Federal Voters' Registry (RFE) Officials collaborate. Therefore, the lack of these district officials would also negatively impact the strict processes of enrolment and issuance of Photo–Voting Cards that are carried out rigorously according to the MACs' operative procedures—not to mention it would be a serious retrogression in the quality standards for citizen services.

There are quite a number of serious risks in locating the MACs at government offices, because the information that INE gathers, generates, processes and safeguards must be dealt with—throughout its lifespan—in strict compliance with the applicable legal framework and upholding the right of the enrolled citizens to have their personal data protected (which is the responsibility of all public servants who manage that information as part of their roles).

It ought to be noted that this is not a novel provision. When IFE first began to operate the MACs, they were installed at spaces under bailment from a third party. They entailed risks for quality service, protection of personal data, infrastructure and resources due to the following issues:

1. Lack of facilities' security during non-office hours and on non-working days.
2. High risk for the materials and personal data due to the lack of facilities' security during office hours on working days, depending on the location.
3. Facilities with poor, or non-existent, electrical fixtures for the proper operation of the equipment.
4. Deficient, or non-existent, basic sanitary fixtures.
5. High risk of loss or theft of the citizens' personal data submitted for their enrolment, depending on the areas where the registration offices are located (corridors or shared rooms).
6. Risks of loss of equipment and information, due to poor location, during rain downpours, swollen rivers and other climate issues.
7. Risk of bias in the procedures depending on the political preferences of the authority who provides the facilities.

8. The fragmentation of the registration offices' location further complicates supervision.

Bearing the above in mind, the installation criteria have changed over time. For instance:

- The location of the registration offices ought to be accessible to make it easier for the citizens to visit them. The following must be taken into account:
  - ✓ Access roads
  - ✓ Means of transport
- Exclusion of spaces in the premises of municipal town halls, offices of political parties and of their related organisations, as well as private houses.

This change resulted in the installation of the registration offices at leasable, accessible facilities (preferably shopping malls) whose security can improve quality service and personal data protection—in compliance with the General and Federal laws on Transparency and Access to Public Information and the General Law on Protection of Personal Data in Possession of Regulated Entities—and that can safeguard the technological infrastructure and operational resources.

The Bill's proposal is to switch back to the MACs being preferably located in public buildings managed by the municipalities, states or the federation, which would be a retrogression to a scheme that is no longer in effect, and whose consequences are undesirable in terms of their impact on quality service and personal data protection.

In other words, it would mean going back to a scheme that has been perfected over the years and which has been substantially improved by bringing it closer to the citizens. Furthermore, the law on personal data protection—which orders that they be safeguarded—had not yet come into effect at the time when the registration offices were located within offices that were not under the control of the Institute.

In this context, attempting to safeguard confidential personal data within the facilities of a third party currently implies having no control over them. This generates data-confidentiality and data-integrity risks.

The Mexican legal framework is aware of this need and watches over personal data protection through three distinct laws:

1. The General Law on Protection of Personal Data in Possession of Regulated Entities (*Ley General de Protección de Datos Personales en Posesión de Sujetos Obligados*, LGPDPPSO) lists—in Article 1, paragraph 5—the

regulated entities responsible for protecting the personal data, among which INE is included.

2. According to Article 126, Roman numeral III, of the General Law on Electoral Institutions and Procedures (*Ley General de Instituciones y Procedimientos Electorales*, LGIPE), all the data submitted by the citizens for their inclusion in the Electoral Roll is classified as confidential.
3. Article 24, Roman numeral VI, of the General Law on Transparency and Access to Public Information (*Ley General de Transparencia y Acceso a la Información Pública*) establishes that the Institute must—as a regulated entity—protect and safeguard the information classified as reserved or confidential.
4. The General Law on Transparency and Access to Public Information (Article 120) also states that the regulated entities can only grant access to personal confidential information upon the consent of their owners.

Consequently:

- The Institute would have to lodge the intensive management of personal data (physical and electronic) within facilities that are owned and controlled by a third party.

- Control over the physical, technical and administrative security measures required by the General Law on Protection of Personal Data in Possession of Regulated Entities (LGPDPPSO)—to comply with the duties of security and confidentiality that allow to safeguard the information's confidentiality and integrity—is lost.

  Security measures: Set of administrative, technical and physical actions, activities, controls or mechanisms to protect personal data (LGPDPPSO, Article 3, Roman numeral XX).

  Administrative security measures: Policies and proceedings for managing, supporting and reviewing: the organisation's information security; the information's identification, classification and secure deletion; and the personnel's awareness-raising and training on personal data protection (LGPDPPSO, Article 3, Roman numeral XXI).

  Physical security measures: Set of actions and mechanisms to protect the physical environment of the personal data and the resources used to manage them. The following are some of the activities that must be considered (LGPDPPSO, Article 3, Roman numeral XXII):

a. Prevent the unauthorised access to the perimeter of the organisation, its physical facilities, critical areas, resources and information;
b. Prevent the damage to or interference with the organisation's physical facilities, critical areas, resources and information;
c. Protect all portable or movable resources and any physical or electronic media that could be removed from the organisation; and
d. Provide effective maintenance to the personal data storing equipment to ensure its availability and integrity.

Technical security measures: Set of hardware and software actions and mechanisms to protect the digital environment of the personal data and the resources used to manage them. The following are some of the activities that must be considered (LGPDPPSO, Article 3, Roman numeral XXIII):

a. Ensure that the databases or the information, as well as the resources, are accessed by identified and authorised users;
b. Generate a privileging-scheme for users to carry out their activities according to their role;
c. Review the security configuration throughout the hardware and software's procurement, operation, development and maintenance; and
d. Manage the communications, operations and storage media of the computer resources used for handling personal data.

- Due to the critical nature of the information (established as privileged by the Mexican laws), the security measures of the facilities that would host the MACs could absolutely diverge from the requirements to protect the information.

- Control over the facilities and MACs' access mechanisms implemented for information protection purposes is lost.

- There is a risk that social demonstrations might result in the closing, sabotage or attack against federal facilities, which could lead to the destruction of personal data and/or the loss of its confidentiality. Sharing the federal government facilities increases the chances.

- The security guidelines set by a third party—which the personnel of the MAC would have to abide—might go against those established by the Institute for handling personal data.

- It would be impossible to implement security measures at the facilities of a third party.

- The physical, technical and administrative security measures would have to be re-assessed to guarantee the protection of personal data throughout its whole life cycle.

- An impact assessment about the handling of personal data would have to be conducted.

The following risks would be specifically increased:

Security Risk	Personal Data Risk
Theft of restricted and/or confidential information	Theft, loss or unauthorised copy
Unauthorised internal dissemination of restricted and/or confidential information	Unauthorised use, access or handling
Mishandling of restricted and/or confidential information	
Unauthorised consultation and/or modification of restricted and/or confidential information	
	Damage or unauthorised alteration or modification
Operation malfunction	
Unauthorised execution of transactions	
Unauthorised information destruction	Unauthorised loss or destruction

The Bill does not comply with the budgetary criteria of discipline, austerity and rationality. There would be a double expenditure; first, to assess the number of MACs to be relocated, and then, to move and reinstall them and carry out the refurbishment and testing of the spaces.

Due to the need to install new MACs, a previous analysis to decide on the place and conditions of the space to be used would have to be made. Likewise, it would have to be assessed whether the principles established in Articles 16–30 of the General

Law on Protection of Personal Data in Possession of Regulated Entities (LGPDPPSO) could be upheld and if the legal security (physical, technical and administrative security measures) and confidentiality duties (Articles 31–42 of LGPDPPSO) can be fulfilled.

In view of the above, for the registration offices to be installed in municipal, state and federal buildings, it would be necessary to obtain the consent from the corresponding authorities and sign the relevant legal documents.

In conclusion, instead of a saving, the foreseen risks would increase the operational cost because it will be necessary to implement mitigation measures. Even then, the integrity of the country's most important database would not be safeguarded as efficiently as it is now.

Management of the electoral processes and the mechanisms of direct democracy

While the ordinary federal elections' cycle is triennial, it was greatly disrupted by the 2014 reform. INE was vested with attributes for local electoral processes and the organisation of federal direct democracy mechanisms established in the Constitution and the law. For instance, the preparations, organisation and carrying out of both the 2021 referendum and the 2022 presidential recall—for which over 90 million voters were summoned twice—happened within a 10-month period. At the same time, another six local elections were being organised.

The aforementioned is relevant because organising all those processes in such a short time frame and with the scarce resources available would have been impossible without a permanent structure throughout the 300 districts of the country.

The 300 District Councils must be installed to hold direct democracy mechanisms or assist the local electoral processes in bringing the polling officers together. All the operational activities are carried out by those Councils, so it is impossible for them to be temporary and to only be installed during the federal electoral processes.

Therefore, the lack of a decentralised structure poses a great risk for holding those direct democracy elections in the future. Without the cumulative knowledge and experience of the members of the National Professional Electoral Service (SPEN) and the JDEs' auxiliaries it would have been impossible to bring together the citizens as polling officers and find the most strategic locations for the polling stations in view of the fewer number that were to be installed. The latter was particularly possible due to their field knowledge of, for instance, the population density, communication and transportation issues, security and social conflicts.

Planning and assessment of the electoral processes

The attributions INE was vested with by the 2014 reform blurred the triennial cycle of the federal electoral processes. The preparations and assessment of the elections are now supposed to happen in tandem with ongoing ordinary and extraordinary local electoral processes, extraordinary federal electoral processes and direct democracy mechanisms.

As the JLEs and JDEs prepare for an election, they update the socio-demographic information within their jurisdictions; plan strategies to surmount the many hurdles that arise for the make-up of the polling stations' directive boards—the citizens performing as polling officers—(differentiated-strategy and mis-indexed sections); review and update the necessary information about the possible sites for installing polling stations; draw new routes for delivering and fetching electoral documents by considering the continuous changes in the electoral geography; enumerate and enable several elements of the electoral materials; assess the reception of the different means of communication to be used by the Electoral and Training Assistants (CAEs) and their supervisors; analyse the equipment shortages and refurbishment of the electoral warehouses where the electoral documents will be safeguarded, etcetera.

During the evaluation stage, the executive boards collaborate in assessing many components of the election, like the electoral materials; the development of Election Day itself; the mechanisms to fetch and safeguard the electoral packages; the vote counting; keeping files; the disposal of electoral documents (and the related studies); the studies on citizen participation and the logistics of voting operations, among others.

These activities are vital for organising electoral processes. The preparations are more effective and efficient, and they are constantly evaluated with a view to prepare for the upcoming elections, whether local or federal.

The planning and evaluation is done in tandem with the organisation of local and extraordinary electoral processes and of direct democracy mechanisms, as well as with the substantial tasks of updating and purging the Electoral Roll (including the related tasks of federal and local electoral boundary delimitation, cartographic updating, merger and division of electoral sections, update of cartographic products, etc); management of the State's radio and television airtime; civic education, promotion of the culture of democracy and dissemination of institutional projects; auditing the resources of the regulated entities; complying with the duties of

transparency and accountability, as well as assisting the head offices in tasks such as substantiating complaints and denunciations—which would be impossible without a permanent and robust decentralised structure that is supported by the personnel of the National Professional Electoral Service (SPEN) over both the head and decentralised offices.

Electoral logistic operations

The electoral logistic operations are essential to achieve free, timely and secret voting at the elections and direct democracy mechanisms.

One of the first paramount moments to prepare for the electoral logistic operations is the planning and budgeting done by INE's 300 decentralised offices according to the prevailing circumstances in each of those electoral districts in terms of their geography, means of transport and communication and street furniture, the availability and variety of services, restraints to implement effective and efficient processes during the stages of the preparations of the elections, Election Day, results and declaration of validity of the elections.

The absence of SPEN officials at the decentralised offices would negatively impact the process of drafting the budget during the two years prior to the elections, especially during the planning-budgeting process itself—not to mention that there would not be personnel qualified in the guidelines established for the fundamental procurement and recruitment required for the electoral logistic operations (including, among others, market research and tenders to draw up the corresponding contracts). It must be highlighted that, according to the electoral logistic operations, several procedures initiate ahead of the formal outset of the electoral processes, which is why the time frames would also be negatively affected.

Electoral Organisation Officials, whether at the JLEs or the JDEs, carry out substantial activities even before the onset of the preparations stage for each electoral process, such as the upkeep of ballot boxes, polling booths, voting card stampers, their storage (in expressly refurbished warehouses) and inventory update. They are in charge of keeping the directory of municipal and school authorities—and of stewards or managers of the venues where the polling stations are customarily installed—up to date, as well as of making sure those places continue to meet the legal requirements and characteristics to house the polling officers on Election Day. Additionally, they carry out activities to encourage mock-up elections (of civil and school authorities) using electronic voting machines and announcing the electoral results (statistics) at the end of each election.

Meanwhile, the geographic and social circumstances are analysed to decide on the need or possibility of installing extraordinary polling stations—according to the evolution of the Electoral Roll and the Voters' List, travel time, distances, existence of communication routes and means of transport, social conflicts—as well as the feasibility of installing special polling stations so that voters away from their own polling station can cast their votes.

In relation with the operational aspects of the electoral logistic operations, there are key chain-of-custody processes of electoral documents (which imbue the electoral processes with certainty and objectivity) that fall under the electoral organisation officials—such as: locating and installing polling stations; counting, stamping and bundling electoral ballots; putting together electoral packages; delivering electoral documents and materials to the chairpersons of the polling stations; conducting trial runs and mock-ups of computer systems, of communications from the polling stations about the development of Election Day and of information on quick counts; planning the mechanisms to fetch the electoral packages from the polling stations to the district offices and the operations model for receiving the electoral packages by the end of Election Day; conducting the district tallies; dealings with local public security authorities—that would be seriously compromised (from their planning to their implementation) by the lack of permanent district bodies and qualified personnel (currently the local and district Electoral Organisation Officials) who are also in charge of training the Electoral and Training Assistants (CAEs) and of supervising all field operations. Moreover, the temporary staff tasked with those activities would lack empirical knowledge, reducing their capacity for risk assessment and management, since there would not be contingency plans in place.

Electoral training

Electoral training is a specialised technical process that requires expert personnel to coordinate and follow up on the necessary proceedings to make up the Polling Stations' Directive Board (MDCs) with citizens chosen through a raffle, therefore contributing to the legitimacy of the elections. For this to happen efficiently, a complex field operation needs to be deployed—under the guidance of professionals (as mentioned in the Constitution) who are, obviously, hired on a permanent basis—to disseminate the knowledge that guarantees that polling officers perform well on Election Day when receiving, registering and counting their neighbours' votes. Without such permanent professional personnel, the efficiency and quality with which the polling officers are brought together and trained would be compromised, therefore affecting the appropriate exercise of the political and electoral rights of citizens and political parties.

Consequently, as the legitimacy of the process would be called into question, holding **free and authentic elections** would be at risk. At the district level, tasking one single person with all the operational and supervision activities would make it impossible for them to take on the management of all the processes for electoral training, civic education, dissemination of institutional campaigns, encouragement of citizen participation and furtherance of women's political rights along with the electoral logistic operations. All the Federal Voters' Registry's (RFE) activities related to the Electoral Roll, cartography and issuance of voting cards; coordinating the MACs' operation; chairing the district surveillance commission; managing the electoral-attesting office and receiving and substantiating complaints (which requires being highly specialised and having judicial training to process them)—that increases significantly during the electoral processes—also have to be taken care of.

Civic education, encouragement of the culture of democracy and citizenship

The district electoral officials are heavily involved in the different civic education projects through the assistance and follow-up they provide. Hence, their absence would limit the projects' territorial reach and would jeopardise their success. The following are some of the projects and activities compromised by the downsizing of the decentralised structure:

- Programmes for gender equality and respect to women's political rights.
- Civic education and information to prevent, address and eradicate gender-based political violence against women.
- Programmes for the dissemination, development and strengthening of the democratic political culture, as well as those on educational communication to further the culture of democracy.
- Academic events and fora that contribute to the dissemination of civic education and the culture of democracy.
- Collaboration with political parties, civil organisations, research and academic institutes, and higher and specialised education institutions for enhancing democratic life.
- School elections.
- Children's Parliament and Children's and Young People's Consultation.
- Programmes for encouraging citizen participation.

These actions build our country's democracy up and are essential for the success of electoral processes.

Reuse of electoral materials

INE's culture of reusing electoral materials calls for actions for their retrieval, upkeep and storage, which—in addition to their quality—guarantee they can be used over several electoral processes. For that purpose, district Electoral Organisation Officials check on the retrieved electoral materials after every Election Day to identify those that can still be reused. Then, they undergo a refurbishment and preservation process to keep them in the best conditions and use them in future elections and direct democracy mechanisms.

The following table shows the expected savings from implementing the policy to reuse electoral materials.

Existing electoral materials that can be reused
(2023 estimated savings)

	Material	Stock	Reference unit cost * (1 USD=19 MXN)		Estimated savings (1 USD=19 MXN)	
1	Voting booth	99,272	MXN 3,833.64	USD 72,839.16	MXN 380,573,110.08	USD 7,230,889,091.52
2	Ballot box **	386,598	MXN 392.08	USD 7,449.52	MXN 151,577,343.84	USD 2,879,969,532.96
3	Package box	159,926	MXN 411.80	USD 7,824.20	MXN 65,857,526.80	USD 1,251,293,009.20
4	Special voting screen	118,654	MXN 370.04	USD 7,030.76	MXN 43,906,726.16	USD 834,227,797.04
5	Voting card stamper	153,892	MXN 417.02	USD 7,923.38	MXN 64,176,041.84	USD 1,219,344,794.96
6	Ballot marker	279,022	MXN 24.06	USD 457.14	MXN 6,712,822.88	USD 127,543,634.72
7	Add-on for the special voting screen	29,627	MXN 39.96	USD 759.24	MXN 1,183,954.17	USD 22,495,129.23
8	Ballot-marker fastener	183,620	MXN 22.42	USD 425.98	MXN 4,117,274.54	USD 78,228,216.26
	Total				**MXN 718,104,800.31**	**USD 13,643,991,205.89**

** Based on the market research for budgeting for 2023, which considered the 2020 market research and then the inflation to 2022 was factored in—the 2021 cost production of the add-on for the special voting screen was the one considered.*

*** The total number of ballot boxes for the three kinds of elections—federal, state and municipal—is considered.*

Source: Produced by the Office of Electoral Statistics and Documentation (DEDE) of the Electoral Organisation Executive Office (DEOE)

Monitoring of the programming ordered by the National Electoral Institute

According to Article 184, numeral 7, of the General Law on Electoral Institutions and Procedures (*Ley General de Instituciones y Procedimientos Electorales*, LGIPE) and Article 57 of the Radio and Television Regulations on Electoral Matters (*Reglamento de Radio y Televisión en Materia Electoral*, RRTME), the National Electoral Institute shall have the necessary means in place to verify the compliance with the approved

programming (of the State's airtime) and with the applicable laws. Likewise, the electoral propaganda disseminated—whether by free-to-air (FTA) or multichannel television services—must be monitored.

Hence, the compliance of the radio and television broadcasters with the programming ordered by the Institute is monitored at the 143 Verification and Monitoring Centres (*Centro de Verificación y Monitoreo*, CEVEMs) distributed across Mexico's 32 states.

Most of the CEVEMs—128 out of 143—are housed at the facilities of the District Executive Boards (JDEs). That means that 89.5 per cent of the Institute's installed infrastructure to comply with this legal mandate is located at its decentralised offices over 29 states.

It is important to point out that—according to RRTME's Article 6—the permanent attributions of JDEs are:

- Collaborate with the corresponding Local Executive Board (JLE) in verifying their respective state broadcasters' compliance with the programming.
- Assist the corresponding JLE in notifying the broadcasters of their respective state of the programming approved by INE's Radio and Television Committee and/or INE's General Executive Board (as appropriate).
- Assist the corresponding JLE in delivering—or making available—the broadcasting orders and materials to the broadcasters of their respective state that so request.

Therefore, the disappearance of the JDEs and the downsizing of their personnel has a direct impact on the compliance with the legal and regulatory mandate of monitoring the programming ordered by the Institute, as well as its relay by subscription television providers.

To measure this negative impact, it must be remembered that the number of monitored signals has been gradually increasing ever since the Institute manages the State's electoral airtime. This has provided greater certainty about the use of the political actors and electoral authorities' prerogatives, as well as the broadcasters' abidance to their obligations.

In view of the continuous growth of the National Catalogue of Broadcasters, INE has strived to increase the number of monitored signals. Should the number of JDEs decrease—and with them the CEVEMs—the total number of monitored signals

(which currently amount to 55 per cent) would also be reduced. Ever since 2009, when monitoring was implemented as a duty of the political communication model, INE has always verified most of the signals listed in the Catalogue. The verification of the broadcasters' compliance with this legal obligation could be but a fraction contingent on the reduction of the JDEs. In an extreme scenario, as much as 78.97 per cent (1,979) of the FTA and subscription television providers' signals currently being monitored could be left unattended, which would greatly affect INE's radio and television signals' monitoring scope. This would make INE's verifying (auditing) capabilities trivial.

The Verification and Monitoring Centres (CEVEMs) housed at the JDEs are currently staffed by 156 monitors and verifiers managed directly by the District Executive Officials.

Upon the disappearance of the JDEs, the CEVEMs' infrastructure would have to be relocated and the new locations would have to be refurbished and be electrically adjusted. That means a considerable disbursement taking into account that the Institute carried out a physical and technological infrastructure renovation in the last half of 2022. In other words, underusing the equipment—the Information and Communications Technology (ICT) infrastructure, the physical environment fittings (air conditioning, uninterruptible power supply equipment, emergency generator), the signal receiving equipment (antennas, signal splitters, tuners, capture cards) and the licences of the software required at the CEVEMs—would be a financial loss. The contract INE/109/2021, under which the 2021 technological renovation project took place, includes remote and onsite technical support and the equipment guarantees will remain in force until 31 December 2026.

On average, the relocation of a Verification and Monitoring Centre (including minor refurbishment) amounts to about MXN 430,000 (USD 8'170,000). Additionally, the Centres would have to absorb the public services' costs instead of the JDEs. Moreover, there are operational risks, like losing media (audio and video evidence of the broadcast of spots).

Media recordings

According to Article 185, numeral 1, of the General Law on Electoral Institutions and Procedures (LGIPE), INE's General Council shall order to monitor the pre-campaign and campaign radio and television news programmes. The results are released to the public at least every fortnight over the Institute's social outreach airtime and through any other means chosen by the General Council.

Likewise, INE signed collaboration agreements with the Ministry of Interior (*Secretaría de Gobernación*, Segob) and the Federal Telecommunications Institute (*Instituto Federal de Telecomunicaciones*, IFT) for monitoring radio and television signals and exchanging information and digital files. Both agreements include INE's duty to make recordings and gather information of the monitored signals. Additionally, judicial bodies of the Electoral Court of the Federal Judicial Branch (*Tribunal Electoral del Poder Judicial de la Federación*, TEPJF)—like its Specialised Regional Courtroom—and INE's own Electoral Litigation Unit (*Unidad Técnica de lo Contencioso Electoral*, UTCE) continuously require that recordings be made as evidence for complaint proceedings.

The work of the specialised CEVEMs' staff, in collaboration with the JDEs, is essential to comply with the abovementioned legal mandate and commitments with other agencies of the Mexican government. The CEVEMs' recordings of the radio and television news programmes are later analysed and/or used for legal purposes.

There are indispensable tasks that JDEs' personnel and the monitoring staff assigned to them carry out to support those activities. The elimination of their permanent activities would jeopardise the proper execution of the operational tasks that are necessary to manage the state-level State's electoral airtime.

Roll of affiliates

The citizens can, on a permanent basis, submit applications before the JDEs to be removed from the national–political parties' affiliates roll. As a result of the Bill, this activity's processing time could increase its current 11-day time frame.

The processing capability could be especially overwhelmed during the recruitment of the electoral trainers and supervisors. The volume of applications to deregister considerably increases because of the number of persons interested in being recruited.

Should the will to be affiliated not be elucidated at first, the applicants would have to personally go to either the District or Local Executive Boards (JDE and JLE, respectively) to make a statement about their membership, which must be officially recorded and reported to the Executive Office of Prerogatives and Political Parties (*Dirección Ejecutiva de Prerrogativas y Partidos Políticos*, DEPPP). Hence, this activity—handled mainly by the secretarial officials—might be affected by the decentralised offices' loss of operational capacity.

Attest that national political parties hold constitutive assemblies

JDE and JLE officials are in charge of—over the approximately 18-month process to constitute a national political party—attesting that the organisations hold district or state assemblies. Among the most relevant activities they must carry out at each assembly are:

- Verify that the place where the assembly will take place meets all the requirements.
- Prepare the computers, printers and other materials used for the registration of the attendants.
- Attend the assembly to register the attendants, verify they submitted the formal affiliation statement, attest to the approval of the basic documents and to the designees' election, as well as confirm the non-participation of forbidden entities in the constitution of national political parties.
- Upload the information gathered to the computing system developed for that purpose.
- Request the collation with the Electoral Roll.
- Issue the certificate for each of the assemblies held.

Throughout the last national political parties' registration process, it was attested that a total of 3,394 assemblies were held—of which 3,297 were at the district level and 97 were at the state level.

It ought to be mentioned that attesting to district assemblies—which must have at least 300 attendants—requires the participation of 15 persons from each JDE; correspondingly, a state assembly—with at least 3,000 attendants—requires 150 persons from both the JDEs and the JLEs.

Furthermore, since it is possible for several assemblies to be held simultaneously in the same district (as much as 4 assemblies have been held at the same time in one single district), electoral officials from other areas—Executive, Secretarial, Electoral Training and Civic Education, Federal Voters' Registry and Electoral Organisation—must be included to properly attest to them. In fact, the lack of personnel has always demanded some of the other officials to be involved, which would be impossible under the new outline of auxiliary offices of only one Operational Official.

In addition to sufficient personnel, computers containing the Electoral Roll—under the safekeeping of the Institute's staff—must also be available to attest to an

assembly. At least 5 computers are needed for a district assembly—and 50 for a state one—besides printers and vehicles to transport them.

Hence, the institutional capacity for attesting to the constitutive assemblies of the organisations following the procedures to become national political parties is jeopardised by having only one Operational Office, not to mention the downsizing at auxiliary offices.

Registry of candidates

The District Executive Boards (JDEs) carry out the registration of independent and political parties' candidates standing for plurality representatives' offices.

They must verify they are eligible and, in the case of independent candidates, they:

- Receive and analyse the notices of intent to stand for office.
- Issue notifications [to supplement their registration], if that were the case, or the applicant's proof of registration.
- Register the information of the candidate in the National System for the Registration of Pre-Candidates and Candidates (*Sistema Nacional de Registro de Precandidatos y Candidatos*, SNR).
- Conduct hearings about the inaccuracies in the records of citizens' endorsement of the applicants.
- Receive the registration applications.
- Decide accordingly.

The Operational Official will not be able to deal with all the activities mentioned above because, throughout the electoral processes, there are many other attributions that must be addressed for organising an election. The role of the Secretarial Official is essential in this regard.

Direct Democracy Mechanisms

In compliance with Article 35 of the Constitution, INE is responsible for organising referendums—for which the 300 District Electoral Councils must be inducted—so that the citizens can directly express their opinion on issues of the utmost importance for the country.

Several areas that make up INE—such as the Executive Office of the Federal Voters' Registry (DERFE), the Electoral Training and Civic Education Executive Office

(DECEyEC), the Electoral Organisation Executive Office (DEOE), the Informatics Unit (UTSI), the Unit for National Social Outreach (CNCS) and the Office of Legal Affairs (DJ), as well as the District and Local Executive Boards (JDEs and JLEs, respectively)—must turn to design the documents to lay down the conceptual and prescriptive guidelines to be followed for planning, coordinating, carrying out and following up this direct democracy mechanism.

For the 2021 referendum, INE:

- Verified that the names of those endorsing the referendum were on the Voters' List.
- Presented the detailed Report of the signature revision.
- Organised the unfolding of the referendum.
- Approved the layout of the referendum ballot.
- Approved the formats and other documents needed for the referendum.
- Proposed, through DECEyEC, the referendum training programmes.
- Carried out the referendum's dissemination campaign.
- Delivered the referendum ballots to the District Councils 15 days before the polling day.
- Installed the polling stations—the JDEs made the calculations to determine the number of polling states that were installed.
- Counted the number of votes of the referendum, among others.

Presidential Recall

For the organisation of the presidential recall, the JLE and JDE personnel:

- Received the intention notices submitted by the proponents and forwarded them to the Executive Office of Prerogatives and Political Parties (DEPPP) along with the proponents' replies to the requirements to supplement their petition.

- Provided the proponents and their auxiliaries within their corresponding jurisdiction with the necessary training on registering endorsers using the ad hoc APP or the physical formats.

- Scheduled, jointly with the Executive Office of the Federal Voters' Registry (DERFE), the date and time for the hearings requested by the proponents on citizen endorsement signatures through physical formats.

- Reviewed, along with the proponents, the citizen endorsement signatures in which inaccuracies might have been observed.

- Reviewed, in collaboration with the citizens that signed their endorsement through the '*Mi Apoyo*' ['My Support'] APP, the electronic file labelled as inaccurate.

- Drew up the statement of the hearings on citizen endorsement signatures, whether digitally submitted through '*Mi Apoyo*' or physically before the JLEs.

Over a 10-day period, a total of 24,029 presidential recall intention notices were submitted and analysed. INE's local and district offices received 23,825 of them (99 per cent) and JDEs' staff assisted in locating the proponents who could not be notified by e-mail.

It would have been impossible to do that without the current JDE structure, so the auxiliary offices arrangement jeopardises the citizens' ability to exercise this right. The role of the Secretarial, Electoral Organisation and Federal Voters' Registry Officials in these activities, under the coordination of the Executive Officials, is essential.

Follow-up and oversight activities

Downsizing the JLEs' structure jeopardises the follow-up and oversight activities that must be handled within JLEs and JDEs. Additionally, it is unfeasible for the Electoral Organisation and Electoral Training and Civic Education Officials to serve as secretaries of the Local Councils—as stated in the Bill—because it is impossible to take on those tasks in tandem with their own technical tasks, which will impair the efficiency and quality of the activities that must be carried out or, even worse, that some would not be attended due to work overload.

By the same token, the oversight, follow-up and recommendations that INE's JDEs make in relation to the decentralised offices of the Local Electoral Management Bodies (*Organismos Públicos Locales Electorales*, OPLs) on the premise of sharing good practices and experiences obtained over the years and by taking part in several electoral processes would be affected. Hence, the lack of officials would seriously compromise these activities, not to mention the incapacity of having one single official in charge of all these activities.

Secretarial Officials' activities

Even though the convenience of multi-member bodies (Executive Boards) is undeniable, the electoral reform discards them at the district level and maintains the District Councils only during the electoral processes. Therefore, the Secretarial Officials at the District Councils (and at the Local Councils, if their jurisdictions are kept unchanged) will also be kept only during the electoral processes and disappear beyond it. As secretaries of the Councils, they put the official call documents together and send them to the members of the corresponding Council; draft agreements and resolutions; attest to the proceedings and process the resulting information; and keep the archives of the corresponding Council.

Outside of the electoral process (and during it, unless a specific position is set up), some of the legal functions that would not be carried out are assisting INE's Electoral Litigation Unit (UTCE), Office of Legal Affairs (DJ) and Auditing Unit (UTF) in serving notices related to punitive procedures and judicial proceedings; processing complaints and allegations; processing impugnation means; attesting to electoral deeds and occurrences; drafting and signing legal documents (contracts, agreements); attending to the injunctions from judicial, prosecuting and administrative authorities, among others; assisting in serving notices for the Courtrooms of the Electoral Court of the Federal Judicial Branch (TEPJF); and duly substantiating the complaints and allegations' punitive procedures. For example, the 98,499 UTCE's notices served between October 2012 and December 2022 were mostly delivered by JLEs and JDEs' Secretarial Officials.

The Constitutional obligations related to transparency, access to public information and protection of personal data, as well as for archiving it—established in Articles 6 and 16 of the Constitution, the General Law on Transparency and Access to Public Information, the General Law on Protection of Personal Data in Possession of Regulated Entities, the Archives' General Law and the Federal Law on Transparency and Access to Public Information, along with the criteria issued by the National Institute for Transparency, Access to Information and Protection of Personal Data (INAI) and INE's Transparency Committee—will not be carried out either. Between 2014 and 2022, INE received 30,395 information requests and 3,106 petitions regarding the rights to Access, Rectification, Deletion and Objection of personal data.

A specialised position must be designated to comply with transparency obligations, manage and attend to requests to access information and to personal data protection duties—including the petitions to access, rectify, delete and object personal data—and to observe the institutional archiving tasks; all of which are currently taken care

of by the Secretarial Official. Should this position not be created, the responsibility would fall upon the Operational Official and turn into a work overload that could lead to the non-compliance of these tasks.

Administratively, removing the Secretarial Officials entails taking out the tasks of validating and reviewing expenditures, along with timely carrying out other operational and administrative permanent activities. Likewise, these officials support the National Professional Electoral Service Executive Office (DESPEN) in its substantial processes—like competitive examinations, capacity building programmes and every notification to SPEN members.

The administrative and legal roles and responsibilities that guarantee the electoral function and the political participation rights maintain the already-met standards of quality and security, are what sustain the electoral matters—along with the imperative of human rights' progressiveness and development of democratic values or principles. Any decline in rights' protection or in the efficiency of the guarantees that make them possible is contrary to the human rights' non-retrogression mandate. Consequently, cutting out an essential position for the appropriate institutional operation is inadmissible.

District tallies

Currently, the law establishes that district tallies will take place on the Wednesday following Election Day, after a meeting of the District Council and supplementing as many polling station voting certificates as possible to try and gather all of them.

While the full Council—in which the Executive and Secretarial Officials are the Chairperson and Secretary—collates the certificates, the rest of the officials and, if needed, the leaders of JDEs' Follow-up and Analysis Offices (being the most experienced and knowledgeable) chair the working groups to carry out the vote recount.

SPEN personnel are indispensable because their continuous professional training allow them to lead the activities and make sure they abide by the electoral function principles.

As for the working groups and the spaces to carry out the district tallies, previously trained staff is needed to handle partial or total vote recounts of the elections. Under this Bill, there will no longer be any institutional follow-up, continuity or commitment, nor personnel with a sense of belonging.

Those chairing the working groups that carry out the recounts must be duly trained professionals. Their absence could jeopardise the proper vote recount due to lack of knowledge of the causes for annulling the votes.

The elections' district tallies, as an essential element that provide legal certainty and legitimacy to the electoral process, need to be handled by experienced and duly trained officers. In that sense, the Bill is unfeasible because it seriously jeopardises this task and compromises free and authentic elections, along with the legitimacy of their results.

Other implications

Experience shows that recruiting temporary staff for carrying out election-related tasks and deliver high-quality electoral processes—particularly while organising local elections—is troublesome because of their lack of experience and the high risk that political parties and actors might get their own supporters involved.

This adds to the intention of having less sufficiently prepared personnel deal with the same activities. It is impossible for INE to organise electoral processes and other activities that meet the high international standards it has adopted over the last 30 years with insufficient personnel—in numbers and qualifications. It is the professional, impartial and independent members of the career civil service who made that happen.

Similarly, some areas like the Electoral Litigation Unit (UTCE), the Unit for National Social Outreach (CNCS) and the Auditing Unit (UTF) have warned that downsizing INE's decentralised structure would compromise their capacity to discharge their tasks because some of them are carried out by the personnel in those offices. For instance, they handle several proceedings (like gathering evidence or serving notices) for the UTCE and the UTF. Likewise, the CNCS said their communication and coordination activities with state and local media, as well as the management and supervision of social media, the monitoring of propaganda and surveys in printed media and the monitoring of local media's coverage of the Institute's tasks, activities and attributions would also be impaired. This situation would require hiring temporary staff through project portfolio management.

Moreover, the modification of this structure would significantly impact programmes and activities that have been implemented over the years to advance and guarantee, for example, women's political and electoral rights; their empowerment, the prevention, eradication and punishment of gender-based political violence against women; the political and electoral rights of vulnerable groups. Among those are the

National Programme to Further Women's Political Participation, Talentum Mujeres Civitas, several mechanisms on gender-based political violence against women—like the National Electoral Institute's Protocol to attend to victims of gender-based political violence, the risk analysis of those cases and the '3 out of 3 against violence' criteria (through which candidates seeking nomination declare they have not been convicted for family or domestic violence, for sexual crimes or for owing child support)—for whose execution INE's staff at the decentralised offices are essential.

b) Local and District Councils

In both cases, the Bill reduces the number of electoral councillors from six to four, which impact their involvement and oversight tasks in:

- Recruiting Electoral Supervisors (SEs) and Electoral and Training Assistants (CAEs). The time frame for interviews or the business hours would have to be extended to interview all the applicants. Currently, the interviews are made by 1 official and 1 councillor.

- The assessment visits to decide the location of polling stations would be affected since the number of routes would have to be reduced—instead of 6 routes (corresponding to the current number of councillors), there would only be four at one time—meaning less electoral sections and polling stations assessed and a less certain process to locate polling stations.

- Counting, stamping and bundling ballot papers, as well as putting together the electoral packages. The electoral councillors take part in these activities, so the time to carry them out would be extended.

- District tallies. Working groups led by an electoral councillor and a SPEN-official are set to collate the voting certificates, so, if the number of councillors is reduced (even considering their substitutes), the number of working groups and vote-recount task forces would also be reduced. Consequently, the tallies would take longer, and, at times, it would be impossible to carry out the collation in tandem with the partial or total recount of votes due to the lack of councillors and SPEN-officials.

Large districts would be especially affected by the decrease in the number of councillors because—taking into account their many responsibilities—it would be impossible for the District Council to be involved on the field as the programmes on

electoral organisation and for electoral training, like the location and making up of polling stations, unfold.

As a consequence of the temporariness of the decentralised bodies, the district councils will lack the permanent facilities for their induction and operation. This will require that specific spaces be sought during the electoral processes and will have a recurrent negative impact on the budget. Moreover, this situation affects the Institute's planning and field operation because those offices are used as landmarks for designing the electoral logistic operations.

Furthermore, the lack of adequate and functional facilities affects the due observance of activities that guarantee the chain of custody of the electoral documents, not to mention the difficulty for leasing properties for spans of less than one year.

2. Organisational restructuring of INE's directive bodies and head offices

a) Merger of INE's executive offices, technical units and other bodies

Along with the modifications to INE's structure, it is also proposed that the time frames for substantial activities of the electoral process—like the training of polling officers and the electoral logistic operations—be reduced. However, these do not seem to be supported by any analysis or reflection.

It would seem that no legal impact analysis regarding the grouping of offices or the reduction of time frames of the stages or phases of the electoral process was made.

The Bill does not provide any rationale or reasonings—beyond budgetary issues—for INE's restructuring, nor does it offer any objective arguments that the merger and grouping of the structure will translate into savings. It also fails to state whether the whole structure of each of the offices to be merged will be included into the new one or just a part of them. Such lack of definition goes against the legal principle of certainty.

In other words, the elimination of fundamental areas for INE was proposed arbitrarily, without considering their corresponding specialisation, the contributions they each make to the due and proper organisation of elections and the relevance of other substantial tasks they carry out—all of which account for the existence of independent structures. For instance, the activities of the Electoral Organisation (DEOE) and the Electoral Training and Civic Education (DECEyEC) Executive

Offices stand for over 40 per cent of the institutional activities carried out throughout the electoral process.

According to the 2017–2018 Federal Electoral Process Plan and Schedule (*Plan y Calendario del Proceso Electoral Federal 2017–2018*, PyCIPEF), DECEyEC and DEOE oversaw most of the 703 activities included. DECEyEC carried out 163 activities (23.19 per cent) and DEOE 128 (18.21 per cent). That means 41.39 per cent of the activities of the last federal electoral process—which is equivalent to the one coming in 2024—were performed by these two executive offices. During the 2021 Federal Electoral Process (PEF), they were responsible for 42.79 per cent of INE's activities.

However, it must be pointed out that there are a number of substantial electoral logistic operations that are not included in the PyCIPEF—such as the Strategy for Electoral Training and Assistance—because they fall under the Elections' Regulations (*Reglamento de Elecciones*, RE) and its appendices. There are 24 appendices to the Elections' Regulations, of which 11 relate to DEOE and 2 to DECEyEC for a total of 54.2 per cent RE's appendices. Likewise, the Liaison Unit with Local Electoral Management Bodies (*Unidad Técnica de Vinculación con los Organismos Públicos Locales*, UTVOPL) is responsible for 2 other appendices, so among the three oversee 15 appendices—which amounts to 62.5 per cent of all the appendices. This confirms their relevance and, taking their specialisation into account, makes the need of an analysis that includes these elements obvious before their merger is proposed.

National Professional Electoral Service Executive Office–Administrative Executive Office
DESPEN–DEA

The Bill establishes the merger of the National Professional Electoral Service (SPEN) and the Administrative Executive Offices. The issue with the career service goes beyond adjusting its structure, it is about the operation and regulation of the Service's processes and procedures. Besides, the Informatics Unit (*Unidad Técnica de Servicios Informáticos*, UTSI) would also be included in the new Executive Office.

The Bill offers no reasonings—aside from referring to the budget—for any of the mergers it proposes. There is also no evidence that downsizing the institutional structure in this way will bring about an economic benefit for the public funds because it is not specified whether the whole structure of the merged offices will be part of the new structure or only a part of them.

It is only mentioned that the new personnel structure shall be approved by the Management Committee and sanctioned by the Internal Auditing Office (*Órgano Interno de Control*, OIC) which—as previously mentioned—has no constitutional powers to intervene in such tasks.

The consequence of all these is uncertainty and the extreme disarticulation of the whole structure, which could entail the decrease of the elections' quality and legitimacy.

The uncertainty is because it is unknown whether the new structures will be sufficient and if the experience of the current personnel will be weighed as the new structures are put together. Moreover, there is no information about what will happen to the SPEN personnel at the head offices and the Bill disappears INE's 'administrative branch'.

The disarticulation happens because the Bill, instead of having (as in any organisation) a chain of command—to which the Internal Auditing Office has also referred to over several audits—in place to prevent disunity of command and having each office be responsible for similar tasks, lumps different offices together under alleged common interests without properly assessing the budgetary impact or operational feasibility of doing so.

Considering the responsibilities of each of INE's areas, the third inoperative element—that will be detailed further—is the sanctioning of the personnel by the Internal Auditing Office because, like any such office, it is tasked with auditing authority and must not influence the Institute's autonomous decisions, otherwise it would be a clear conflict of interest.

Additionally, there is no indication as to whether the responsibilities of one office will be transferred to the other or who will oversee them. INE's Administrative Executive Office establishes the general policies, technical criteria and guidelines to be followed for organising and managing the material, financial and human resources of the Institute; and makes the necessary arrangements to meet the administrative needs of all of INE's bodies so that they can carry out their own responsibilities.

As for the National Professional Electoral Service Executive Office (DESPEN), it plans, organises, manages and assesses the National Professional Electoral Service in compliance with the Bylaw. It also carries out the processes for recruiting, professionalise, promote, distribute incentives, transfer, rotate and evaluate SPEN members, as well as the career's procedures and programmes.

As it can be observed, the DESPEN has no functional administrative responsibilities, like material resources or utilities, so merging it with the Administrative Executive Office would be complex.

In the case of the Informatics Unit (UTSI), the Bill's transitional articles establish that its downsizing and restructuring will be reviewed once INE's General Council issues the corresponding guidelines. Hence, there is no certainty that it will be included in the proposed organisation's structure. Including this Unit into another office would place it in a vertical chain of command, although its interaction with all the offices ought to be horizontal with cross-cutting services. The Administrative and Professional Electoral Service Executive Officer would be overwhelmed with all the administrative and services' management that the many responsibilities and tasks that stem from the services and systems that a department of informatics must manage. This could excessively complicate decision-making and compromise the timeliness on informatics.

Electoral Training and Civic Education Executive Office–Electoral Organisation Executive Office–Liaison Unit with Local Electoral Management Bodies
DECEyEC–DEOE–UTVOPL

Every year since the 2014 electoral reform, INE has coordinated concurrent, local and direct democracy elections. For the organisation of those elections to be highly efficient and effective, the members of the National Professional Electoral Service (SPEN) have come to specialise in the many unique positions—with their corresponding tasks—they occupy, from team leaders to the head of the Executive Office.

INE's head offices establish the rules and guidelines implemented by its whole structure. Complying with the Institute's mission of 'Organising free, fair and reliable electoral processes to guarantee the citizens' political and electoral rights and contribute to furthering Mexico's democratic life' is an essential part of it.

According to this, the proposal to merge the Electoral Organisation Executive Office with the Electoral Training and Civic Education Executive Office and with the Liaison Unit with Local Electoral Management Bodies into one single office means lumping together INE's cogwheels in one place, undermining the many processes each area handles by themselves.

Moreover, the fact that each of them has distinct purposes and tasks according with their specialised functions is overlooked. For instance, while the Electoral Organisation Executive Office (DEOE) is tasked with designing and printing electoral

documents (ballot papers, election certificates) and manufacturing electoral materials (ballot boxes, voting booths, voting screens), finding locations for installing polling stations (private homes, schools, parks) and coordinating the delivery of electoral packages and their fetching mechanisms, the Electoral Training and Civic Education Executive Office (DECEyEC) drafts, proposes and coordinates INE's national, local and district electoral training and civic education programmes, draws up the electoral training strategy unfolded during federal electoral processes, designs—if necessary, in collaboration with other areas of the Institute for specific contents—and implements institutional outreach campaigns, oversees the research, analysis and drafting of educational materials needed for electoral training programmes and designs and furthers strategies for engaging and training polling officers.

Although their tasks are intertwined throughout the whole electoral process, they cannot be combined or mixed, even if they are carried out in tandem with each other, because they must be handled by two distinct specialised structures.

Unlike the Bill's proposal to merge offices, task-specialisation has proven to be increasingly efficient for organising Mexico's elections with integrity, meaning they are 'based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and [are] professional, impartial, and transparent in [their] preparation and administration throughout the electoral cycle'[2]. For instance, the number and location of polling stations are constantly revised to bring them closer to the citizens, the electoral documents include high security measures, the polling officers are selected through a double raffle (month of birth and surname's initial) and trained to receive and accurately count the votes of their neighbours, which translates into trustworthy results for the citizens and public peace during the elections.

Should one single person handle all the simultaneous activities—as the Bill establishes—they would be overloaded by the specialised tasks, which could impact the accuracy of the strategic processes. Besides, unlike to what is stated in the Bill, disappearing one of the executive offices would not necessarily translate into economies; there would still be the need to hire auxiliary staff to take care of the tasks that are currently assigned to two areas (Electoral Organisation and Electoral Training and Civic Education), which would entail a possibly greater disbursement to the present one.

[2] The Report of the Global Commission on Elections, Democracy and Security. September 2012. Consulted at https://www.idea.int/sites/default/files/publications/deepening-democracy.pdf

Actually, the downsizing and merger of offices is not coupled with thinning down the institutional processes and procedures, causing an excess of overlapping activities. This can lead to institutional ineffectiveness or poor performance that can throw the results of an election into question.

The organisation of direct democracy mechanisms and elections entails a macro process with multiple specific functions. The merger of the three offices into one jeopardises the organisation of free, authentic, fair and reliable electoral processes.

Ever since 2014, when the present national system of elections came into effect, INE's substantial tasks for the federal and local electoral processes—like auditing the resources of federal and local political parties and candidates; boundary delimitation of local electoral districts; selection and training of polling officers and deciding the location of polling stations; overseas issuance of the Photo–Voting Card; issuance of rules and criteria on preliminary results, surveys and opinion polls, electoral observation, quick counts, printing of electoral documents and manufacturing of electoral materials—have increased. In the lapse of 9 years (from 2014 to 2022), INE has organised over 330 electoral processes—whether direct democracy mechanisms, federal, local or political parties' internal elections—under the highest quality standards, but the Bill's proposal to merge DECEyEC, DEOE and UTVOPL would greatly compromise the highly efficient and effective electoral organisation. Additionally, it must be taken into account that extraordinary actions have been adopted in the last couple of years to organise elections under the circumstances of the pandemic.

Regarding the committees, it is feasible for one of them to oversee the procedures on electoral training and organisation during the electoral processes because those activities happen simultaneously—albeit under the supervision of different offices—and their tasks converge, in particular, in the *joint polling stations*[3], demanding institutional synergy to guarantee citizens can vote freely. However, that same arrangement is not possible beyond the electoral process because the processes for citizen participation, civic education, women's political and electoral rights, dissemination of electoral statistics, organising binding and mock elections in schools and businesses using electronic voting, and the dissemination of institutional campaigns go on, branch out and become broader.

[3] Translator's Note: Before the 2014 reform, there used to be distinct federal and local polling stations that could either be side by side at the same location or be very close to each other. Even if they were next to each other, voters had to identify themselves before both the federal and local presiding officers to receive the ballot papers and cast their votes. Nowadays, there is only one "joint" polling station where the voters identify themselves to receive all the available ballots and cast their votes.

The Bill eliminates the Liaison Unit with Local Electoral Management Bodies (UTVOPL) and transfers its tasks to the Organisation and Training Executive Office—specifically, the appointment of the local electoral management bodies' chairpersons and councillors and the collaboration for drafting agreements, plans and schedules. The Bill also states that INE must provide the local electoral management bodies with information on a permanent basis—which is very similar to the current role of UTVOPL's Liaison System with Local Electoral Management Bodies (*Sistema de Vinculación con los Organismos Públicos Locales Electorales*, SIVOPLE)—but does not task any specific office.

In general terms, transferring UTVOPL's tasks to the Organisation and Training Executive Office would entail.

- To include an important number of activities that are currently not considered—which would interfere with the tasks it has for organising electoral processes.
- To expand its structure to include an area (or several areas) to take over the liaison with local EMBs and manage the processes for selecting and appointing their chairpersons and councillors.
- To obtain the necessary experience to coordinate the work of the local EMBs with INE's executive areas, considering the allocation and management of activities received through the permanent communications.
- To follow-up the activities established by the local electoral processes' agreements and calendars, in addition to the—if that were the case—corresponding federal electoral process.

In sum, the UTVOPL is conceived as a cross-cutting unit that collaborates with all the areas of the Institute because the nature of INE and the local EMBs go beyond organising elections. Hence, transferring those tasks to the Organisation and Training Executive Office would limit the capacity of coordination with the rest of INE's areas. The following are some of the risks that the Bill would bring to the due compliance of the functions currently tasked to the UTVOPL:

1. National Electoral Institute (INE)–Local Electoral Management Bodies (OPLs) coordination instruments. The coordination and collaboration instruments might not be duly formalised before the outset of the 2024 concurrent electoral process, which could result in uncertainty about the task distribution between the parties and cause delays that would interfere in the unfolding of the electoral processes.

Drafting those instruments requires full knowledge of the powers, duties and activities of INE's and OPLs' areas, as well as the particularities of local laws. This is not guaranteed by the personnel's learning curve who take over this activity.

Moreover, without a proper follow-up of OPLs' economic commitments, there could be delays in carrying out the electoral process' activities, which would further jeopardise the quality control of the programmed tasks. And it would be the same office executing the activities and following them up.

The number of instruments signed since 2014 amount to 689—between general and specific agreements, technical and financial appendices and addenda.

In this context, it is important to point out that when direct democracy elections—plebiscite, referendum, citizen initiative and popular consultation—are held, the Liaison Unit with Local Electoral Management Bodies (UTVOPL) drafts, follows through and formalises the documents through which INE's assistance is provided to Local EMBs on registration issues.

2. Comprehensive plan and coordination schedules. The Bill proposes pushing back the outset of the Federal Electoral Process (PEF) to the third week of November and lines up the administrative modifications INE must do to August 2023 at the latest. Leaving aside the obvious inconsistencies with the Transitional Articles—caused by the Senate's delay to pass the Bill—the time given to the OPLs is a lot less because it establishes that local congresses have 180 days to make the relevant changes (except for Coahuila and the state of Mexico). If the Bill is enacted in February 2023, the deadline would be August 2023, making it inoperative due to the outset in September of the 9 local electoral processes scheduled for 2024. In order to comply with the 90-day span set in Article 105, Roman numeral II, of the Political Constitution of the Mexican United States (CPEUM), the amendments to local laws would have to be passed in May.

If the local amendments are really completed in time, those 9 OPLs would have to adjust their organisational structures in less than one month, in tandem with the ongoing preparations for their respective 2023–2024 Local Electoral Process (PEL). For instance, the call to make up OPLs' decentralised bodies is (in some cases) issued as early as April of the year before the election because of the difficulty to fill those temporary openings.

OPLs' tasks to design and adjust the electoral documents must be completed by September of the year before the elections. Similarly, UTVOPL's preparations to

draft the coordination schedules are linked with the outset of the local electoral processes, rather than the federal. The 2021 coordination schedules were approved in August 2020. So far, 114 schedules, grouping 4,453 activities, have been drafted.

The belated availability of those schedules would be extremely detrimental and would jeopardise the unfolding of essential processes for the organisation of the electoral process, like INE's duties to audit campaign resources and verify citizen endorsements. The many deadlines those activities entail made it necessary for the Institute to exercise its power to attract functions to carry them out properly.

3. Exercise the power of assumption (take over tasks). In addition to all the activities that this area will carry out, the provision of Article 56, numeral 1, clause n), of the General Law on Electoral Institutions and Procedures (LGIPE) states that it will coordinate the gathering and analysis of information needed to take over the organisation of local electoral processes. Such activity entails drafting a resolution and/or agreement to be presented before INE's General Council for its approval.

4. INE–OPL communication and coordination system and its management. Transferring the operation and management of the Liaison System with Local Electoral Management Bodies (*Sistema de Vinculación con los Organismos Públicos Locales Electorales,* SIVOPLE) to another office that has never used it can hinder the communication already built and consolidated with the 32 OPLs.

The information managed over the SIVOPLE has become a relevant database that contributes to the communication among INE and the OPLs because the directive structures and technical units of all the institutions can access that information.

Everyday interaction of INE's offices with the OPLs has created an average of 21 thousand activities every year since 2019.

The information being exchanged revolves around whether a state will hold elections. If it does, the information focuses on signing the collaboration agreement to establish the activities and disbursements between the parties and the follow-up of the activities unfolding according to the collaboration plan and schedules; and as Election Day nears, the information increases. If no election will be held, the information refers to the local preparations for upcoming elections, like registering groups or associations seeking to become political parties; purging the electoral roll and the voters' list; consultations to the citizens and indigenous peoples. The greatest percentage of INE–OPL communications throughout the electoral process relate to the Preliminary Electoral Results Programme (*Programa de Resultados*

Electorales Preliminares, PREP) and the auditing of resources, closely followed by requests on electoral organisation and electoral training.

The merger of the areas means the access and permits must be reassigned and knowledge and experience in managing and handling the consultations and activities must be acquired. It must be highlighted that Article 37 of the Elections' Regulations establishes that, during electoral processes, the information requests must be answered within 3 days, while those from states without an ongoing electoral process will be answered within 10 days.

5. Notification and follow-up of INE's agreements and resolutions related with OPLs. Another relevant task of the Liaison Unit with Local Electoral Management Bodies (UTVOPL) is to send notifications of the agreements and resolutions approved by INE's General Council and General Executive Board, which requires to continuously exchange of information with the 32 Local Electoral Management Bodies (OPLs) so as to follow up on that due notifications of those agreements and resolutions have been served to the local political parties and the national political parties registered locally.

This task is also carried out with the agreements approved by INE's permanent and temporal committees (Radio and Television Committee, Temporary Election Monitoring Committee, etc.). It allows to timely serve notifications on the resolutions about pre-campaign income and expenditure reports and the review of the local political parties and locally registered national political parties' annual income and expenditure reports; the resolutions of the ordinary punitive procedures and auditing complaint procedures; as well as on the agreements on the compliance with jurisdictional rulings. It serves the double purpose of making it certain that they are abided and provide evidence of the notification to political parties should they argue otherwise.

It is important to highlight that there are a number of activities that follow the notification of the agreements and resolutions passed by INE's General Council and General Executive Board, such as checking on the status of the process, verifying the publication of the resolutions that so require, requesting certified copies before INE's Secretarial Bureau, providing the information required by INE's Office of Legal Affairs to answer the injunctions from impugnation means lodged at the (federal and local) electoral courts and by other technical and executive offices of the Institute.

6. Appointment of the Local Electoral Management Bodies' Chairpersons and Councillors. The 2014 electoral reform established the staggered appointment of the members of the directive bodies. Such appointments entail a complex, changing,

continuous and adaptable (to the country's political and electoral reality) process, rather than merely cyclic processes that happen at a pre-established frequency.

In addition to the beginning of the staggered process, the time required for it to unfold and the completion of the term of each position, there are many other situations—established in the Elections' Regulations—that could call for out-of-schedule appointments, like resignations, dismissals, deaths and permanent disability. These have been the reasons for most of the calls issued since 2014.

Ever since 2014, INE's General Council has approved 27 agreements for issuing 163 calls, of which 4 were for the initial appointment and renewal of positions at the end of their term, 5 for renewing of positions and filling openings and 18 to start extraordinary appointment processes due to a vacancy. Over this period, a total of 469 councillors—250 women and 219 men—have been appointed.

Between 2016 and 2022, there were 62 unscheduled vacancies: 39 resignations, 17 dismissals and 6 deaths. In compliance with Article 33 of the Elections' Regulations, the Liaison Committee—through the Liaison Unit (UTVOPL)—carried out the corresponding appointment procedures for those openings.

The appointment processes are being continuously improved and, ever since the first one, the criteria, instruments and working arrangements have been adapted and modified. In consequence, INE's General Council approved agreements—INE/CG28/2017, INE/CG217/2017, INE/CG572/2017, INE/CG1485/2018, INE/CG135/2020, INE/CG1471/2021 and INE/CG617/2022—to modify the Elections' Regulations and make these tasks reliable so that the rights can be maximised and there is more certainty on the process.

Aside of the procedures for the staggered appointment of local electoral councillors—for 3, 6 and 7 years—the Elections' Regulations lays down the other causes that can lead to vacancies and to hold appointment processes, like those for provisional chairpersons.

The changes made to the provisions to imbue the process with greater certainty have broadened INE's and UTVOPL's attributions, turning the appointment procedures into a crucial project that demands constant efforts for their planning and unfolding. The continuous assessment of these processes' regulations will be presented in 2023.

The appointment of the chairperson of Chiapas' OPL and a councillor of Nuevo León's OPL—whose terms conclude this year—will also take place by 31 May 2023 at the latest.

The Superior Courtroom of the Electoral Court of the Federal Judicial Branch (TEPJF) has stated that the appointment procedures to fill any opening in the directive body of a Local Electoral Management Body (OPL) must begin as soon as there is a vacancy. This is particularly relevant because it is desirable that all the General Councils of the 32 OPLs had all their members appointed for the 2023–2024 federal and concurrent local electoral processes.

Lastly, as the federal and local concurrent electoral processes unfold during 2024, the appointment procedures to fill 51 openings in 18 states—of which 48 are councillors from Baja California Sur, Campeche, Colima, Guanajuato, Guerrero, Jalisco, Mexico City, Michoacán, Nuevo León, Oaxaca, Querétaro, San Luis Potosí, Sonora, State of México, Tabasco, Tlaxcala and Yucatán whose term end on 30 September 2024 and 3 are councillors from Zacatecas whose term end on 4 January 2025, although the procedures will take place (as in previous occasions) along with the rest of the states—will also be carried out.

Transferring all these appointment functions and tasks to the Electoral Organisation and Training Executive Office would jeopardise the compliance with the constitutional responsibility of timely and properly appointing OPLs' Councillors. Going through each of the appointment stages appropriately in tandem with the tasks for the ordinary—and extraordinary—electoral processes would jeopardise both because there would be the need to constantly divert the attention from either to the other.

Electoral Litigation Unit–Office of Legal Affairs
UTCE–DJ

The Bill proposes the merger of the Electoral Litigation Unit (*Unidad Técnica de lo Contencioso Electoral,* UTCE) and the Office of Legal Affairs (*Dirección Jurídica*, DJ), with which dissimilar activities—whose nature are different and require distinct administrative structures—are put together.

On one side, the Electoral Litigation Unit is essentially responsible for substantiating the punitive procedures that have progressively diversified and specialised with the redistribution of jurisdictions in 2014 and, particularly, with the 2020 reform on gender-based political violence against women. It is due to the latter that overseeing the lodging of complaints and allegations and their immediate processing is of the

utmost importance. Additionally, there is the continuous coordination with the Complaints and Allegations Committee to analyse and resolve on the lawful preliminary injunctions.

Even though the Bill maintains the procedures of the current electoral punitive regime, the following are substantial changes:

- In relation with the procedures for the dismissal of OPLs' electoral councillors (PRCE), a cause regarding the ruling of gender-based violence was included. Conversely, a substantial part of the provision about the existence of evidence to initiate the procedure is removed, which makes it possible to merely allege one of the dismissal causes. This could lead to it being used as a tool to distract and/or politicise the councillors' institutional performance while transgressing principles, such as the presumption of innocence. It also affects the principle of non-concurrent procedures because the same authority that receives the substantiation for the Special Punitive Procedure (PES) due to gender-based political violence will also be the one to hear the substantiation and resolve the Ordinary Punitive Procedure (POS). Hence, the same event will be heard twice by the same authority, which makes a diversified view of the procedure impossible.

- Another particular circumstance of the procedures for the dismissal of OPLs' electoral councillors (PRCEs) is that when INE's Executive Office of Legal Affairs and Electoral Litigation were informed about any of the causes for dismissal, it would initiate the procedure and report to the General Council. However, reporting to the representatives of the political parties and the Legislative Branch that are members of the General Council would breach the principle of secrecy and procedural confidentiality because the initial proceedings (initial statement of complaint and the supporting evidence) would be available to parties that are not involved in the procedure.

- As for the ordinary procedures (POS), Article 465 shifts the responsibility of proving the political parties' legal personality from their own representatives to INE. While proving their legal personality is currently a requirement to file any complaint or allegation, the Bill states that it will suffice to have it proven before INE—adding another legal burden to the Institute.

On the other side, the Office of Legal Affairs (DJ) provides legal support to INE's offices throughout the country so as to contribute to the fulfilment of the Institute's substantial functions and activities. In this sense, it is included in INE's subscription

of agreements, gives legal opinion on the projects presented to the management and takes part in litigations and other administrative procedures in which INE is involved to safeguard the institutional interests.

The accumulation of dissimilar functions and services needing daily attention makes it unfeasible to have enough supervision to guarantee the quality of all the activities.

In addition to bringing together UTCE's and DJ's tasks under one administrative unit—which, as explained, is already complex and unfeasible—the Bill establishes that such unit would take over the electoral-attesting activities and support the Auditing Executive Office in processing the corresponding complaints. This would make it even more difficult to handle all the issues and procedures timely and properly.

Regarding the proposal to assign the **electoral-attesting** tasks to the Executive Office of Legal Affairs and Electoral Litigation—which would take over those currently under the Office of Legal Affairs (DJ) and the Electoral Litigation Unit (UTCE)—these are the immediate inconsistencies and drawbacks:

- The Executive Secretariat retains the power to issue all attestations.
- By disappearing the position of District Secretarial Officials, the tasks of the Operational Official will increase with those of the electoral-attesting office.
- The Head of the Executive Office will be able to delegate that power only to the public servants under their command. Conversely, the Executive Secretary could delegate the power to public servants that are not under their direct command.
- It is the same situation with the Local Executive Officials who may request the support of SPEN's personnel to carry out the tasks of the electoral-attesting office. However, the legal ancillaries who are usually tasked with it are not members of the National Professional Electoral Service (SPEN), so a new position within SPEN would have to be created to take over that role (it does not seem sensible to disappear one position, the secretarial, to create another).

It is unviable to have one person in charge of dissimilar activities. It makes their due supervision and direction inoperative and, in consequence, jeopardises their proper completion.

The following are the main tasks of the Office of Legal Affairs (DJ), the Electoral Litigation Unit (UTCE) and the Electoral-Attesting Office—which currently belongs to the Executive Secretariat.

Office of Legal Affairs (DJ)

This is a priority unit for INE's execution of its functions. It provides comprehensive legal counselling and defence. In the course of one year, it attended almost 35,000 cases.

The issues related with sexual and workplace harassment were attended with a comprehensive and cross-cutting perspective so as to assist that denouncers receive psychological care and legal guidance. This has contributed to having healthier and improved work environments. Ever since the creation of this office, 702 accusations have been received—legal counsel was provided in 106 cases, psychological support was provided in 153 cases according to the findings in 314 follow-up psychological assessments and 48 arbitrations were held. Likewise, 348 cases were investigated, and the substantiation area proceeded with 148 labour cases.

Around 3,000 activities were carried out through 2022 for INE's legal representation and defence before administrative and jurisdictional courts in over 280 lawsuits. At the same time, in assistance to the Executive Secretariat, 200 activities were unfolded to attend 63 appeals. Additionally, over 2,800 legal consultations on labour issues were attended, which entailed another 3,000 activities.

The Office of Legal Affairs also provided counsel on electoral matters, transparency and personal data protection, draft of agreements, substantiation of special procedures, draft of the reports for the appointment of INE's head officers, all of which amounted to 2,000 distinct issues.

This Office also takes part in providing legal counsel for every instrument the Institute, its committees and sub-committees sign, as well as processing consultations on various matters—which amount to 850 issues related to procurement, leases and services, public works, consultancy and procedures for registering construction sites. Each counselling requires studying the corresponding legal framework, analysing the contents of the documents and drafting the comments to be presented before the committees and the documents that will be sent back to be reviewed.

The means of impugnation against INE's acts, including the reviews of competence of the Executive Secretariat, are handled by the Office of Legal Affairs—so far, they amount to 11,000. Because of that, the sessions of the Courtrooms of the Electoral Court of the Federal Judicial Branch (TEPJF) and the Supreme Court of Mexico (SCJN)—897 of them—are monitored and the rulings issued (1,950) are analysed. The collection of fines and the reimbursement of remainders are monitored as well—during the last electoral process over 13,000 fines were followed up. It is important to note that 5,469 notifications were received by the Office of Legal Affairs to be forwarded and attended.

Lastly, as INE's legal representative, the Office of Legal Affairs files criminal complaints before the prosecuting authorities and collaborates with the prosecutors to take part in the proceedings and defend INE's interests and assets. Likewise, it initiates and takes part in constitutional, criminal, civil and administrative litigations, as well as in all the legal and constitutional means to defend and protect INE's attributions and interests while fulfilling its electoral function. An average of 19,000 legal actions have been carried out.

Electoral Litigation Unit (UTCE)

Ever since October 2014, the Electoral Litigation Unit has received approximately 29,600 complaints that have turned into various administrative punitive procedures, such as the special and ordinary punitive procedures, the procedures for the dismissal of OPLs' electoral councillors, the special punitive procedures for gender-based political violence against women, referrals to different authorities due to their jurisdictional incompetency, among others.

The creation of UTCE also meant that an area was established to serve the notifications of the punitive administrative procedures and of the area's actions. The number of actions between 2014 and 2022 is of 98,499. In the case of official letters issued between 2015 and 2022, the number is of 89,732.

Additionally, the large number of agreements for preliminary injunctions drafted and presented by UTCE to the Complaints and Allegations Committee during that same period are distributed as follows:

Year	Agreements for preliminary injunctions	Admissible	Inadmissible
2015	234	89	145
2016	149	50	99
2017	135	33	102
2018	183	65	118
2019	51	13	38
2020	33	12	21
2021	172	59	113
2022	191	58	133
TOTAL	**1,148**	**379**	**769**

In relation to this, it must be noted that the number of councillors that make up the Committee that analyses, debates and approves the procedures would go from 3 to 7. The impact this would have in the operation and promptness with which the affairs are dealt with (especially the issuance of preliminary injunctions for the special punitive procedures [PES]) makes it unfeasible. The Bill states that the Committee's members will be renewed every three years, and that no councillor will be able to serve for a second term; however, it would be impossible to comply with this provision since the number of members is set in 7 and there are 11 councillors in total in INE's General Council.

The above makes the complexity and specialisation of UTCE's and the Complaints and Allegations Committee's tasks evident, as well as the relevance of the former as an ancillary body in processing and substantiating complaints and the related procedures—which are mostly related to conditions of fairness in the electoral competition. The following Table shows the dynamism of this Committee from 2018 to date, while it also evidences that expanding the membership to 7 councillors would slow down the completion of its tasks.

KIND OF SESSIONS	2018	2019	2020	2021	2022	2023	Total
ORDINARY	1	3	2	3	4	-	13
EXTRAORDINARY	-	2	-	2	3	-	7
EXTRAORDINARY AND PRESSING	94	42	35	82	74	2	329
TOTAL	**95**	**47**	**37**	**87**	**81**	**2**	**349**

Electoral-Attesting Office

The Electoral-Attesting Office carries out proceedings as public witness and issues the corresponding attesting documents. It also processes the official documents signed by the Executive Secretary to vest INE's attesting officers with legal powers nationally. It also provides training to decentralised and OPLs' personnel.

There was a constant increase in the proceedings between 2015 to 2022 due to the significance of the attesting documents issued by INE's officers during both the electoral (federal elections) and non-electoral years.

Proceedings on non-electoral years

Year	Proceedings
2022	9,418
2020	7,262
2019	6,216
2017	1,281
2016	898

Proceedings on electoral years

Year	Proceedings
2021	27,687
2018	22,080
2015	1,200

Around 9,300 attesting documents are issued yearly—except for 2015, when 76,165 attesting documents were issued.

Yearly, as many as 960 official documents to vest INE's public officers with attesting powers, and revoke them, have been issued by the Executive Secretary. The issuance of these documents allows for a permanent updated census of the attesting officers at each of the local and district boards. There are 1,686 officers vested with attesting powers to date.

In sum, the diversity and size of the procedures and activities tasked to the Electoral Litigation Unit (UTCE) and the Office of Legal Affairs (DJ) along with the national scope of the Electoral-Attesting Office, would make it difficult for one single office to operate properly and responsibly.

Executive Office of Prerogatives and Political Parties
DEPPP

The Bill's organogram seems to maintain the Executive Office of Prerogatives and Political Parties as is, although it does change its designation to Executive Office of

Political Parties. This office has responsibilities in two substantial processes: managing the State's airtime in radio and television and in regulating the national political parties.

Organisationally, the Radio and Television Committee disappears, and its role is taken by the new Political Parties' Committee. There are no operational or budgetary implications for the Executive Office of Prerogatives and Political Parties (DEPPP). In the case of the national political parties' and Legislative Branch's representatives, since those appointed as members of the Radio and Television and Prerogatives and Political Parties' Committees are not always the same, their appointments will have to be ratified.

However, since the Radio and Television Committee has its own Sessions' Regulations, the Regulations of the Sessions of INE's General Council's Committees will have to be amended to include the needs on radio and television. Likewise, the General Executive Boards' current radio and television powers—programming for authorities, proposal for amending the Radio and Television Regulations (including the feasibility report), report of national political parties' loss of registration, etc.—are transferred to the General Council, the Political Parties' Committee or the Executive Office of Political Parties.

As already mentioned, the number and location of the auxiliary offices will have to be considered to assess the impact on the operation of the Verification and Monitoring Centres (CEVEMs) that are currently housed at the District Executive Boards (JDEs). The downsizing of the decentralised structure and the consequent modification of the spaces that house the CEVEMs could compromise the scope of INE's monitoring, as well as the commitments to make recordings of the news from the agreements signed with the Local Electoral Management Bodies (OPLs), as well as with the Ministry of Interior (Segob) and the Federal Telecommunications Institute (IFT) for monitoring radio and television signals or attending to injunctions from judicial authorities or other INE's offices.

Similarly, by modifying Article 55 of the General Law on Electoral Institutions and Procedures (LGIPE), the Executive Office of Political Parties is vested with new responsibilities of varied operational and organisational impact:

Paragraph 1, clause c): Putting together the Registry of national and local political parties, political associations, as well as the merger, fronts', coalitions' and participation agreements; linked with Article 17, paragraph 3, of the General Law on Political Parties (LGPP) that includes the obligation of having a registration system of local political parties.

The needs to develop and maintain such system must be analysed. Currently, the information is recorded in registration books.

Paragraph 1, clause o): Assist political parties with accrediting their representatives at all levels.

There is no reference as to the kind of representatives, it is inferred that it would be the representatives before the General, Local and District Councils, although it could also refer to the general and polling stations' representatives. The kind of assistance is not specified either. The current Electoral Organisation Executive Office (DEOE) must grant access to the system that keeps track of the representatives' accreditation. The necessary staff to take over these tasks must be analysed.

Paragraph 1, clause p): Give timely notice of the deadlines for complying with the political parties' obligations. It must refrain from asking for documents that are already in its archives.

This implies that the areas vested with these powers must have the necessary staff to attend to them, to send the official letters and the consequent notifications to each and every political party about every topic. There is the risk that the political parties will transfer their liability to comply with their obligations to INE or that it will be a joint and several liability.

Paragraph 2: The head of the Executive Office of Political Parties will assume the Technical Secretariat of the Committee for Gender Equality and Attention to Vulnerable Groups.

Specialised personnel are required to carry out these tasks, so transferring the staff from the current Gender Equality and Non-Discrimination Unit (UTIGyND) should be assessed.

b) Downsizing of organisational structures

According to the Bill's Thirteenth Transitional Article, the Executive Secretariat will consult with the administrative units and local and district bodies of the organisational structures that are not included in the Bill's foreseen restructuring so that they can be downsized to their minimum.

The Transparency and Personal Data Protection Unit (UTTyPDP), the Gender Equality and Non-Discrimination Unit (UTIGyND), the Unit for National Social Outreach (CNCS), the International Affairs Unit (CAI) and the Secretarial Bureau (DS) consider that downsizing their structures would compromise their capacity to carry out their legally assigned duties. Their cross-cutting tasks, some of which are substantial while others support another highly relevant duties—like those of the gender and transparency units—as well as the operation of the General Council and the 'Management Committee', which could endanger the General Council's and General Executive Board's archived documents. As a matter of fact, the organogram subscribed by the Bill does not consider any of these areas.

The Unit for National Social Outreach (CNCS) already lacks the necessary personnel, which has led to hiring temporary employees. Downsizing it further—when the increasing duties and tasks are pressing its personnel and (external and internal) institutional communication has become an essential function—would inevitably entail cancelling or pushing back information products required by INE's management to make decisions.

The units on transparency, information access and personal data protection and on gender equality and non-discrimination carry out substantial activities to comply with INE's constitutional and legal duties—both within and beyond INE—on information access; personal data protection; institutional archive; institutionalising and mainstreaming gender perspective, the political and electoral rights of women and groups that are discriminated-against, inclusion, non-discrimination against women and their right to a violence-free life, among others.

There is, however, a great risk that there will not be enough sufficiently knowledgeable and specialised personnel to carry out those tasks because they are not being considered by the Bill and there is a provision ordering INE to downsize their structures. Additionally, the Bill would be going against Article 1 of the Political Constitution of the Mexican United States and the international treaties subscribed by the Mexican State as it jeopardises the progressive realisation of human rights and the full exercise of the citizens' rights.

In conclusion, changing the organisational structure in the middle of ongoing electoral processes would entail the restructuring of contractual administrative functions and reassigning responsibilities that would compromise some of the scheduled activities according to the current administrative regulations.

c) Changes to the Auditing Unit

The Bill modifies the technical nature of the Auditing Unit (*Unidad Técnica de Fiscalización*, UTF) established in Article 41 of the Constitution that reads: 'The auditing of the finances of the political parties and the campaigns of the candidates will be carried out by the General Council of the National Electoral Institute. The Law will elaborate on the powers of the Council to unfold that task, as well as on the definition of the **Council's dependent technical bodies** that will take over reviewing and instituting the procedures to enforce the corresponding punishments'. It also points out that 'Should the National Electoral Institute delegate the auditing task, **its technical body** will be the means for overcoming the limitations mentioned in the previous paragraph'.

In this sense, the technical autonomy bestowed by the Constitution is breached by turning it into an executive office. That autonomy is essential to carry out the complex and specialised tasks related to, among others, the lawful auditing of the income and expenditures of the political parties. The existence of a technical body is imperative to comply with this constitutional responsibility, for it is through the Unit's head—elected by two thirds of INE's General Council—that the documents on the comprehensive reviews of the (quarterly, annual, pre-campaign and campaign) reports of political parties and independent candidates, the accounting policy documents and the necessary information and documents for fulfilling this constitutional task are presented.

d) Changes to the constitutional nature of INE's directive, executive and technical bodies (General Council, Management Committee, Executive Secretariat)

Some of the Bill's interpretations are contrary to the Constitution and breach INE's autonomy and independence in terms of its organisation and distribution of roles and responsibilities among its bodies. The Constitution clearly establishes that INE is composed of four kinds of bodies (directive, executive, technical and surveillance), the General Council being the highest directive body and the Executive Secretary being part of it. These four kinds of bodies have different functions and particular tasks within INE that the secondary law must acknowledge and respect at all times.

As INE's highest directive body, the General Council is the highest-ranking multi-member authority and is responsible for guiding the Institute's work to comply with its constitutional tasks. While it is assisted by permanent and temporary committees, they do not oversee or carry out the functions of the executive or technical bodies.

In this sense, the Management Committee is unduly vested with executive or technical powers, such as establishing administrative procedures or approving the structure of the executive offices. As an auxiliary body of the General Council, its role should focus on assisting the highest-ranking directive body in carrying out its tasks instead of being involved with non-directive, but executive or technical, activities.

Furthermore, the Management Committee is tasked with functions of the General Council's President Councillor, such as presenting the draft budget to the General Council. This is contrary to the distinction that the Constitution establishes between the Electoral Councillors and the President Councillor to identify INE's highest-ranking public servant responsible for the administrative conduction and interests of the institution.

Besides, by excluding the President Councillor from the Management Committee, the distinct nature of that position in relation with the Electoral Councillors is disregarded. This hinders any possibility of effectively serving as the President Councillor and entails administrative and criminal consequences.

As for the Executive Secretary, the Constitution expressly states they will be a member of the General Council—along with the President Councillor, the ten Electoral Councillors, the Councillors from the Legislative Branch and the political parties' representatives—but it does not establish that they will be ancillary to the General Council. On the contrary, the Constitution, aside of considering them a member of the General Council, vests them with executive authority.

The fact that the Bill fails to acknowledge the nature of the Executive Secretary's position in a broad sense does not only disregard that it has an express constitutional mandate that serves a double purpose within the Institute—being a member of the General Council as INE's Executive Secretary and having an executive role as part of INE's executive bodies—but also that Article 110 of the Constitution lists the Executive Secretary as one whose removal from office (if not internally decided by the proposal of the President Councillor and the endorsement of at least another eight Councillors) requires an impeachment procedure so as to guarantee their autonomy and independence.

In summary, the intention of assigning the Executive Secretary with the role of ancillary to INE's General Council and its committees goes against the Constitution.

e) Changes to the constitutional nature of the Internal Auditing Office

Article 41, section A, paragraph 2, and clause e), paragraph 4, of the Political Constitution of the Mexican United States (CPEUM) establish:

> *The National Electoral Institute shall have electoral jurisdiction and independent character regarding its decisions and functioning, and its performance shall be professional. The structure of the National Electoral Institute shall include directive, executive, technical and surveillance organs. The Electoral Council shall be its highest-ranking directive body and will be composed of one President Councillor and ten Electoral Councillors, as well as of Councillors of the Legislative Branch, political parties' representatives and an Executive Secretary who will have voice but not vote. The law will establish the rules for the organisation and functioning of the bodies, their hierarchies and the relation with the local electoral management bodies. The executive and technical bodies will have the necessary qualified personnel to comply with their tasks.* ***A technically and administrative autonomous internal auditing office will be in charge of auditing all the income and expenditures of the Institute.*** *The provisions of the electoral law and the bylaw approved by the General Council according to the former will govern the working relations with the servants of the public organisation. The surveillant bodies of the electoral roll shall be primarily composed of representatives of the national political parties. The polling station directive boards will be composed of citizens.*
>
> (…)
>
> *The comptroller of the Institute shall be appointed by the Chamber of Deputies with the vote of two thirds of the members present upon the nomination, as established in the law, of public higher education institutions. They shall serve for a six-year term and is eligible to be reappointed once.* ***Administratively, they will be assigned to the presidency of the General Council and will maintain the necessary technical coordination with the Office of the Comptroller of the Federation.***

As established in the Constitution, INE has a technically and administratively autonomous Internal Auditing Office (Órgano Interno de Control, OIC) to audit the income and expenditures of the Institute, which entails several activities, **although none of them vests it with the power to decide on how the resources are managed**, for that responsibility is currently under the General Executive Board and the Bill transfers it to the Management Committee, as it will be explained below.

The Bill changes Article 49, paragraph 2, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that the head of the Executive Secretariat will hold meetings for the coordination of the activities of INE's executive and technical bodies in which the Institute's President Councillor and Comptroller will take part. This, however, is not a task to audit INE's income and expenditures, but a substantial

function of the Institute that is currently carried out by the President Councillor and the Executive Secretary.

Article 62, paragraph 4, of the General Law on Electoral Institutions and Procedures (LGIPE) is changed by the Bill to state that the Management Committee will set up job description templates and will establish their salaries under the principle of austerity, with the previous opinion of the Internal Auditing Office (OIC). The Bill establishes that the OIC must agree with the restructuring proposal, meaning it must be included in decision-making and is vested with directive and executive powers, although its constitutional nature is entirely different. Furthermore, the optimal operation of the organisational structures would be hampered, for it is the units who propose their operation, and they are the ones accountable for accomplishing the goals and objectives directly related to their responsibilities, not to mention that it could trigger an administrative paralysis.

By vesting the OIC with disbursement powers that belong to the Administrative Executive Office (*Dirección Ejecutiva de Administración*, DEA) and including it in the corresponding Committee, the Constitution's division of areas of competence is infringed, especially because it is clearly established that INE will have directive, executive and technical bodies to carry out the electoral function.

The powers the Constitution vests the Internal Auditing Office (OIC) with—unlike the Bill—are exclusively for reviewing and auditing INE's income and expenditures and not otherwise—like directive or decision-making.

3. National Professional Electoral Service (SPEN)

a) Organisational structure of the Service

The Bill establishes the merger of head office areas that currently group SPEN positions in charge of activities related to electoral organisation (55), electoral training and civic education (22) and liaison with local electoral management bodies (9). The litigation area (with 35 positions) is combined with that of legal affairs. These changes call for their unavoidable restructuring.

The Bill entails significantly downsizing the number of SPEN members (**1,564**) at the decentralised offices due to the elimination of several positions:

- Local Secretarial Official (32).
- Local Electoral Organisation Official (32) [it is merged with the Electoral Training and Civic Education Official].

- District Secretarial Official (300).
- District Electoral Organisation Official (300).
- District Electoral Training and Civic Education Official (300).
- District Federal Voters' Registry Official (300).
- Leader of the Follow-up and Analysis Office (300). While there is no reference to this position in the Bill, the disappearance of the District Boards as permanent bodies would also eliminate them.

There are no details on whether the District Executive Official will become the Operational Official but, should that not be the case and it were necessary to recruit new persons to fill those positions, another **300 posts** would be added for a total of **1,864 jobs**.

There is also no reference to the following Local Executive Boards' positions: operational coordinator A and B (38), leader for electoral roll updating (32), leader for purging the electoral roll (32), leader of state cartography (32), leader of the follow-up and analysis office (32) and leader of the state centre for electoral consultation and citizen guidance (32).

A first analysis found that the Bill will only keep **396 positions** of the **2,571** that currently make up INE's National Professional Electoral Service. However, that projection is made: 1) without considering the number of posts assigned to the head offices, because there is no reference to how they would be restructured; 2) without considering the registration and operational coordinator posts (198) at the Local Executive Boards; and 3) considering the operational officials as permanent.

According to these variables, the **downsizing of the structure would amount to 84.6 per cent.**

Bodies	Areas	Currently assigned SPEN-members	Bill's structure
Head offices	DECEyEC	22	Undefined
	DEOE	55	
	DERFE	58	
	DEPPP	11	
	UTVOPL	9	
	UTF	223	
	UTCE	35	
Local	JLE	358	96 *
District	JDE	1,800	300 **
Total		**2,571**	**396**

*** Only three officials are considered (executive, electoral organisation and training and federal voters' registry). The registration and operational coordinator posts are not considered.**

**** Only the District Operational Official is considered.**

If the current number of SPEN posts at the head offices were to be considered, the **downsizing would be of 68.53 per cent**:

Bodies	Areas	Currently assigned SPEN-members	Bill's structure
Head offices	DECEyEC	22	413
	DEOE	55	
	DERFE	58	
	DEPPP	11	
	UTVOPL	9	
	UTF	223	
	UTCE	35	
Local	JLE	358	96 *
District	JDE	1,800	300 **
Total		**2,571**	**809**

*** Only three officials are considered (executive, electoral organisation and training and federal voters' registry). The registration and operational coordinator posts are not considered.**

**** Only the District Operational Official is considered.**

On the contrary, if these projections: 1) **do not consider the operational coordinators as permanent posts**; 2) do not include the JLEs' registration and

operational coordinator posts; and 3) do not take into account the universe of head offices' posts, **the downsizing would be of 96.26 per cent**.

Bodies	Areas	Currently assigned SPEN-members	Bill's structure
Head offices	DECEyEC	22	Undefined
	DEOE	55	
	DERFE	58	
	DEPPP	11	
	UTVOPL	9	
	UTF	223	
	UTCE	35	
Local	JLE	358	96 *
District	JDE	1,800	Considered as temporary
Total		**2,571**	**96**

*** Only three officials are considered (executive, electoral organisation and training and federal voters' registry). The registration and operational coordinator posts are not considered.**

A different percentage would be obtained if the number of current head offices' posts were to be added to the calculations. In this exercise, the **downsizing would be of 80.32 per cent**.

Bodies	Areas	Currently assigned SPEN-members	Bill's structure
Head offices	DECEyEC	22	413
	DEOE	55	
	DERFE	58	
	DEPPP	11	
	UTVOPL	9	
	UTF	223	
	UTCE	35	
Local	JLE	358	96 *
District	JDE	1,800	Considered as temporary
Total		**2,571**	**506**

*** Only three officials are considered (executive, electoral organisation and training and federal voters' registry). The registration and operational coordinator posts are not considered.**

The diversity of scenarios on how the National Professional Electoral Service (SPEN) could be assigned across INE and the complexity of those possibilities is the consequence of the confusion, lack of clarity and, ultimately, the uncertainty the Bill itself creates.

The elimination of paragraph 4 of LGIPE's Article 30 could imply that the administrative branch is absorbed by the SPEN, which is an important conceptual error. They both have distinct objectives, functions and tasks. The Service has the purpose of advancing the professionalisation of those carrying out the electoral function and furthering their career. The administrative branch manages INE's human, material and financial resources and, at the same time, provide support to SPEN's qualified personnel. These are not objectives that can be fused together. The Service does not deal with the administrative affairs of its members, only with their professionalisation and career development. The administrative issues of the personnel of both the Service and the administrative branch are the responsibility of the Administrative Executive Office (DEA).

Although it would seem that this concern disappears with the changes made by the Bill to Article 125 Bis, paragraph 4, of the General Law on Electoral Institutions and Procedures (LGIPE), that provision is contrary to the Constitution, because the regulations for the working relations and the management guidelines for the personnel of the National Professional Electoral Service and the Administrative Branch must be laid down in the Bylaw approved for that purpose by INE's General Council (Article 41, Roman numeral V, clause A, second paragraph).

b) Career development

The downsizing of the areas and the elimination of several SPEN posts could turn the designed career service system ineffective because there would be no vertical structure through which its members could rise. They could only be horizontally promoted. This situation could create a limited mobility and there would be no incentives to go for higher positions.

c) Professionalisation

Downsizing the National Professional Electoral Service (SPEN) from 2,571 persons to 396 means getting rid of personnel who were recruited through an objective competitive examination rather than cronyism; who have been trained under the highest standards; whose performance is evaluated every year using a serious methodology that assesses the accomplishment of individual and collective goals and the competences deployed while carrying out their tasks. This is what makes it

a highly specialised and professional personnel that is knowledgeable in the electoral function and who is capable of rigorously and efficiently carrying out elections deemed certain by the citizens. Should this permanent structure of highly professional personnel be substituted on an electoral year by persons hired temporarily to hold the elections, there is a serious risk that it will not be possible to install the polling stations, that the polling officers will not be duly trained to accurately count the votes and that it will not be possible to implement the system for the timely provision of results on Election Night. Besides, there would be no network of offices and technical personnel across the country to efficiently issue the Photo–Voting Card and keep the Electoral Roll updated. The specialisation of the personnel in charge of these tasks is fundamental to unfold them with the required quality standards.

The Bill impinges upon the fundamental purpose of a career civil service, which is its professionalisation in their role, in this case in elections. The creation and enablement of temporary bodies eliminates the possibility of permanently training and evaluating the persons filling in those temporary openings. In the case of the new posts defined as operational officials, they would be unspecific, meaning they would have to attend to all the issues without specialising in any. This would have a determining impact in the quality of the operation and the completion of the required tasks; it would also make it difficult to professionalise those in that positions because their profile would imply the knowledge of all the substantive areas of the auxiliary office.

The level of professionalism required for the electoral complex procedures cannot be guaranteed with the temporary positions. Building the contact network and acquiring the necessary knowledge of the region for correctly locating, installing and operating the polling stations on Election Day is also impossible. At the same time, there would be an unequal professionalisation between the permanent and auxiliary bodies.

Lastly, the anticipated work overload for the permanent structure after the proposed restructuring—taking into account there is already an overload due to the many functions and powers INE is vested with—would not allow for SPEN members to attend the professionalisation and performance assessment activities. It is important to take note that the work overload from the Bill could result in the infringement of the human and labour rights of INE’s public servants.

Hiring temporary personnel without having them go through the strict recruiting processes of the competitive examination to access the National Professional Electoral Service (SPEN) will not guarantee their independence, professionalism,

technical trustworthiness and commitment. The already-trained members of SPEN who were to be laid off because of the proposed restructuring will not wait for three years to be temporarily hired; they will look for other stable jobs and will not be available.

4. Labour and budgetary issues

a) Labour regime of INE's public servants

The Bill that reforms, among others, the General Law on Electoral Institutions and Procedures (LGIPE), takes INE's labour relation with the personnel of the administrative branch away from the Bylaw of the National Professional Electoral Service and the Administrative Personnel and establishes that they will be regulated by provisions different to the ones approved by INE's General Council, meaning there would be two sets of legislation for INE's labour regime with its personnel.

This infringes the Constitution's Article 41, paragraph 3, Roman numeral V, clause A, which establishes that the provisions of the Bylaw approved by INE's General Council shall rule the labour relations with its public servants without distinguishing between the personnel of SPEN and of the administrative branch.

Moreover, the Bill eliminates INE's public servants' benefits by including the prohibition against INE taking out major medical insurance and layoff policies or any similar instruments. This is a breach of INE's public servants' labour rights and of various constitutional principles, like vested rights and the non-retroactivity of the law.

In that sense, the Bill goes against Article 14 of the Constitution that states no law shall have retroactive effect to the detriment of anyone, which means that laws that come into effect or are applicable to vested rights or to juridical situations that already happened should be avoided.

b) Salaries of INE's public servants

The Bill emphasises over several articles that it will no longer be possible to allege specialisation exemption or qualified technical work to exceed the limit established in the Constitution's Article 127, Roman numeral II, which is the salary of the President of Mexico.

In that regard, it must be reminded that the Supreme Court of Mexico (SCJN) acknowledges the specialised and technical work, so INE cannot waive its

constitutional technical and specialised nature. On 3 November 2021, SCJN's First Chamber resolution for the appeal of review of complaint 68/2021-CA of the dispute 80/2021 granted the stay as requested by INE in its statement of claim, which were that the salaries of INE's public servants for the ongoing fiscal year—and until the constitutional dispute is resolved—be set without considering the provisions of the Federal Law on Public Servants' Salaries, particularly that of the total annual remuneration.

Additionally, the appendices to the 2023 Federal Expenditure Budget included INE's salary scale and the minimum and maximum limits to the earnings of INE's personnel as approved by the General Executive Board.

c) Budgetary issues

The Bill changes Article 31, paragraph 3, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that any underspent budget or economies cannot be used to create new projects and must be returned to the Federation's Treasury by the end of the year.

This provision has a deep impact on INE's administrative operation and impinges on its autonomy. INE's use of those resources to carry out other institutional priorities that crop up over the year and—as has already happened—to cover the extraordinary elections' costs, for which no supplementary budget was appropriated due to its unexpectedness, is expressly banned. Hence, this kind of resources are used for INE's day-to-day operations.

This ban would make it impossible to unfold new necessary projects unless supplementary appropriations were requested, which would further politicise the relation between INE and the Chamber of Deputies, significantly eroding INE's constitutional autonomy.

The disappearance or restructuring of several areas of INE, as intended, will require enough resources for the layoff settlements with those who, upon the enactment of the Bill, had acquired that right. For instance, restructuring the decentralised offices that are usually made up of 5 officials, of which only 1 position would be kept at the JDEs and 3 at the JLEs, means laying off 1,200 JDEs' officials (4x300) and 64 JLE's officials (2x32) who are entitled to a 3-month compensation plus an additional sum of 20 days of their salary for each year of service.

There is also the need to consider the costs of laying off other personnel in the same terms after the restructuring or conversion of:

- The Electoral Organisation Executive Office (DEOE) and the Electoral Training and Civic Education Executive Office (DECEyEC) merge into the Electoral Organisation and Training Executive Office.
- The Administrative Executive Office (DEA) and the National Professional Electoral Service Executive Office (DESPEN) downsize into the Executive Office of Administration and the National Electoral Professional Service.
- The Electoral Litigation Unit (UTCE) and the Office of Legal Affairs (DJ) merge into the Executive Office of Legal Affairs and Electoral Litigation.
- The Auditing Unit (UTF) becomes an Executive Office.
- The Informatics Unit (UTSI) will be absorbed by the Executive Office of Administration and the National Electoral Professional Service.
- The tasks of the Liaison Unit with Local Electoral Management Bodies (UTVOPL) are transferred to the Electoral Organisation and Training Executive Office.
- The likely elimination of the Gender Equality and Non-Discrimination (UTIGyND) and the Transparency and Personal Data Protection (UTTyPDP) Units.

All these could throw the Institute into an unseen labour hazard caused by the likeliness of labour claims being lodged for several reasons, like the elimination of previously acquired rights and benefits established in the Bylaw of the National Professional Electoral Service and the Administrative Personnel and the Administrative and Earnings Policy Manual—such as major medical and layoff insurance policies—as well as the probable infringement of the constitutional principle of non-retroactivity of the law.

Additionally, the lawsuits from the layoffs due to the restructuring and downsizing ordered for INE's areas—for whose settlement INE, as the employer, would not have enough resources even with the Labour Liabilities Trust—will also pile up.

The Bill changes Article 31, paragraph 3, of the General Law on Electoral Institutions and Procedures (LGIPE) to read:

> The Institute must disburse its budgetary resources according to the Federal Law on Budget and Fiscal Responsibility. It cannot allocate budgetary savings, economies and remainders to the set-up or operation of trusts. Neither can it hire major medical or layoff insurance policies or

> the like. Should there be underspends, economies, savings or remainders after the programmes, projects and activities included in the Institute's budget were completed, they shall be returned to the Federation's Treasury by the end of the fiscal year. The Institute is banned from disbursing or re-allocating its budgetary savings and economies for different or newly created programmes or projects as a means to avoid returning the resources referred to in this paragraph.

The Bill constrains INE's autonomy and independence by stating that its assets are made up of the movable and immovable properties used for accomplishing the Institute's objective and the yearly appropriations assigned by the Federal Expenditure Budget (LGIPE's Article 31, paragraph 2, according to the Bill). In other words, the Chamber of Deputies would decide INE's assets—through the approval of the Federal Expenditure Budget that includes INE's budget—on a yearly basis, which would give way to adjustments, uncertainty and even discretionary decisions based on political and partisan negotiations at the very heart of the Legislative Branch.

In the same sense, establishing that INE cannot disburse or re-allocate its budgetary savings and economies for different or newly created programmes or projects as a means to avoid returning the resources infringes its budgetary autonomy because, according to the very Federal Law on Budget and Fiscal Responsibility, only the Ministry of Finance and Public Credit (*Secretaría de Hacienda y Crédito Público*, SHCP) and the Ministry of the Civil Service (*Secretaría de la Función Pública*, SFP), respectively, can administratively interpret it on behalf of the Executive Branch. At the same time, it establishes that the administrative units of the Legislative and Judicial Branches and of the autonomous institutions shall be vested with the power to lay down their respective general provisions and ought to have them published in the Federal Official Gazette (*Diario Oficial de la Federación*, DOF).

Moreover, this same Law establishes that the autonomous institutions can authorise additional disbursements to the ones approved in their corresponding budgets by using whatever additional revenues they might produce. This is an antinomy between the Federal Law on Budget and Fiscal Responsibility—that allows additional disbursements—and the Bill—which forbids them.

Article 28 Bis is added to the General Law on Electoral Institutions and Procedures (LGIPE) by the Bill to (unnecessarily) point out that the principles established in the Constitution's Article 134 on the use of public resources must be abided. It also states INE must comply with the Law on the Public Sector's Procurement, Leasing and Services (*Ley de Adquisiciones, Arrendamientos y Servicios del Sector Público*,

LAASSP) and the Law on Public Works and Related Services (*Ley de Obras Públicas y Servicios Relacionados con las Mismas*, LOPSRM). However, those laws' first Articles are identical and read:

> *The federal public law entities whose autonomy stem from the Political Constitution of the Mexican United States, as well as those with a specific regime in [this] matter, shall apply this Law's criteria and procedures only if their own legal frameworks lack them and as long as they are not contradictory, always submitting to their own supervisory bodies.*

The Bill does not include any reform to these laws. Given this antinomy, the speciality criterion ought to be enforced, so that between two incompatible provisions, one general and the other special, the latter should prevail.[4]

In this sense, a harmonious interpretation of both provisions could lead to understand that, when Article 20 Bis orders the compliance with the LAASSP and the LOPSRM, it is within the scope and framework of those specific laws. In other words, the Bill's effect in this case is null and void, so the regulations issued by INE's highest direction body on both matters continue to be enforced.

However, there is the risk that some (like the Internal Auditing Office, among others) will insist in the direct enforcement of both regulations by arguing that the relevant parts of the LAASSP and LOPSRM's articles are implicitly repealed by the Third Transitional Article of the Bill or that the last law (LGIPE's Article 28 Bis) repeals a previous one (LAASSP and LOPSRM's Article 1) despite the already explained fact that those laws are specific.

Worded differently, imposing the administrative and budget regulations that rule over the Federal Executive—whose enforcement and interpretation fall under the ministries of the Civil Service (SFP) and of Finance and Public Credit (SHCP)—on the National Electoral Institute infringes its constitutional autonomy and the independence it must have with respect to political actors (including governments that were voted for at the elections organised by INE itself) at the risk of institutional immobilisation.

[4] Digitally registered Isolated Thesis number 165344, titled: ANTINOMIES OR CONFLICTS BETWEEN LAWS. SOLUTION CRITERIA.

5. Structure of the Local Electoral Management Bodies (OPLs)

The Bill also considers important changes to the structures of the Local Electoral Management Bodies (OPLs), the salary of their Chairpersons, Councillors and employees and to how their decentralised bodies are made up.

The Bill changes Article 99, paragraph 3, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that the structure of their head offices will be divided into the areas of Organisation, Electoral Training and Civic Education, on one side, and, on the other, of Administration, Prerogatives and Legal Affairs. Similarly, Article 98, paragraph 3, would read that local legislations shall establish which public servants will be vested with electoral-attesting powers as well as their status as an auxiliary body. Hence, it is not clear whether the electoral-attesting activities would be carried out by an additional office or by their current Executive Secretaries or if they will be assigned to the Legal Affairs Office already included in the Bill.

Moreover, the Bill disregards the particularities of each state. For instance, it does not establish under which executive area would the responsibilities for organising or taking part in the elections held according to indigenous custom. This kind of election is acknowledged in 8 states: Baja California, Chiapas, Guerrero, Hidalgo, Michoacán, Morelos, Oaxaca (417 municipalities) and Tlaxcala.

In the case of Chiapas, its Executive Office of Citizen Participation attends to these issues, while in Guerrero, it is an office under its Civic Education and Citizen Participation Executive Office.

It must be noted that the Bill also entails a retrogression on gender equality and non-discrimination of vulnerable groups within the OPLs, as an increasing number of them had already established specialised offices on the matter. INE's General Council approved, on 29 November 2022, the Agreement INE/CG/728/2022 that established OPLs ought to have a Gender Equality and Non-Discrimination area, especially since 24 of the 32 OPLs already had one. Even though the 2020 'gender equality in everything' amendment vests the OPLs with multiple gender equality and non-discrimination powers, the Bill will disappear those units.

The Bill establishes that one of the areas into which the Local Electoral Management Bodies (OPLs) will be divided is Organisation, Electoral Training and Civic Education, even though these institutions have limited electoral training responsibilities; while the other one is Administration, Prerogatives and Legal Affairs, although there is no explicit reference to a political parties' area that would take over

candidates' registration, which is one of their most important activities. Moreover, it is troublesome to have the OPLs' internal administrative issues managed by the same office in charge of their electoral litigation responsibilities. One of the Local Electoral Management Bodies (OPLs) most important responsibilities is to substantiate—and, in some cases, resolve and punish—complaints and allegations on gender-based political violence against women.

The Bill also changes Article 8 of the General Law on Political Parties (LGPP) to establish that, unless the auditing task is delegated by INE to the Local Electoral Management Bodies (OPLs), they are forbidden from having auditing structures and making any disbursement for this purpose. This would make it impossible to audit the expenditures of the local political parties and, if that were the case, to oversee their liquidation.

There are 16 permanent auditing offices in the Local Electoral Management Bodies of: Campeche, Coahuila, Chihuahua, Guerrero, Jalisco, Michoacán, Nuevo León, Puebla, San Luis Potosí, Sonora, State of Mexico, Tabasco, Tamaulipas, Tlaxcala, Veracruz, and Yucatán.

Unconstitutional regulation of the structure of the Local Electoral Management Bodies

The following arguments supporting the Bill have an impact on the operation of the Local Electoral Management Bodies:

- *The National Electoral System, made up of the joint responsibilities of the National Electoral Institute (INE)—as the governing authority—and the Local Electoral Management Bodies (OPLs) in the states, is strengthened.*
- *INE's and OPLs' organisational structure is downsized according to the principles of efficiency, effectiveness, economy, transparency and honesty.*
- *The composition of the head offices is strengthened by the decentralised offices and the OPLs through the review of their rules and by setting up a single chain of command that reduces the bureaucratic apparatus and by compelling the maximum utilisation of the structure, personnel and the available resources in general for organising the elections.*

The Bill sets a limit to the salary of the OPLs' chairpersons and councillors, outlines its operational structure (they ought to have a maximum of two executive areas), establishes who must take over the electoral-attesting responsibilities and eliminates the structure of their permanent decentralised bodies where applicable. It also

changes the General Law on Political Parties (LGPP) to establish they shall not have an auditing unit unless such responsibility is delegated to them by the National Electoral Institute and, lastly, the section of transitional articles states that the OPLs' salary scales will be revised by INE.

The Political Constitution of the Mexican United States (CPEUM) does not vest the Congress of the Union with the power to organise the Local Electoral Management Bodies (OPLs) because the Constitution's Article 116, Roman numeral IV, clause c), establishes such responsibility belongs to the local constitutions and electoral laws. Conversely, CPEUM's Article 79, Roman numeral XXIX-U, grants the Congress of the Union with the power to issue general laws that distribute jurisdictions between the Federation and its states regarding political parties, electoral management bodies and electoral processes following the guidelines laid down in the Constitution itself. However, those guidelines do not include that a federal authority can constrain the structure of the local electoral management bodies (OPLs) beyond the already established in the Constitution (the composition of the nomination body, tenure and appointing rules). That possibility was not even considered in the Second Transitional Article, Roman numeral II, of the 2014 constitutional electoral reform—that promulgated the General Law on Electoral Institutions and Procedures (LGIPE), published on 10 February 2014 in the Federal Official Gazette (DOF).

The Congress of the Union can use the general laws to establish the joint jurisdiction of the Federation and the states, but only if the Constitution expressly allows it, which is not the case for the electoral matters. The Constitution's Articles 73, Roman numeral XXIX-U, and 116 establish that electoral matters are governed by General and Local laws, so the Congress of the Union can *issue general laws that distribute jurisdictions between the Federation and its states regarding political parties, electoral management bodies and electoral processes* ***according to the guidelines laid down in the Constitution****. Those constitutional guidelines, the relevant general laws,* ***the states' Constitutions and the local electoral laws*** *will jointly guarantee* ***the operational autonomy and decision-making independence*** *of the elections' administrative and judicial authorities—who organise the elections and resolve the electoral disputes, respectively.*

Article 41 of the Constitution establishes that both INE and the OPLs are responsible for organising the elections and lays down who is in charge of what and which are INE's exclusive tasks. It also states that INE ought to have operational and decision-making independence, carry out its duties professionally and that its **structure shall be made-up of directive, executive, technical and surveillance bodies**.

In addition, while it does establish that the rules for INE's bodies' organisation and operation, chain of command, and relationship with the local electoral management bodies will be laid down in the law, there is **no mention about the internal organisation of the local electoral management bodies**, over which the Bill unduly legislates.

Since Article 73 of the Constitution does not reserve the enactment of electoral legislation to the Congress of the Union, changing the General Law on Electoral Institutions and Procedures (LGIPE) to legislate on **the make-up of the local electoral management bodies and the states' electoral Courts, not to mention to establish the concurrence of the National Electoral System,** contravenes the Constitution and the principle of administrative devolution it considers for the make-up of those electoral authorities.

The Bill's changes to LGIPE's Article 99, numeral 3, establishing that the Local Electoral Management Bodies (OPLs) will have a core organisation of two areas—on one side, Organisation, Electoral Training and Civic Education; and on the other, Administration, Prerogatives and Legal Affairs—will diminish the National Professional Electoral Service (SPEN) throughout the OPLs, as they will have to undergo a restructuring and downsizing the positions currently assigned to the SPEN is likely.

Numeral 4 of the same Article states they will not have a permanent municipal or district structure, so Mexico City, Guanajuato and Chihuahua's OPLs will have to lay off their whole decentralised bodies—165 positions at Mexico City's Electoral Institute (IECM), 45 at Guanajuato's Electoral Institute (IEEG) and 3 at Chihuahua's Electoral Institute (IEE).

OPL's decentralised bodies

According to the Bill, the amended Article 99, paragraph 4, of the General Law on Electoral Institutions and Procedures (LGIPE) eliminates the permanent municipal or district decentralised bodies.

Colima has 10 permanent municipal councils.
Mexico City has 33 district offices.
Guanajuato has 15 Regional Executive Boards.

Eliminating, for instance, Mexico City's permanent decentralised bodies will make it impossible to unfold the direct democracy mechanisms for whose those bodies operation and work is necessary.

The Bill also establishes that the OPLs' decentralised bodies will be made up of 3 councillors, although an exception could be made—if an OPL's highest directive body deems it necessary—and enlarge them to 5. This situation pushes the local democracy into the background because, federally, 5 councillors are appointed.

The only OPLs whose decentralised bodies—whether temporary or permanent—are made up of 3 councillors are the ones of Guanajuato, Hidalgo, Nuevo León and Yucatán. Sonora's legislation relates the size of the municipal councils to the size of their population.

Lastly, the Bill's **Twenty-fifth Transitional Article** tasks INE with the comprehensive review of the OPLs' salary scales so that they can be adjusted within 180 days of the Bill going into effect. This means INE would have to permanently follow this up, most likely, through the Electoral Organisation and Training Executive Office.

II. Reforms to electoral procedures

Clear and objective provisions—so that electoral authorities, political actors and citizens in general know for certain the rules that will apply to their actions—are essential to guarantee free, authentic and periodic elections in which the citizens' vote is universal, free, secret and direct.

Hence, the Constitution establishes principles—like objectivity and certainty—to govern the electoral function. On one side, it demands that the electoral processes' rules and mechanisms are designed to prevent conflictive situations before, during and after Election Day; on the other, it requires vesting the authorities with express powers so that all those taking part in the electoral process clearly and surely know the rules to which their and the electoral authorities' actions are bound beforehand.[5]

Under this perspective, any modification to the electoral legal framework ought not only be known by all citizens, political parties and electoral authorities before the onset of every electoral process—in compliance with Article 105, Roman numeral II, of the Constitution—but it ought to be developed clearly so all participants accurately know their rights and duties.

[5] Jurisprudence P./J. 144/2005, ELECTORAL FUNCTION IN CHARGE OF THE ELECTORAL AUTHORITIES. GUIDING PRINCIPLES FOR CARRYING IT OUT. Weekly Judicial Journal of the Federation and its Gazette. Volume XXII. November 2005. Ninth Era. Page 111.

Likewise, all changes to the secondary laws ought to abide by the corresponding constitutional bases and principles, among which is the principle of fairness—whose persistence is indispensable for guaranteeing everyone's equal participation and for making the full exercise of the citizens' political and electoral rights possible.

The Bill, however, makes changes that impact the organisation of elections and several procedures and activities through which INE exercises the powers it is vested with by the Constitution. Consequently, they could compromise the whole electoral function and the effective exercise of the citizens' political and electoral rights.

Among the Bill's modifications, there are those that have a significant impact on several stages of the electoral processes—from changing the date for the outset of the Federal Electoral Process (PEF) to the electoral results, as well as the rules for the procedures and activities that make the elections' preparations and organisation under the principles and guarantees established by the Constitution and the unfolding of INE's permanent tasks possible.

Some of the Bill's main changes and its implications are explained hereupon.

1. Time frames of the stages of the Federal Electoral Process

a) Outset of the Federal Electoral Process

The Bill changes Articles 40, paragraph 1, and 225, paragraphs 1 and 3, of the General Law on Electoral Institutions and Procedures (LGIPE) to set the launch of the Federal Electoral Process (*Proceso Electoral Federal*, PEF) to the third week of November of the year prior to the election. This reduces the current 9-month time frame for the activities to prepare and organise the elections to just over six months.

One of the electoral process' fundamental activities that could be seriously compromised by this Bill is the citizen make-up of polling stations. The electoral training and assistance preparations must at least start in September, otherwise, the available time would not suffice to unfold several activities, such as the recruiting of Electoral Supervisors (SEs) and Electoral and Training Assistants (CAEs)—indispensable temporary field workforce—which would impact on the quality of the citizens' electoral training as polling officers, as well as on electoral assistance tasks in which they take part, like setting polling stations' locations, preparing and distributing electoral documents and materials, setting up field operations for the Election Day Information System (*Sistema de Información de la Jornada Electoral*,

SIJE) and for the Quick Count, fetching electoral materials and documents and partake in district vote counting.

The time frame reduction would seriously affect SEs and CAEs' recruiting activities. The 2020–2021 Federal Electoral Process call for applications—and the mechanisms to follow up, validate and verify the documents submitted online—that spanned 44 days (from October to 1 December 2020) barely sufficed to bring together enough applicants. If the General Council can only approve the recruitment documents after the outset of the electoral process in November of the election's preceding year, the certainty, legality, impartiality and objectivity of the recruitment process could be compromised. Additionally, long distances and poor internet connections require greater time-consuming efforts from both recruiters and applicants.

The didactic and auxiliary materials for electoral training would not be timely delivered, nor would the SEs and CAEs' identifying clothing—which is an essential security element for field activities—be distributed on time.

Another consequence of the Bill is that, by launching the federal electoral process until the third week of November of the year prior to the election, the 90-day deadline before the outset of the electoral process for the enactment and promulgation of the corresponding electoral laws—established in Article 105, Roman numeral II, of the Constitution—is also changed. This means that the electoral laws could be modified by August of the elections' preceding year, affecting the principle of certainty.

The Bill also modifies the deadlines for the induction of the local and district councils set in Article 61, paragraphs 6 and 7, of the General Law on Electoral Institutions and Procedures (LGIPE). Currently, the local and district councils must be installed, at the latest, by 30 September and 30 November, respectively, of the year preceding the election. However, the modification sets the induction deadlines for 30 November of the year before the election and the last week of December of the year of the election (sic)[6], which—in combination with the fewer council and permanent members at the decentralised bodies—would impact on the activities—like the recruitment of Electoral Supervisors (SEs) and Training Assistants (CAEs); the location of polling stations; counting, stamping and bundling of ballot papers; putting together electoral packages and district vote counting—they are involved in or supervise.

[6] Translator's Note: The Bill does establish the deadline for the induction of District Councils to the last week of December of the year of the election, although that would be a year too late. It was left as is to illustrate the haziness with which the Bill was drafted.

The assessment of these modifications reveals it will be impossible for INE to meet the deadlines and that the preparations and organisation tasks carried out will not be of the same quality and effectiveness as in previous electoral processes. Hence, INE will no longer be able to guarantee that free and authentic elections are held.

b) Pre-campaigns

The Bill changes Article 226, paragraph 1, clause a) of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that the pre-campaigns for the federal electoral processes to renew the head of the Federal Executive Branch and the members of both Chambers of the Congress of the Union shall begin on the third week of December of the year before the elections and will not last over sixty days. The current provision refers to November.

While the onset of the pre-campaigns is moved from November to December, the time frames for the registration of candidates are left unchanged, so there would be no time for the political parties to hold internal elections or to solve the corresponding disputes, which means, in turn, that no time frame is guaranteed either for the political parties' members to challenge the internal processes for nominating candidates. That is, if the pre-campaign were to begin on 18 December 2023 and the candidate registration were to begin on 15 February 2024 (Article 237, paragraph 1, clause a), of the General Law on Electoral Institutions and Procedures [LGIPE]), the 60-day pre-campaign would be up on the very 15 February, so the pre-campaigns would have to last less.

In this sense, if moving the beginning of the pre-campaigns also modifies the time frame for candidate registration, the campaign stage could also be affected.

Lastly, this modification could result in a significant increase in early pre-campaign and campaign activities by those seeking to stand for office.

c) Allocation of Proportional Representation seats

The Bill modifies LGIPE's Article 44, paragraph 1, clause u), to establish that INE's General Council must allocate the political parties' Senate and Chamber of Deputies' Proportional Representation seats—and issue the corresponding certificates—by 21 August of the election year. The Bill's modification to LGIPE's Article 327, paragraph 2, states that the General Council shall allocate the Senate and Chamber of Deputies' Proportional Representation seats once the Electoral Court resolves all the lawfully lodged disputes by 21 July of the year of the election. Then, Article 41,

paragraph 4, of the not-yet promulgated General Law on Impugnation Means on the Electoral Matter establishes that the electoral trials on the results of the Senators and Representatives' elections must be concluded by 3 August.

The above is inconsistent and does not provide certainty. The 21-July deadline for INE to allocate the Proportional Representation seats and the 3-August deadline for the Electoral Court to resolve the electoral disputes are incompatible with each other because INE's General Council is supposed to wait until all the electoral disputes are solved before allocating the seats, and that would be impossible.

2. Enforcement of the Polling Station's Single Election's Certificate

The Bill changes Article 216 of the General Law on Electoral Institutions and Procedures (LGIPE) for INE to design a new single certificate and replace the current Election Day and Scrutiny and Tally Certificates, while the modified Article 273 details the sections—on the installation of the polling station, the closing of the voting and the scrutiny and tally—that must be filled in.

However, while LGIPE's modified Article 216 states the certificate ought to include a section on the dispatch of electoral packages—this information is entered in the Certificate of the Closing and Dispatch of the Electoral Package to the District Council—the modified Article 273 details it shall only gather information on the installation of the polling station, the closing of the voting and the scrutiny and tally of the votes, and does not consider a section on the dispatch of electoral packages.

It must also be highlighted that the certificate cannot have information of the electoral packages' dispatch because, according to Article 295 of the General Law on Electoral Institutions and Procedures (LGIPE), the Polling Station's Single Election's Certificate[7] will be included in the file of the corresponding election—each election file is placed inside the electoral package, which is then sealed with tape and the seals are signed to guarantee its integrity. Once the electoral package is sealed, the Closing Certificate is filled out and placed in the external pouch of the electoral package[8]. Hence, the sequence of the steps makes it impossible to include the electoral package dispatch information in the single certificate.

Furthermore, having a single certificate for each election would mean that the persons serving as secretaries to the polling station would have to fill out the exact

[7] Translator's note: As many as 6 public offices can be voted for on Election Day, three federal and three local elections. General Law on Electoral Institutions and Procedures (LGIPE), Article 82, paragraph 2.

[8] General Law on Electoral Institutions and Procedures (LGIPE), Article 296, paragraph 2.

same information on the installation of the polling station and the closing of the voting up to six times—three federal and three local public offices.

This change has evident practical disadvantages and can cause an indeterminate number of cases in which the full certificates' data is not filled in (due to the likely polling officers' dissatisfaction with having to write down the same information over and over) or in which the information will be different among the several certificates of the same polling station. These could cause disputes during the district tallies and result in, for instance, an increase in the number of packages to be recounted or even in the annulment of the votes of some polling stations.

At the same time, designing a single certificate that merges the Election Day and the Scrutiny and Tally Certificates requires reviewing their information fields and deciding which will be kept and which can be left out due to the space limitations in printed formats of conventional sizes (up to Ledger size paper = 43.2 x 27.9 cm or 17 x 11 inches). Otherwise, using bigger formats would entail complicate their production, increase its costs and make it difficult for polling officers to handle them, not to mention the technical difficulties for their digitisation for the Preliminary Electoral Results Programme (*Programa de Resultados Electorales Preliminares*, PREP).

While those certificates were merged for the 2021 Referendum and the 2022 Presidential Recall, as well as for recording the out-of-country votes, they have proven to be useful when only one vote has been cast. They have never been put to the test for complex circumstances like the ones that could arise at the 2023–2024 Federal and Concurrent Electoral Process.

3. Procedure for the citizen make-up of polling stations

The Bill changes Article 254, paragraph 1, clause c), of the General Law on Electoral Institutions and Procedures (LGIPE) to decrease the percentage of citizens drawn from each electoral section's—the smallest unit for organising the elections—voters' list from 13 to 10 per cent. This reduces the number of eligible persons that can be appointed as polling officers, which could result in the need to continue accessing the voters' lists until the number of suitable citizens is met.

It has been proven, time and again, that there are urban electoral sections where drawing 13 per cent of their eligible voters is not enough to make up the polling stations, making it necessary to go back to the Voters' List and hire additional personnel. Reducing both the percentage—from 13 to 10—of eligible voters in all these sections and the time frame for making up the polling stations would demand

hiring more Electoral and Training Assistants (CAEs), which opposes the alleged purpose of bringing down the elections' costs.

Another change of the Bill to LGIPE's Article 254, paragraph 1, clause d), establishes that only the optimal number of pre-selected eligible persons to make up the polling stations—holders and alternates—will be visited and notified during the first electoral training stage, instead of all of them. However, neither such 'optimal number' nor the method to calculate it are specified. There is also no empirical evidence to support that reaching said figure guarantees all polling stations will be fully made up on Election Day.

Conversely, visiting all the pre-selected eligible voters guarantees nobody will be excluded and prevents that a partial list is used for the make-up of polling stations. It is also important to stress that if all those voters are not visited during the first electoral training stage, the universe of suitable persons to be appointed as polling officers could be reduced—and that would eventually have an impact on the second electoral training stage. Furthermore, visiting all the pre-selected eligible voters is deemed as contributing to a lower absence rate of polling officers on Election Day—which not only results in the polling stations being made up of duly selected, trained and appointed persons, but in greater confidence and certainty on the electoral processes.

The Bill's modification to Article 254, paragraph 1, clause e), of the General Law on Electoral Institutions and Procedures (LGIPE) establishes the auxiliary offices will make an impartial, objective and equal assessment of the voters' data gathered during the first electoral training to select those deemed suitable according to the requirements established by the LGIPE and weighing a higher formal education and age. However, including the age criterion to the make-up of polling stations will hinder the ever more burdensome operation of polling stations, biases its randomness and, additionally, unjustifiably limits the voters' right to participate as polling officers.

The Strategy for Electoral Training and Assistance (*Estrategia de Capacitación y Asistencia Electoral*, ECAE) establishes alphabetical order as the first criterion to appoint polling officers—a letter from the alphabet is publicly drawn by INE's General Council to pre-select the voters with that surname initial—and the second is the voters' declared formal education. It is the District Executive Boards (JDEs) who horizontally appoint polling officers across all the foreseen polling stations in each electoral section. That is, those with the higher formal education are the first to be appointed as chairpersons; then the secretaries, followed by the first and second scrutineers and, lastly, the alternates.

The 2017–2018 Strategy for Electoral Training and Assistance (ECAE) was the first one to exclude requirement ‘h)’ that rejected those who were over 70 years of age on Election Day as polling officers in compliance with international and national provisions banning any kind of discrimination. Hence, voters aged 70 and over can participate as polling officers as long as they meet the rest of the requirements.

As for reducing the time frame for making up the polling stations, it would negatively impact the appropriate voters' pre-selection, visit, notification, awareness-raising and training, which could turn into a higher absence rate on Election Day. Besides, the quality of the polling officers’ electoral training would be compromised, which would result in an increase of mistakes in the procedures for receiving the votes, their scrutiny and the tally of the results.

The two electoral training stages currently span about 51 and 56 days, respectively. The Bill reduces them to 35 days—instead of 51—for visiting and serving the pre-selected eligible voters with the notifications and carrying out the first electoral training, and 40 days—instead of 56—for appointing the polling officers (and their alternates) to their corresponding roles and providing them with the specific theoretical and practical knowledge that will allow them to unfold their own activities on Election Day.

Lastly, as the citizen make-up of polling stations is a very important and complex technical and operational process that imbues the elections with legitimacy, it should not be altered without the proper empirical evidence of the effects those changes could have. Otherwise, the integrity of process could be substantially damaged.

4. Transportation of electoral packages

The Bill repeals clause ‘f)’ of Article 303, paragraph 2, of the General Law on Electoral Institutions and Procedures (LGIPE) that establishes that the Electoral Supervisors (SEs) and the Electoral and Training Assistants (CAEs) shall support the District Boards and Councils in the transportation of the electoral packages by aiding the polling officers. These would be the implications:

- Upon the lack of SEs and CAEs’ assistance, the chain of custody from the polling station to the District Council would be weakened. If the polling officers are not assisted for delivering the electoral package—which contains all the votes that were cast, the elections’ certificates and the unused ballot papers, along with other electoral materials—its preservation and integrity would be

compromised because there are no others legally enabled that can transport and deliver it.

- It would be difficult to track the electoral packages between the polling station and the District Council, so it would not be possible to detect if someone other than the polling officers could have touched it.

It must be noted that the chain of custody of the electoral package is a control measure to guarantee the transportation and delivery of the electoral package to the District Council—whose appropriate implementation provides certainty about its due safe keeping to political actors, electoral authorities and citizens. The Bill's modification could not only compromise it, but be determinant of whether the constitutional electoral principles, such as that of certainty, will be abided.

5. Electronic voting

The Bill's Twenty-second Transitional Article establishes that the Congress of the Union shall create a Study Committee on the implementation of electronic voting—with INE and the National Science and Technology Council's (*Consejo Nacional de Ciencia y Tecnología*, CONACYT) participation—to design an electronic voting system whose outcomes shall be presented to the Congress within a 5-year time frame. It is also stated that no resources will be appropriated to the design and implementation of electronic voting systems that were not developed through the collaboration with CONACYT.

Firstly, there is no specification as to whether 'electronic voting system' refers to one particular mechanism or to all of them or if it includes those INE has already implemented—such as electronic voting machines or remote Internet voting for out-of-country voters.

The interpretation of this transitional article should focus on the development of electronic voting. That would create a voting system that taps the Information and Communications Technologies (ICTs) to facilitate voting while imbuing it with absolute certainty and proven security that will safeguard the freedom and secrecy of the vote nationally and should not include the already implemented remote Internet voting system for out-of-country voters.

There is a discrepancy between this transitional article and articles of the General Law on Electoral Institutions and Procedures (LGIPE) that establish—quite clearly—how remote Internet voting is implemented as a means of voting for Mexicans living abroad.

According to the very Bill, LGIPE's Article 329 states that overseas Mexican votes can only be cast electronically in compliance with the regulations issued by INE—which ought to abide by the General Law on Electoral Institutions and Procedures (LGIPE)—so as to ensure that out-of-country votes are cast with absolute certainty and proven security.

The deadline for the approval of the electronic ballot template for out-of-country voting, its instruction manual, the necessary tools and materials, the single election certificate template and the rest of the necessary electoral documents and materials is set by the Bill in LGIPE's Article 339, paragraph 1.

Paragraph 3 of the same Article states the applicable provisions for the electronic ballots, while paragraph 5 establishes the Federal Voters' Registry Committee will present the electronic voting mechanisms and procedures to INE's General Council for their approval before the outset of the electoral process.

The Bill adds a paragraph to LGIPE's Article 343 to establish that every time the remote Internet voting system is modified, it shall be audited for certainty and reliability purposes.

Hence, the reformed text fully enables the National Electoral Institute (INE) to continue working on the implementation of the remote Internet voting system for Mexican out-of-country voters, which is in line with the principle of progressive of rights.

Secondly, according to the Bill, the electronic voting systems' design and implementation can only come from the results of a committee specifically created for that purpose by the Congress, so it restricts INE from allocating resources to any endeavour on the subject that does not stem from those results. This could compromise the citizens' political and electoral rights by limiting their options to cast their vote, which would clearly infringe the principle of progressive realisation of the rights, especially when the time frame for that committee to present its results to the Congress is set to last 5 years.

The national and local advancements in electronic voting machines ought not be overlooked. Otherwise, the advancements achieved in recent years through pilot tests would be lost and the electronic voting project that has been approved on a yearly basis would be interrupted. Furthermore, it would only be possible to use the large stock of new electronic voting machines for scholastic, union or political parties' elections.

Lastly, it does not go unnoticed that lawmakers have attempted to amend the Political Constitution of the Mexican United States and include in-person electronic voting, so, even if in the end it was not included in the currently assessed Bill, it is clear that it is a topic in which they are interested.

6. Vote of persons being held on remand and of persons with permanent disabilities or who are bedridden

The Bill adds Article 284 Bis to the General Law on Electoral Institutions and Procedures (LGIPE) to include the vote of persons on remand. It will be held at the prisons that meet the security requirements for this purpose. It vests INE with the duty of providing the necessary to guarantee their vote will be universal, free, secret, direct, personal and non-transferable, as well as to prevent it being cast under duress. It also provides the vote will be introduced in an envelope and be submitted over the 15-day period before Election Day.

The Bill also adds Article 284 Ter to establish that the persons with permanent disabilities or who are bedridden within the national territory will cast their vote in their own domicile over the 15-day period before Election Day.

In tandem with the 2021 electoral process, INE complied with sentence SUP-JDC-352/2018 and selected a representative, plural and heterogeneous sample to carry out a pilot test on the vote of persons being held on remand. The federal penitentiary authorities collaborated to shape their intervention where needed.

A collaborative interinstitutional working group, comprised of representatives from the office of the Deputy Minister of Public Security and the Decentralised Administrative Body for [Crime] Prevention and Social Readaptation (OADPRS), as well as of the heads of INE's Electoral Organisation Executive Office (DEOE), Electoral Training and Civic Education Executive Office (DECEyEC), Office of Legal Affairs (DJ) and of the Managing Office of the Executive Secretariat, was set to—over countless meetings—coordinate all activities and reach agreements that made it possible to carry out the pilot test at the prisons.

Making the test pilot generally applicable would take months of planning to define its organisation under the federal prisons' security and authorisation criteria.

In addition, a framework agreement that covers the federal and local spheres would have to be signed; the elections for which it would be applicable would have to defined; the complexity of matching the envelopes with the ballot papers, sending

them to the prisons and their later distribution to the corresponding tally centre; assessing whether to enfranchise those persons on remand if they are not registered in the Electoral Roll. It would be impossible to enable voting at all the prisons due, mainly, to security circumstances.

It is due to the prisons' security circumstances and their internal regulations that it would be complex for INE to guarantee free elections in which there were no electoral duress. Even if protocols for disseminating information campaigns on reporting duress were to be issued or if special procedures for lodging a complaint or initiating punitive proceedings against inmates were to be put in place, the electoral authority would not be able to overstep the prisons' authorities.

Moreover, since implementing it under the established procedure would be too burdensome, it would only be possible to enable it for the electing the federal and local executive officers—President and Governor, respectively. Including any other plurality election, let alone proportional representation ones, would complicate it even more—for, once the votes were cast, a very complex federal and local district tally scheme would have to be created.

Implementing these procedures would overlap with the reception of electoral documents and materials to be used at the polling stations and with many other verification field operations the temporary officials would have to undertake, along with the rest of the activities they would have to coordinate.

Hence, both projects would be utterly unfeasible without the decentralised district structure. Actually, additional staff would have to be especially recruited at the district offices for taking over these projects, or at least for exploring their feasibility and execution times so that the district boards could carry them out outside of the dates for the delivery of electoral packages and furnishing of the polling stations.

7. Registration and replacement of general and polling stations' political parties and independent candidates' representatives

Article 259 of the General Law on Electoral Institutions and Procedures (LGIPE) is changed by the Bill to establish that political parties can appoint general and polling station representatives up to 48 hours before Election Day. The change to Article 262, paragraph 2, clause c), provides they can be replaced until Election Day. And Article 264, paragraph 1, clause f), is modified to add that the appointment papers of the polling stations' representatives shall include, among other data, a QR identification or validation code.

The above modifies the registration deadline from 13 days to 48 hours before Election Day, while the replacement one is moved from 10 days before Election Day to the Election Day itself, which entails the operational impossibility of the timely delivery of that information to the chairpersons of the polling stations due to the electoral districts' geographical diversity and complexity and to the distance between the district office and the location of the polling stations. Ultimately, this would jeopardise their electoral observation rights and could cause incidents during the installation of the polling stations.

In operational terms, the technical problem is guaranteeing the information is cross-checked to ensure they meet the law requirements. Hence, the efficiency of the verification mechanisms that safeguard the freedom of the vote would be lost, which would increase the risk of the annulment of the votes received at the polling stations given that preventing the access or expelling the political parties' representatives without a just cause is kept as an annulment cause by Article 65, clause c), of the General Law on Impugnation Means on the Electoral Matter created by the Bill.

Under these circumstances, the registration would conclude at 12 midnight of the Friday before Election Day, so the list would have to be printed in the small hours of Saturday morning for them to be ready for their delivery to the polling stations' chairpersons that same day through already planned routes. This would mean the personnel would incur into additional costs and be further worn down, not to mention that there are some remote municipalities that can only be accessed by a light aircraft, boat and/or pack animal, so it is likely they will not be delivered until Election Day.

The district list of general political parties' representatives would have to be delivered to the polling stations' chairpersons the day before Election Day. The Electoral Organisation Officials devise the operations for counting, stamping and bundling the ballot papers, as well as for putting together the electoral packages and storing them in the electoral warehouses, to be able to carry out the task of delivering the electoral packages to the polling stations' chairpersons within the 5 days before Election Day. Hence, it is operationally unfeasible to distribute the lists of political parties' representatives the day before Election Day.

It would entail a whole operation for the distribution of those lists, whether planning routes or deploying the staff of the district offices, the Electoral Supervisors (SEs) and the Electoral and Training Assistants (CAEs). In the case of municipalities and electoral sections located far away from the district offices, the lists would have to

be sent electronically to the SEs and CAEs—to save them from having to make the long commutes—but they would still need to have them printed, so they would need to have access to a printer and printing paper. It is likely that the list would only be delivered on Election Day to the electoral sections that can only be accessed by a light aircraft, boat and/or pack animal.

The replacements made on Election Day would cause complications in and/or conflicts for the operation of the polling stations. As Election Day unfolds, more than one person could show up and produce their appointment papers—one issued before Election Day, and another issued on Election Day. That would not only affect the polling station operation, but it could even cause a shortage of ballot papers for the representatives of a given political party[9]. In the rural areas with no available computer equipment, printing the list of replacements of the appointed representatives would be next to impossible. Not only will these problems affect the operation of the polling stations, but will surely be discussed at the sessions of the District Councils.

Additionally, Election Day replacements are subject to the validation of the polling stations' chairpersons and could cause continuous interruptions to the voting, affecting the certainty in the performance of the polling officers and the available time for the citizens to cast their votes.

Lastly, the inclusion of a QR validation or identification code to the representatives' appointment papers does not take into account that the chairpersons will not necessarily—nor are they required to—have a mobile with Internet access to browse through the specific information website INE might launch for this and verify their appointments, not to mention there are locations where coverage is not even available. Hence, INE would have to invest in the procurement of mobiles—as onerous as it may be—for the cases in which is feasible to provide them to the polling stations' chairpersons.

8. Electoral results

The Bill modifies Articles 32, paragraph 2, clause g), and 220, paragraph 1, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that INE will be in charge of the state governor elections' quick counts. LGIPE's Article 310,

[9] Translator's note: Although the appointment of political parties' representatives is contingent on them being enfranchised, their appointment is not restricted to their own electoral section. However, since their right to vote ought to be guaranteed, barely enough additional ballot papers are distributed to each polling station so that the possibility of them not being able to cast their vote is as close to none as possible.

paragraph 1, states District Councils will go into session at 6 p.m. on Election Day to carry out the tallies of all the elections.

Still, the Bill disregards that the district offices' qualified and permanent personnel is essential, for they are the ones who plan, coordinate and supervise the personnel who do the reporting the quick counts' field operations.

Moreover, although the tallies of the elections are set to begin on Election Night, the Preliminary Electoral Results Programme (*Programa de Resultados Electorales Preliminares*, PREP) is kept unchanged in the General Law on Electoral Institutions and Procedures (LGIPE). Not only are the processes not being optimised, but the costs are also not being reduced. PREP is unnecessary if the tallies start on Election Night and are published on the Internet. The quick count would be enough.

However, processes that have guaranteed the transparency and certainty of the elections and its results—like the report presented by the Chairpersons of the District Councils on the elections' Scrutiny and Tally Certificates and their status (for collation or recount); making sure all the Council members have a copy of the certificates; holding a working meeting to analyse the report and reach an agreement on what will be recounted and why, which is later made official at the Council's extraordinary session, along with scenarios and personnel that will take part in the tallies—are suppressed by carrying out the tallies on Election Night. The tallies would possibly take longer and more conflicts might arise. The likelihood of political parties and actors lodging disputes would also increase, as they would have no certainty of what is being tallied.

Establishing that the total tallies will take place without interrupting other tallies and with the participation of SPEN members fails to consider that there would not be enough of them to make up the working groups and, most importantly, that the ones present will most likely lack the experience, knowledge and skills to carry these complex procedures out. The current officials at the district offices have already proven their full knowledge of the law and regulations, leadership and conflict resolution skills when interacting with political parties' representatives. The scenarios of partial and total tallies in which an average of 60 per cent of the electoral packages are recounted for each election—and there can be three—are impossible without these personnel. The Bill establishes there are three district officials, of which two must attend the plenum of the Council, so only one unexperienced temporary official would be available. Even if it is stated that SPEN members could be included in the recounts, their availability is unclear considering five of their six district positions would disappear. Since at least two of the four Councillors must attend the plenum, two of them would be available for the total or partial recounts. But even

them and their substitutes would not suffice. Furthermore, while the District Council is supposed to collate the polling stations' certificates, it would not be between the one inside the electoral package and the one in its outside pouch, nor would it be possible for the political parties to have a copy of the polling stations' certificates. In the end, there is no mention of against what they will be collated.

The Bill also changes Article 104, numeral 1, clause n) of the General Law on Electoral Institutions and Procedures (LGIPE) to vest the Local Electoral Management Bodies (OPLs) with the power to 'order' quick counts on the results of elections different to the governors', that is, Local Congresses, municipalities and other fourth-tier posts that exist at Campeche, Chihuahua, Nayarit and Tlaxcala. It is impossible to carry out all those quick counts with the structure the Bill establishes for the OPLs, not to mention there are jurisdictions with only one or two polling stations for which the Preliminary Electoral Results Programme (PREP) would suffice.

In this sense, the Institute would have to build a specific scheme for the Electoral and Training Assistants (CAEs) to carry out this field operation, while the OPLs would have to contemplate recruiting an operational structure for these tasks—which would have a significant economic impact. In the case of concurrent elections, the federal and local quick counts' operations would require federal and local CAEs to implement them.

9. The building of the Electoral Roll's section of Mexicans residing abroad and the make-up of the Out-of-country Voters' List

One of the essential instruments to guarantee the citizens' right to vote and the authenticity and credibility of the electoral processes in our Mexican electoral system is the Electoral Roll. It also provides the citizens with their main identification document, the Photo–Voting Card.

Article 41 of the Constitution vests INE with the Electoral Roll's and voters' lists' responsibilities for the federal and local electoral processes alike. As such, the Electoral Roll's database holds the information of every citizen who has applied for their Photo–Voting Card. It is divided into those within Mexico and those living abroad.

The law establishes several make-up, update, purge and verification procedures to guarantee the reliability of the Electoral Roll. Aside of being permanently updated, it is continuously observed by surveillance bodies that are mostly composed of national political parties' representatives.

As of 23 January 2023, the Electoral Roll comprised 91,378,867 citizens, of which 90'483,198 reside within Mexico and 895,669 abroad.[10]

The Voters' Lists are put together by the Executive Office of the Federal Voters' Registry (DERFE) by listing the names of the citizens—according to their corresponding electoral district and section—registered in the Electoral Roll who have retrieved their Photo–Voting Card. As of 23 January 2023, the Voters' List was composed of 89'931,890 citizens, of which 89'562,669 are residing in Mexico and 369,221 citizens overseas who are confirmed to have a Photo–Voting Card.[11]

The Photo–Voting Card is at the same time the indispensable means to vote and the citizens' most widespread identification method. As such, it is equipped with several plainly visible security measures[12] on both sides, others that can only be seen through magnifying lenses[13] and yet others that only appear under an ultraviolet light. All of which contribute to prevent the document's forgery and alteration and to the protection of the citizens' personal data.

Since the Photo–Voting Card is issued by the Institute, it is ascertained that the person is Mexican, of legal age and meets the enfranchisement requirements. The same cannot be said about the passport—which the Bill includes as an instrument for a Mexican to be registered in the Electoral Roll—or the consular identification card—which would be used to put together the out-of-country voters' lists.

The Photo–Voting Card—which can only be issued to citizens of age—contains the data needed to vote: Full name; place of origin; state and section (where their vote will be counted); voter's code (INE assignes a unique alphanumeric code to each voter upon their registration in the Electoral Roll); Unique Population Registry Code (*Clave Única de Registro de Población*, CURP); address (its visibility is optional); year of registration and expiry. The purpose of these data is that citizens can identify themselves at the polling station where they are assigned to cast their vote.

It allows the electoral authority to identify those who are in full exercise of their political and electoral rights so that they can be included in the voters' lists using the

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[10] Consulted at https://www.ine.mx/credencial/estadisticas-lista-nominal-padron-electoral/ on 23 January 2023, but the statistics are often updated.

[11] Idem.

[12] Fading pattern, 'Guilloche' designs, micro text, rainbow colouring, tactile feature, optical variable device and QR codes.

[13] Micro text framing the photograph, the signature and the boxes to record attending the election. Other micro texts embedded in the pre-printed background.

data they provided. Hence, the Photo–Voting Card is par excellence the document that enables Mexicans to exercise their political and electoral rights.

The Bill's modification to Article 135, paragraph 1, of the General Law on Electoral Institutions and Procedures (LGIPE) establishes that Mexicans living abroad will only have to show their passport and register their signature and fingerprints to be included in the Electoral Roll. The Bill also changes LGIPE's Article 331, paragraph 3, clause a), and paragraph 4, and Article 333, paragraph 1, so that, among the documents to apply as out-of-country voter and be included in the Overseas Voters' List (*Lista Nominal de Electores Residentes en el Extranjero*, LNERE), the photocopy of their passport or consular identification card—issued by the Ministry of Foreign Affairs (SRE)—can be submitted. It is also stated that the Ministry of Foreign Affairs which will validate the information sent by INE on those voters.

The impact on the registration activities of solely accepting the passport, signature and fingerprints is significant, for it means the files would have to be jointly revised with the SRE. But it is even more relevant that the consular identification card or the passport would have to be accepted to include the applicants in the LNERE, especially for those who are not and have never been registered in the Electoral Roll and who do not have a Photo–Voting Card.

It is particularly necessary that citizens overseas produce a valid proof of address. In addition to appropriately referencing where is their residence, it is used to send the Photo–Voting Card to them.

Additionally, the need to strengthen the communication and liaison mechanisms with the SRE, so the files of the citizens who only show their passport to apply for the Photo–Voting Card which include their birth certificates are timely shared with INE—and there is a complete file of every out-of-country voter in its possession—must be highlighted.

The proposal of accepting the consular identification card or the passport to be included in the LNERE is of concern, for the Ministry of Foreign Affairs (SRE) would be the one to decide who among the citizens—who might be scores—that have never been part of the Electoral Roll can be listed. In any case, it is worth emphasising that Article 41, Roman numeral V, clause B, sub-clause a), numeral 3, of the Political Constitution of the Mexican United States vests INE exclusively with the responsibility of building the Electoral Roll and the Voters' List. Any undue interference from any authority—such as validating whether someone can be included in the list or not—would infringe this Constitutional provision and

compromise the integrity of the Electoral Roll, which is the foundation for carrying out reliable elections.

The argument that accepting the passport or the consular identification card could ease the access to voting can be contested as actually being the opposite for a number of reasons.

Firstly, because the passport and the consular identification card are issued by the Mexican government, and they serve completely different purposes to that of the Photo–Voting Card.

The passport is issued by the Ministry of Foreign Affairs (SRE) to identify Mexicans as such and to request other countries' authorities to allow them free access to their territories, aid and protection and, if that were the case, to dispense due courtesies and immunities according to the position of its holder[14].

The consular identification card is proof of being officially included in the Consular Registry of Mexicans living abroad.[15] Regardless of their migration status, all Mexicana are entitled to being registered at the consular office corresponding to their domicile. It has census and consular protection purposes, especially in cases of natural disasters or political or social events that could compromise their security. It can be used as a means of identification and is accepted by state government offices.[16]

Both instruments can be issued to adults and minors.

The supporting documentation to issue those government ID instruments are kept by the Ministry of Foreign Affairs (SRE), so INE would depend on the information kept at SRE's archives to create its own citizen-files and include them in the Electoral Roll.

As the electoral authority, INE has the power to build the Electoral Roll and the Voters' Lists. However, including ID instruments like the passport and the consular identification card, allowing the registration in the Electoral Roll of Out-of-country Mexican Voters simply by showing the passport and recording the signature and fingerprints, and establishing the SRE will validate the information received from INE

[14] Article 2, Roman numeral V, of the Regulations on Passports and the Identity and Travelling Document.

[15] Which according to Article 2, Roman numeral II, of the Regulations on Consular Identification Card, is kept at the consular offices and consolidated at the Ministry.

[16] https://www.gob.mx/sre/acciones-y-programas/tramite-de-matricula-consular-8015

of the Mexicans abroad who request their inclusion in the Out-of-country Voters' List, is a clear invasion of INE's competences and an infringement to its autonomy.

Using the information citizens submit to the Mexican Government through the SRE to obtain a passport or a consular identification card—which, as already mentioned, hold no electoral purpose—to be included in the Electoral Roll or the Voters' List also compromises personal data protection.

It has an impact on the privacy notice made known to the citizens when they apply for the issuance of their passport or consular identification card in relation to the purposes of gathering their personal data.

This is important because, if it were to be kept that way, it would infringe the Constitution's Article 16, paragraph 2.

Besides, a valid proof of address is indispensable for registering out-of-country voters because it allows to accurately reference their country of residence, send their Photo–Voting Card directly to their domicile and, in the case of the Voters' List, send them their electoral parcel (when they choose postal voting).

The birth certificate is also necessary to properly reference those who were born overseas to their parents'—either of them—place of birth in Mexico. In that way, they are allowed to vote at the local elections, such as the governor's, of the state where their vote is based.

The proper composition of the Electoral Roll and the Voters' Lists would be impossible without those information inputs. Neither the passport nor the consular identification card, and in some cases not even SRE's file, can provide this information.

Unlike the proof of address, the expiry of the documents—the passports', for instance—does not guarantee the information of the files is updated, and it would not be possible to contact the citizens.

INE builds the Electoral Roll with the documents provided by the citizens for the express purpose of exercising their political and electoral rights and take part in the political affairs of their country.

The citizens themselves submit the documents for the authority to know their identity, the place where they can be located, where and in which elections should they vote.

Internationally, it guarantees only those registered in the Electoral Roll and who voluntarily apply to be included in the Out-of-country Voters' List—which is updated for every electoral process to ascertain the citizens' overseas location and consult them on the voting mechanism of their preference as a means of maximising the exercise their political and electoral rights—can vote.

INE has implemented security measures that prevent identity theft and the misuse of personal data to guarantee the integrity and reliability of the Electoral Roll and the Photo–Voting Card. Some of those security measures are security protocols for accessing the Electoral Roll and Voters' Lists' personal data; security protocols for delivering, returning and destroying cancelled applications; and security protocols and procedures for the make-up, delivery, return, safe deletion and destruction of the Voters' Lists.

The above turns the Electoral Roll and the Voters' Lists into the most reliable and safest databases to guarantee the citizens' participation in the electoral processes. All of these is to ensure the 'one person, one vote' democratic principle.

Lastly, this provision could infringe Chapter VIII, Article 41, paragraph 4, of the Law of the Mexican Diplomatic Service, On the Obligations of the Members of the Diplomatic Service that states that 'according to the applicable laws, the Members of the Diplomatic Service shall refrain from falling into partisan or electoral behaviours that are incompatible with their public role and from making statements that could compromise the interests of the country'.

10. Cut-off date for updating the roll of citizens who can endorse federal independent candidates

The Bill changes Article 371 of the General Law on Electoral Institutions and Procedures (LGIPE) to push back the cut-off date for updating the Voters' List from 31 August of the year before the election to 31 October.

The Bill's modification to this deadline leaves a very short time frame for publishing the official call for independent candidates, submitting the statement of intent of standing for office, analysing the applications and issuing the proof of approval for seeking the citizens' endorsement before the onset of period for gathering the citizens' signatures. For the 2017–2018 Federal Electoral Process (PEF), INE issued the INE/CG387/2017 agreement on the *Guidelines for verifying the percentage of citizen endorsement needed to register independent candidates to federal elective offices* on 28 August 2017; and for the 2020–2021 PEF, those guidelines were approved on 28 October 2020 through the INE/CG551/2020 agreement. It must be

noted that there are 60-, 90- and 120-day time frames for obtaining the citizens' support to stand as representative, senator and president candidates, respectively.

11. Impairments to the electoral oversight model

a) National System for the Registration of Pre-Candidates and Candidates

The Bill adds paragraph 4 to Article 11 of the General Law on Electoral Institutions and Procedures (LGIPE) to state only the Congress of the Union has the power to issue laws on the process for standing for office, which means they cannot be regulated, opposed or modified by any other secondary legislation—whether agreements, guidelines or regulations.

Among the requirements currently established by the legal framework for candidates to be included in the National System for the Registration of Pre-Candidates and Candidates (SNR) and start building an accounting file at INE's Comprehensive Auditing System (*Sistema Integral de Fiscalización*, SIF) are a statement of their financial standing, as well as their Federal Registry of Taxpayers (*Registro Federal de Contribuyentes*, RFC) number. However, this Bill would forego the obligation of submitting the statement of financial standing.

The modification to the reporting of the financial information of those taking part in an electoral process could impair INE's punitive powers. The financial standing statements are used to establish possible sanctions once the audits to their income and expenditure reports are completed or upon the issuance of administrative punitive procedures' resolutions.

Should this modification be finalised, the Auditing Unit (UTF) would have to request the financial information of each person being audited from the banking and tax authorities, which would delay the audits due to the approximately 2-month waiting time for the information. This is incompatible with real-time auditing.

Additionally, the Bill's changes to LGIPE's Article 55 establish the management of the candidates' registration system will fall under the Executive Office of Political Parties. However, the SNR is currently managed by the UTF as one of the auditing systems, which ensures accurate information sharing among systems. If one core auditing system is managed by another Executive Office, the proper linkage of UTF's systems could be compromise, which would hinder the timely attention to incidents.

Ever since the creation and implementation of the National System for the Registration of Pre-Candidates and Candidates (SNR), the Auditing Committee has established the minimum information requirements, which include the statement of financial standing and the Federal Registry of Taxpayers (RFC) number due to their relevance for learning the applicants' economic behaviour before the electoral process. At the same time, it allows to cross-check information to generate risk and investigation models.

b) Penalties for auditing transgressions

The Bill changes Article 8, paragraph 6, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish that the citizens' political and electoral rights or prerogatives cannot, under no circumstances, be suspended as a result of non-criminal administrative or judicial penalties.

The Bill also modifies LGIPE's Article 229, paragraph 4, to eliminate the penalty of loss of the candidates' (or pre-candidates') registration when they fail to submit their expenditure reports or when they exceed the expenditures' ceiling.

The above leaves the evasion of expenditures' reporting unpunished. It also means that the annulment of an election by reason of exceeding the expenditures' ceiling would be impossible.

In that regard, it is worth highlighting that several citizens in Guerrero and Michoacán were found to have held proselytical activities during the 2021 pre-campaign period without having registered as pre-candidates. Consequently, they failed to submit pre-campaign expenditure reports, which resulted in some being fined and in two having their candidate registration cancelled. The Bill's modification would open the door to opacity by impeding the political actors' due accountability, which results in breaching the competition's fairness and the electoral processes' transparency.

Accordingly, the parties might make use of strategies to disrupt the competition's fairness through expensive campaigns without losing their nominations. The only penalty kept from the current law is financial, and it amounts to up to 5 thousand UMAs (*Unidades de Medida y Actualización*, which is a unit of administrative measurement established by a government agency, and which currently is of MXN 103.74 or USD 5.46 at an exchange rate of MXN 19=USD 1). The imposition of that maximum penalty is dependent on the economic capacity of the infringer.

Lastly, the Bill adds paragraph 3 to Article 58 of the General Law on Political Parties (LGPP) to keep INE from punishing behaviours that fall under the jurisdiction of other tax or administrative authorities and from relating them to electoral behaviours.

This provision limits INE's auditing powers by keeping it from punishing behaviours of the regulated entities that involve other authorities—like the penalty imposed after the 2019 and 2020 annual reports for 'Taxes due more than one year ago'. In addition, it would incentivise them to stop withholding tax payments because there would be no penalty or punishment, unless the corresponding authorities were to audit them.

c) Interpretation of legal provisions

The General Law on Electoral Institutions and Procedures (LGIPE) states all legal provisions will be interpreted according to grammatical, systematic and functional criteria, in compliance with the last paragraph of Article 14 of the Constitution. However, the Bill changes LGIPE's Article 12, last paragraph, to order all electoral authorities to interpret the provisions on auditing, registration of candidates, pre-campaigns and campaigns strictly.

In this context, it must be highlighted that the penalties for unsubstantiated expenditures, expenditures with no partisan purpose, not reporting truthfully, expenditures to unknown destination and donations from banned or unknown entities, have been imposed after interpreting the provisions on a case-by-case basis, so countless provisions would be needed to cover every possible scenario that could be a transgression.

d) Auditing of the income and expenditures

The Bill changes the General Law on Electoral Institutions and Procedures (LGIPE) to establish that INE's auditing will only be allowed in relation with electoral processes, direct democracy mechanisms and ordinary activities of the political parties' system as long as the law provides for it.

The aforementioned limits INE and its ability to audit any irregular activity of the regulated entities that does not fall under the categories established in the law. In the case of the presidential recall, there were no secondary laws, so agreements were issued to regulate the procedures for auditing the related expenditures.

e) Delegation of auditing powers to the Local Electoral Management Bodies (OPLs)

The Bill changes Article 23, paragraph 1, clause d), of the General Law on Political Parties (LGPP) to establish that INE can delegate the responsibility of auditing the income and expenditures of local political parties, their coalitions and candidates, standing for local offices if there are exceptional circumstances that call for it and as long as eight of the members of the General Council vote so.

At the same time, the Bill states that if the OPLs are not delegated to do the auditing, they can neither have operational or organisational auditing areas and structures nor make any disbursements for that purpose.

It is self-contradictory of the Bill to consider the possibility of delegating the auditing role to the OPLs when they will not have trained and experienced personnel due to them being banned from keeping auditing structures.

Still, it must be noted that Local Electoral Management Bodies (OPLs) are currently in charge of some auditing activities, like:

- Local political parties in the making.
- Local political associations.
- Local electoral observers.
- Liquidations of local parties.

If OPLs are banned from having auditing structures and resources, they would not be able to carry on with those activities. By transferring those responsibilities to INE, there will be an additional workload from auditing a yet unknown number of regulated entities and the review procedure will not be as exhaustive Additional costs will be incurred to hire auditors and, most probably, personnel to take care of those tasks.

f) Unlimited transfers of local and federal resources

The Bill's modification to Article 23, paragraph 1, clause d), of the General Law on Political Parties (LGPP) establishes the transfers of resources between political parties' Local and National Executive Committees are lawful as long as they are part of the political parties' assets and are meant for a licit purpose.

This modification has a direct impact on the transfers of resources foreseen by Article 150, numeral 11, of the current Auditing Regulations, as well as on the

accounting accounts used in the Comprehensive Auditing System (*Sistema Integral de Fiscalización,* SIF). The current model limits the Local Executive Committees' transfers to the National Executive Committee exclusively for three purposes: payments to suppliers, services and taxes. However, the Bill entails unlimited transfers for purposes different to those established in the current regulations. The consent of local-to-federal transfers will increase the line items that must be reviewed and would also allow the limitless mixing of local and federal resources.

Even though the transfers to trusts found in the 2020 annual report were revoked, the analysis of the Superior Courtroom of the Electoral Court of the Federal Judicial Branch (TEPJF) stated the regulated entities could create joint trusts (National Executive Committee and Local Committees). Still, the political parties' local resources must be used in the corresponding geographical scope and the unrestricted combination of resources would not guarantee they were used for the purposes they were allocated.

Moreover, the inspection to the 2020 fiscal year identified multiple transfers from the National Committees to the Local ones, meaning those political parties had more resources available and that many disbursements were not necessarily covered with local public funding. Hence, the calculation of remainders was initially distorted by transfers and resulted in artificial deficits so, in the end, the transfers were subtracted.

Over the inspection of the 2021 fiscal year a large number of irregular transfers—since they were not included in the Auditing Regulations—between committees were once again identified. Upon the formal notice of the findings, the political party in question substantially modified its accountancy to point out that most of the transfers were actually loans between committees. This, again, called for a formal observation because the accountancy records show the kind of transaction, and unjustifiably changing the kind of transaction after the authority comments on it not only alter the information submitted by the regulated entity, but the auditing proceedings that might have been conducted.

The inclusion of the phrase '*as long as they are part of the political parties' assets and are meant for a licit purpose*' would potentially turn all transfers as '*licit*' and make it impossible to punish them. In consequence, the local and federal resources could be mixed together and it would be impossible to accurately identify the remainders of the public resources, if any.

g) Waiver of public funding and remainders

The Bill changes Article 23, paragraph 1, clause d), of the General Law on Political Parties (LGPP) so that political parties can waive part of their ordinary funding and return it in case of catastrophes within the national territory—caused by any kind of disaster or phenomenon included in the General Law on Civil Protection or any other that could seriously endanger society. It also establishes that political parties can use the remainders of their public funding—whether ordinary or for electoral campaigns—to cover their penalties.

Allowing the political parties to position themselves as the citizens' benefactors in the face of catastrophes, through what could be an indirect form of electoral handout, could create incentives to break the fairness of the competition. It also enables political parties to return resources that might not necessarily be remainders—which are only calculated once the auditing is concluded—completely negating the purpose of calculating them for the 2019, 2020 and 2021 annual reports' inspections.

If the remainders were to be used to cover the fines, as the Bill establishes, the political parties would stretch the time to pay them in full, which would turn them less deterrent and would incentivise the failure to pay.

Lastly, a possible contradiction has been identified between Articles 23 and 52 of the General Law on Political Parties (LGPP), because according to the latter there would be no remainders. It is important to consider that TEPJF's sentence SUP-RAP-305-2016 establish the percentages will be calculated according to the total amount of resources for ordinary activities, without subtracting the fines—and in this case the public funding remainders or returns.

h) Savings

The Bill's changes to the General Law on Political Parties (LGPP) consents to the political parties setting aside part of their annual ordinary public funding for savings and using them in subsequent years.

This turns the provision about possible public funding remainders nugatory. It could significantly affect the fairness of the competition, for the political parties receiving larger resources could make savings, which along with the lack of control over transfers, could distort the amount of resources available in each state of the Republic.

i) Impossibility of issuing provisions for ongoing electoral processes

The Bill changes Article 59, paragraph 2, of the General Law on Political Parties (LGPP) so that no auditing rules, regulations, guidelines and procedures can be issued once the electoral processes begin.

This provision makes it impossible for INE's General Council and Auditing Committee to issue criteria or rules to ensure the enforcement of the legal framework. That is, if the regulated entities attempt to use legal loopholes or displays 'novel' behaviours, the Auditing Committee will not be able to issue rules to ban them—such as the atypical transfers during the 2020 and 2021 fiscal years.

j) Notifications of the online accountancy system's malfunctions and interruptions

The Bill adds paragraph 2 to LGPP's Article 60 to establish that upon a malfunction or interruption in the Comprehensive Auditing System (SIF), INE shall notify the political parties in person about the stay of the deadlines, and shall also notify about the resumption of the system.

The fact that the notification must be done 'in person' and eliminates the possibility of doing it electronically stands out. Most of the incidents are addressed directly over very short time frames. In-person notifications would only extend the communication time frames and would be an unnecessary administrative burden. Whenever the Comprehensive Auditing System has malfunctioned or being interrupted during the inspections, due extensions—according to the length of the disruption—have been granted to submit the reports.

k) Infringement to the timely, swift, expeditious and accessible model for auditing political parties' resources

The Bill's changes to Article 60, numeral 1, clause d), of the General Law on Political Parties (LGPP) infringes the timely auditing of the national and local political parties' resources established in Article 41, Roman numeral II, penultimate paragraph, of the Political Constitution of the Mexican United States.

For that purpose, the 2014 Constitutional Reform vested the National Electoral Institute, exclusively, with the responsibility of auditing the income and expenditures of the national and local political parties, and stated the following in its Second Transitional Article:

'SECOND. The Congress of the Union shall issue the laws listed in Article 73, Roman numeral XXI, clause a), and Roman numeral XXIX-U by 30 April 2014 at the latest. These laws shall at least state the following:
I. The general law on national and local political parties:
[…]
g) A ***system to audit the source and destination of the resources*** *of political parties, coalitions and candidates, that must include:*
1. The ***powers and procedures*** *for the auditing of the income and expenditures of political parties, coalitions and candidates* ***to be swift and timely during the electoral campaigns***'.

INE built an online Accounting System that would swiftly register the transactions and would timely generate the political parties' financial information in real time to comply with that provision. This system is updated daily as the regulated entities input information of their private and public resources and their expenditures. This timely auditing, as ordered by the Constitution, maximises the transparent and swift accountability for the due control, registry and verification of the income and expenditures of the regulated entities.

Real time registration of the political parties' operations gives INE access to reliable, comprehensible, comparable and homogeneous information, making timely auditing possible. This is relevant because, since Article 41, Roman numeral IV, paragraph 2, of the Constitution states the electoral campaigns when all federal elective offices—President, Senators and Representatives—are renewed will last 90 days and pre-campaigns will last 60, the audits must be finalised before the candidates take office and within the time frame of the campaigns.

Worded differently, the auditing is made in tandem with the electoral pre-campaigns and campaigns, and they last the same as them. The auditing process does not begin when the political parties submit their Pre-Campaign and Campaign Report; it is actually the end, and the Institute already has timely and reliable information to assess whether some candidate exceeded the campaign expenditures' ceiling.

The above, along with the system for the annulment of federal or local elections established in the Constitution—which include exceeding the campaign expenditures' ceilings by 5 per cent, purchasing radio or television airtime, receiving or using illicit or public resources in the campaigns—are the reasons why the accessibility to timely and expeditious input the income and expenditures operations are essential for auditing the public and private resources of the political parties.

With the purpose of complying with the Constitution, INE has included accountancy and financial criteria in the political parties' auditing process, such as the Financial Reporting Standards (NIF), that make it possible to have truthful and timely financial information from an entity. The A-2 NIF 'Basic Principles' defines that the effects from the transactions of an economic entity with other entities, the internal transformations and other events that affect the entity financially, must be fully acknowledged in the accountancy **at the moment they happen**, regardless of the date when they are considered as being carried out for accounting purposes[17].

Hence, Article 38, numeral 1, of the Auditing Regulations established that the time frame for inputting the operations is of 3 days:

> *'Article 38.*
> *Real time input of operations*
> *1. The regulated entities shall input their accountancy registries in real time, meaning that the income and expenditures accounting operations must be registered **within three days of them being carried out**, as established in Article 17 of these Regulations.'*

The Bill changes Article 60, numeral 1, clause d), of the General Law on Political Parties (LGPP) to establish that '*…the real time accounting registration of **pre-campaign and campaign** income and expenditures operations **will be inputted within 10 days of being carried out** and no later than the deadline for submitting the corresponding report, while for **operations covered with ordinary funds**, the time frame **will be of 20 days***'. This infringes INE's constitutional power to **timely and expeditiously** audit the political parties' income and expenditures because the Bill extends the time frame **from 3 to 10 and 20 days, respectively, without considering the auditing time frames and proceedings**. According to INE's experience and the constitutional auditing model, this Bill compromises the auditing principles of timeliness, accessibility and opportune registration of operations.

12. Institutional flow of information

The Bill adds Article 28 Ter to the General Law on Electoral Institutions and Procedures for INE to share information is shared with the Local Electoral Management Bodies (OPLs) and the political parties.

[17] http://fcaenlinea1.unam.mx/anexos/1165/1165_u5_a2.pdf

While the wording is ambiguous and the scope is not specified, it would seem the purpose is to make all the institutional information available to the OPLs and the political parties alike, including all the auditing systems data—which would require designing and building secure mechanisms to send the information that entails additional costs. For instance, the Auditing Unit (UTF) has information provided—upon request—by other authorities, like the Tax Administration Service (*Servicio de Administración Tributaria*, SAT) and the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*, CNBV) that could be accessed by the OPLs and the political parties, which could compromise its confidentiality.

All the sensitive and/or auditing information, among others, that should be safeguarded ought to be kept confidential, regardless of who might request it.

The added Article also establishes that if INE has any documents the political parties require to fulfil their obligations, the Institute shall so inform the political party and deliver them. Transferring the responsibility of remedying the information omissions of the regulated entities to the authorities is risky, especially since that information could be disseminated across different institutional areas.

The above would also compromise the collaboration agreements signed with different government agencies that include clauses on information confidentiality. That is, the laws applicable to each agency ban the dissemination, undue use and disclosure of the information likely to be shared. Hence, the enactment of the Bill might even result in the external authorities' denial to provide information, which would also impact the auditing risk models.

Lastly, revealing fiscal and fiduciary information of the regulated entities undergoing an auditing process, as the Bill establishes, would breach the information's confidentiality and would even result in the external authorities' denial to provide information of, for instance, natural persons and legal entities involved in several complaints filed against regulated entities, which would also impact the auditing risk models.

13. Modifications to the political parties' basic documents

The Bill changes Article 34, paragraph 2, clause a), of the General Law on Political Parties (LGPP) to establish the electoral authorities cannot order the political parties to modify their basic documents.

However, the Bill also changes LGPP's Article 25, paragraph 1, clause l), to establish the political parties' obligation of informing the electoral authorities of any modification to their basic documents, which will not go into effect until INE's General Council declare their compliance with constitutional and legal.

LGPP's Article 36 states that INE's General Council must assess the constitutionality and legality of the modifications to the basic documents, and for that purpose, the SUP-JDC-670/2017 resolution of the Superior Courtroom of the Electoral Court of the Federal Judicial Branch (TEPJF) established that it is INE's Executive Office of Prerogatives and Political Parties (*Dirección Ejecutiva de Prerrogativas y Partidos Políticos*, DEPPP) which must verify that the political parties' modifications to their statutes or regulations comply with the constitutional and legal provisions, in addition to making sure the modification's proceedings and contents observe each political party's internal provisions.

In this sense, there is an inconsistency between what the Bill lays down Article 34, paragraph 2, and Article 25 of the General Law on Political Parties (LGPP) because, should the assessment of the basic documents' modifications show they do not comply with the Constitution and the Law, the electoral authority would have to order the relevant adjustments.

Therefore, while the Bill makes it impossible to repair the breaches to the citizens' fundamental rights should the basic documents fail to guarantee their rights, it is the constitutionality and legality of the modifications which is subject to verification. Banning INE's General Council or TEPJF's Superior Courtroom from ordering the adjustment of those documents invalidates the rights and the resolutions lose their coercive power.

Moreover, it goes against TEPJF's Superior Courtroom criteria on substantial gender equality for the nomination of governor candidates. Currently, INE ordered the political parties to adjust their documents to include clear regulations in compliance with the criteria of the Superior Courtroom, which they ought to comply by 31 May 2023 at the latest. Hence, the enactment of this provision would be a retrogression in the advancements to guarantee women's political and electoral rights.

Likewise, this provision leaves traditionally discriminated groups at a disadvantage because no actions that could favour them can be ordered. For instance, in the case of gender-base political violence against women, INE's General Council—through the agreement number INE/CG517/2020—ordered the adjustment of the basic documents to guarantee the compliance with the provisions established by the Decree on gender-based political violence against women of 13 April 2020.

14. Duties of the political parties

Article 25 of the General Law on Political Parties (LGPP) establishes the political parties' duties in general terms. The Bill adds a new paragraph, '2', to limit INE's verification ability and to lighten the political parties' duties towards the electoral authority and the citizens themselves. It transfers part of the political parties' responsibilities—and even establishes a joint responsibility with INE—and imposes the tasks of 'assisting and guiding' them upon the electoral authority should the political parties so request. It must be noted that while the electoral authority has always provided such assistance, this is the first time it is established as an obligation.

Likewise, the Bill modifies Article 55, paragraph 1, clauses o) and p), of the General Law on Electoral Institutions and Procedures (LGIPE) to establish the obligations of INE's Executive Office of Prerogatives and Political Parties (DEPPP), one of which is—no longer upon request—to assist '*…the political parties in the accreditation of their representatives at all levels*' and '*Provide a timely notification on the deadlines for complying with the political parties' obligations […]*', which imposes new responsibilities upon the electoral authority that go beyond the purposes for which it was created.

In consequence, lightening the political parties' obligations and transferring the burden of guiding and assisting them to the DEPPP can result in greater disbursements for institutional operations because the Bill is not clear and leaves space for interpretations.

15. INE's regulatory powers

The Bill modifies Article 224, paragraph 4, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish neither the administrative nor the jurisdictional authority can issue new criteria, guidelines or agreements that modify the electoral process' rules once it has begun. In the case of the General Law on Political Parties (LGPP), it states that once the electoral processes have started, no auditing regulations, standards, guidelines or proceedings can be issued or modified.

The above would have a serious impact on the Institute's functioning because, upon the lack of a sufficiently developed legal framework for a given activity or role, the Institute's regulatory powers have been able to fill the legal loopholes. INE's General Council's Agreement that modified the guidelines for the organisation of the

Presidential Recall, for instance, could not have been approved under this new provision. It would have been impossible to issue the agreements on time frames' suspension due to the sanitary contingency that were needed to comply with the institution's obligations.

Moreover, several agreements have been approved—sometimes as the electoral process unfolds—to modify the citizens' candidate endorsement time frames so that the political and electoral rights of the applicants can be guaranteed. It has not compromised the certainty of the elections.

Lastly, as previously mentioned, INE's General Council and the Auditing Committee are banned from issuing auditing criteria or regulations, even if they are meant to safeguard the compliance with the electoral laws. Should there be a legal loophole, or should the regulated entities developed 'novel' behaviours, it would not be possible to issue regulations to ban those acts.

III. Amendments to the competition's conditions

In democracy, there are supposed to be procedures in which citizens can cast their votes and freely decide how they want to take part in the public affairs, whether expressing their stance on a given issue or choosing representatives to do so. However, the sole existence of those procedures and options is no longer enough—and has not been for some time—to fulfil the democratic expectations for a self-government.

Beyond officially recognising the existence of freedom and equality as basic components of the Constitutional State, the conditions that actually allow elections to be held while upholding them must be guaranteed, even if that means the corresponding authority must adopt special measures to eliminate—or at least inhibit—the regulatory or factual obstacles that might impede or hinder the political participation rights of the members of the political community.

These demands have been included as specific provisions in the Political Constitution of the Mexican United States and in several international instruments that have become part of the Mexican laws. For instance, the American Convention on Human Rights considers voting and other political participation prerogatives as 'rights' and as 'opportunities' (Article 23, paragraph 1). That is, there ought to be conditions that make them viable and effective, so the necessary cultural, political and social conditions for everybody to, adequately and homogeneously, exercise their rights ought to be set.

For that reason, the Convention's Article 23, paragraph 1, clause c), acknowledges every citizen's right to access the public service of their country 'under general conditions of equality'. It insists that certain material conditions ought to be in place for elections to be held, apart from the specific provisions for women and vulnerable groups.

The Convention's reference, in Article 23, paragraph 1, clause b), about taking part in 'genuine periodic elections'—whether voting or standing for office—is equally important to fully understand the scope of the political participation rights. It entails that elections must be true and accurate, unlike seemingly democratic events in which there is no chance the elected candidate was actually voted for by the enfranchised citizens. The authenticity of periodical elections might have to be attained by adopting measures for that purpose.

In any case, Article 2 of the American Convention on Human Rights states that all of its States Parties must undertake the legislative, or otherwise, measures to bring those acknowledged rights and freedoms into effect.

Taking the above into account, the following are issues—listed in no particular order—that the Mexican State must protect and which the Bills disregard.

1. Affirmative and gender equality actions

The Bill changes Article 11, paragraph 4, of the General Law on Electoral Institutions and Procedures (LGIPE) to establish, as affirmative actions, that political parties' candidates for representatives under both electoral principles (Plurality and Proportional Representation) will be as follows:

In compliance with the principle of substantial equality, national political parties shall nominate as candidates for representatives under both electoral principles at least 25 of the following persons:

a. Persons that belong to an indigenous community;
b. Afro-Mexican persons;
c. Persons with disabilities;
d. LGBTI+ community;
e. Mexicans abroad; and
f. Young people.

‘The plurality candidates can be nominated at any federal electoral district. In the case of the proportional representation candidates, they will be included in two sets within the top 20 slots of the lists.

‘The Congress of the Union is the only one that can issue, by following the constitutional legislative procedure, the regulations on the candidates’ nomination process, which cannot be regulated, opposed or modified by means of secondary laws, such as agreements, guidelines or regulations subordinated to the law.

‘The Houses of the Congress of the Union shall be comprised of an equal number of women and men, for which the political parties shall comply with the nomination of both genders in two sets of high and low competition.’

The Bill infringes the principle of progressiveness and the principle of non-discrimination established in Article 1 of the Political Constitution of the Mexican United States, as well as several laws, standards and international good practices, along with the principle of certainty stated in the Constitution’s Article 41.

The Political Constitution of the Mexican United States repeatedly includes the principle of equality and non-discrimination, as well as mechanisms to protect and guarantee it.

Article 1, paragraph 1, states that: ‘In the United Mexican States, all individuals shall be entitled to the human rights granted by this Constitution and the international treaties signed by the Mexican State, as well as to the guarantees for the protection of these rights. […]’. Meanwhile, its paragraph 3 establishes that: ‘All authorities, within their areas of competence, are obliged to promote, respect, protect and guarantee Human Rights, in accordance with the principles of universality, interdependence, indivisibility and progressiveness. Consequently, the State must, according to the law, prevent, investigate, penalise and rectify violations to Human Rights.’ And paragraph 5 provides that: ‘Any form of discrimination, based on ethnic or national origin, gender, age, disabilities, social status, medical conditions, religion, opinions, sexual orientation, marital status or any other, which violates the human dignity or seeks to annul or diminish the rights and freedoms of the people, is prohibited’.

Hence, 1) The Mexican State acknowledges, protects and guarantees the human rights established in the national and international legal order; 2) The Mexican authorities must promote, respect, protect and guarantee those human rights according to the principles of universality, interdependence, indivisibility and progressiveness; 3) Complying with those State obligations means preventing,

investigating, penalising and rectifying the violations to human rights; and 4) The State must eradicate any kind of discrimination based on ethnic or national origin, gender, age, disabilities, social status, medical conditions, religion, opinions, sexual orientation, marital status or any other, that violates the human dignity or seeks to annul or diminish the rights and freedoms of the persons.

Other constitutional provisions on the principle of equality and non-discrimination are:

- Article 2: 'B. In order to promote equal opportunities for indigenous peoples and to eliminate all discriminatory practices, the Federation, its states and municipalities, shall establish the necessary institutions and policies to guarantee the rights of indigenous peoples and the comprehensive development of indigenous communities. Such institutions and policies shall be designed and operated jointly'.
- Article 3, paragraph 1: 'Every person has the right to education'.
- Article 4, paragraph 1: 'Women and men are equal under the law'.

The human rights' acknowledgement, protection and guarantee by the Mexican State is in line with the international laws, standards and good practices that deem their effectiveness necessary for social coexistence and for establishing the rule of law under which the renewal of the political power will comply with the rules of democracy.

All the rights related to the peaceful renewal of the Mexican State's powers through free and periodic elections are included in this broad framework of acknowledgement, protection and guarantee. In this sense, '[e]lections lie at the heart of democracy and remain the primary means through which individuals exercise their right to participate in public affairs', so it is only logical that '[p]articipation in public affairs […] through elections, is a human right protected by international human rights law instruments'[18].

Beyond the representatives being elected without coercion and taking office, free and authentic elections are supposed to enable all social groups, sectors and communities to be represented and have access to the elective posts that hold political power. As such, '[p]rerequisite rights should be upheld, including the rights to freedom of opinion and expression, peaceful assembly and association, and

[18] Office of the United Nations High Commissioner for Human Rights (OHCHR). Human Rights and Elections. A Handbook on International Human Rights Standards on Elections. United Nations. Geneva. September 2021. Page 1. Consulted at https://www.ohchr.org/sites/default/files/2022-02/Human-Rights-and-Elections.pdf

movement, but also freedom from discrimination and violence, the right to a fair trial and an effective remedy, and the right to education'[19].

The right to vote and to be elected, and the right to equal access to public service, must not be subject to excessive restrictions or to any kind of discrimination. The political participation rights must not be unduly limited by reason of race, colour, sex, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other factors. Some—but not all—of the discriminatory limitations are economic requirements, like those based on property; excessively strict residence requirements; restrictions to the vote of naturalised citizens, as opposed to citizens by birth; literacy or education requirements; and excessive restrictions on the vote of persons being held on remand.[20]

As for the right to stand for elective office, any restrictions, such as minimum age, must be justifiable on objective and reasonable criteria. Among the unreasonable or discriminatory requirements are those that refer to language, education, excessively strict residence criteria, descent or political affiliation. Besides, the restrictions on political participation by reason of disability are considered discriminatory.[21]

The Universal Declaration of Human Rights (Art. 2), the International Covenant on Civil and Political Rights (Art. 2, par. 1) and the International Covenant on Economic, Social and Cultural Rights (Art. 2, par. 2) establish that there should not be any discrimination to the rights they uphold on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, economic status, birth or other status. Moreover, the Convention on the Elimination of All Forms of Discrimination against Women (Arts. 1 and 2) establishes an additional protection for women against all kinds of discrimination.

Likewise, other international instruments specifically guarantee participation on an equal basis for persons with disabilities, members of minority groups and indigenous

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19 Idem. Page 4.

20 UN Committee on Human Rights. General Comment 25 (1996). Paragraphs 1, 2, 3, 4, 5 and 10; UN Human Rights Council resolution 19/36 of 19 April 2012. Paragraph 4; UN Human Rights Council. Guidelines for States on the effective implementation of the right to participate in public affairs (A/HRC/39/28). Paragraph 25.

21 UN Committee on Human Rights. General Comment 25 (1996). Paragraph 15; UN Convention on the Rights of Persons with Disabilities, Arts. 2, 5 paragraph 2, and 29. Article 2 defines Discrimination on the basis of disability as 'any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation'. Consult also Committee on the Rights of Persons with Disabilities. General comment No. 6 (2018) on equality and non-discrimination.

peoples to reverse the historical exclusion they have suffered—and continue to suffer—by being deprived of rights.[22]

According to all the international instruments and standards mentioned, the rights to vote and be elected, to equal access to public service and to political participation must not be subject to excessive or irrational restrictions or to any kind of discrimination that could compromise the exercise of the right or decrease its efficacy.

The Bill's addition to the General Law on Electoral Institutions and Procedures (LGIPE) of paragraph 4 to Article 11 and of Article 11 Bis, establishes excessive and constraining restrictions which significantly backtracks the affirmative actions and gender equality advancements contravening the constitutional principles of progressiveness and non-discrimination. The inclusion of these rules makes it impossible for discriminated groups to access elective posts. Even if they do, they would have to subject themselves to the decisions of the parties' leaderships rather than comply with precisely worded rules set in advance, which would infringe the principle of electoral certainty established in Article 41 of the Constitution.

a) Decrease the number of nominations via affirmative actions

The paragraph 4 of the Bill establishes that "political parties with national registry" must include in their nominations for candidacies to deputies under the two principles -relative majority and proportional representation- at least 25 persons belonging to underrepresented groups—indigenous peoples, Afro Mexican persons, persons with disabilities, members of the LGBTI+ community, citizens living abroad, and young people. When nominations are related to the principle of relative majority, those can be allocated for "any federal electoral district", meanwhile, when it is related to the principle of proportional representation, these nominations for deputies must be allocated in two blocks at the first twenty posts of the RP lists".

At a first glance, analyzing this rule you can conclude, that the number of nominations possible (at least 25 nominations) will be less than those materialized as a result of the affirmative actions approved by INE for the 2020–2021 Federal Electoral Process (PEF).

Therefore, it is important to consider that, because of the affirmative actions—approved by the agreements INE/CG018/2021 and INE/CG160/2021—to promote

[22] Convention on the Rights of Persons with Disabilities, Art. 29; and International Convention on the Elimination of All Forms of Racial Discrimination, Art. 5, clause c).

the political representation of indigenous peoples, Afro Mexican persons, migrants, members of the LGBTI+ community, and persons with disabilities, it was guaranteed that all political institutions and political coalitions taking part in the 2020–2021 PEF appointed 50 nominations, as follows:

- Indigenous peoples: 21 to RM principle and 9 to RP principle.
- Persons with disabilities: 6 to RM and 2 to RP.
- Afro Mexican persons: 3 to RM and 1 to RP.
- Members of the LGBTI+ community: 2 to RM and 1 to RP.
- Migrants and citizens living abroad: 5 to RP.

The electoral results showed that 65 persons belonging to underrepresented groups won a seat at the current Legislature of the Chamber of Deputies of the Congress of the Union, as shown in the following table:

Political Party	Affirmative action					Total
	Indigenous	PWD	AM	LGBTI+	Migrant	
PAN	6	0	1	1	4	12
PRI	4	2	0	1	1	8
PRD	1	0	0	0	0	1
PT	1	0	0	0	0	1
PVEM	8	1	1	0	0	10
MC	0	0	0	0	1	1
MORENA	16	5	4	2	5	32
Total	36	8	6	4	11	65

With the Bill, the number of nominations for the underrepresented groups will decrease, as it will surely be of less than 50, for both principles, this matter not only brings new obstacles to their political representation, but is a direct violation to the principle of progressivity, as it imposes a new rule that illegitimately limits vested rights and which entails a retrogression regarding the number of possible nominations benefited by affirmative actions—of at least 25. Besides, there is not a clear rule for the allocation on RP lists of nominations via affirmative actions, neither under RM principle insofar as it is only mentioned “in any district”, without any provision of order or registry criteria of the mentioned nomination, this provision infringes the certainty principle as the legislative branch, until now, omitted to rule a detailed framework for the mechanisms for political parties’ nominations via affirmative actions by any principle—whether relative majority or proportional representation.

In case law 1a./J.85/2017 (10a.), the First Chamber of the Supreme Court of Mexico defines the principle of progressivity and shapes its scopes by referring it is established in Article 1 of the Constitution and in international treaties and determines “the scope and protection of human rights at the greatest extent possible until their full effectiveness, according to factual and judicial circumstances is achieved”.

From a positive overview, progressivity imposes the lawmaker “the obligation of broadening the scope and protection of human rights” and the justices “the duty of interpretation of the law under a broad construction for those mentioned aspects, as far as judicially possible”.

From a negative overview, progressivity “imposes a retrogression prohibition [that means]: the lawmaker is banned, at first glance, from issuing legislative acts that undermine, limit, disappear or disregard the scope and protection of human rights, that were already recognized. The justices are banned from adopting a retrogressive interpretation of human rights laws, that is, ruling them in a sense that means disregarding the extent of the human rights and their level of previously recognized protection.

From the mentioned case law, it is identified that the recognition and protection of a right cannot be reversed, but be extended or perfected. This circumstance must be considered by the lawmaker at the law creation process and by the justices when dictated, therefore a previous extension granted to a right or its protection shall not be disregarded, otherwise the public servant would infringe the legal framework.

Hence, since the Bill’s modification to paragraph 4 of Article 11 of the General Law on Electoral Institutions and Procedures (LGIPE) establishes that the possible number of nominations could be of “at least 25”, it already shows a clear decrease in the number of nominations and an illegitimate restriction to the “extension of a right” and of the mechanisms that materialized that right. This circumstance produces an inefficiency of the promoted affirmative actions, but also a direct violation to the Constitution’s Article 1, several laws and international standards that mandate the lawmaker and the justices ought to respect the progressivity principle, and to avoid approving discriminatory laws.

Regarding the principle of certainty, Paolo Comanducci, defines legal certainty as the circumstance by which “every citizen can foresee the judicial consequences of

their own actions, as well as the decisions the authorities will make should they behavior be judged under the law".[23]

However, the already mentioned legal precepts disregard this aspect, insofar as, the decision of which nominations via affirmative actions by both principles—RM and PR—are not defined, and no clear rules are set nor are the criteria that would allow underrepresented groups to know which posts they could have access to, there is also no mention as of where or through which lists they could stand for office. There are no clear nomination rules for political parties to follow at the registry of those candidates, which results in legal uncertainty for those who are interested in being nominated.

Agreements INE/CG18/2021 and INE/CG160/2021 established clear criteria the political parties must follow to nominate candidates from each underrepresented group via affirmative actions, such as:

Indigenous affirmative action

INE's General Council approved the agreement INE/CG018/2021 to comply with the judgement issued by the Superior Courtroom of the Electoral Court of the Federal Judiciary Branch indexed SUP-RAP-121/2020. In compliance with the order to determinate the twenty-one electoral districts in which indigenous persons would be nominated as political parties' candidates, INE used the information on which its Agreement INE/CG59/2017 15 March 2017 was based, and through which the 300 federal single-member electoral districts were established that included 28 newly delimited districts whose indigenous population was of 40 per cent or more, which amounts to 9.33 per cent of the 300 districts.

The first criterion INE used to establish the twenty-one districts where the indigenous persons ought to be nominated was the one of population, and started with the most self-identified indigenous population.

Lastly, it was emphasized that those twenty-one districts were the baseline, and that political parties and coalitions were free to nominate more than 21 indigenous peoples' candidates to federal deputies posts by any principle, according to its internal organization, which meant up to nine more candidates.

[23] *Razonamiento jurídico*, Fontamara Editor, México, 1999, p. 98.

Through the case law IV/2019, referred as “INDIGENOUS COMMUNITIES. POLITICAL PARTIES ARE COMPELLED TO PRESENT EVIDENCE OF BELONGING BETWEEN NOMINATED CANDIDATE AND THE COMMUNITY THEY ARE BEING NOMINATED FOR IN COMPLIANCE WITH AN AFFIRMATIVE ACTION”[24], the Superior Courtroom have appointed that political parties must present objective evidence of the liaison of the nominated person to the corresponding community, for instance, certificates issued by any communal or indigenous peoples’ authority, in terms of the Indigenous Normative System.

Affirmative action for persons with disabilities

Political parties and coalitions have been compelled to have a baseline that would allow to extend the rights of the 7.8 million persons from this underrepresented group, through nominations of persons with disabilities in 6 of the 300 single-member electoral districts of the country, through which this underrepresented group would be represented among the candidates.

In the case of flexible or partial political coalitions, the persons with disabilities nominated would be added to those individually nominated by each of the political parties of the coalition, regardless of the party affiliation of the person.

For the PR-nominations, in order to increase the political participation of persons with disabilities and to progressively reach greater number of winning candidates from this group, it was deemed necessary to require political parties to appoint at least two formulas made up of persons with disabilities. Those formulas could be registered at any of the five regional circumscriptions—electoral territorial units that comprise neighboring states and which are the base for RP-seats allocations—but ought to be within the first ten slots of the lists.

With these measures, it was guaranteed that persons with disabilities nominated as candidates to the Chamber of Deputies by the two principles—RM and PR. Also, political parties had to comply with gender equality in these candidacies.

Affirmative Action for Afro Mexican persons

With this action, political parties were compelled to extend the rights of 2.9 million persons of African descent, by appointing at least 3 formulas from this

[24] Binding Precedent and Case Law on electoral matters Gazette, Electoral Court of the Federal Judiciary Branch, Year 12, Number 23, 2019, pages 33 and 34. (In Spanish: *Gaceta de Jurisprudencia y Tesis en materia electoral).*

underrepresented group at any of the 300 majority electoral districts and one formula under the proportional representation principle at any of the 5 regional circumscriptions within the first ten slots of the lists. As with the affirmative action for persons with disabilities, political parties ought to respect gender equality.

Affirmative action for members of the LGBTI+ community

To guarantee a baseline for extending the rights of this underrepresented group, political parties were compelled to appoint at least two candidate formulas made up of members from the LGBTI+ community at any of the 300 majority districts and one formula under the proportional representation principle at any national circumscription, listing it within the first ten slots of the lists. The three nominations, being an odd number, ought to comply with the minimal difference of gender equality (2/1).

Affirmative action for persons residing abroad

Two organizations requested the issuance of affirmative actions in favor of the migrant community residing abroad regarding the nomination of candidates for federal deputies.

In compliance with resolution SUP-RAP-21/2021, the General Council of INE issued the Agreement INE/CG160/2021 to approve the affirmative action for migrants and persons residing abroad, to ensure the inclusion of the Mexican migrant community and of the persons residing abroad at the Chamber of Deputies.

At the 2020–2021 PEF, the obligation of national political parties and coalitions to nominate five candidates was approved, one per regional circumscription, within the first ten places of each of the proportional representation lists, in compliance with the gender equality principle. From the five persons nominated, three must be of the same gender.

The fact that Article 11, paragraph 4, of the Bill provides that nominations benefiting from proportional representation of affirmative action, “shall be placed in two blocks located in the first twenty places”, or in the case of the majority, establishes that nominations through affirmative action may be “for any district”, leaving in a circumstance of total uncertainty the manner in which the nominations will be placed, by type of group in a situation of discrimination, how many positions will correspond to each group and under what criteria will the nominations be made, as well as the total number corresponding to each one according to the principle of majority or proportional representation, which violates the rules previously approved by INE’s

General Council, regarding the number of nominations and under what principle the nomination must be made, a situation that violates the principles of certainty and progressivity, provided, respectively, in Articles 1 and 41 of the Constitution and in diverse international instruments, for constituting rules of a discriminatory nature.

One more negative consequence of this legal error would be the fact that affirmative actions, which in the case of majority nominations, according to the Bill, could be presented as “any district”, and this breaks the logic of indigenous districts, since, as pointed out in previous paragraphs, in the context of the affirmative action approved by INE, during the 2020–2021 PEF, to benefit indigenous peoples and communities, there were 21 indigenous districts, where candidates from indigenous peoples and communities could be nominated.

Article 11, paragraph 4, of the Bill, mentions “at least 25” affirmative action nominations. If we consider these 21 indigenous districts, the available affirmative actions for other vulnerable groups would be of only 4, which would prevent the representativeness of all the groups listed in the article, an aspect that not only constitutes a contradiction, but also the configuration of a discriminatory omission.

b) INE’s intervention to issue guidelines on affirmative action and gender equality is restricted

Furthermore, article 11, paragraph 4 of the Bill leaves the regulation of affirmative actions and gender equality to the Congress of the Union and prevents INE from issuing any agreement, guideline, regulation, or criteria of interpretation.

This legislative measure jeopardizes the continuity of advancements previously approved through regulatory procedures, thus violating the already explained principle of progressivity. At the same time, there is a risk of not having specific rules or criteria in case of extraordinary situations that arise outside legal norm, which violates the constitutional principle of certainty.

INE has regulated the issue of affirmative actions to satisfy judicial mandates or demands and concerns of persons belonging to vulnerable groups, doing so differently would generate a practical problem of using a general law to deal with particular cases that are not considered by it, and the inevitable need for the electoral authority to act positively, with the difficulty of being bound by a legal prohibition.

In addition, with a rule of these characteristics—provided for in Article 11, paragraph 4 of the Bill—the autonomy of INE in relation to its management, organization, decision-making, and adequate exercise of its mandates is left as a dead letter.

Section V, paragraph A, article 41 of the Constitution states, among other things, that “The National Electoral Institute is an autonomous public body with its own legal personality and assets […] The National Electoral Institute shall be the authority on the matter, independent in its decisions and operation, and professional in his performance”.

The “administrative” autonomy is a guarantee for the independent development of the functions of constitutional body, which presupposes the specialty in its administration due to its legal status and the function it performs.

In the field of administration, “it means independence of action between organs or bodies of the public administration. It is enjoyed by the body that is not subordinated to decisions of another, by law”.[25] This implies the ability to take administrative action independently and without any interference from an external agent or an organ of a different branch. This aspect of autonomy presupposes, in principle, the existence of a budgetary autonomy that endows the organ with its own patrimony, sufficient for the fulfillment of its purposes, which remains under full responsibility of its administrative management.

The regulation of constitutional autonomy of INE (formerly IFE), which is still in force in the Mexican constitutional framework, emerged with the electoral reform of 1996, and had as a fundamental factor the citizenship and recognition of autonomy of electoral authorities, which were endowed with many powers with a view to achieving the democratic strengthening. This is the reason for “definitive” vocation of constitutional and legal framework approved that year, which put the touchstone of the “authenticity of elections” through institutions that generate citizen confidence and certainty of the results.

To the extent that article 11, paragraph 4 of the Bill prevents the electoral authority from issuing guidelines to guarantee the gender equality and effectiveness of affirmative actions, this violates the constitutional principle of autonomy, annulling the possibility for INE’s decision-making freedom and, consequently, to issue guidelines, agreements, or other provisions necessary to guarantee the exercise of political rights of groups in a situation of discrimination.

[25] Nava Negrete, Alfonso, Quiroz Acosta, Enrique, “Administrative autonomy”, Mexican Legal Encyclopedia, Mexico, Porrúa-UNAM, 2004, p. 438.

c) Escape valves that violate the principle of gender equality are created

With the incorporation of Article 11 Bis, it is established that: “Political parties and coalitions must respect gender equality in nominations for elected office. In the case of holders of governing bodies of federal entities, parties, and coalitions, in the exercise of their self-determination, shall guarantee that fifty percent of their nominations correspond to each gender”.

Regarding the proposed amendment to Article 11 Bis, paragraph 2, of the General Law on Electoral Institutions and Procedures (LGIPE), which states that electoral authorities may only intervene in internal affairs of political parties for the purpose of reinstatement of proceedings for violations to their internal regulations or rights of the citizens and that, in no case, may they decide by appointing leaders and candidates or by determining any act that directly interferes in decisions of internal life of parties, the electoral authority is prevented form intervening, for example, in compliance with the principle of gender equality in the nomination of candidates and party leaders, as well as the issuance of rules to guarantee such principle, leaving its compliance to the free will of political parties.

In this regard, it should be noted that the Superior Chamber of TEPJF, through case law 20/2018, header “GENDER EQUALITY. POLITICAL PARTIES HAVE THE OBLIGATION TO GUARANTEE IT IN THE INTEGRATION OF THEIR GOVERNING BODIES”,[26] determined that political institutes must guarantee effective participation of both genders in the integration of their governing bodies, as well as promoting equal representation between women and men within their internal structures.

In this sense, with the proposed drafting, a generic criterion of gender equality is maintained, however, it is necessary to incorporate mechanisms that consider the alternation in nomination of female candidates for governors, as well as ensuring competitiveness in her registration, in order to comply with the progressivity of gender equality, in accordance with the provision of the constitutional reform of June 2019 and no to generate possible antinomies with the legal framework approved on 13 April 2020, on occasion of the entry into force of all legal regulations to prevent, combat and sanction gender-based violence against women.

With the legal reform of 13 April 2020, regarding violence against women, the women’s right to live in an environment free of violence in the political context was

[26] Binding Precedent and Case Law on electoral matters Gazette, Electoral Court of the Federal Judicial Branch, Year 11, Number 22, 2018, pages 20 and 21. (In Spanish: *Gaceta de Jurisprudencia y Tesis en materia electoral).*

appropriately recognized and sufficient guarantees were granted for its protection and proper implementation, since a legal definition of political violence against women was incorporated (Article 20 Bis of the General Law on Women's Access to a Life Free of Violence, LGMVLLV), as well as the typification of the conducts that could constitute political violence (Article 20, LGMVLLV).

Likewise, the areas of competence of INE and OPLs to deal with cases of political violence were defined, highlighting among their attributions “to promote the culture of non-violence in the framework of women's political and electoral rights”; “to incorporate the gender perspective in the monitoring of transmissions on pre-campaigns and electoral campaigns in radio and television programs that broadcast news, during electoral processes”; “sanction, in accordance with the applicable law, behaviors that constitute gender-based political violence against women” (Article 48 Bis, LGMVLLV).

These modifications had an impact on important changes to LGIPE, which included taking up the definition of political violence of LGMVLLV, in a new subsection k) of paragraph 1, from Article 3 of the electoral law, or including in paragraphs 2 and 3 of LGIPE’s Article 6 that: "The Institute, Local Electoral Management Bodies, political parties, pre-candidates and candidates, shall guarantee the principle of gender equality in the political and electoral rights, as well as respect for the human rights of women" and that "The Institute, within its corresponding area of competencies, shall make the necessary provisions to ensure compliance with the previously established rules and the other provisions in this Law."

Additionally, rights were established that had as their focus the guarantee of gender equality and the fight against gender-based violence against women. Thus, paragraph 5 of Article 7 of LGIPE introduced as a novelty: "Political-electoral rights shall be exercised free of gender-based political violence against, without discrimination based on ethnic or national origin, gender, age, disabilities, social status, health conditions, religion, opinions, sexual preferences, marital status or any other that violates the human dignity or aims to nullify or diminish the rights and freedoms of individuals".

In turn, Article 10, paragraph 1, clause g), established a new requirement for deputies: "To not have been convicted for the crime of gender-based political violence against women ". While paragraph 4 of Article 14 provides that "in the lists for senators and deputies, both in the case of relative majority and proportional representation, political parties must integrate them by persons of the same gender and headed alternately by women and men each election period", and in a similar criterion, paragraph 2, of Article 26 establishes: "in the registration of candidates for

the positions of president, mayor and alderpersons of the City Councils, the political parties must guarantee the principle of gender equality. Candidate lists must consider alternates of the same gender as the proprietary person".

To ensure compliance with these legal requirements, Article 30, paragraph 1, clause h), adds as an attribution of INE: "To guarantee gender equality and respect for the human rights of women in the political and electoral context, a circumstance related to the principle of gender equality that is added to paragraph 2 of the same article, as one of the guiding principles of the electoral function.

This circumstance is reinforced by the obligation of the General Council of INE to guide its activities in accordance with the principle of gender equality and to perform its functions from a gender perspective (Article 35, paragraph 1); this aspect applies to political parties, given that Article 44, paragraph 1, clause j), establishes that the Institute must oversee that "political parties prevent, address and eradicate gender-based political violence against women", an aspect that is reproduced in the OPLs, by ensuring that the principle of gender equality is guaranteed in their composition.

The new drafting of articles 232 to 235 established that the candidacies for federal and local legislative positions to be registered, by both principles, must guarantee the principle of gender equality, the same is established for public positions in the City Councils. Otherwise, it will be sanctioned with the refusal to register the candidacy.

In accordance with the constitutional and legal framework of 2019 and 2020, in terms of gender equality and political violence against women, on 15 January 2021, the General Council of INE approved the agreement INE/CG572/2020, by which the applicable criteria for the registration of candidates for deputies by both principles presented by national political parties and, if applicable, coalitions before the councils of the institute were modified, and several affirmative actions in favor of women were established:

- If the number of candidates formulas for deputies nominated by a political party or coalition were not even, the remaining odd formula must be composed of women.
- All national political parties must head at least three of the five multi-member lists with female candidates.
- Mixed formulas are allowed in the case of male proprietary candidates, but not in the case of female proprietary candidates.

- Political parties and coalitions may nominate a greater number of women than men as candidates for federal deputies of relative majority or proportional representation, but it is not possible to reduce the number of women candidates. Even in the case of substitutions of candidates, it is established that political parties and coalitions may substitute a list composed of men by a list composed of women.

However, with the new legally proposed regulation, these advances and criteria guaranteeing gender equality are left without effect, and a conflict of laws is generated, between the provisions of the legal reform of 13 April 2020, in terms of gender equality and protection against political violence against women, since the new proposed regulation contrasts with the attributions and obligations that deputies made, in rules, principles, in charge of INE, OPLs and political parties, to guarantee gender equality and prevent, fight and punish gender-based political violence against women.

Article 11 Bis, of the Bill, although it recovers the constitutional principle of gender equality, attenuates it, or clearly blurs it, at the moment it links the enabling of this principle to the self-determination of political parties, when it states: "In the case of heads of executive bodies of the states, the parties and coalitions, in the exercise of their self-determination, shall guarantee that fifty percent of their nominations correspond to each gender." This situation is accentuated by numeral 2 of the same article, which states: "The electoral authorities may only intervene in the internal affairs of the political parties for the reinstatement of procedures for violations to their internal regulations or to the rights of the citizenship. In no case may they decide to appoint leaders and candidates or determine any act that directly interferes in the internal decisions of the parties".

Article 11 Bis of the Bill generates a non-systemic rule that, as explained above, breaks with the provisions of LGMVLV, and with other rules set forth in LGIPE and LGPP, which, despite the current BIll, remain intact, as well as with the principles of progressiveness, certainty or autonomy provided for in the Constitution and international treaties.

In the book "Building Gender Equality Democracies in Latin America", by Flavia Freidenberg and Karolina Gilas, which is a manual of good practices in terms of gender equality, and a long critical narration of the advances and setbacks in the region from 1991 to 2022, points out that the most advanced countries during this period of analysis (Argentina, Bolivia, Costa Rica, Ecuador and Mexico) have legal provisions that guarantee total gender equality (50/50 men and women) and this has an impact on the composition of legislative assemblies or congresses, with high

levels of gender equality. Likewise, in most cases, women candidates contend in large or medium-sized constituencies, where their chances of winning are enhanced, or, when they are included into lists of candidates they are placed as heads of the list, or it is mandated that the list be integrated by people of the same sex, according to an alternating system. Finally, the use of safety valves is deactivated, and severe sanctions are applied for non-compliance with gender equality, the toughest: not registering the proposed candidacies.

In the case of moderately successful democracies (Honduras, Panama, Paraguay and Peru), the authors point out that, although they have a legal system that formally guarantees balance in the registration of candidates, this regulation may not have an impact on the composition of national legislatures. Internal party processes for the selection of candidates operate, for the most part, as an obstacle to gender equality, which is another of the visible deficiencies in this type of model. In addition, women candidates operate as substitutes or they are nominated in losing districts, and the safety valves to avoid gender equality are so efficient that fraud to the law becomes a licit practice.

After reading the Bill, it is clear that the generic mandate of gender equality remains, but its effectiveness is deactivated, which violates the principle of progressivity and the principle of gender equality that, as already related above, breaks with the logic of the constitutional reform of 2019 (gender equality in everything) and with the legal reform on political violence (13 April 2020), by introducing a non-systemic element—that gender equality is conditioned by the principle of self-determination of the parties—and not by rules that expand or perfect the right and allow the strengthening of the political regime of gender equality outlined with the reforms on gender equality and combating gender-based violence in 2019 and 2020, and with the decisions approved by INE during the 2020–2021 federal electoral process, to adjust to those new rules, which established a very high level in terms of gender equality that, if not maintained in that logic of continuity, would mark a serious setback.

The design of Article 11 Bis is limited by an element of a temporary nature that restricts its compliance by stating that: "(political parties) shall guarantee that fifty per cent of their nominations correspond to each gender, considering the complete cycle of renewal of governors and head of government (Mexico city) of the 32 states, so that in the corresponding cycle, at least 16 nominations are for women", this will not be verifiable since the tenures of the 32 governors are different, making it unfeasible for a single electoral process to renew them all, even with the mandate of concurrence for the celebration of federal and local elections.

Another serious aspect of this non-systematicity is the fact that, with the Bill, the electoral authorities (INE and OPLs) are prevented from suspending candidacies when parties do not comply with the principle of gender equality, which not only directly violates the principle of progressivity, certainty and non-discrimination, but also annuls the exercise of an attribution of INE and introduces a dysfunctional element to the system: the impossibility for the authority to apply sanctions, an aspect that is the conclusion element of any legal system and guarantor its effectiveness.

Additionally, the Bill only contemplates two blocks of competitiveness: high and low (paragraph 4, Article 11, of the Bill), when the agreement INE/CG572/2020 established three, in order to generate greater certainty regarding the representation of women:

a. Up to 50 per cent in 20 per cent of the constituencies of the lowest competitive block;
b. In at least 45 per cent of the candidacies of the intermediate block;
c. In at least 50 per cent of the candidacies of the most competitive block.

Eliminating these competitive blocks reduces the probabilities of reaching gender equality, since there are no clear percentages for determining them, a circumstance that violates the principle of gender equality and progressiveness, by reducing the guarantees of competition and the possibilities for women candidates to benefit from the candidacies of their parties.

Likewise, the Bill directly affects the enjoyment and exercise of human rights of vulnerable and historically discriminated groups, whose progress in terms of political representation has been possible through the implementation of progressive affirmative actions. In the case of indigenous peoples and communities, these changes are also proposed in violation of their right to prior consultation, which any authority that intends to infringe on their core rights is obliged to do. This has been established in the jurisprudence of the Electoral Court of the Federal Judicial Branch[27] and recognized by the Supreme Court of Mexico.[28]

Therefore, the determination to reduce the conditions in which affirmative actions for the strengthening of these vulnerable groups have been designed by INE represents

[27] Jurisprudence 37/2015, PRIOR CONSULTATION WITH INDIGENOUS COMMUNITIES. MUST BE CARRIED OUT BY ELECTORAL ADMINISTRATIVE AUTHORITIES OF ANY LEVEL OF GOVERNMENT, WHEN THEY ISSUE ACTS SUSCEPTIBLE OF AFFECTING THEIR RIGHTS.

[28] Thesis XXVII.3o.20 CS (10a.), HUMAN RIGHT TO PRIOR CONSULTATION WITH INDIGENOUS PERSONS AND PEOPLE. ITS DIMENSION AND RELEVANCE.

a constitutional setback and a step backward in terms of conventional standards established in Articles 2, section B, Roman numerals II and IX, of the Political Constitution of the United Mexican States; as well as 1, 6, numeral 1, 15, numeral 2, 22, numeral 3, 27, numeral 3 and 28 of Convention 169 on Indigenous and Tribal People in Independent Countries.

A direct precedent of this type of affectations is the recent invalidation by the Supreme Court of Mexico of the electoral reforms in the state of Coahuila approved in September 2022, where it was determined that the changes in the matter of indigenous affirmative actions required the obligation to carry out prior consultations, which were not carried out. Therefore, the jurisdictional authority ordered the reestablishment of the validity of the norms prior to the reforms, until such time as an exercise of dialogue and rapprochement was carried out.[29]

Considering international standards and human rights protection, the dimension and relevance of the right to prior consultation, in turn, is established as a "mechanism to guarantee their participation in political decisions that may affect them, with the purpose of safeguarding their right to self-determination".[30] Therefore, any modification in this issue must comply with the duty to consult the communities concerned, through effective mechanisms that guarantee their knowledge and through their representative institutions, every time they intend to implement any measure that may affect them directly, to guarantee the validity of their rights and the integral development of indigenous people and communities.

In conclusion, it is important to mention that the provisions in the Bill—Article 11, paragraph 4, and 11 Bis, regarding affirmative actions and gender equality—violate the principle of progressiveness by establishing new restrictions to previously acquired rights. Likewise, they violate the principle of certainty by refraining from regulating rules and criteria that detail the exercise of rights. The new regulatory proposal generates discriminatory provisions by implementing exclusion mechanisms, which promotes a non-systemic legal regulation that breaks with constitutional provisions, generates legal antinomies and ignores regulatory advances and previous affirmative actions, to the detriment of vulnerable groups that

[29] Actions of unconstitutionality 142/2022 and its accumulated 145/2022, 146/2022, 148/2022, 150/2022 and 151/2022, filed by the local political party Unidad Democrática de Coahuila, Partido del Trabajo, MORENA and the National Human Rights Commission, demanding the invalidity of several provisions of the Political Constitution and the Electoral Code, both of the State of Coahuila de Zaragoza, amended by Decrees 270 and 271, published, respectively, in the Official Gazette of such state on September 29 and 30, 2022.

[30] Thesis XXVII.3o.20 CS (10a.), SCJN.

should see their rights expanded and strengthened, not limited, restricted or devalued, as a result of a proposed law.

2. Government propaganda

The amendments to the General Law on Social Outreach (LGCS for its acronym in Spanish) comprise various aspects, but for the purposes of electoral matters, it is only interesting to highlight those that have a negative impact on the competence of the National Electoral Institute, as the body responsible for guaranteeing the rights of political participation of the citizenry. The reforms are presented in a particularly sensitive area because they affect the effectiveness of constitutional guarantees established to generate conditions of fairness in the contest and, at the same time, to ensure an authentically free suffrage.

The LGCS regulates the provisions of Article 134 of the Constitution, specifically its eighth paragraph. According to this provision, the propaganda, under any modality of social outreach, disseminated as such by public authorities, autonomous bodies, agencies and entities of the public administration and any other entity of the three levels of government, must have an institutional character and informative, educational, or socially oriented purposes. It also provides that, in no case, this kind of propaganda shall include names, images, voices or symbols that imply the personalized promotion of any public servant.

In its original text of 2018, the LGCS was intended to establish the rules to which public entities should be subject to ensure that spending on social outreach complies with the criteria of efficiency, effectiveness, economy, transparency, and honesty, and respects the budgetary ceilings, limits and conditions of exercise established in the corresponding expenditure budgets. This approach, predominantly budgetary, changed diametrically with the amendments to Article 2, since now the law establishes as its purpose "to guarantee the right of citizens to information on the performance and accountability of public entities through government propaganda".

In the second to fourth paragraphs of Article 2 is the other innovation that marks the legislative intention, that of circumscribing the scope of the expression "government propaganda", which is understood as a kind of a more generic concept, "social outreach campaigns", and which practically identifies it with the notion of "official publicity".

In the first place, it is stated that social outreach campaigns involving government propaganda must adhere to the guiding principles, criteria for the application of the

expenditure and allocation rules established by the Political Constitution of the Mexican United States and the law itself. In this sense, it is added that government propaganda must be of an institutional nature; have informative, educational, or socially oriented purposes; correspond to the public interest; and be objective, timely, necessary, clear, useful, accessible, and inclusive. And the precept concludes by noting that the "concept of official advertising referred to in other national provisions or international instruments must be understood as Government Propaganda or as Social Outreach charged to the public budget, specifically labeled for that purpose by a Public Entity".

Then, Article 4 of the law, destined to defined terms used by this ordinance, establishes in its section VIII Bis:

Government propaganda: Set of writings, publications, images, recordings and projections disseminated with charge to the public budget, specifically labeled for that purpose, or through the use of official time, by a Public Entity, with the purpose of disseminating the work, actions or achievements related to its purposes; information of public interest tending to the welfare of the population or to stimulate actions of the citizenship to exercise rights, obligations or access to benefits, goods, services, through any means of communication. Its characteristics must comply with the provisions of Article 134, eighth paragraph of the Political Constitution of the Mexican United States.
Statements made by public servants in the exercise of their freedom of expression and in the exercise of their public functions do not constitute government propaganda.
Neither does it constitute government propaganda the information of public interest made by public servants, in accordance with the General Law of Transparency of Public Information, disseminated in any format free of charge".

As recognized in the corresponding reform initiative, the amendments to the LGCS do nothing more than retake the concept of government propaganda contained in the "Decree interpreting the scope of the concept of government propaganda, principle of impartiality and application of sanctions contained in Articles 449, numeral 1, clauses b), c), d) and e) of the General Law on Electoral Institutions and Procedures, and 33, fifth, sixth and seventh paragraphs and 61 of the Federal Law of Revocation of Mandate", published in the Federal Official Gazette on 17 March 2022. Specifically, the decree:

It takes up the concept of government propaganda established by the Mexican Congress in the interpretative decree of merit and incorporates it to the LGCS in

order to avoid future interpretations that affect and violate the freedom of expression of public servants and, consequently, to make effective the human right to information of the people, established in Article 6 of the CPEUM."

Now, the amendments to the LGCS should not be analyzed in isolation, but as part of a broader set of provisions, which should be analyzed in this way, jointly, to properly identify the meaning and purpose of the reform.

In this sense, in congruence with this restrictive vision of what should be understood by "government propaganda", the reform decree that is pending the conclusion of the legislative procedure, contemplates the amendment of Article 209, paragraph 1, of the LGIPPE, in the following terms (emphasis on the amended wording):

> ***Article 209.***
> *During the time comprising the federal and local electoral campaigns,* ***as well as the citizen consultation processes****, and until the conclusion of the election days,* ***the state and Mexico City powers, the municipalities, mayors' offices and any other public entity****, shall suspend the dissemination* ***campaigns*** *of* ***the propaganda they disseminate as such under any modality of social outreach, understood as government propaganda as the campaigns hired with public resources defined by the Regulatory Law of the eighth paragraph of Article 134 of the Constitution****. The only exceptions to the foregoing shall be the information campaigns of the electoral authorities, those related to educational and health services, or those necessary related to* ***public services*** *and for civil protection in cases of emergency.*

Likewise, the LGIPPE itself contemplates the modification of the types of administrative offenses that may be incurred by the authorities, as well as public servants of any order of government, to adapt them as follows (emphasis on the modified wording):

> ***Article 449.***
> ***1.*** *The following constitute infractions of this Law by the authorities or public servants of any of the Powers of the Union; of the local powers; municipal government bodies; government bodies of Mexico City; autonomous bodies, and any other public entity:*
> *[...]*
> ***c) To disseminate government propaganda, through social outreach campaigns contracted with budgetary resources of the public powers, autonomous bodies, agencies, and entities of the public administration and any other among the three government entities, during electoral processes or citizen consultations, except for information related to***

educational and health services, or that necessary for civil protection in cases of emergency.
d) To have applied public resources that were under their responsibility, during the electoral process, the consequence of which would have been the alteration of the fairness of the competition of the political parties.
e) To disseminate government propaganda, through social outreach campaigns contracted with budgetary resources of the public authorities, autonomous bodies, agencies and entities of the public administration and any other entity of the three orders of government, during electoral processes or citizen consultations, which includes names, images, voices, or symbols that imply the personalized promotion of any public servant.
[...]
The reading of the foregoing provisions highlights that the purpose of these reforms is not, as would be natural in a law regulating the eighth paragraph of Article 134 of the Constitution, to guarantee that the propaganda disseminated by public powers and agencies has an institutional character and informative, educational, or socially oriented purposes, thus ensuring that the administration of the resources available to the State is efficient and effective.

In fact, what is intended is to reduce the normative scope of the aforementioned constitutional provision, as well as that established by Article 41, base III, section C, second paragraph, which orders that, during the time comprising the federal and local electoral campaigns and until the conclusion of the respective campaign, the broadcasting in the social outreach media of all government propaganda must be suspended, both of the federal powers and of the federal entities, as well as of the municipalities, of the territorial districts of Mexico City and any other public entity, with the sole exception of the information campaigns of the electoral authorities, those related to educational and health services, or those necessary for civil protection in cases of emergency.

Indeed, while the text of the Constitution is quite clear as to the scope of government propaganda that is the object of both provisions ("all government propaganda" expresses constitutional article 41, while article 134 indicates "propaganda under any modality of social outreach"), the law chooses to circumscribe the notion of government propaganda exclusively to those outreaches of public entities that are part of the official advertising and are labelled in the budget for that purpose. Likewise, it rejects the possibility that, even when the work of the government and its programs are promoted, they may be considered as governmental propaganda if such promotion is carried out with public resources not labelled as propaganda or

through manifestations of public servants "in the use of their freedom of expression" or "in the exercise of their public functions".

The antinomy that exists between the provisions of the reformed LGCS and the decree of reforms to electoral laws is so evident that when it was intended to produce the normative modifications that are now reiterated with the interpretative decree published in the Federal Official Gazette on 17 March 2022, the competent judicial instances promptly declared, in their respective areas of competence, its non-conformity with the Constitution.

Indeed, on 28 March 2022, just 11 days after its publication and entry into force of the decree, the Supreme Chamber of the Electoral Court of the Federal Judicial Branch declared it inapplicable by resolving the appeal for review registered under the code SUP-REP-96/2022. The Supreme Chamber concluded that the decree was not "a valid instance of applicable law", because:

- It does not make an authentic interpretation of the term "government propaganda" that intends to clarify its meaning, but rather exceeds the exercise of such power by establishing an exception as to who may issue government propaganda in the context of a mandate revocation process.
- This is contrary to the text of Article 35, section IX, paragraph 7 of the Constitution, which does not provide for any exception for the dissemination of government propaganda by public servants in recall processes.
- In any case, the exception that the Decree of authentic interpretation intends to generate would result in a modification to a fundamental aspect of the recall process currently underway, such as its political communication model, which is constitutionally prohibited by Article 105.

On 8 November 2022, Mexico's Supreme Court of Justice Plenary resolved several actions of unconstitutionality31 and, by unanimous vote, declared the decree invalid for being contrary to article 105, section II, penultimate paragraph, of the Political Constitution of the Mexican United States.

The amendments referred to in this section represent, in short, a disregard of the progress achieved with the constitutional reform of November 2007, regarding the establishment of guarantees to ensure conditions of fairness in the contest and the freedom of suffrage of the citizenry. For the same reason, its compliance would entail the weakening of the quality of the process, by opening the opportunity for the

[31] Actions of unconstitutionality 46/2022 and its accumulated ones 49/2022, 51/2022 and 53/2022.

intervention in the elections of public servants of the different levels of government, under the pretext of exercising a human right such as freedom of expression.

Human rights recognize spheres of protection for their holders and the spaces of immunity or the duties of performance that derive from them are opposable, in principle, to the state apparatus, which is compelled not to harm the legal right involved, or else, they are obliged to comply with the respective duties of protection. In any case, when speaking of rights, particularly human rights, the holders are the persons themselves considered, regardless of any other condition they may have in a contingent or accessory nature. Thus, in a technical purity, public officials do not exercise, as such, rights, or freedoms, because in technical legal language they exclusively deploy competences and powers.

It was precisely with this understanding that the revising power of the Constitution in 2007 carried out the constitutional modifications that, among other issues, incorporated the relevant aspects of articles 41 and 134, which are maintained in their essence. This is revealed by the documents belonging to the legislative procedure of the constitutional reform. In particular form, the initiative of Constitutional Reforms highlighted[32]:

> *Who subscribes the present Initiative have committed to design and put into practice a new communication model between society and parties, which attend both sides of the problem: private right and public interest. In Mexico, it is urgent to harmonize, with a new scheme, the relations between politics and the public media; in order to achieve this, it is necessary that the public powers, in all the orders, observe at all the times an impartial behavior with respect to the electoral competition.*
>
> *The individual guarantees that our Constitution recognizes and consecrates are for people, not for the authorities; they can't invoke like a justification or defense of their acts this kind of principles. The Freedom expression is an individual guarantee for the State; public powers are not protected by the Constitution; they are the people, the citizens, whom the Constitution protects against eventual abuses from the public power.*

[32] INITIATIVE with draft decree that amends and adds articles 21, 85, 97, 108, 116, 122 and 134 of the Political Constitution of the United Mexican States. Presented by Sen. Manlio Fabio Beltrones Rivera, President of the Executive Commission for the Negotiation and Construction of Agreements, on his own behalf and on behalf of Legislators from various Parliamentary Groups. It was turned over to the United Commissions of Constitutional Points; of the Interior; of Radio, Television and Cinematography; and of Legislative Studies, of the Chamber of Senators. Parliamentary Gazette, August 31, 2007.

This is why we propose to take into the text of our Constitution the norms that prevent the use of public power in favor of or against of any political party or candidate in charge of popular election, and also the use of the same power to promote personal ambitions of political nature.

In addition, should also be highlighted a second transcendent modification that is contained in the decree respect to the exceptions to the prohibition of diffusion of government propaganda during electoral campaigns and that intends to alter the rules defined at the constitutional level.

As it was mentioned, the reform to the General Law on Electoral Institutions and Procedures modifies the Article 209, paragraph 1, to provide that government propaganda must be understood as the campaigns contracted with public resources and contemplates as an exception to the prohibition of the dissemination of the government propaganda during electoral campaigns, those campaigns of information related to public services.

This modification results opposite to the Constitution that, in article 41, third paragraph, base III, section C, which orders the suspension during the time that the federal and local electoral campaigns comprise and until the conclusion of the respective polling day, of all the government propaganda, and not only that in the form of campaigns financed with public resources, as it is contemplated by the reform.

In the same way, the Constitution only establishes as exceptions, which it qualifies as "unique", the information campaigns of the electoral authorities, those related to educational and health services, or those necessary for civil protection in emergency cases. That is to say, it doesn’t foresee the exception related to "campaigns related to public services", which could generate for a broad interpretation that allows propaganda linked to government programs.

3. Sanctions

The Bill establishes in Article 8, paragraph 6 of the General Law on Electoral Institutions and Procedures that, in no case, can the political-electoral rights or prerogatives of the citizenship be suspended as a result of administrative or judicial sanctions different from than the criminal ones.

In relation to the previous, the article 229, paragraph 4 of the same law has been modified to eliminate the penalty related to the loss of registration as a pre-candidate or candidate, in cases in which the pre-campaign report is omitted or exceeded the

expenses limit, and, in addition, they propose to repeal the sanctions section (article 456 of the same law), those consisting of the loss of the right of the offending pre-candidates to be registered as candidates or, in the particular case, if the registration has already been made, with the cancellation of this registration; and the loss of the right of the offending applicants to be registered as an independent candidacy or, where appropriate, if it had already been done, with the cancellation of the same.

In addition to the incidence of these modifications in the oversight model, which were previously noted, this proposal is regressive, since it may affect some rules that the INE has implemented to prevent, punish and eradicate the violence against women, such as the rule 3 of 3 against violence for the registration of candidacies, since the declaration to have alimony debt or not being registered in the National Registry of Persons Sanctioned in the matter of Gender-based Political Violence against Women would be excluded, when dealing with sanctions other than criminal ones, as well as the possibility that a person cannot be a candidate when their honest way of life is distorted derived from the commission of gender-based political violence against women.

On the other hand, as already indicated, the reform proposal establishes in article 12, paragraph 2 of the General Law on Electoral Institutions and Procedures, that in terms of oversight, registration of candidacies, pre-campaigns and campaigns, all electoral authorities will interpret the rules in a strict form, which is unavoidable since, it has been noted, in terms of oversight, sanctions have been imposed for diverse conducts derived from the interpretation of the rules applied to each concrete case, that is meant, they are of a casuistic nature, and if this provision is incorporated it would restrict the sanctioning faculty of the National Electoral Institute, INE facing of behaviors that threaten against the equity of the electoral contest and the oversight of the resources of the political parties.

That is why the amendment to the General Law on Electoral Institutions and Procedures has been done, it adds a paragraph 3 to article 58 to prevent that the Institute sanctions behaviors whose faculty corresponds to other authorities, fiscal or administrative, not to link them to electoral behavior, it insists on its unfeasibility because as it was pointed out, there are conducts that have been sanctioned by the Institute and that involve other authorities and with this provision there could be infractions that stay unpunished due to the lack of sanction.

IV. Transitional provisions

Impossible or incongruent implementation of the Bill

While the Bill's enactment is still pending, its Transitional provisions present some inconsistencies among them, also some difficulties, which are mentioned later on.

Regarding what was announced in the first term, the transitional articles contain two normative mandates related to the validity of the decree that, in a rigorous technical sense, is impossible to be executed at the same time, because the legal consequences of one exclude the deployment effect possibilities of the other.

According to the transitional first, the decree will apply the day after its publication in the Official Gazette of the Federation. It means that the diverse mandates incorporated into the decree, are applicable legal provisions one day after the publication in the Official Gazette of the Federation has been occurred. And if it is about applicable legal provisions, then the participation of the authority, the parties and the citizenship must be done in terms which are compatible with those already legal mandates, unless there is another rule that, for example, establishes an exception and allows, to act in a different way and in congruence with a diverse norm.

Meanwhile, the fourth transitional establishes that the decree "will not be applicable in the electoral processes of the State of Mexico and Coahuila in 2023." This provision contains a rule in which it is established that those rules that are repealed or modified by this decree will remain valid for the local elections in the State of Mexico and Coahuila, as if they had not been altered in any way. This mandate includes provisions of any type, because there is no exception or limitation in its drafting.

It is clear that the transitional provision in question finds justification in order of not to incur any Constitutional Violation, since as is known, article 105, section II, of the Political Constitution of the United Mexican States, prohibits electoral laws from suffer substantial modifications from ninety previous days to the start of the respective electoral processes. Regarding the purpose of the transitory provision, then it can be confirmed that the non-applicability of the provisions of this decree include any type of precept, since the constitutional mandate includes all those that may have an essential character.

Now, the complication offered by the conjunction of the effects of both transitional provisions lies in the fact that the decree is modifying the composition of many of the

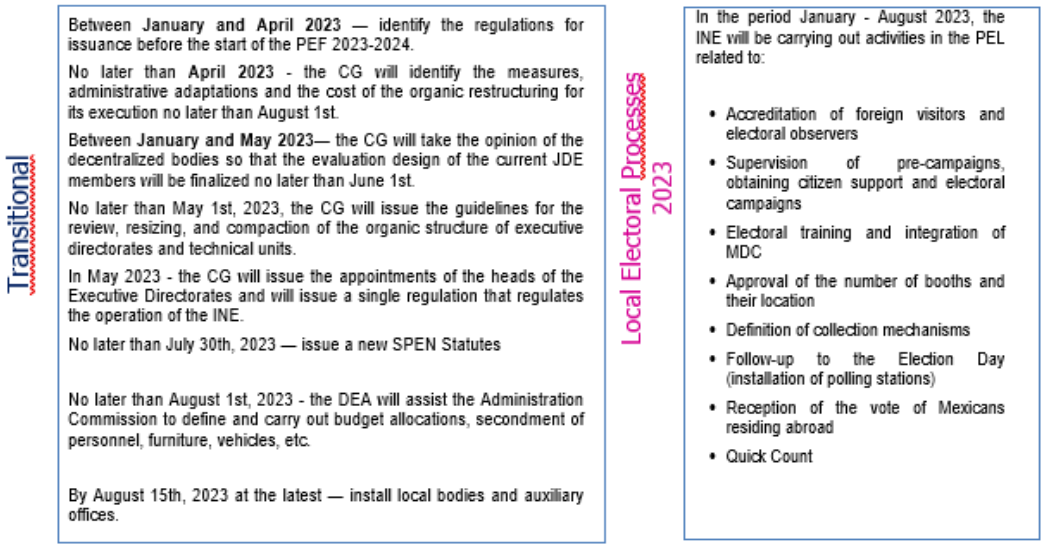
bodies that make up the National Electoral Institute, which have participation in the organization of state elections. In this sense, if the decree should not be applied to the elections in Coahuila and the State of Mexico, this means that it is not susceptible to modify the bodies of the National Electoral Institute, both central and decentralized, that participate in state elections and even as long as they do not conclude, which will happen until the last of the challenge means that have been presented against the validity and results is resolved, which will probably happen until the last four months of the year.

However, the effects ordered to implement the administrative restructuring and the compaction of structures are scheduled during the weeks and months in which the electoral processes of Coahuila and the State of Mexico are still underway, and therefore, an incidence of the provisions of the decree with respect to these elections, which would be incompatible not only with the fourth transitional article of the decree, but also with article 105, section II, of the Political Constitution of the United Mexican States, for the reason that has already been expressed.

Indeed, in diverse transitional provisions, the decree orders the implementation of diverse administrative and regulatory modifications between the months of January and June of this year, and in some cases, until 15 August, as is related to the installation of local bodies and auxiliary offices.

Consequently, as anticipated, although it is recognized in the transitional fourth of the decree that it will not be applicable in the electoral processes of the State of Mexico and Coahuila in 2023 (2023 PEL), this would mean that along with the realization of the internal adaptations for the implementation of the reform, various activities are being deployed around the 2023 PELs under the current model, which makes the implementation of the reform incompatible with the development of the 2023 PELs, since two operating systems or models would be improperly coexisting with the complexities that this represents.

To exemplify the previous, some of the National Electoral Institute’s responsibilities for the development of the 2023 PELs are shown below, which would take place at the same time that tasks and activities are carried out to accomplish with the transitional provisions:



As it can be seen from the previous chart, there are activities that are currently being carried out within the framework of the 2023 PEL and others more that are properly scheduled and programmed, which would be linked to the activities and periods provided in the transitional regimen of the Bill, which entails the ineffectiveness of two models of logistics and electoral management in parallel form, under rules, procedures and guidelines which are different among them.

Another aspect to consider is related to the implementation of the organizational and structural modifications before the date that is currently contemplated for the beginning of the federal electoral process of 2024—the first week of the month of September prior to the election. In this context and, from a material perspective, this situation could be incompatible, taking into consideration the prohibition of making substantial modifications to the electoral laws within 90 days prior to its start, established in Article 105 of the Constitution. In this context, for the beginning of the electoral process, there would be no prior local and district executive bodies, with the consequent violation of the constitutional principle of assurance.

From this perspective, the prevalence of both models is not feasible, since it is materially impossible to execute the activities of the PEL 2023 without being compromised, at the same time that administrative and regulatory adjustments are made within the National Electoral Institute INE, which presupposes the disappearance and fusion of areas, as has been indicated throughout the document, and which are in charge of implementing various activities. If applicable, the reform should choose for a single national model that generates certainty in the performance of the central and decentralized bodies of the Institute.

Other issues linked with the Transitional provisions

The main considerations in relation to the implementation of the Transitional Articles are detailed below, being the most obvious that many refer to January, which is evident is already impossible:

Transitional Article	Impact
Fifth. The current Citizen Registration Centres (MACs) of the Federal Voters' Registry of the National Electoral Institute (INE) will continue to operate normally. Their number will not change due to the administrative restructuring.	Currently, the Local Executive Boards (JLEs) coordinate the operation of the MACs. Since the Bill disappears the organisational structure of the 300 electoral districts—including the District Federal Voters' Registry Official—the operation of the 845 MACs (477 fixed and 368 mobile) is compromised, along with the coordination with the municipalities for everything related to both kinds of MACs and to installing mobile MACs.
Seventh. Between January and April 2023, INE's General Council shall identify the regulations that must be adapted according to this Bill and issue the necessary regulations before the onset of the 2023–2024 electoral process to guarantee the compliance with its provisions.	It is a very short time frame to adapt the regulations, particularly because most of the responsibilities of the Executive Secretary and the General Executive Board must be transferred to offices and structures that will not exist at the time. The situation worsens considering the Bill will be enacted and promulgated until February, reducing in over one third the time frame that was originally set.
Ninth. The disbursements from the coming into effect of the Bill will be covered with INE's already approved budget, so no supplementary or future appropriations will be authorised for that purpose.	The budgetary movements will have to be made according to the needs of the offices, and it is only after the organisational diagnosis is concluded that it will be clear whether a higher amount to the budgeted for 2023 will be necessary. With the exception of the **possible need to pay penalties for the early termination of leasing contracts**, and aside of the **lay-off compensations to the dismissed personnel**, it is still unclear whether further resources will be required for INE's operation.

	The labour rights of INE's public servants that would be laid off due to the elimination of structures and positions would be seriously compromised if supplementary appropriations are not approved to cover the corresponding compensations, which would mean the Twenty-seventh Transitional Article (full respect to labour rights) might not be abided.
Tenth. INE's General Council shall identify the measures, administrative adjustments and costs of the Institute's organisational restructuring according to the provisions of this Bill by April 2023 at the latest; and shall plan its implementation to be concluded on 1 August 2023 at the latest. The budgetary that this provision saves shall be returned to the Federation's Treasury.	This Transitional Article disregards, once again, INE's budgetary autonomy by requesting the refund of unexpended resources. Besides, the alleged existence of such resources is not supported by a serious analysis of the impact and implications of this Bill. The promulgation of the Bill was expected to happen in December 2022. If it were to be enacted in February, the deadline to identify the measures, administrative adjustments and costs of the Institute's organisational restructuring according to the provisions of the Bill ought to be pushed back to June or July 2023. However, since INE's restructuring would be comprehensive, the time allotted to carry out those tasks is not enough. Moreover, the 1-August-2023–restructuring deadline ought to be pushed back according to the date of the actual promulgation of the Bill; so, if that were to happen in February, the full implementation should be re-programmed for October 2023. This comprehensive restructuring **demands an organisational diagnosis**, a matrix of roles that establishes their duties and responsibilities, drafting the basic and secondary structures to complete those tasks, analysing the workloads of each position (which will justify establishing standard organograms). Then, the job

	descriptions will be defined, the value of each job will be assessed and, lastly, the organisational report will put together. The final stage of the restructuring process will be to draft the new Institute's General Organisation Handbook and the Procedures Handbooks.
Eleventh. The Institute shall guarantee that the organisational restructuring ordered by this Bill will fully respect the labour rights of the personnel, regardless of their employment regime. The resources from INE's Labour Liabilities and the Real Estate Infrastructure Trusts will be used to cover the payment of possible compensations. Once all the payments are made, the Trusts will be liquidated, and the resources will be sent to the Federation's Treasury.	Even before making an organisational diagnosis to assess the cost of the lay-off compensation, it is clear that the Bill establishes that the almost district offices will almost completely disappear, which means **dismissing at least 5 thousand 080 persons**, to which the number of persons laid off due to the head and local offices' restructuring will have to be added. The merger of the areas does not automatically translate into less positions because the institutional obligations are mostly maintained. Actually, one of the areas will have to take over the tasks of the district offices.
Twelfth. INE's General Council will consult its decentralised offices about the operational officials' profile and ideal competencies between January and May 2023, so that the design for the assessment process to decide who among the current district officials will take over the operational official position at the auxiliary offices that will be installed with the coming into effect of this Bill is finalised by 1 June at the latest. The same mechanism will be used in relation to the current Local Boards to design the assessment and decision process to make up the local organs. The local organs and the auxiliary offices, as established in this Bill, must be inducted by 15 August 2023 at the latest to operate in the next electoral processes.	The Institute will have to build the rules and guidelines—and how they will unfold—to select from amongst the SPEN members the ones who will take over those positions in tandem with the 2023 Local electoral processes and without losing sight of the 15-August deadline.

Fourteenth. INE's General Council shall issue the guidelines for the review, adjustment and downsizing of the organisational structures of its administrative areas as established by this Bill, as well as of the Unit for National Social Outreach, the International Affairs Unit, the Secretarial Bureau and the Informatics Unit, by 1 May 2023 at the latest. The guidelines shall establish the appropriate methodology and policies to meet that purpose, along with technical criteria to guarantee the organisational and occupational structures duly correspond to the tasks laid down in the applicable legal framework; prevent duplicating other areas' work; establish and justify the positions' descriptions and specifications; accurately assess the salary of the positions; foster the balance between control sections; and prevent breaks in the chain of command. The proposals for each administrative area shall be technically validated by the Internal Auditing Office.	The specialised administrative areas in assessing salaries and designing organisational structures are the ones that issue the approval of such structures, and that role within INE belongs to the Administrative Executive Office (DEA), hence, involving the auditing body in tasks different to the ones assigned to it by the Constitution is an infringement. Additionally, this Transitional Article contradicts the Tenth Transitional Article that states that 'INE's General Council shall identify the measures, administrative adjustments and costs of the Institute's organisational restructuring according to the provisions of this Bill by April 2023 at the latest; and shall plan its implementation to be concluded on 1 August 2023 at the latest', because the restructuring guidelines would be issued after the reorganisation itself.
Fifteenth. The Administrative Executive Office shall assist the Administration Committee to define and carry out the changes in the budgetary allocations and the reassignment of personnel, furniture, vehicles, instruments, devices, equipment, machinery, archives and other assets used by the administrative areas under the restructuring established in this Bill by 1 August 2023 at the latest.	Once INE's basic and secondary structures are defined, a schedule of administrative activities to carry out the changes to the structure of budgetary codes, bank accounts (openings and closings), reassignment of SPEN and Administrative Branch personnel, material resources (inventory of furniture, warehouses and payment for services) and the related to owned and leased facilities.

Sixteenth. The General Council of the Institute shall appoint the heads of the Executive Offices that were restructured according to this Bill at its ordinary session of May 2023.	The month set for the appointments is inconsistent with the time frames established by the Bill to complete the organisational restructuring.
Seventeenth. Due to the modification of the Executive Secretariat's powers, INE's Executive Secretary will be dismissed upon the promulgation of this Bill. INE's General Council will immediately appoint an Acting Executive Secretary from among the Executive Officers. The Executive Secretary will be appointed at INE's ordinary session of May 2023.	The dismissal of the Executive Secretary infringes INE's Constitutional autonomy, for the Constitution states that it is INE's highest directive body which shall appoint the Executive Secretary. Moreover, the Constitution states that INE's Executive Secretary can only be dismissed through an impeachment that requires the participation of both Houses of the Congress of the Union—due fulfilment of proceedings and two-thirds votes in both Houses—so this is a fraud to the Constitution with the purpose of dismissing the current Executive Secretary. Leaving the evident unconstitutionalities aside, the dismissal of the Executive Secretary entails a problem for the coordination and supervision of the tasks that must be carried out to comply with the provisions of the very Bill. This means the Bill goes against itself.

	INE's personnel is divided into two branches, the National Professional Electoral Service (SPEN) and the Administrative Branch, and the latter is omitted from this Transitional Article. Currently, the Bylaw establishes the general working conditions of INE's whole personnel. The inclusion of local electoral management bodies' (OPLs) personnel means the local Congresses will have to budget the costs of the benefits and incentives established in the Bylaw. The time frame set to issue the Bylaw is limited and, as previously mentioned, if the Bill is enacted and promulgated in February, the deadline should at least be extended to 30 October 2023.
Eighteenth. The Institute shall issue a new Bylaw of the National Professional Electoral Service to unify its two systems, INE's and the local electoral management bodies', by 30 July 2023 at the latest.	Once the new Bylaw is approved, INE would have to draft and issue the regulations for SPEN's processes and procedures. In 2020, an amendment to the Bylaw required the drawing up of 31 guidelines, which can be attested by its transitional articles. A new catalogue of SPEN's positions and posts will have to be built. Additionally, this activity will overlap with the organisation of the 2024 federal (President, Senators and Representatives) and local elections, and, unless the catalogue is available before September 2023, there will be no certainty about each position's responsibilities during the unfolding of the electoral processes. Several ongoing procedures for filling openings—like the competitive examination, the internal contest, reassignments and the

	eventual re-entry of personnel—will have to be revised with the enactment of this Bill.
Nineteenth. The State Congresses will make the necessary adjustments to their secondary laws to comply with the provisions of this Bill before the ninety-day period preceding the onset of the 2023–2024 electoral process.	The Senate's deferral for the enactment of the Bill will result in less available time for the OPLs because the local Congresses—except for Coahuila and the state of Mexico—are given 180 days to make the appropriate adjustments. Should the Bill be approved in February 2023, this time frame would end in August 2023. The time span is inoperable because 9 states will launch their 2023–2024 local electoral processes (PELs) in September, and in order to comply with 90-day period established in the Constitution's Article 105, Roman numeral II, their local adjustments would have to be approved in May. Even if the local reforms were timely and duly approved, these 9 OPLs would have to adjust their organisational structures in less than a month, in tandem with the

	preparations for the 2023–2024 PELs. For example, the official call to make-up the OPLs' decentralised bodies is issued, in some cases, up to April of the previous year because of the difficulty to fill these temporary openings. Likewise, the OPLs' activities for designing and adjusting documents must be completed in September of the previous year.
Twenty-sixth. INE's General Council will issue the guidelines—drafted by the Administrative Executive Office—on the functions of its Administrative Branch personnel in compliance with this Bill's provisions.	Currently, the provisions on INE's public servants' tasks and working conditions—whether they belong to the SPEN or the Administrative Branch—are included in the Bylaw. In this sense, setting INE's personnel into two separate groups with distinct labour regulations would be unequal and discriminatory.

Final Considerations

The overall impact of the two Bills—one promulgated in December 2022 and one awaiting the conclusion of its legislative process—explained throughout this Report will be negative on Mexico's State function of organising elections. Substantial organisational tasks and the electoral competition's conditions will be affected.

Downsizing the National Electoral Institute's (INE) structure and rearranging or removing electoral procedures for political rather than technical considerations, impairs the organisational and procedural safeguards that have so far enabled electoral processes whose results have eased the authorities' political alternation and have imbued the elective officers with legitimacy. These are some of the reasons why the electoral reform would have a retrogressive effect, which is incompatible—according to the criteria adopted by the Inter-American Court of Human Rights and the Supreme Court of Mexico—with the principle of progressive realisation of constitutional rights.

The National Electoral Institute (INE) has never overstepped its constitutional powers. However, if that were the case, the Electoral Court of the Federal Judicial Branch (TEPJF) can review the constitutionality and legality of its decisions. One example is the Elections' Regulations issued to guarantee the functionality of the electoral system and to ensure the proper organisation and unfolding of the electoral processes; it encompasses elements that are not included among the issues now being limited by the reform.

The Institute's regulatory power has enabled it to appropriately carry out its constitutional and legal responsibilities. INE has adopted agreements, regulations or guidelines to close legislative loopholes or to perfect the law. Like every other decision made by INE's General Council, the Institute approved those agreements in the presence of the political parties and in the knowledge that the TEPJF would determine any dispute that were raised.

In fact, the Electoral Court has repeatedly upheld that INE—being the autonomous public organisation responsible for the elections—has the power to approve and issue all the necessary regulations, guidelines and the like, for properly discharging its constitutional and legal duties and powers. In other words, the regulatory power of the electoral management body has been acknowledged.

INE has approved a series of distinct internal administrative regulations for the appropriate operation of its areas. The intention of this reform is to subject INE to the administrative and budget regulations of the Federal Government that are

enforced and interpreted by the ministries of the Civil Service (SFP) and of Finance and Public Credit (SHCP).

Subjecting INE to the above or forcing it to install its Citizen Registration Offices at facilities of the federal, local and municipal governments, infringes the constitutional autonomy and the independence that the Institute ought to have in relation to all political actors (including governments that were voted for at the elections organised by INE itself), not to mention the high risk of institutional immobilisation.

Likewise, forcing INE to return underspent resources to the Federation's Treasury will result in the Institute's financial and budget incapacity to deal with institutional needs and contingencies. This could cause an organisational inefficiency and, in consequence, limitations to its operational autonomy. For instance, the resources to cover the extraordinary elections' costs—whether an election is annulled and must be repeated or is a by-election—come from internal budget re-allocations and savings.

Regardless of the salary issue, the Bill contravenes Article 127 of the Political Constitution of the Mexican United States and its secondary laws and establishes the personnel of the National Professional Electoral Service will not be acknowledged as being specialised. This also infringes the Constitution's Article 41 that lays down the characteristics of the function tasked to INE's personnel, classifying it as professional and specialised work.

The aforementioned breaches one of the principles of the civil service, while it also evidences the Bill is exclusive and personalised, rather than general, abstract and impersonal. The Bill's Seventeenth Transitional Article, which orders the immediate dismissal of INE's current Executive Secretary—infringing on the Institute's General Council exclusive power to appoint them, for the law can only establish the requirements and procedure for their appointment—and Twenty-first Transitional Article, which ratifies INE's Comptroller—and who the Bill vests with resource management powers that exceed the auditing responsibilities of that office—are yet another example of that.

Lastly, it is important to point out that the significance of the Bill demands clear rules for its implementation. The review of the Bill's transitional articles evidences the lack of clarity and certainty throughout all the implementation stages. It is incompatible to hold the electoral processes in Coahuila and the state of Mexico under the current legal framework and, in tandem, legally and organisationally—between January and August—restructure the Institute.