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Moving beyond the electoral crisis in Mexico

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As the crisis over Mexico's disputed presidential election continues, questions are being raised not only about the conduct of the candidate who seems to have been defeated, Andres Manuel Lopez Obrador, but also about Mexico's presidential system. Is "presidentialism" as practiced in Mexico part of the problem?

Felipe Calderon of the center-right ruling party, the National Action Party (PAN), is currently leading in the vote count, which must be confirmed by the end of next month. The next scheduled presidential election is not until 2012, as are elections to the Senate, which needs to give its assent for most legislation. Thus, Calderon and his party allies, with 41 percent of the Senate seats, can never have a majority during his six-year term, and will also have a minority in the lower chamber, where the PAN holds only 43 percent of the seats, until at least 2009.

If the street protests and legal challenges being mounted by Lopez Obrador succeed, he would be in an even weaker position. Lopez Obrador's center-left Democratic Revolutionary Party (PRD), together with allied small parties, holds 31 percent of the Senate, and slightly less than one-third of the lower chamber.

This means that for the first three years of a presidency brought to power because of popular demand, Lopez Obrador would be able to enact little reform legislation. Moreover, he would not even be able to veto hostile legislation, because he would be the first president in Mexico's modern history not to have the one-third of seats in at least one chamber of the legislature necessary to sustain a presidential veto.

Regardless of which candidate wins the election, the victor will have a partial minority in the legislature for his entire six-year term, and his legitimacy will be questioned by large segments of the electorate.

In fact, since 1985, 15 Latin American presidents -- most without legislative majorities -- have failed to finish their term. No one would want Mexico to add to that total, or to witness the emergence of serious anti-democratic tendencies.

Could the current standoff lead to such an outcome?

Mexico's transition to democracy between 1977 and 2000 was aided by a series of constitutional reforms that contributed to the emergence of the widely credible Federal Election Institute. To date, neither the institute, nor any major international monitor, has alleged widespread electoral fraud. Moreover, each of the seven judges on Mexico's Federal Election Tribunal was

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individually approved by two-thirds majorities in the Senate, which included the PAN and the PRD.

The Election Tribunal's decision to recount only 9 percent of the ballot boxes cannot be reversed without more evidence of wrongdoing. If more evidence emerges, democratic prudence counsels a complete recount. In the US, the Supreme Court opted against a recount in Florida in 2000, fueling widespread doubts about the legitimacy of the result. The stakes could be even higher in Mexico.

Whatever the result of a recount, the winner would command enhanced legitimacy. But the new president, whoever he may be, would still lack a legislative majority. In other words, the current crisis reflects a deeper constitutional flaw.

There are three classic categories of democratic executives: pure parliamentarism, as in Britain; semi-presidentialism, as in Charles De Gaulle's French Fifth Republic; and pure presidentialism, as in the US.

Interestingly, whereas Britain, France and the US have not altered their models, many other successful democracies have introduced major changes in order to resolve issues pertaining to local application.

In Europe between World War I and World War II, parliamentarism in many countries was plagued by frequent votes of no confidence, bringing down governments and leaving states rudderless for long periods.

After World War II, many countries with parliamentary systems reduced the likelihood of such instability by adopting the so-called "constructive vote of no confidence." Before a no confidence vote can be held, agreement must be reached on a new government majority to take its place.

These majorities are often constituted of complex coalitions of three or more parties that concur on a minimum program. Since the new government could also fall unless it retains a legislative majority, parliamentary systems have important "coalition requiring" and "coalition sustaining" incentives.

The semi-presidential model has also produced variants. The most perilous outcome under this model is when neither the president nor the prime minister has a majority, which has never occurred in France, but has occurred in post-communist countries such as Russia and Ukraine.

In such circumstances, presidents have abused their powers and created "super-presidential" authoritarian regimes.

To prevent this, Portugal, Poland, Lithuania, Slovenia, Croatia and Ukraine reduced the constitutional powers of directly elected presidents and increased the parliament's powers.

Mexico's crisis is the ideal time to consider new variants of presidentialism. One alternative, called "parliamentarized presidentialism," retains direct presidential elections, which many societies still demand. If a candidate emerges with at least 50.1 percent of the popular vote, he or she is declared president. In these circumstances, the model functions as classic presidentialism (even if it does not produce legislative majorities).

If, however, no candidate receives 50.1 percent of the popular vote, the elected legislature chooses the president, who thus would begin his term with a legislative majority.

Unlike a directly elected president in classic presidentialism, such a legislatively produced president could be voted out by a "constructive vote of no confidence," leaving incumbents subject to "coalition requiring" and "coalition sustaining" incentives.

Of course, there is no guarantee that such a system would bring greater democratic stability to countries like Mexico, but it would provide many more mechanisms to resolve crises than are currently available. There is much more thinking to be done. Now is the time to do it.

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