5

A Case of Successful Amendments: Mexico

Most scholars examining the amendment provisions of the Mexican Constitution commonly view it as rigid, anticipating infrequent amendments (Lutz 1994, Lorenz 2005, Lijphart 2012, Anckar and Karvonen 2015, Velasco-Rivera 2019, Velasco-Rivera 2021). However, despite the stringent requirements for approval, which entail a two-thirds majority in both the House and the Senate along with the support of a majority of the states of the Mexican federation, the actual frequency of amendments is remarkably high (amended over 700 times since 1917 [Cámara de Diputados 2023]). While most of this period was under a single-party government, in which case this party could make as many amendments as it wanted, it later became a multiparty government. Despite that, though, the frequency of amendments has actually increased (this is the period I cover in the comparative part of this book). In the period from 2000 to 2015, there have been 4,026 amendment attempts, 326 of which succeeded. This amendment rate of (326 / 16 =) 20.31 amendments per year presents a puzzle, which is the focus of this chapter.

Some scholarship attributes the frequency of changes to a form of name-calling, exemplified by the term "constitutional fetishism" as described by Velasco-Rivera (2021: 1049), which suggests a belief among reformers that altering the constitutional text will solve real-life problems. Alternatively, others perceive the increasing amendment rate as a product of a "national culture" that exhibits minimal respect for their constitution (Ibarra Palafox 2016). The "national culture" argument is explained by Ginsburg and Melton (2015) who state that in Mexico "stakes of amendment are lower, and so cultural resistance to amend is less than in societies where it is infrequent" (689).

On the other hand, other researchers attribute the frequency of amendments to the political game superseding the institutions (Negretto 2012, Velasco-Rivera 2021). Negretto (2012) posits the argument that "the most rigid amendment procedure can become flexible in a dominant party system, as under the hegemony of the Institutional

Revolutionary Party (Partido Revolucionario Institucional, PRI) in Mexico. By contrast, a flexible amendment procedure may become rigid in practice if party system fragmentation becomes very high, as has been the case in Ecuador since 1979" (760). These arguments are consistent with the analysis in Chapter 2 of this book.

Here, I will add a third component to Negretto's argument, suggesting that even within a fragmented party system a consensus mode can enable parties to achieve more power and overcome institutional constraints. I will also explain why the Mexican Constitution is not as rigid as some researchers contend as well as how its length and inconsistencies generate the need for amendments.

I will analyze the amendment provisions of the Mexican Constitution by identifying its core and providing institutional reasons that explain why the actual amendment provisions are not as formidable as commonly perceived (Section 5.1). Then, I will provide textual reasons that indicate the Constitution's exceptionally lengthy and contradictory nature (Section 5.2). I will next give political reasons that demonstrate that qualified majorities, as required by the Constitution, are the norm in Mexican politics, which is evident not only during the Revolutionary Institutional Party's (PRI's) dominance but also in the current context of multipartyism (Section 5.3). Finally, I will scrutinize successful amendments during the period of 2000–2013 and assess the significance of the reasons discussed in Sections 5.1 and 5.3 (Section 5.4).[1]

5.1 Is the Mexican Constitution Rigid?

Article 135 of the Mexican Constitution states these requirements: "The vote of two-thirds of the present members of the Congress of the Union is required to make amendments or additions to the Constitution. Once the Congress agrees on the amendments or additions, these must be approved by the majority of state legislatures." These requirements are visualized in Figure 2.5 of Chapter 2 which presents a constitutional core that is significant in size.

Some researchers consider the amendment mechanism of the Mexican Constitution to be quite similar to the US Constitution. For example, Velasco-Rivera (2021) argues that "the constitutional amendment mechanism of the Mexican Constitution of 1857 (reproduced in the

[1] The length and inconsistency of the Constitution (Section 5.2) are always present.

Constitution of 1917) and Article V of the U.S. Constitution are very similar in design" (1042). Actually, the only textual difference between Article V (US) and Article 135 (Mexico) is that a three-fourths majority of the states is required in the US while a simple majority of the states is required in Mexico. When I examine the Mexican institutions more closely, I will show that the differences are wide.

The most important difference between the US and Mexican reform procedures is that in Mexico Article 63 establishes that "neither the Chamber of Deputies nor the Chamber of Senators shall be allowed to open their sessions or perform their duties without the presence of at least half plus one of their respective members." The result of the combination of Articles 63 and 135 is that in order to modify the Mexican Constitution one-third of the members of the House and the Senate is required (if it happens that almost half of them are not present). Reexamining the arguments in Chapter 2, it becomes clear that under those conditions there is no constitutional core, and any provision can be changed (if members of the two chambers decide not to be present in the discussion and vote). So, with less than three-fourths of the members present, there is no constitutional core in Mexico.[2]

There is, however, a second and almost as important difference between the two countries: the distribution of preferences in the states. In Mexico, because of the electoral system of the country (which until the electoral reform of 2014 did not permit any elected representative to stand for immediate reelection in the same position), all the party representatives had a serious allegiance to their party, which was responsible for their political career. Indeed, the faithful representatives could be moved from one position to another, while the problematic ones would lose their party favors. This means that state representatives would vote the way their parties instructed, not the way their constituents wanted. In contrast, US state representatives will faithfully represent their constituencies because of individual electoral competition. As a result, the diversity among US states is significantly higher than that of Mexican ones. So, to get three-fourths of the states in the US to agree is a herculean task, as the failure of the Equal Rights Amendment to recognize equality between the genders demonstrates. By contrast, no Mexican

[2] The number three-fourths is calculated so that if that many people are present, two-thirds of the present members are a simple majority the whole chamber: two-thirds × three-fourths = one-half.

constitutional amendment cleared the other obstacles but got aborted by the states.

Empirical evidence corroborates these statements: The success rate of proposed amendments is much higher in Mexico than in the US. Between 1997 and 2015, spanning six legislative periods, there were 4,034 constitutional reform initiatives proposed and 326 adopted in Mexico, which means that there was a success rate of 8.08 percent.[3] By contrast, in the US, the number of submitted amendments was 11,969, while the actual amendments adopted were 27. The success rate was 0.0022 (Stohler et al. 2022). These results are consistent with the argument that constitutional rigidity in Mexico is much lower than in the US.[4]

5.2 Length and Inconsistencies of the Mexican Constitution

The first argument I will make is that the Mexican Constitution requires many changes – that is, the constant amendments of the Constitution are an equilibrium phenomenon where the different actors behave the way they are expected to. There are two reasons for this: first, the Constitution is long, and second, it is inconsistent.

5.2.1 Length of Mexican Constitution

All comparative constitutional analyses lead to the conclusion that the length of a constitution is positively correlated with the frequency of amendments (see Chapter 7). Along with all of the references mentioned in the introduction of this chapter, other analyses that do not find any relationship between constitutional rigidity and frequency of amendments still find a relationship between length and frequency of amendments. For example, Ginsburg and Melton (2015) dispute whether the

[3] The number of initiatives increased dramatically from the one-party dominance to the multiparty system in Mexico.

[4] It is interesting to investigate why there have been so many amendments with such a low success rate in the US. All the analyses refer to reasons that are nonrelevant to the Constitution. For example, Bárcena Juárez (2017) argues that in the absence of immediate reelection during the period under review, legislators intending to prolong their political careers must find a way to position themselves to transition to the next political position outside the legislature. Brunner (2013) argues that a high proportion of amendments are introduced by minority party legislators in order to promote out of legislature careers (Brunner 2013, Bárcena Juárez 2017). A similar analysis of non-constitutionally relevant reasons regarding the US can be found in Stohler et al. (2022).

amendment rules matter at all and "go on to develop a measure of amendment culture as an alternative to institutional factors that constrain amendment" (691). However, they do find a positive correlation with length, and they also argue:

> Along with our co-author Zachary Elkins, we have celebrated the virtues of what we might call statutory constitutions: those with flexible amendment thresholds that are fairly detailed. The constitutions of India, Mexico, and Brazil, to take three prominent examples, are amended nearly every year. Such constitutions have the virtue of being frequently changed through internal mechanisms, avoiding the costly route of a total replacement. In such countries, we argue that the stakes of amendment are lower, and so cultural resistance to amend is less than in societies where it is infrequent. (Ginsburg and Melton 2015: 689)

Similarly, Versteeg and Zackin (2016) claim that "the measure [of constitutional entrenchment] does not rely on formal amendment rules because these rules are mediated so dramatically by political norms" (661) and find a correlation between length and frequency of amendments.

Consequently, according to all researchers, the length of a constitution is correlated with the frequency of amendments, and thus the high frequency of constitutional amendments in Mexico is consistent with the 62,612 words it contains (Constitute Project 2015). However, the size of the Mexican Constitution has not been the same over the years. According to the Belisario Domínguez Institute, it started as a 21,382-word document, and over the years it kept expanding (Giles Navarro 2018). According to Rivera León (2017),

> A good example is the case of Article 41. Originally, Article 41 consisted of a single, 7-line paragraph. Those 7 lines contained 63 words. Currently, Article 41 has more than 70 paragraphs with nearly 5000 words. The level of detail in Article 41 (which currently regulates political parties and electoral administration) is truly surprising. It defines political parties and their creation, mathematical formulas for calculating public financing for political parties, percentages, and differentiations of the financing depending on the type of election. It also sets rules for precampaigns, specifies the number of minutes (honestly, the number of minutes!) political parties are entitled to on television and in the media during campaigns, describes the complete organization of the National Electoral Institute, sets up a complex network outlining the powers of the National Electoral Institute and local electoral institutes, etc. In conclusion, Article 41 is clearly set up as an Electoral Code. (Rivera León 2017: 24)

The consequence of including such an extensive Article 41 is that any time a modification is necessary, the required procedure is a constitutional amendment.

Similarly, according to Orozco Pulido (2020), "The original constitution of February 5th, 1917, had only nineteen transitory articles. Considering that the Constitution was written during a transitional period following a revolution, this seems to be a coherent number. The education reform of May 15th, 2019, includes eighteen transitory articles and sets complex rules related to the contents and implementation of the reform" (209). Also, Orozco Pulido (2020) argues that the Mexican Constitution has not respected the golden rules of writing with precision, clarity, and without ambiguity as they do not practice "writing in the active voice, in the present tense, preferring shorter sentences rather than longer ones, careful wording, and using positive statements instead of negative ones" (206).[5]

5.2.2 *Inconsistencies of the Mexican Constitution*

In principle, inconsistencies should not exist inside a legal text for the simple reason that the different parts of an inconsistent statement may become the basis of different arguments. This will lead to contradictory conclusions, and it will not be clear which one of these conclusions should prevail. However, a constitution is not just a legal document but also a political one, and it reflects the conditions that prevailed at the moment of its adoption (or the adoption of its amendments). It is possible that at the moment of the adoption of a constitution, or even an amendment of a constitution, different participating groups had different opinions, and they tried to resolve their differences. According to the literature, the Mexican Constitution is full of inconsistencies. Our goal, though, is not to identify whether they were due to political compromises or to lack of care.

Fix-Fierro and Valadés (2015) have collaboratively overseen a scholarly endeavor concerning the structural organization and fortification of the Mexican Constitution. The study delineates several noteworthy observations:

(1) Some constitutional provisions are redundant.
(2) The Constitution exhibits an irregularity in the application of terminology.

[5] This statement is in reference to Bowman (2006).

(3) There exists a pronounced variance in the extent of discourse on diverse subjects.
(4) The Constitution manifests an evident disarray in the thematic categorization of its articles.
(5) The Constitution presents suboptimal positioning of certain provisions.
(6) The constitutional manuscript contains terminological inaccuracies.
(7) Some articles, intrinsically regulatory in nature, operate akin to subsidiary directives across various domains.

Overall, it can be observed that the Mexican Constitution has several issues in terms of legal inconsistencies (Fix-Fierro and Valadés 2015).

Pozas-Loyo et al. (2022) have identified another dimension of the Mexican Constitution that is generated by these inconsistencies: "A strong and creative judicial interpretation was made necessary by the effects hyper-reformism had on the Constitution: it made it a very long, complex, and at times inconsistent text. Under this constitution creative judicial interpretation was required for solving the many conflicts created by the very nature of the text" (3). The result of their analysis is that, unlike in other countries, in Mexico there is a positive correlation between constitutional amendments (i.e., changes to the constitution generated by the political system) and judicial interpretation (i.e., changes to the legal systems performed by the judiciary).[6] Pozas-Loyo et al. (2022) base their analysis on the contradictions of the Mexican Constitution (a term they use eight times in their article), but they are not the only ones who do so; other analyses share the same basis (Pou Giménez 2018, Pozas-Loyo and Saavedra-Herrera 2021).

Arguments have been presented suggesting that the inconsistencies generated by constitutional reforms are so severe that a transition towards a new constitutional pact is necessary. For instance, Cárdenas Gracia (1994, 1998) suggests that the Constitution has a nondemocratic design and that the rules of political processes are influenced by meta-constitutional factors. Similarly, González Oropeza (1998) maintains that the Mexican president has been the sole reformer of the Constitution, leading to the constitutional text becoming a government agenda for the incumbent president.

[6] In other countries, high constitutional rigidity leads to low amendment frequency and high judicial independence (Lutz 1994, Tsebelis 2022).

In conclusion, the Mexican Constitution was not long and contradictory from the beginning and did not need to become as such. However, once it developed these characteristics, it had to be amended often, and the amendments had to be interpreted by the Supreme Court frequently in order to address the problems generated.

5.3 Constitutional Coalitions

In Mexican politics, broad coalitions in the legislative arena are very frequent. Originally, in 1988, this phenomenon of convergence and exchange among the political parties was named "concertacesiónes." Ortiz Gallegos (2007) contends that the neologism "concertacesión" implies a scenario where one side gives up something in exchange for an advantage provided by the other party. There are three different ways of eliminating differences (Tsebelis and Hahm 2014): (1) by finding some middle way between the different points of view (some kind of weighted average); (2) by eliminating or obscuring the differences between the different points (so that different behaviors would be consistent with the text); or (3) by separating the issues and permitting one side to prevail in one issue and another in a different issue. In Tsebelis and Hahm's empirical analysis of the European Fiscal Compact, the method most often used was the elimination of differences (Method 2), while "concertacesión" is clearly the trading across issues method (Method 3). This phenomenon has been widely studied, and different explanations have been provided. Because of this, in this section I analyze the political reasons for why parties decide to take their agreements to the constitutional level through broad coalitions. I argue that an explanation for this phenomenon must address the political issue along with the institutional one. I explore different episodes of convergence of political parties to carry out constitutional reforms. My aim in this section is to emphasize the need to incorporate political behavior to understand constitutional reforms. I demonstrate why it is rational to amend the constitution once political agreements have been reached.

Mexico was dominated in the twentieth century by the PRI (Revolutionary Institutional Party) which was the only party at the time and controlled all three institutions (presidency, House, and Senate) for most of the century. The fact that it was a "dominant party system" explains why it could make any decision it wanted and include it in the Constitution. This is why I begin my study of constitutional amendments at the year 2000 when the presidency was occupied by another party, the

right-wing PAN (National Action Party). During the period of sole rule, the PRI was a corporatist party that included leftist elements. However, beginning in the 1980s there was a shift in the policy positions of the PRI towards free markets, and this shift was officialized with the modification of Article 27 of the Constitution in coalition with PAN in 1992. In addition, in 1988 there was a political shift, and an agreement was made with the PAN. Later, there was a (successful) attempt to add the left-wing party (the Party of the Democratic Revolution, or the PRD) to the coalition. I will analyze two significant achievements of the periods under study, the multiple modifications of Article 73, and the Pact for Mexico. Given the existence of this three-party coalition during the period I am covering, enshrining party agreements inside the Constitution is a dominant strategy for all the actors involved. Therefore, one of the reasons for the high frequency of constitutional amendments is the wide agreement among Mexican political parties.

5.3.1 The Reform of Article 27 of the Constitution and NAFTA

Beginning in 1982, the federal government, led by Miguel de la Madrid (of the PRI), initiated a shift in the country's economic direction. The administration started to distance itself from nationalist economic policies and embarked on a process of economic liberalization (Soederberg 2005, Escalante Gonzalbo 2015). Subsequently, in the early years of Carlos Salinas de Gortari's administration, a process of deepening economic liberalization commenced which would culminate in the North American Free Trade Agreement (NAFTA). However, the Mexican Constitution did not allow foreign investment in the exploitation of natural resources, necessitating its amendment. The passage of the constitutional reforms in Mexico to facilitate the ratification of NAFTA represents a pivotal moment where economic imperatives catalyzed political collaboration, transcending typical partisan boundaries. Acknowledging the paramount importance of NAFTA for Mexico's economic growth, the PRI and the PAN engaged in strategic alliances not out of institutional necessity but because of a shared recognition of the treaty's significance in enhancing the country's economic stature vis-à-vis its North American counterparts, the US and Canada.

This political calculus was predicated on the understanding that NAFTA was not merely a trade agreement but a critical lever for Mexico's economic development and modernization. The constitutional impediments, specifically those within Article 27 that restricted private

and foreign investment in land and natural resources, were at odds with NAFTA's liberalizing agenda (Zamora 1992, Arellanes Jiménez 2014). As such, a political agreement was essential for amending these provisions to align with the requirements of free trade and the attraction of foreign investment.

The political will to forge expansive legislative coalitions was evident in the overwhelming majorities that voted in favor of the amendments: a unanimous vote in the Senate (fifty votes in favor and zero against) and a significant majority in the Chamber of Deputies (387 votes in favor and 50 against). This was a strategic and deliberate political maneuvering by the PRI and the PAN, underlining the treaty's crucial role in Mexico's economic trajectory, and their substantial agreement signaled a momentous shift towards economic integration with the global market. It was this pursuit of economic prosperity through free trade that necessitated and justified the creation of such broad legislative alliances, emphasizing the role of NAFTA as a catalyst for cross-party cooperation in the Mexican political landscape. This analysis focuses on the economic policy positions of the two parties. The political dimension follows.

5.3.2 *The Birth of Multipartyism in Mexico*

Before 1988, the PRI had no need to negotiate with any opposition parties since it controlled both chambers of the federal Congress and all the governorships. It was the textbook example of a hegemonic party (Magaloni 2006). However, by 1988, the landscape was altered significantly as the PRI found itself compelled to negotiate with opposition parties following the presidential election in which the PRI candidate Carlos Salinas de Gortari assumed power amid widespread illegitimacy accusations (Becerra et al. 2011, Woldenberg 2012) and allegations of electoral fraud (Cantú 2019). This led to a political process of interparty bargaining known as "concertacesiónes." Arguably, the most memorable "concertacesión" took place between the PRI and the PAN in 1988.

Given that Carlos Salinas assumed the presidency with a broad shadow of illegitimacy, he had to negotiate with the PAN to have them accept his mandate and approve a series of reforms (Ortiz Gallegos 2007). Part of the arrangements that the PAN set with Carlos Salinas was that the PRI and Salinas himself would recognize and respect their electoral victories at the gubernatorial level. This moment marked a significant turning point in negotiation strategies as a behavior rooted in compensation

Table 5.1 *Congressional seats of main parties in Mexico (1997–2015)*

Number of seats in House from 1997 to 2015							
Legislature	Period	PAN	PRI	PRD	REST	PRI + PAN	PRI + PAN percent
LVII	1997–2000	122	239	125	14	361	72.2
LVIII	2000–2003	206	211	50	33	417	83.4
LIX	2003–2006	152	224	96	28	376	75.2
LX	2006–2009	206	106	127	61	312	62.4
LXI	2009–2012	143	237	69	51	380	76
LXII	2012–2015	114	213	101	72	327	65.4
Number of seats in Senate from 1997 to 2015							
Legislature	Period	PAN	PRI	PRD	REST		
LVII	1997–2000	33	77	16	2	110	85.9
LVIII–LIX	2000–2006	46	60	16	6	106	82.8
LX–LXI	2006–2012	52	33	26	17	85	66.4
LXII	2012–2015	38	52	22	16	90	70.3

mechanisms began, which still persists to this day. This moment was the birth of multipartyism in Mexico.

This political exchange of mutual recognition (presidency vs. governors) had significant legislative and constitutional implications because the PRI was the median party in both chambers of Congress. Because of this, it needed to approve any piece of legislation to clear Congress, and from 2000 onward it alternated in the presidential position with the PAN. As a result, an agreement of these two parties was necessary for any political solution in Mexico. However, as Table 5.1 demonstrates, this PRI–PAN agreement was also sufficient for any constitutional amendment. The last column of the table shows the percentage of votes that the PRI and the PAN represented with respect to the total membership of the Chamber of Deputies and the Senate. It is evident that most of the time the percentages were above two-thirds of the total number of members of the corresponding chamber. For the few cases that this was not the case, a few abstentions in the corresponding chamber would clear the two-thirds majority of the members present that was specified by the

Constitution.[7] Therefore, the bipartisan agreement which was necessary for legislative action was also sufficient for constitutional decisions. Nevertheless, as I show in Section 5.4, the PRI and the PAN expanded their coalition to the successfully left-wing PRD.

5.3.3 *Centralization Through Article 73*

The unanimous pattern of amendments to Article 73 of the Mexican Constitution by the three principal political parties of the study period – the PRI, the PAN, and the PRD – serve as a paradigmatic example of strategic consensus-building aimed at the recalibration of power dynamics within the federation. Article 73 serves as a delineation of congressional functions and is composed of a multitude of sections, each detailing specific legislative competencies. It is pertinent to note that the Mexican constitutional framework, specifically Article 124, bestows residual powers to the states akin to the Tenth Amendment of the US Constitution (Serna de la Garza 2016). Thus, any expansion of Article 73 inherently signifies a centralization of authority; it systematically extracts governance on specific issues from the purview of state jurisdictions and incorporates them into the federal legislative domain.

The amendment of Article 73, and, consequently, the centralization of functions, represents a confluence of political objectives across the PRI, the PAN, and the PRD. This strategic alignment reflects a collective pursuit of enhancing federal legislative power – a move that invariably consolidates the roles and influence of these major parties within the national governance architecture. Such a concerted approach underscores a shared political agreement among Mexico's dominant parties: that the fortification of federal power is instrumental to their broader political aspirations.

Article 73 is the most frequently amended article in the history of the 1917 Constitution during the period being studied and is one which the political parties almost unanimously agreed to amend. Between 2000 and 2013, Article 73 was modified twenty-seven times, accounting for 39.71 percent of the sixty-eight constitutional reforms observed during that period. Generally, amendments to Article 73 are instrumental in bringing about significant changes to the political system as legislators seek to equip themselves with the requisite authority to legislate on various

[7] See Article 63 in Section 5.1.

domains that were not explicitly addressed in the original wording of the Constitution.

The modifications of Article 73 can be classified either as direct or indirect (aimed at bestowing additional powers to Congress by making changes to other articles of the Constitution). Out of the total reforms observed from 2000 to 2013, there were twelve direct amendments made to Article 73, constituting 44.44 percent of all reforms to this article. In each of these cases, Congress expanded its powers. Notably, all twelve direct amendments were approved by the PRI–PAN–PRD coalition.

Additionally, there were fifteen indirect reforms, making up 55.56 percent of all reforms to Article 73. It is significant to note that fourteen of these fifteen modifications were approved by the PRI–PAN–PRD coalition.[8] An illustrative example of indirect modification of Article 73 is the establishment of ordinary legislation on national security, which necessitated the modification of Article 89 of the Constitution as well as Article 73. Similarly, the constitutional autonomy of the National Institute of Statistics and Geography (INEGI) required a concurrent amendment to Article 26 and Article 73. Furthermore, during a major political-electoral reform in 2013, which involved various aspects of the political regime, Congress was granted the power to ratify different secretaries of state. Consequently, Article 73 had to be amended to empower the legislative branch to perform these new functions.

As can be observed, there was an agreement to reform this article by the most relevant political parties of the period in twenty-six out of twenty-seven reforms, implying a convergence of the three political forces in 96.3 percent of the cases. These episodes of convergence can be explained by the fact that the reforms to Article 73 involve the centralization of powers in the federal Congress. In this sense, parties can generate broad agreements because the reforms to Article 73 grant more powers to political parties represented at the federal level.

5.3.4 The Pact for Mexico

The Pact for Mexico marked a seminal political accord that was consummated by the collective resolve of the nation's three principal political forces: the PRI, the PAN, and the PRD. This alliance, forged at the dawn of Enrique Peña Nieto's presidency, was dedicated to executing

[8] The only exception (the electoral reform of 2013) will be discussed in Section 5.3.4.

substantial and necessary reforms across a spectrum of policy areas, notably transforming the energy sector and advancing economic liberalization, each of which necessitated constitutional recalibration (del Tronco Paganelli and Hernández Estrada 2017, Mayer-Serra 2017).

Within the framework of the Pact for Mexico, a remarkable consensus was reached among the PRI, the PAN, and the PRD, leading to the ratification of a sweeping array of constitutional reforms ("Pacto por México" 2012). These included progressive changes in different topics such as anticorruption, transparency, telecommunications, and education, which demonstrated an unprecedented tripartite agreement aimed at modernizing the nation's infrastructural and institutional fabric. However, this unanimity did not extend to all reforms; notably, the electoral reform and the energy reform emerged as distinct outliers, with the latter becoming a particularly contentious issue within this tripartite alliance (del Tronco Paganelli and Hernández Estrada 2017).

The 2013 energy reform stands out as a contentious pivot within the Pact for Mexico, primarily due to the PRD's resistance to perceived encroachments upon national sovereignty. This led to a realignment of the PRI with the PAN, which held a pro-market perspective that was more amenable to the reform's objectives. The PAN's strategic position enabled it to negotiate the integration of its policy preferences into the energy reform and to extract a commitment from the PRI to support an impending political-electoral reform as part of the Pact's broader agenda (del Tronco Paganelli and Hernández Estrada 2017).

The political-electoral reform, eventually ratified in late 2013, instituted a raft of significant alterations to the political system. It saw the creation of the National Electoral Institute with expanded powers, an increase in the vote threshold for proportional representation, and provisions for the consecutive reelection of legislative and municipal officials. These changes, coupled with the energy reform (which sanctioned private sector participation in energy exploitation for the first time since the 1950s), signified a substantial shift in Mexico's energy model and a move towards strengthening the nation's democratic governance (Barrientos Del Monte and Añorve 2014).

The Pact for Mexico transcended mere policymaking; it epitomized a strategic political maneuver designed to forge wide-ranging coalitions capable of enacting constitutional reforms. The unanimity with which several reforms were approved underlines this approach. However, it is crucial to discern that the formation of such expansive alliances was not dictated by institutional mandates or exigencies. Instead, these coalitions

were the product of deliberate political strategy, a testament to the power of negotiation and consensus-building across party lines. This climate of cooperation was not born out of institutional necessity[9] but rather from a concerted effort to achieve a shared vision for the nation's advancement. The political will to collaborate was the driving force behind this unified front, rendering the Pact for Mexico a pivotal catalyst in redefining Mexico's legislative achievements in the absence of any institutional compulsion.

5.3.5 *Why Amend the Constitution and Not Produce Ordinary Legislation?*

I demonstrated that trading across issues has been a very instrumental method to generate consensus among political parties in multiparty Mexico. A major enabler of this outcome is the centralization of Mexican parties. According to Velasco-Rivera (2021), negotiations are highly centralized; thus, agreements can be reached more easily. Political parties with congressional representation demonstrate a high degree of discipline owing to the regulation exerted by the national leadership (Nacif 2002). Given that the national leadership oversees the nomination procedures, legislators are incentivized to comply with directives from the leadership.

The consolidation of parliamentary discipline is reinforced by the institutional design inherent in the Mexican Congress. Various institutions bolster centralized decision-making. The most significant among these is the Political Coordination Board (JUCOPO), where the parliamentary leaders of political parties convene and forge consensuses. The JUCOPO is responsible for evaluating reform proposals once they have been examined by the committees and has the prerogative to schedule them for discussion on the floor once they have been previously agreed upon.

Once this consensus is achieved, enshrining it in the Constitution is a dominant strategy for two reasons: first, to tie their own hands, and second, to restrict the judicial branch from altering these agreements.

Tying the Political System's Hands

The process of incorporating political parties' agreements into the constitutional text serves as a mechanism to effectively lock these agreements in

[9] As Table 5.1 demonstrates, institutional necessity would require only two parties (the PRI and the PAN).

place, safeguarding them against potential reform and constitutional revision (Fix-Fierro and Valadés 2015). One significant aspect of this dynamic is the convergence of political parties in approving constitutional reforms with the intent to "protect" the understandings achieved between different political forces from potential changes in government and shifts in the majority within Congress. By enshrining these agreements within the Constitution, any future attempts to modify or overturn them would require a new consensus among political factions, thus creating a higher barrier for alteration. For example, a simple legislative majority would not be able to unilaterally alter these agreements through ordinary legislation (Salazar Ugarte 2013, Fix-Fierro 2017). This is due to the entrenched nature of constitutional provisions, which require a more extensive and rigorous process for amendment compared to ordinary legislation.

This is an important point that needs to be examined under the lens of the three-tiered system of rulemaking I discussed in the Introduction (Table I.2): changes that occur within the constitutional equilibrium (legislation and statutory interpretation by the courts); changes that occur outside the constitutional equilibrium (constitutional amendments); and changes of the constitution itself. The reason that we differentiate between Levels 1 and 2 (within the constitutional equilibrium and outside it) is that constitutional amendments are more difficult than ordinary legislation. However, what we see in Mexico is that the majorities necessary to pass legislation (the coalition between the PRI and the PAN) are also sufficient to pass constitutional amendments. As a result, when passing amendments becomes as easy as legislation, then the amendment strategy becomes dominant.

Restricting Checks by the Judiciary

Another advantage of constitutional amendments is the restriction of judicial interferences. Constitutional amendments cannot be superseded by the supreme court's decisions as ordinary legislation lies beyond the scope of the court's scrutiny, thereby shielding the incorporated agreements from legal challenges or potential invalidation by judicial interpretation. As a result, including the agreements in the constitution ensures that they remain immune to judicial interference and reinforces their binding nature.

However, as shown in this research, none of these arguments is indisputable or even as strong in Mexico compared to other countries. Constitutional amendments can be overruled by other constitutional

amendments (and in Mexico this is done frequently), and the Supreme Court interprets the Constitution with unusually high frequency (see Section 5.1). Nevertheless, including agreements in the Constitution is a dominant strategy because it still provides them with a constitutional shield (no matter how ineffective, this is better than ordinary legislation or no legislation at all).

5.4 The Frequency of Threshold-Clearing Majorities and Oversized Coalitions

In Chapter 2, I described under what conditions a core will or will not exist. If it exists, modification of the constitution is impossible unless the status quo is outside the core; if it does not, it is feasible. In Section 5.1, I explained why Article 63 adds significant flexibility to the amendment rules of the Mexican Constitution (Article 135). In Section 5.3, I described how and why party coalitions emerged and included the amendment of the Constitution as one of their goals. I also explained why the states did not object to anything the parties wanted, including the decisions related to the centralization of power (which, in principle, should have been opposed). Now, I will synthesize all these arguments and see how often they describe the political situation in Mexico.

Figure 5.1 presents the profile of the sixty-eight constitutional amendments adopted in Mexico during the period under examination (from 2000 to 2013),[10] showing the institutional thresholds achieved, the composition of the coalitions, and the significance of amendments (as a function of the number of constitutional articles affected).

Coalitions

The shape of the points indicates the coalitions that promoted the amendments. We can see that the overwhelming majority of amendments – sixty-one out of sixty-eight, or 90 percent – were the result of an agreement between the three major parties. Only five out of sixty-eight were a PAN–PRI coalition, and two more were none of the above.

[10] This number is different from the 326 successful constitutional amendment initiatives presented in Section 5.3. This is because different initiatives for constitutional reform on the same subject are consolidated into a single document, which is prepared in the constitutional points committees of Congress (Fix-Fierro 2017).

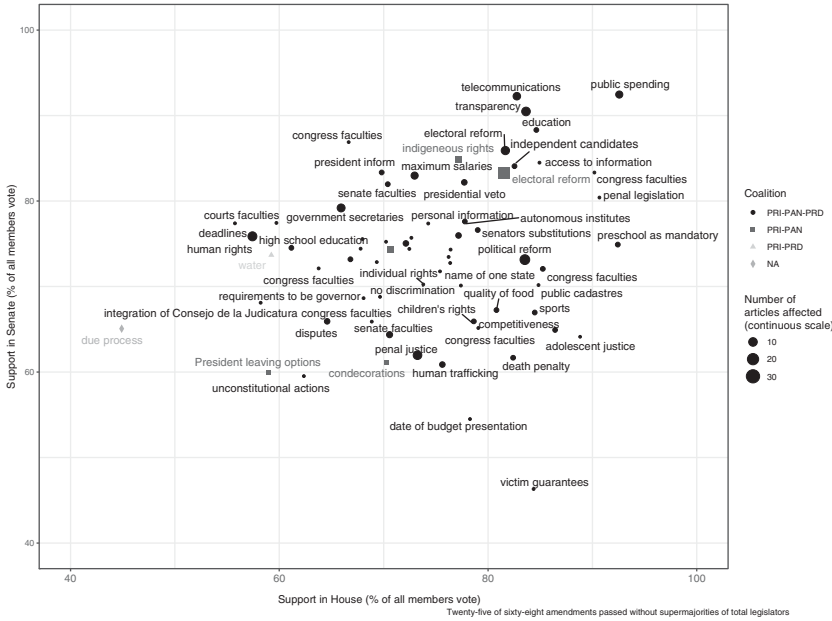

Figure 5.1 House and Senate support for constitutional amendments in Mexico from 2000 to 2013 by topic, coalition, and number of articles affected

Significance

The size of the points approximates the significance of the amendments: The more articles the reform affects, the greater the significance and, therefore, the greater the size of the circles will be.

A simple observation of Figure 5.1 indicates that the most significant amendments were achieved by the agreement of all three major parties with the exception of the electoral reform. The amendment on electoral reform, although included in the Pact of Mexico (and therefore signed by all three major parties), was approved in 2013 by the PRI and the PAN alone.[11] The PRD deviated from the convergence behavior, arguing that increasing the threshold for parties to maintain their registration, besides the introduction of immediate reelection, were modifications against minorities. In the record, PRD leaders claimed that the PRI and the PAN wanted to "perpetuate themselves in power, but the people will

[11] See discussion in Section 5.3.4.

know how to put an end to their lifelong ambitions" (Cámara de Diputados 2013).

I will mention only two important modifications included in this amendment that I touched on in this chapter. The first is the possibility of consecutive reelection of deputies (for up to four periods) and senators (for up to two) as well as the consecutive reelection of local legislators and members of the municipalities. The second is that the national voting threshold for a political party to maintain its registration increased from 2 percent to 3 percent. The ruling of this reform was discussed by the Senate on December 3, 2013, and was approved by 107 votes in favor and 16 against. For its part, the Chamber of Deputies voted on this matter on December 5, 2013, and approved it with 409 votes in favor and 69 against (Torres Alonso 2016, Zamitiz Gamboa 2017).

Institutional Constraints

The only articles that cleared a two-thirds qualified majority in both chambers of Congress are the ones in the first quadrangle of the picture. There are forty-four amendments that cleared both obstacles, four that did not clear the two-thirds restriction in either chamber, twelve that did not clear two-thirds in the Senate, and eight that did not clear two-thirds in the House.

Figure 5.2 presents the same configuration of amendments but focuses on the question generated by the participation levels of each chamber. As I argued in Section 5.1, if less than three-fourths of a chamber participate, then a simple majority of the chamber achieves the required two-thirds threshold (since one-half $\times$ three-fourths $=$ two-thirds). However, as I have argued in Chapter 2, a simple majority requirement does not generate a core. Of course, it is possible to have a bicameral core in two dimensions under simple majority requirements in both chambers (as Figure 4.1b in Chapter 4 demonstrates), but Figure 5.2 gives an idea of how frequently low participation facilitates amendment adoption in Mexico: out of sixty-eight amendments, fourteen did not have a three-fourths participation in both chambers (indicated by a cross), thirteen did not have three-fourths participation in the House but did in the Senate (indicated by a square), nineteen did not have three-fourths in the Senate but did in the House (indicated by a triangle), and less than a third (twenty-two out of sixty-eight) had three-fourths participation in both chambers (indicated by a circle).

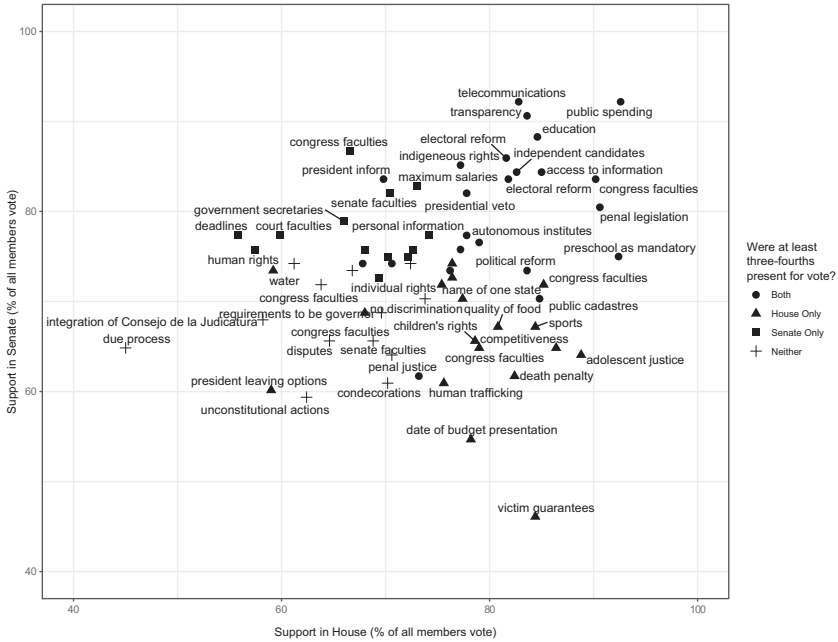

Figure 5.2 Congressional support for constitutional amendments in Mexico from 2000 to 2013

Conclusions

This chapter applies the analysis of Chapter 2 to Article 135 of the Mexican Constitution in order to calculate its core. I then argued that Article 65 significantly modifies this core (up to the point of elimination) because Article 135 can be applied only to half of the members of the House and/or the Senate, so this core may not even exist. I demonstrated that one-third of the constitutional amendments of Mexico in the period from 2000 to 2013 did not reach the two-thirds majority of the total members of the House or the Senate and that less than one-third of the deliberations had more than three-fourths of the members present in both chambers.

Next, I identified two additional reasons for why the Mexican Constitution is so frequently amended.

First is the fact that the Constitution is long and contradictory. While most of the analysts accept these two assessments, we have not seen them associated with the frequency of amendments in such a clear way. The

argument here is that these two features create a high demand for amendments.

Second, I demonstrated that just as the institutions were not decisive in the period of the single-party dominance because the required thresholds were achieved automatically, the same thing happened during the multiparty period. Parties in Mexico are very disciplined (because of the electoral law), and, consequently, when they make an agreement, all their representatives (in the chambers or local governments) comply. In Section 5.4, we demonstrated that 90 percent of the amendments were by agreement of all three parties.

These agreements were made for political reasons. I argued that the birth of multipartyism in Mexico was due to such an agreement. With respect to the Constitution, a large part of these agreements involved the centralization of powers (Article 73). In addition, I identified political reasons such as NAFTA and the Pact for Mexico which explain party convergence to amend the Constitution. These are only some examples which reveal that once parties have incentives, they can reach agreements. Parties can also consider the Constitution as part of their domain. Once such agreements exist, it is a dominant strategy to enshrine and shield them in the Constitution.

Going back to ideas presented in Chapter 2, this chapter explained the reasons why parties may converge in such a way as to eliminate the core, just as a single party (the PRI) in the period of its dominance could bypass the institutions. This analysis explained in detail how and why the preferences converge and showed that in significant cases when they do not (like the electoral law) the votes represent the preferences, not the agreements. This is an alternative way of assessing the positions of the different actors as opposed to the cultural approaches discussed in Chapter 3. It requires specific analysis of the actors involved and their preferences (changing across issues and time) as opposed to responding to societal factors like political culture.