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# Protecting democracy means defending judicial independence

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*The 2024–2025 judicial reform profoundly transformed the justice system in Mexico by replacing career service with the popular vote. This change, far from strengthening the legitimacy of the Judiciary, has exposed significant risks to its independence. According to the **Judicial Electoral Observatory**, the first judicial elections showed irregularities that point towards a growing political capture of the federal judicial system.*

*At the same time, the elimination of autonomous constitutional bodies - such as the INAI, the Cofece, the IFT and the CRE - and the reforms that restrict the amparo trial weaken institutional counterweights, reduce legal certainty and undermine citizen confidence and investment.*

*Against this backdrop, México Evalúa documents the risks associated with the erosion of the rule of law and promotes concrete actions to strengthen judicial independence, such as the evaluation of judges, the design of appropriate electoral rules and procedures, and monitoring the performance and operation of the judicial powers throughout the country.*

Judicial independence is a democratic guarantee. It ensures that judges' decisions are impartial and free from pressure. Coercion of those who administer justice can originate from within the institution itself, or be external, of a political, economic, media, or even criminal nature. This guarantee is especially necessary in the face of decisions or acts of authority by the Executive or Legislative branches that violate the provisions of the current constitutional and legal framework, as well as international treaties signed and ratified by the Mexican State.

This guarantee is based on one of the fundamental principles of any democratic system or regime: the separation and balance of powers. This separation of state powers seeks to prevent the concentration of public power in a single person, group, or even a majority political force. To this end, powers and responsibilities are distributed according to the nature of each branch—Executive, Legislative, and Judicial. At the same time, a system of checks and balances is established so that no branch is subservient to another and each limit the other two. This restraint falls particularly on the Executive Branch, which, in Mexico, is responsible for defining policies and managing the majority of the public budget.

The latest reforms promoted by the federal government and the ruling party —Morena— have compromised judicial independence, institutional checks and balances,

and the protection of the rights of individuals and private companies against government decisions and acts of authority.

## RISKS OF JUDICIAL REFORM ON JUDICIAL INDEPENDENCE

The constitutional reform to the federal and local judicial branches was published on September 15, 2024. The risks to independence and quality of justice that were identified are as follows (table).

These risks are heightened by the deficiencies and irregularities of the 2024-2025 judicial electoral process. According to the [Judicial Electoral Observatory](#) (OEJ), it was an election lacking authenticity, orchestrated from within the government through the systematic, serious, and decisive violation of the constitutional principles of certainty, legality, fairness, and freedom of suffrage.

Among the main problems identified was the uncertainty surrounding the electoral process: it began without operational rules, campaign spending limits were modified mid-process, the rules for holding debates changed constantly, and some relevant agreements from the National Electoral Institute (INE) were published late, leaving candidates in a vulnerable position. Furthermore, “Operation Accordion”<sup>1</sup>—allegedly financed with public

Reform	Risks
1. <b>Popular vote</b> as a mechanism for selecting judges and magistrates, instead of a career service	Politicization of judges and co-optation by partisan, economic or criminal interests
2. <b>Requirements to be a candidate for judge</b> were significantly modified (letters from neighbors, 8 points during university studies, no experience necessary)	The knowledge and skills of the judges are not guaranteed
3. The mechanism for <b>selecting candidates to compete in the elections depends on the Executive, the Congress</b> (dominated in both Chambers by a single party) and the Judicial Branch (which did not send candidates in the 2025 election because it involved violations of the rights of judges who were forced to leave their posts)	Checks and balances on other powers are not guaranteed if they all come from the same party
4. It eliminated the <b>Federal Judiciary Council</b> and replaced it with the Judicial Administration Body	This body is responsible for providing the resources that judges have to work with
5. It created the <b>Judicial Disciplinary Tribunals</b> with the power to initiate disciplinary proceedings against members of the Judiciary	Risk of sanctions for judges who rule against the government

<sup>1</sup> “Operation Accordion” consisted of the dissemination through print and digital media of voting guides in favor of candidates who competed in the Extraordinary Electoral Process for the election of various positions of the Judicial Branch of the Federation (PEEPJF) 2024-2025.

funds and operated by government structures—along with the unfair ballot design, eliminated any uncertainty about the outcome. Both factors were clear examples of government intervention and illegal partisan mobilization to favor certain candidates.

Given this scenario, the findings of the OEJ confirmed the risks to judicial independence:

*The outcome does not necessarily reflect the free and informed will of the citizenry, but rather the effectiveness of the ruling party's mobilization to ensure the political capture, at least of the high courts, of the judiciary. The electoral institutions, both the INE (National Electoral Institute) and the TEPJF (Electoral Tribunal of the Federal Judiciary), failed in their constitutional duty to act as guarantors of certainty, legality, and fairness, even issuing rulings that facilitated undue political interference. The INE's divided vote—5 against and 6 in favor of validating the judicial elections—demonstrates the deep concern regarding the integrity of the elections and the vulnerability of our electoral system in elections of this nature. Under these conditions, the popular election of judges guarantees neither independence nor legitimacy; on the contrary, it subordinates them to the political machinery of the ruling party.*

## CONCENTRATION OF POWER AND ELIMINATION OF AUTONOMOUS INSTITUTIONS

In addition to the judicial reform, on December 20, 2024, another package of constitutional amendments was published, which eliminates autonomous institutions in matters of transparency, economic competition, telecommunications, energy and hydrocarbons:

- National Institute for Transparency, Access to Information and Protection of Personal Data (INAI)
- National Council for the Evaluation of Social Development Policy (Coneval)
- Federal Economic Competition Commission (Cofece)
- Federal Telecommunications Institute (IFT)
- National Commission for Continuous Improvement of Education (Mejoredu)

- Energy Regulatory Commission (CRE)
- National Hydrocarbons Commission (CNH)

These bodies acted as technical checks and balances on the federal government. They were designed to protect the rights of individuals, consumers, and users (freedom of expression, protection of personal data, better prices, quality of services, and improved education).

Without Cofece and IFT, oversight of monopolistic practices and pluralism in telecommunications and broadcasting is weakened. This could reduce freedom of expression, media pluralism, and the quality of services citizens receive. In the energy sector, the CRE and CNH regulated permits and contracts in the electricity, hydrocarbon, and gas markets. Without their independent oversight, discretion and opacity increase, discouraging private investment and hindering citizen monitoring.

The elimination of autonomous agencies now concentrates decision-making in the ministries and departments of the Executive branch. As a consequence, democratic quality is affected by reducing spaces for public participation and access to information. At the same time, discretion and the unpredictability of regulations increase, and the separation of powers and oversight and transparency mechanisms are weakened. In economic terms, investors may resort to international arbitration or sue for breaches of trade agreements, perceiving a lack of reliable legal protection. Investment needs stable frameworks for long-term planning.

## PROTECTION AGAINST ARBITRARINESS AND ABUSES OF POWER

A few days ago, an initiative to reform the “Amparo Law” was also approved. Amparo is the legal protection provided by federal judges against acts of authority, including those of state judges or those resolving disputes related to energy, federal contracts, labor, and economic competition, civil matters, among others.

The reform includes elements relevant to the digitization of the amparo judicial process, and opens the possibility of online notifications and filings, as well as the use of digital signatures. However, it also contains modifications that alter the core of this legal mechanism for the protection of rights.

Two issues in particular are critical: the accreditation of legitimate interest and the suspension of the act. The reform imposes stricter requirements on individuals to demonstrate a legitimate interest in seeking protection

from federal judges through amparo proceedings. Furthermore, while the authorities responsible for the challenged actions are not obligated to provide guarantees, private individuals are. The effects of the suspension are also limited. It can even be declared inadmissible if it hinders the exercise of the authorities' powers, for example, in matters of public debt.

## INVESTMENT IMPLICATIONS

When the rules governing judges change, it weakens the certainty about how and when lawsuits, contracts, or permits will be resolved. Businesses rely on this certainty for long-term planning. In sectors such as energy, infrastructure, and telecommunications, projects can face delays or inconsistent decisions regarding authorizations, permits, or certifications.

Judges, being elected by popular vote, are not only more susceptible to political or popularity pressures but are also more likely to lack technical expertise. These factors can lead to less predictable rulings. This is especially critical in government contracts or licensing processes, as regulatory decisions that shift with political circumstances undermine investor confidence.

The perception that Mexico is not fulfilling its commitments to independent tribunals can lead to higher legal costs, uncertainty about compensation, and reputational risk for the country.

The legal certainty that the *amparo* has thus far provided is fundamental to investor confidence. Domestic and foreign investors base their decisions on the existence of effective remedies against arbitrary actions by the State. This is especially important in a country like ours, where the authorities are far from being trusted by citizens. Further undermining this trust could affect capital flows at a time when the country needs precisely the opposite: to strengthen its institutional credibility to generate sustainable economic development.

## PROPOSALS TO STRENGTHEN JUDICIAL INDEPENDENCE

To ensure effective judicial independence, a series of legal conditions are necessary—but not sufficient. Among these conditions is, first and foremost, the constitutional recognition of the principle of judicial independence. From this derives a series of mechanisms that safeguard this autonomy. These include the existence of a judicial

governing body of an administrative nature, as well as the separation between the presidency of the judicial governing body and that of the highest court.

In this respect, a transparent procedure must be considered for the appointment of the president and members of this judicial governing body, as well as due process in the eventual dismissal of its officials.

A minimum budget amount or a fixed and non-reducible percentage is also essential, as is operational and budgetary self-sufficiency. It should be noted that these conditions must also be verified in practice to consider that judicial independence exists within a political system that claims to be democratic.

To safeguard judicial independence at the level of judges, a series of normative conditions must be in place and reflected in practice. These are essential for judges to make objective decisions, adhering to the law and free from pressure. The main conditions are: an impartial appointment mechanism that clearly establishes the stages of the selection process. This process must be based on competencies, merit, and standardized evaluation criteria, and implemented by an independent, technical body. Clear rules and procedures are needed for the reappointment or ratification of judges, as well as a consistent mechanism for defining their assignments and reassignments. The security of immobility and protection from internal and external pressures must be guaranteed.

Additionally, judges require adequate working conditions that include remuneration, protection, and retirement benefits to effectively perform their duties. In short, a judicial career system, performance evaluations, and accountability measures are essential for conduct contrary to the principles guiding the judicial function.

## RELEVANCE OF THE WORK OF MÉXICO EVALÚA FOR THE INTERNATIONAL SPHERE

Research projects on justice in Mexico are key to the global democratic agenda and international cooperation because they generate objective evidence on the rule of law, the separation of powers, and the protection of human rights. This information allows for the alignment of national practices with international standards, facilitates technical assistance and funding from multilateral organizations, and disseminates comparable best practices for other countries.

The research conducted by México Evalúa on criminal justice (such as the *Hallazgos: Monitoring and evaluation of the criminal justice system in México*), digital justice, and judicial reform provides valuable information on the current state of justice in Mexico. Understanding this landscape at both the national and subnational levels can inform decision-making regarding investments, trade, and bilateral cooperation projects.

At the same time, these studies strengthen the transparency and accountability of the justice system, which improves the perception of legal certainty and fosters both foreign investment and economic and political cooperation with our international partners.

## KEY ACTIONS TO DEFEND JUDICIAL INDEPENDENCE

México Evalúa recently promoted the creation of the Network for Judicial Independence as a space for communication between representatives of civil society, academia, the business sector, lawyers, media, international organizations, judges and judicial personnel in Mexico, in which information is shared about the work of each participant and alliances are generated in favor of judicial independence and effective justice.

From this platform, México Evalúa seeks to promote three key actions for judicial independence:

### 1. Evaluation of the skills and performance of judges.

One of the main risks identified in the judicial reform is the lack of guarantee regarding the knowledge and skills of the elected judges, since it establishes only basic requirements for those who want to apply for these positions, and does not establish a general methodology or objective criteria for the Evaluation Committees, which are in charge of compiling the lists of candidates.

### 2. Proposal for judicial electoral counter-reform.

The failures and deficiencies observed and documented in the judicial electoral process necessitate changes to the constitutional and legal framework to guarantee the integrity of subsequent processes, establishing timely rules and specific procedures for the nature of the jurisdictional function, as well as equitable conditions of competition and citizen participation.

### 3. Monitoring and evaluation of judicial reform.

Based on the experience of the 2008 criminal justice reform that implemented the accusatory, oral, and adversarial system in Mexico, it is necessary to monitor the implementation of the judicial reform to generate evidence on the changes in the functioning and performance of the judicial powers, in aspects such as judicial independence, institutional openness, judicial discipline, effectiveness in resolving cases, and the protection of the rights of the parties involved.



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