



Mexico's Reform Agenda and Opportunities for India

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President Enrique Peña Nieto, who formed the government in 2012, while addressing the central concern of the people which were economic development and the rise in violence, promised a government that would be accountable and transparent.

He decided to implement wide-ranging reforms to stimulate the economy after years of slow growth. At the core of these were reforms in energy, telecommunications, and economic, educational and political reforms. The legislation on reforms was under the “Pact for Mexico”; a national political agreement of the government with the major opposition parties. The Pact joined the PRI, PAN, and PRD in support of a 95-point agenda of policy reform. This Pact is a compromise formula to pass a set of initiatives, amendments and reforms to take effective actions required for Mexico to improve its socioeconomic political environment and it does not, in any way, eliminate the political differences and rivalries between the political parties.¹ The 95-point agenda ranges from tax overhauling to healthy food for students in schools. It has already helped in passing six major reforms: (1) reforms of the educational system; (2) legal reforms; (3) a telecommunications law that limits the quasi-monopolistic powers of the biggest companies; (4) a tax reform increasing the tax for increased social spending; (5) electoral reforms; and (6) energy reforms. In announcing the pact and working towards achieving its goals, the country gave the international community an example in non-partisan governance.

This paper would be an attempt to understand the success or failure of the reform process implemented by the Mexican government. It will also try to study if any opportunities are available for India in the sectors under reform.

Political Reforms

Political reforms are the binding factor of the reforms that Mexico is undertaking. The political class in Mexico has largely co-operated in pushing through the reforms, many of them requiring constitutional changes such as allowing foreign investment in Mexico's natural resources.

The areas of reforms are accountability of elected officials to various government bodies, governorships etc, and fixed tenure offices for government officials and elected representatives and a cap on election spending.

On February 10, 2014, a decree published in Mexico's federal gazette amended, added, and repealed many provisions of 31 articles of the Mexican Constitution that affect political-electoral matters. [DIARIO OFICIAL DE LA FEDERACIÓN (DOF) (Feb. 10, 2014).]ⁱⁱ

The Decree limited the term of the members of the Senate and Chamber of Deputies to twelve years, allowing them to stand for consecutive re-election every two years and three years respectivelyⁱⁱⁱ. This amendment will come into effect with the 2018 elections to the Congress. It allows the state legislators to be elected for four consecutive terms. It also allows the President to opt to form a government, with the support of one or more parties elected to the Congress. The amendment has also called on parties to bring gender parity in the nomination of candidates for federal and local elections. Independent candidates are also encouraged to fight elections for public office. Political parties now have to win three percent of the votes cast in the elections, as opposed to two percent, to be part of the federal Congress or to win the Presidency.

The Decree has established the National Electoral Institute (INE) as a public institution, with legal personality and its own assets. The INE will be the electoral authority, independent in its decisions and operations. The INE will be responsible for the organization of federal elections. In addition, it will take over, by agreement with the competent authorities of the states that so request, the organization of local elections, under the terms provided by applicable law.^{iv} The INE replaces the Federal Electoral Institute (IFE). This is perhaps the most important of all political reforms. Mexico is trying to strengthen its election councils, and create a national election institute, which would stop election fraud and interference in holding fair elections.^v The Mexican government is also implementing laws to check and limit financial spending in elections. The Decree states that the audit of the finances of the candidates would be the responsibility of the General Council of the IFE.

The Indian Election Commission is an independent body that oversees the conduct of elections throughout India. India is also one of the few countries in the world to hold paper ballot free elections by using electronic voting machines. Over the years, it has gained international admiration for conducting fair and free elections in a timely manner. The Election Commission of India and the United Nations Development Programme (UNDP) have signed a MoU for cooperation in election management, particularly for supporting elections and democratic process in other countries.^{vi} The Election Commission of India has similar MoUs with other countries such as Russian Federation, Chile etc including Mexico. The two countries could strengthen their MoU to improve voter education and participation in the electoral process along with technical development of the voting system.

Mexico has renamed its capital city, exchanging the name of "Federal District" (DF) for the name by which it is internationally known: Ciudad de México, or Mexico City. The name change was made official by President Peña Nieto on 29 January 2016^{vii} as part of a large-scale political reform, which moves Mexico City closer toward becoming a state with more autonomy. The

process is to devolve power from the federal government, allowing the city's mayor to name senior officials including the police chief. It also turns the capital's 16 boroughs into entities similar to municipalities, with their own mayors and councils. In February 2016, Mexico City published its own constitution which gives its state legislators from the Federal Chamber of Deputies.^{viii} The document, which will enter into force on September 17, 2018, comprises of 70 articles and 39 temporary articles, and establishes Mexico City as a federative entity and sets forth its structure, government and organization. The reform is being seen as the first step for Mexico City towards becoming a state in its own right and is part of the government's initiative to decentralise power. The Indian government has a similar special case in the National Capital Region of Delhi, which has both state and federal jurisdiction over its administration.

Energy Reforms

The Mexican government approved amendments to a number of provisions on energy in the country's Constitution. [Decree that Amends Provisions of Mexico's Constitution Concerning Energy], DIARIO OFICIAL DE LA FEDERACIÓN (Dec. 20, 2013)^{ix}.

Mexico is trying to change the country's legal structure to permit foreign companies to invest in the production and exploration of oil and gas. The new agencies are being proposed and old agencies are being streamlined to make transformation possible.

Mexico is trying to eliminate the control of overlapping government bodies over the energy sector. Mexico has been able to take advantage of the "best practices" of other countries in constructing this new system. The Round Zero process, for example, by which Petróleos Mexicanos (Pemex) was awarded productive acreage, followed the Colombian model. The process refers to a three-month period in which Pemex, the state owned oil company, will have to choose which assets it wishes to keep for itself and which ones will come under the administration of the Mexican state. The latter would then be subjected to an open bidding process. The concept of the creation of the Petroleum Fund for Stabilization and Development, as a means of receiving, managing, investing, and distributing revenues from entitlements to Pemex and income from the new E&P contracts was derived from Norway. Under the new reforms, Mexico allowed bids on a dozen oilfields by private companies for the first time in more than 75 years. Besides being able to bid for oil and gas fields and to build electricity-generating plants, private firms would be free to invest in pipelines, ports and other infrastructure projects that a cash-strapped Pemex has been unable to start.^x It is hoped that the reforms would attract capital, and profits from the sector could be used to further boost the economy. Also, pursuant to the amendment, private investments will be allowed in oil refining and in the transportation, storage, and distribution of oil, natural gas, gasoline, and diesel fuel. Private companies will be allowed to participate in the generation and commercialization of electric energy as well.^{xi}

The reforms have been unable to achieve their desired effect primarily as a result of the dip in oil prices. For the moment, oil companies are not keen to invest in new oil fields or related infrastructure. The Mexican government has stated that, despite the low oil price (oil prices at about US \$ 50 per barrel^{xii}) it would continue with the reform process for long term benefits.

The energy reforms of Mexico are of interest for India, which has been importing Mexican crude oil regularly in recent years. Crude imports in 2016 totaled \$1.48 billion.^{xiii} India is Mexico's third largest market for oil after the US and Spain. As Mexico increases its production capacity, India can count on Mexico as a regular long-term source of supply for the future. The energy reforms in Mexico provide a window to transform the relationship from 'buyer-seller' to that of 'energy partnership'. The reforms open opportunities for Indian companies to invest in the Mexican oil sector, as they have done in Venezuela, Brazil and Colombia.^{xiv} It would allow India to diversify its energy imports away from West Asia. Violence in Iraq and Syria has posed challenges to oil supplies. India has made bids for oil and gas fields in Mexico and is likely to continue to explore the possibilities of acquiring oil and gas fields in collaborations with partners or alone, to augment its existing energy security policy. The cost of transporting from these countries is higher than from the Middle East, but India is in a position to buy cheaper heavy crude and refine it in its refineries. India could also negotiate for discounted prices for long term contacts. Private refiners such as RIL and Essar Oil have been processing heavier crude oil.^{xv} Currently, India buys Ecuadorian oil from the Chinese companies who buy in bulk and sell it in the market. India could explore a similar policy option.

In 2015, Mr Dharmendra Pradhan, the MoS for Petroleum and Natural Gas led an Indian delegation to Mexico to hold talks with his Mexican counterpart Mr. Pedro Joaquín Caldwell. He emphasised that India wants a long- term partnership with Mexico in the hydrocarbon sector. The two Ministers agreed to set up a Joint Working Group (JWG) on Hydrocarbon at the official level to identify concrete areas of cooperation in the oil and gas sector. (The JWG is yet to be set up).

ONGC Videsh has opened a office in Mexico City to pursue opportunities in the sector and also signed a MoU with Pemex. India could participate in the exploration and production activities in Mexico. India has emerged as a modern refining hub with expertise to develop complex refineries in the most cost effective manner. India wants a long-term partnership with Mexico in the hydrocarbon sector and the reforms in Mexico provide it with an opportunity to fulfil this goal.

Labour Reforms

In one of the biggest reforms in Mexico, the government in 2012 made changes in its labour laws, which were established in 1931^{xvi}. The reforms are aimed at making it easier for businesses to hire and dismiss workers, contemplate trial periods and training contracts for employees, better guidelines against child labour, regulate subcontracting or outsourcing, protect working women, and provide for hourly wages (as opposed to daily wages).^{xvii} Reforms have also been implemented in tax laws.

The reforms are being implemented with a view to working with the labour unions of Mexico. The country has a strong culture of labour unions that have a considerable influence on policy makers. India faces similar problems with its labour force, a large number of which is not employed in the organised sector and, thus, unable to claim any benefits. A large workforce in the

unorganised sector comprises of women, whose rights need to be protected; and where they form part of the organised sector, their pay parity has to be addressed.

The labour market reforms in Mexico, which involve modernising the outdated employment code, introducing hourly pay and reducing the scale of the black market economy – are expected to increase economic growth for Mexico by 0.3 percentage points per year in the next five to six years (2015-2021). The government has said that, the labour reforms would generate an additional 400,000 jobs a year on top of those already being created. This will, in the long term, help cut the net migration of workers from Mexico to the US^{xviii}.

On 13 October 2016, the Mexican Senate unanimously approved an initiative that amends Articles 107 and 123 of the Mexican Constitution, paving the way for a significant advance for workers in the country. The proposed reforms would eliminate the so-called tripartite conciliation and arbitration boards (Juntas de Conciliación y Arbitraje) and transfer their legal functions to the judicial branch. It means that labour justice is no longer directly in the hands of the President of the Republic, Governors and the employer-dominated unions. The call to dissolve the conciliation and arbitration boards and establish independent labour tribunals has been a core demand of Mexican labour unions and the international trade union movement for decades.^{xix}

There are many such issues that Indian labour reforms need to address and Mexico can be an example to study. India can look at Mexico for effective means to negotiate labour reforms, despite the strong presence of unions and while safeguarding the interest of the workers and the industry. The Government of India has made proposals for amendment of the Industrial Disputes Act, 1947, for easier retrenchment and closure norms for firms with up to 300 workers, while ensuring that employees get higher compensation in return. The government, in 2017, approved the Labour Code on Wages Bill which ensured a minimum wage across all sectors by integrating existing labour laws related to wages. The changes are part of an overall proposal to codify the central labour law, reduce ambiguity while offering flexibility in operations to smaller companies, better compensation for the retrenched, a more representative character for trade unions, and a new framework for minimum wages.

Doing away with a large number of over-lapping laws would be beneficial to both the industry and the labour force. The labour reforms in Mexico have been a landmark, but they have yet to include measures that force unions to hold elections through secret ballot and abolish child labour in all forms. In this, Mexico and India share the view that children under 14 years, for example, cannot legally work for an employer who is not a close relative.

India and Mexico are countries that are emerging as strong centres of diplomatic and economic power. Mexico is the top destination for Indian exports to Latin America. The difficulty behind the promotion of trade between the two nations is geographical distance, lack of direct shipping facilities, expensive credit, language barrier and absence of interest among Indian companies to explore long-term linkages. These are areas in which both countries need to focus their attention while ensuring the workers get their due for contributing to this relationship.

Education Reforms

Education reforms are an important point in the reform agenda of President Peña Nieto. In 2013, the Mexican Senate passed the education reform bill. It calls for the standardisation of the test based system to hire teachers, especially for the primary school system. The reforms were with a view to stop the system of sale and inheritance of teaching jobs in the education sector. The changes made to Articles 3 and 73 of the Constitution had at its core the proper evaluation of teachers. Among other things, the bill created a new independent body called the Instituto Nacional para la Evaluación de la Educación (National Institute for the Evaluation of Education) to periodically evaluate teachers, while the Secretariat of Public Education (SEP) is responsible for designing, organizing and implementing teaching curriculums. In addition to teacher evaluations, the reform package included the creation of a merit-based pay and promotion system, tests for new teachers entering the field, and more federal oversight.^{xx}

The reforms were implemented with a view to end the monopoly of the National Union of Education Workers (SNTE), the largest teachers union in Mexico and other smaller unions from controlling and interfering in all major education programmes.

The reforms were met with widespread call for strike by the teachers union, that turned violent at times. While the strike has dissipated, the reforms have yet to bring the desired results. The lack of resources has meant that the federal government has not been able to implement the proposed changes in full, allowing the state governments to fill in the gaps with their guidelines, to fulfil the reform agenda. There is also a need to improve both teaching quality and the teaching curriculum. Teachers need periodic training and like all other government departments, there is need for transparency and accountability in education funding. However, to pass judgement and call the education reforms a failure would be too soon. The reform in this sector would take time and its results would only be visible after a few years as the students move forward in the system.

In further improving the sector, Mexico wants to establish communication networks between scientific communities in fields, such as electronics, seismology, and the use of energy, water and the environment. Mexico wants to collaborate in the school education sector as well, especially as it finds itself facing a shortage of qualified school teachers and staff to train/ conduct refresher courses. In higher education collaborations, it wants to encourage more Indian students and professors to visit its universities and vice-versa. A joint fellowship/scholarship programme between India and Mexico could be proposed, which could highlight interactions between the two countries and expand upon the educational exchange programme already existing between the two nations.

Telecommunication Reforms

Mexican government has signed a constitutional amendment that has transformed the government's role in telecommunications and expanded its power to curtail media monopolies. In 2014, President Peña Nieto signed new rules for the telecommunications and broadcasting industries, which allow more competition in the sector. It gives the the Instituto Federal de Telecomunicaciones (Federal Telecommunications Institute—IFETEL), a new regulatory autonomous body formed by seven regulators, the power to revoke operating licenses for

monopolistic practices and to stop companies from controlling more than 50% of market share. IFETEL's mandate is to guarantee economic competition and content plurality and to encourage universal coverage, convergence, quality and, importantly, access. It has the authority to sanction or even split up companies engaged in monopolistic practices, and to establish ad hoc restrictions to minimize undue market advantages for dominant players in the industry, defined as companies that capture 50 per cent market share through their number of users, capacity or network infrastructure. Unlike the existing Comisión Federal de Telecomunicaciones (Federal Communications Commission—COFETEL), IFETEL is to be independent from the executive and legislative branches, and will function as the telecom sector's exclusive anti-trust agency.^{xxi}

The telecom reform also mandates that the federal government set up a non-profit, public service broadcast company to provide objective information and to broadcast independently produced content. It will be governed by a director advised by a citizens' council, both of which are to be appointed by the Senate. In addition, the government will build a backbone network to ensure equal access for all carriers. These reforms are embedded in Article 6 of the Constitution, which establishes the right to free speech ensuring divergent views to be broadcast.^{xxii}

The reforms have lowered service charges and it is being stated that the effects of the reforms should be visible from 2020. However, critics point out that the reforms have been unable to end the monopoly of America Movil, a Mexican telecom company, which continues to dominate the wireless and landline market in Mexico. They point to the fact that the regulatory authorities have not been able to take adequate and effective steps to curtail this monopoly.

India's telecommunication revolution is an on-going process. India's Telecom Regulatory body, the Telecom Regulatory Authority of India (TRAI), has been successful in developing conditions for growth of telecommunications in the country. India can lend its knowledge in developing transparent policy environment which promotes a level playing field and facilitates fair competition. The entry of private service providers brought with it the inevitable need for independent regulation. The TRAI was, thus, established with effect from 20th February 1997 by an Act of Parliament, called the Telecom Regulatory Authority of India Act, 1997, to regulate telecom services, including fixation/revision of tariffs for telecom services. TRAI has issued from time to time a large number of regulations, orders and directives to deal with issues coming before it and provided the required direction to the evolution of Indian telecom market from a government owned monopoly to a multi operator multi service open competitive market.^{xxiii} On the recent debate on net neutrality, the TRAI's actions to promote net neutrality were followed by other nations such as the United States to ensure an open internet for the consumers. The TRAI is working towards building an equal opportunity space for all broadcasters in television and telecommunication.

Conclusion

President Peña Nieto's election campaign had called for 'Mexico: The Great Hope'. The slogan and the manifesto had found resonance among the people who wanted change and better governance. However, in the present times, President Peña Nieto faces an increasing opposition. The government has had to confront protests against a hike in oil prices, teachers' strikes, and public

disapproval of his handling of President Trump's statements on Mexico. Currently, President Peña Nieto has an approval rating of about twelve percent as opposed to close to fifty four percent when he was elected in December 2012. There is also little electoral support for the PRI party at a time when Presidential elections are to be held in 2018.

Critics also point out that President Peña Nieto has sidelined some important reforms such as the need for a universal social security system which was to be financed by general tax revenues. It was to help improve job productivity and security while adding to economic growth. Reforms in this sector have yet to be announced, and it is likely that the new government (elected in 2018) would take up the issue.

Reforms to the criminal justice system have also not been uniform. The gap between the state and federal agencies, to coordinate with the various institutions of the justice system, has meant that, states and federal districts have been able to partially implement some rules and not others. This has further affected the success of the reforms. The rise in crime and homicides has been blamed on the failed reform process. The death and subsequent poor investigation of forty three university students has further tarnished the image of President Peña Nieto.

While critics are unhappy at the pace of reforms, to say that the reforms have failed would be to arrive at an early conclusion. The results of the process would be visible in a few years.

There are both opportunities and lessons for India in the reform process underway in Mexico. The two countries have a lot in common. They are both growing economies bordered by powerful States, important nations in their respective regions, fighting economic problems while trying to be the bridge between the developed and the developing countries. India can lay the foundations of its better relations with the countries of South America by actively engaging with Mexico, which is part of the multilateral process in the region. Mexico is further strengthening its relations with the region in an effort to reduce its dependency on the United States.

Mexico is the gateway to both North and South America and it would be in India's advantage to be able to enter the vast markets of both regions by establishing manufacturing hubs in Mexico. To this effect India has to negotiate fair investment terms for its business that would like to set up units in Mexico. As India develops, it would need to secure assured supply of energy resources. Mexican reforms in this sector provide India with an opportunity to negotiate oil and gas exploration agreements with Mexico as well as long term energy supply. Mexico is stressing on the need to develop renewable sources of energy. This is another area of future cooperation between the two countries.

Mexico can engage with India to further enhance its presence in the region. With an eye toward expanding its international relations and diversifying trade initiatives, President Peña Nieto took part in the BRICS summit in China. It allows India and Mexico to come together to expand their dialogue on economic development, south-south cooperation, promoting connectivity and trade, and ways to eradicate poverty.

India and Mexico share political, economic and cultural ties and together they can play an increasingly important role in the reform process of various international bodies. Since 2007 the

two nations have established a ‘privileged partnership’ to strengthen socio-economic and political relations between the two nations. The cooperation could not only strengthen south- south cooperation, but could also deepen mutual understanding, building bilateral trade and all-round cooperation.

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Disclaimer: Views expressed are of author and do not reflect the views of the Council.

End Notes

ⁱ “Pacto Por México (Pact for Mexico)”, <http://editorial.opentoexport.com/wp-content/uploads/2013/01/Pacto-por-M%C3%A9xico-English-version-NHG.pdf>, Accessed on 24 August 2017.)

ⁱⁱ The Decree is available at http://dof.gob.mx/nota_detalle.php?codigo=5332025&fecha=10/02/2014

ⁱⁱⁱ The legislative branch is divided into an upper house, the Senate, and a lower house, the Chamber of Deputies. Senators serve six-year terms and deputies three-year terms.

^{iv} Norma Gutierrez, Global Legal Monitor, Library of Congress, Mexico: President Promulgates Electoral Political Reform,” <http://www.loc.gov/law/foreign-news/article/mexico-president-promulgates-electoral-political-reform/>, Accessed on 24 August 2017.

^v Duncan Woods, “A Look at Mexico’s Political Reform – The Expert Take”, <http://www.wilsoncenter.org/article/look-mexico%E2%80%99s-political-reform-the-expert-take>, Accessed on 23 August 2017.

^{vi} UNDP, “Election Commission of India and United Nations Development Programme Sign MoU to Support Electoral and Democratic Practices,” <http://www.in.undp.org/content/india/en/home/presscenter/pressreleases/2012/10/11/undp-sign-mou-on-electoral-management.html>, Accessed on 29 August 2017.

^{vii} Decree available at http://www.dof.gob.mx/avisos/2480/SG_290116_vesp/SG_290116_vesp.html

^{viii} It constitution follow the model of the federal constitution in providing for three independent branches of government— legislative, executive, and judicial. Most states have a unicameral legislature called the Chamber of Deputies, whose members serve three-year terms. Governors are popularly elected to six-year terms.

^{ix} Decree available at http://www.diputados.gob.mx/LeyesBiblio/ref/dof/CPEUM_ref_212_20dic13.pdf

^x Nicolas Borda, “Energy Reform In Mexico: Navigating New Mexican Energy Laws Will Be Challenging”, <http://www.ogfj.com/articles/print/volume-12/issue-1/features/energy-reform-in-mexico.html>, Accessed on 23 August 2017.

^{xi} Gustavo Guerra, Global Legal Monitor, Library of Congress, “Mexico: Constitutional Amendment on Energy,” <http://www.loc.gov/law/foreign-news/article/mexico-constitutional-amendment-on-energy/>, Accessed on 24 August 2017.

^{xii} OPEC, “OPEC daily basket price stood at \$49.76 a barrel Thursday, 24 August 2017,” http://www.opec.org/opec_web/en/4017.htm, Accessed on 25 August 2017.

^{xiii} R.Vishwanathan, “Let’s Do Tango with Mexico,” <http://www.thehindubusinessline.com/opinion/india-and-mexico-business-partnership/article9601803.ece>, Accessed on 24 August 2017.

^{xiv} R. Vishwanathan, “Mexico Holds Mirror to India”, <http://www.livemint.com/Opinion/lZq3hZzTjtK6D5UFIEFO/O/Mexico-holds-a-mirror-to-India.html>, Accessed on 24 August 2017.

^{xv} ---“Africa, Latin America New Sources Of Crude For India”, Indian Express, <http://indianexpress.com/article/business/companies/africa-latin-america-new-sources-of-crude-for-india/#sthash.6EGb6Jr2.dpuf>, Accessed on 24 August 2017

^{xvi} The reform, were introduced by outgoing President Felipe Calderón of the centre-right National Action party (PAN). They were approved barely a month after President Enrique Peña Nieto came to power.

^{xvii} Stephen Johnson and Alek Suni, “Mexican Labor Reforms—What Do They Mean?”, Centre for Strategic and International Studies, (Washington DC, 2012), pp 02-03, http://csis.org/files/publication/121217_SJohnson_MexicoLaborReform_HemFocus.pdf, Accessed on 24 August 2017.

^{xviii} Ibid

^{xix} ---, “Mexican Senate approves labour law reforms,” <http://www.industriall-union.org/mexican-senate-approves-labour-law-reforms-o>, Accessed on 24 August 2017.

^{xx} Grogertown Public Policy Preview, “Mexico’s Education Reforms: What Went Wrong?” <http://gppreview.com/2016/03/10/mexicos-education-reform-what-went-wrong/>, Accessed on 25 August 2017.

^{xxi} Alejandro Madrazo, “Telecommunications: Mexico’s New Reform”, <http://www.americasquarterly.org/content/telecommunications-mexicos-new-reform>, Accessed on 23 August 2017.

^{xxii} Ibid

^{xxiii} Telecom Regulatory Authority of India, “History,” <http://www.trai.gov.in/about-us/history>, Accessed on 29 August 2017.