

**Toward the Reorganization and Consolidation of the Text of the
Constitution of the United Mexican States of 1917.
Introductory Essay***

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I. Preamble

The purpose of this essay is to examine the possibility, the conditions and the methodology for a technical and juridical revision of the current text of the Political Constitution of the United Mexican States (hereafter referred to as the “PCUMS” or “the Constitution”) by rearranging and consolidating it.

The starting point of the study is the premise that, while the Constitution has been significantly updated and modernized, such that its current text already incorporates the principal elements and institutions of contemporary constitutionalism, it is also true that the continuous reforms and additions that it has undergone have resulted in a text that is increasingly longer and disorganized, unsystematic and neglected from a technical point of view. As a result, it is evident that the current dynamics of amending the constitutional text has reached its limits; thus, it is imperative to find other options that would give it stability and viability.

* Paper to be presented at the international seminar “Cambio y eficacia constitucionales: El caso del hiper-reformismo mexicano”, to be held at the Institute of Legal Research (UNAM) on November 20, 2015. English translation by Cindy Hawes Revision by Héctor Fix-Fierro.

The authors express their gratitude to, Eduardo Ferrer MacGregor, Daniel Gómez Márquez, Andrea Pozas, Pedro Salazar and José María Serna de la Garza, for their helpful comments to this project.

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In view of the preceding remarks, this study explains and justifies a revision of the constitutional text that, without affecting the political decisions that it incorporates or its legal expression, will restore its formal and technical qualities, allowing a better understanding and management of the Constitution, which, in turn, should result in a more solid and stable constitutional culture. The approaching centennial of the Constitution of 1917 provides a welcome opportunity to undertake this ambitious project.

This study is divided into four sections. The first (II., *infra*) offers a brief description of the dynamics of reforms to the PCUMS text up to the present. The second (III., *infra*) presents a synthesized diagnosis of the problems and defects existing in the text now in force. The third (IV., *infra*) describes the methodology that is proposed for the reorganization and consolidation of the new constitutional text. The fourth (V., *infra*) explains a proposal that is designed to be a part of the effort to reorganize and consolidate the constitutional text: the creation of a Constitutional Development Law (hereinafter CDL) that can incorporate many of the regulatory-type provisions that are now in the PCUMS and which are the ones that most frequently have been changed in their content and length. While this appears to be an innovative mechanism, it is not without precedent in our own constitutional history and has also been widely employed in various countries.

II. The Dynamics of Constitutional Reform in Mexico

Beginning in 1921, when the first modification was made, and through July 10, 2015, the text of the PCUMS has undergone 642 changes through 225 constitutional reform decrees.¹ The table below summarizes the number of changes to the constitutional text, showing the number per each administration up through the date given.² The table also reflects the relative percentage of changes per period of government, the number of decrees issued within each period, and the length, in words, of the constitutional text at the end of each of the periods, beginning in 1970:

¹ There are several ways to estimate the number of changes to the constitutional text (reforms and additions). In this study a reform (or addition) is counted in terms of the changes to *one* constitutional article by way of *one* reform decree; that is, a decree can contain several modifications to a single article that are counted as *one single reform*. It is the same way of counting that is used on the website of the Chamber of Deputies of the Mexican Congress: <<http://www.diputados.gob.mx>>.

² This does not mean that all reforms have been proposed by the President, or that all have been published during the proponent's term of office, but given that the President has been and remains a major actor in the constitutional reform dynamics, it is appropriate to set the time period in that way.

Table 1
Constitutional reforms per administration
(1921-July 10, 2015)

President	Period	Reforms	(%)	Decree s	Length (words)	Differen ce (words)
Álvaro Obregón	1920-1924	8	1.2	2		
Plutarco Elías Calles	1924-1928	18	2.8	5		
Emilio Portes Gil Pascual Ortiz Rubio Abelardo Rodríguez	1928-1934	28	4.4	12		
Lázaro Cárdenas	1934-1940	15	2.3	10		
Manuel Ávila Camacho	1940-1946	18	2.8	10		
Miguel Alemán	1946-1952	20	3.1	13		
Adolfo Ruiz Cortines	1952-1958	2	0.3	1		
Adolfo López Mateos	1958-1964	11	1.7	9		
Gustavo Díaz Ordaz	1964-1970	19	3.0	8	27,638	
Luis Echeverría	1970-1976	40	6.2	14	28,532	+ 864
José López Portillo	1976-1982	34	5.3	14	29,938	+ 1,406
Miguel de la Madrid	1982-1988	66	10.3	19	34,916	+ 4,978
Carlos Salinas de Gortari	1988-1994	55	8.6	15	36,856	+ 1,940
Ernesto Zedillo	1994-2000	77	12.0	18	42,802	+ 5,946

Vicente Fox	2000-2006	31	4.8	17	45,365	+ 2,653
Felipe Calderón	2006-2012	110	17.2	38	54,815	+ 9,450
Enrique Peña Nieto	2012-2015	90	14.0	20	66,073	+ 11,258
Total		642	100.0	225		

SOURCE: Figures prepared with data from Mexico's Chamber of Deputies: <http://www.diputados.gob.mx>.

NOTE: Each six-year term begins on the 1st of December of one year and ends on the 30th of November of the sixth year. The column on "length" refers to the length of the articles of the constitutional text, measured in words, at the end of the corresponding period and does not include the preamble or the transitory articles.

As can be easily seen in Table 1, the rate of reforms accelerates considerably in the latter administrations. However, it is 1982, when the De la Madrid presidency begins, that can be considered the turning point, because that is the beginning of a reform process that lasts until the present and in which there is an important renovation of existing institutions and the creation of many others that modernize and update our constitutional set of laws. In general terms, the changes have pointed toward strengthening the Legislative and Judicial branches *vis-à-vis* the Executive, the rights of citizens and the means for their protection, as well as the mechanisms for governmental accountability and for the responsibility of public officials. In particular, the Constitution has been reformed in the following areas:

- Judicial review of legislation
- Autonomy of municipalities
- Electoral and representative system (federal and local)
- Fundamental rights, individual as well as social, and instruments of protection
- Rights and autonomy of indigenous peoples
- Agrarian property and justice
- Transparency and access to governmental information

- Criminal justice and public security
- Budget, control of public expenditures and accountability
- Relations between the State and the churches and religious communities
- Judicial independence and governance
- National development and democratic planning
- Energy resources and productive State enterprises

Within the framework of these reforms, new institutions have been introduced and many existing institutions have been intensively reformed:³

- Creation of the “autonomous constitutional bodies,” such as the National Human Rights Commission (1992-1999), the Bank of Mexico (1993), the National Electoral Institute (1996-2007-2014), the National Institute of Statistics and Geography (2005), the National Institute for the Evaluation of Education, the Federal Economic Competition Commission, the Federal Telecommunications Institute, the National Council for Evaluation of Social Development Policy (2013), and the Federal Institute for Access to Information and Protection of Personal Data (2014).
- New composition of the Supreme Court of Justice of the Nation and expansion and specialization of its powers of constitutional control (1987-1994-1996-1999).
- Creation of the Federal Judicial Council as a the body charged with the administration and governance of the Federal Judiciary (1995-1999).
- Creation of the Superior Audit Office as an entity of the Chamber of Deputies of the Mexican Congress with technical autonomy for the auditing and performance evaluation of public authorities (1999-2009-2015).
- Creation of the federal electoral jurisdiction (1987-1990-1993-1996-2007).
- Creation of the agrarian tribunals (1992).
- Creation of a specialized juvenile jurisdiction (2005-2015).

³ The numbers in parentheses indicate the year of creation or of reform.

- Recognition and constitutional regulation of the agencies for the protection of human rights, for electoral matters, and for transparency and public access to public government information (1992-1996-2007-2014).

This change in direction that began in 1982 is also reflected in the quantitative data. Almost two thirds (66.9 percent) of the modifications and more than half (56.4 percent) of the decrees have been passed after December 1982. The new dynamics is also reflected in the growth of the constitutional text, as measured by the number of words. The original text of the 1917 Constitution contained around 21 thousand words.⁴ In 1982, 65 years later, at the end of the administration of President López Portillo, the text had grown by 42.6 percent, reaching nearly 30 thousand words. With President De la Madrid, a much faster expansion begins as a result of a more intense constitutional modernization, which becomes brisk with Presidents Calderón and Peña Nieto. During the Calderón and Peña Nieto administrations the text increases by more than 20 thousand words, a number nearly equal to the length of the original document. In sum: up to July 10, 2015 the current text of our Constitution contained more than *three times* the number of words in the Constitution enacted on February 5, 1917.

It could be argued that the length, by itself, is not really a problem. Comparative law can point to numerous examples of very long constitutions. The most obvious is India's Constitution, which has more than 100 thousand words,⁵ and scholars also mention the 1921 Constitution of the State of Louisiana, which once reached more than 250 thousand words until it was replaced in 1974.⁶ Recent constitutions in some Latin American countries such as Brazil (1988), Colombia (1991), Venezuela (1999), Ecuador (2008) and Bolivia (2009) are fairly long texts, with lengths between 40 and 50 thousand words. According to some scholars, these constitutions represent a "new Latin American

⁴ This number does not include the preamble or the transitory articles.

⁵ According to data from the English version of *Wikisource*, the Constitution of India is the world's longest, containing 395 articles, 12 schedules and 117,369 words. See "Constitution of India" at http://en.wikisource/wiki/Constitution_of_India (accessed April 29, 2015). The absolute record seems to belong to the Constitution of the State of Alabama, which is reportedly more than 340 thousand words long.

⁶ See Tarr, G. Alan, *Comprendiendo las constituciones estatales*, translation by Daniel A. Barceló Rojas, Mexico, UNAM, 2009, p. 14. Professor Tarr notes that while the federal Constitution of the United States has a short length and has been reformed on rare occasions, the state constitutions are lengthy and are amended and replaced frequently, which makes them very similar to Latin American constitutions.

constitutionalism". A salient feature of these constitutions is precisely their very extensive and detailed texts, the purpose being that the people, in exercise of their constituent power, spell out clearly all the rules that the constituted powers, including constitutional judges, must strictly follow.⁷

Regardless of whether the arguments supporting a lengthy and detailed constitutional text are or are not persuasive, the problem of the 1917 Constitution lies more, as was already pointed out, in the lack of order and system of the present text. However, one has to consider also and above all that the accelerated dynamics of constitutional reform is not subsiding, so it is very likely that forthcoming changes will add to the current length of the constitutional text. Nothing suggests, therefore, that constitutional reform will stop in the near future. In contrast with past periods, when constitutional reform was substantially a product of the more or less unilateral decision of the President, at present it is political parties who dominate the constitutional amendment process. They have strong incentives for including their political agreements to the last detail in the constitutional text, in order to put them beyond the reach of ordinary legislation, as well as outside the scope of judicial review. Nevertheless, these agreements are not always permanent, but are subject to revision in generally shorter periods, as is well illustrated by the electoral system.

The solution to this problem is not, of course, to keep political forces from reaching agreements, which is one of the central, everyday elements of any democracy, nor is it to prevent them from designing legal rules that provide the political process with certainty and stability. Moreover, the more or less detailed inclusion of political agreements in a constitutional text is one of the factors that contribute to the longevity of a Constitution.⁸ Therefore, the issue here is about finding a mechanism to achieve these same results but without such frequent changes to the text of the Constitution and without the risk of altering the constitutional foundations of public institutions. This would be achieved by coordinating the reorganized and consolidated text of the Constitution with a Constitutional Development Law (CDL) that could be revised and updated as frequently as required by

⁷ See Viciano Pastor, Roberto, and Ruben Martinez Dalmau, *¿Se puede hablar de un nuevo constitucionalismo latinoamericano como corriente doctrinal sistematizada?* Paper presented at the VIII World Congress of Constitutional Law, Mexico, December 6-10, 2010, available at <http://www.juridicas.unam.mx/wccl/ponencias/13/245.pdf>, accessed August 22, 2013.

⁸ See Elkins, Zachary, Tom Ginsburg and James Melton, *The Endurance of National Constitutions*, Cambridge-New York, Cambridge University Press, 2009.

political circumstances within the framework of basic decisions already found in the Fundamental Law.⁹

Lastly, it is worth noting that an exercise of technical revision and consolidation of constitutional texts has numerous precedents in comparative constitutional law. Among the most significant of recent years, one can cite the Constitution of the Swiss Confederation (Switzerland) of 1999-2000, which was the result of a review process that lasted several years, with purposes and methods similar to those explained here. In 1987, the Federal Parliament instructed the Federal Government to develop an updated constitutional text subject to the following guidelines: “The project will update the existing constitutional law, written and unwritten; it will present it in a comprehensible manner; it will systematically organize it, and it will unify the language and regulatory density of the individualized precepts.”¹⁰ The novelty of our proposal is in the joining of the revised constitutional text with a law or laws on constitutional development.

III. A Brief Analysis of the Current Constitutional Text

This section describes, with no intent of being exhaustive, some of the *formal and technical* defects that the on-going reform process has introduced in the operative constitutional text. As stated earlier, the reforms and additions have caused a noticeable disorder and lack of a technique and systematic quality in the topics that are regulated in the various constitutional articles. In most cases the errors are not serious and they could be corrected through interpretation, but the creation of a revised text should correct both serious and less serious errors. Some of these defects and errors are described here:

⁹ Not addressed here is another option that for years has been proposed by one side of the Mexican doctrine, which is the adoption of a new constitutional text. As to the reasons working against this possibility, see Fix-Fierro, Héctor, “Hacia el centenario de la Constitución mexicana de 1917. Una reflexión a propósito de reformas, textos, modelos y culturas constitucionales,” in Carbonell, Miguel, Héctor Fix-Fierro, Luis Raúl González Pérez and Diego Valadés (eds.), *Estado constitucional, derechos humanos, justicia y vida universitaria. Estudios en homenaje a Jorge Carpizo*, Mexico, UNAM, 2015, Tome IV, Vol. 1, pp. 702 and following.

¹⁰ Koller, Heinrich and Giovanni Biaggini, “La nueva Constitución Federal suiza. Una visión general de las novedades y los aspectos más destacados,” *Teoría y Realidad Constitucional*, Madrid, Nos. 10-11, 2002-2003, p. 612.

1. *Duplicated provisions*

Duplicated provisions are incorporated in various parts of the constitutional text. That is, they are repeated in other parts of the Constitution. For example, among the requirements to hold various public posts, such as that of a federal deputy or President of the Republic, the restriction that a person cannot be a minister of any religious creed is restated, while the text of Article 130 already establishes, in a general way, that ministers of religious creeds cannot occupy public posts, including those filled by popular election, unless they resign from the clergy within the five-year period prescribed by the law. It is clear that the general provision in Article 130 and a systematic understanding of the constitutional text would suffice to resolve this matter, even though the restatement of this requirement in other provisions could be explained by both historical reasons and a lack of systematic elaboration within the amending process.

2. *Variable and inconsistent use of terminology*

In this section one can mention, for example, that the constitutional text uses both the concept of “human rights” (Article 1) as well as that of “fundamental rights” (for example, Article 18), although they are not equivalent.¹¹ Likewise, one can contrast the advanced terminology regarding human rights that is employed in Article 1, as a result of the June 2011 reform, with many of the rights consecrated in Title One, which continue to use archaic expressions from the 19th century and the early 20th century. Moreover, there are provisions that use terms that are understood in the historical context of their inclusion in the constitutional text, but which are inappropriate today. Thus, Article 11 refers to the limitations in the liberty of travel that can be imposed on “pernicious foreigners who reside in the country,” something that was understandable in the nationalist and xenophobic environment of 1917, but improper in a contemporary constitutional text.

¹¹ Until 2011, these two concepts used to coexist with the traditional term of “individual guarantees,” which was deemed inappropriate because in contemporary thinking the concept of “guarantee” is applicable to instruments, particularly procedural ones, which assure the effectiveness of rights, not to the degree to which they are recognized. The 2011 constitutional reform regarding human rights changed the name of Chapter One of Title One of the Constitution to “Of Human Rights and Their Guarantees,” which did not fully eliminate the confusion between these concepts.

3. *Disparity in the scope and depth of constitutional provisions*

A noticeable defect in the constitutional text is the inconsistency, due to excess or error, in the regulation of several institutions, even those of a similar nature. One can find notable differences in the scope and depth of constitutional provisions regarding the so-called “autonomous constitutional bodies” (for example, compare the regulation of the Bank of Mexico with that of the new Federal Institute of Telecommunications, both in Article 28), but also in those of the different jurisdictional branches provided for in the Constitution. While the composition, jurisdiction and functions of the Electoral Court of the Federal Judiciary take up a whole article (Article 99) that runs to more than a thousand words in length, the provisions on labor tribunals (Article 123, section A) or military courts (Article 13) cover only a few lines. This is but a reflection of the different periods when these provisions were introduced. The Conciliation and Arbitration Boards are a creation of the Constituent Congress of 1917; the provision regarding the military courts originates in both the Constitution of 1857 and in the original text of 1917, while the current Article 99 is a result of the reforms – agreed to by the national political parties – in 1996, 2007 and 2014.

4. *Disorder and lack of system in subjects regulated by the constitutional articles*

Ideally, each constitutional article should address a subject matter in an orderly and complete manner. Although in each reform the intent has been to incorporate the additions in similar articles, the *set* of modifications does not abide by such logic, such that, just as there are articles that encompass disparate topics (for example, Article 94 regarding the integration of the Federal Judiciary), there are others that break up common subjects that could be grouped in a single article (for example, Article 57, regarding alternates for Senate seats, with a length of two lines, could be incorporated to Article 56, which refers to the composition of the Senate). It bears repeating that this defect is a result of the *accumulation* of modifications up until now, and in none of them has the decision been made to revise the constitutional text *as a whole*.

Following are two more examples of the problems. Article 41, with 63 words in the original 1917 text, is now the longest article in the Constitution, with more than 4 thousand words, and it contains at least three topics that could and should be regulated in different provisions: elections and electoral campaigns; electoral institutes and their functions, and the constitutional set of rules applicable to political parties. The second example is that of Article 18, which substantially regulates the penitentiary system, but to which the justice system for adolescents has been added. This is ironical if not contradictory, because the special justice system designed for adolescents in fact seeks to keep them from coming into contact with the ordinary penal system. In this case, there was not even any attempt to try to separate the two topics into different sections.

5. *Deficient placement of constitutional provisions*

Another noticeable defect in the constitutional text is the presence of provisions that are not only poorly placed within an article or a section, but are also misplaced in the chapter or even the title to which they were assigned. The best example of this is constitutional Article 102, which regulates the Federal Attorney General and the Public Prosecutor's Office (section A), as well as the ombudsmen for human rights (section B). Neither section, particularly the first one, seems to be appropriately located in the chapter regarding the Federal Judiciary.

In the case of the Federal Attorney General and the Public Prosecutor's Office, there is a historical reason for their placement in that article: that office was part of the Judiciary during all of the 19th century, but a reform in 1900 moved it to the Executive branch, following the French model. The error was not corrected in the 1917 Constitution. As for the ombudsmen for human rights, their placement in this article is not completely misguided because of their quasi-judicial nature, but it is not optimal either.

It is worth noting that Title One, Chapter One of the Constitution, which contains the declaration of human rights that is known as the "dogmatic part," includes numerous provisions of the "organic" type that belong traditionally to the second part of the Constitution, for it contains the regulations that govern various autonomous agencies, including the National Institute for the Evaluation of Education, the National Institute for

Access to Public Information and Protection of Personal Data, the National Institute of Statistics and Geography, the Bank of Mexico, the Federal Commission on Economic Competition, and the Federal Telecommunications Institute. Although some of these bodies are conceived of as “guarantors” or protectors of some human rights, a better constitutional technique would place them in other constitutional sections.

6. *Updating errors*

Occasionally, the changes in the constitutional text have not always been carefully updated across all the significant provisions. Thus, for example, one can still find in the current text the phrase “Head of the Federal District” (Articles 73, section VIII, and 76, section IX), when the correct wording is “Head of Government of the Federal District.” Likewise, “Assembly of Representatives of the Federal District” (Articles 73, section VIII, and 105, section II, subsection e), which now is titled “Legislative Assembly of the Federal District.” These are not mistakes with major consequences, but they indicate a lack of care in the process of constitutional amendment.

7. *Regulatory articles*

Perhaps the most obvious problem in the constitutional text is the constant increase in its length, as has been documented in the previous section, reaching dimensions of provisions that are, strictly speaking, regulations. In this regard, some articles that are especially noticeable can be singled out, although they are not the only ones: Articles 2 (rights of indigenous peoples), 3 (education), 16 (due process of law), 20 (criminal procedure), 27 (authority of the nation over natural resources and agrarian property), 28 (central bank, strategic economic sectors, economic competition, and telecommunications), 41 (political parties, electoral institutions and processes), 79 (government’s auditing), 99 (Electoral Court of the Federal Judiciary), 105 (constitutional controversies and actions of unconstitutionality), 107 (*amparo* suit), 115 (municipalities), 116 (organization of the States), 122 (Federal District), and 123 (workers’ rights).

These articles seem to have in common the development of true *government programs* and the design of authentic *public policies*, more than simply establishing the

essential constitutional guidelines that make them possible, so it is no surprise that any change in political priorities ends up requiring a formal constitutional amendment. Public policies are much more dynamic and variable than the constitutional text, which is why it is not advisable to place them in the document. Other articles also include many provisions that properly belong to ordinary legislation. Article 20 of the Constitution, which addresses guarantees in the penal process, has become a true Code of Penal Procedure, rather than simply mentioning and defining the principles governing the criminal process, as well as the rights of defendants or of victims of crime.

These examples of defects in the constitutional text, and many others that could be cited here, can be corrected through the criteria and methodology that are presented in the next section.

IV. Toward the Reorganization and Consolidation of the Constitutional Text: Criteria and Methodology

This section briefly develops a specific proposal to first reorganize and then consolidate the existing text of the 1917 Constitution. What would be the key guidelines for such a revision of the constitutional text? Below are the criteria and key steps, which are already contained in the reorganized and consolidated constitutional text, as well as in the proposed Constitutional Development Law that are attached to this introductory study.

1. The same Constitution of 1917

It is of the utmost importance to point out, from the beginning, that the text that results from the proposed exercise of reorganization and consolidation will be the *same existing Constitution*. We do not propose to change any of the political and legal decisions contained in the current text, even if we consider them to be mistaken or inappropriate, nor do we suggest introducing any other modifications that we might deem necessary or

favorable. The purpose is simply to *revise* and *optimize* the existing text.¹² There is no intent at all to generate an “ideal” constitutional text. Any proposals for new constitutional reforms belong in the public and legislative debate, and our project is not incompatible with them. The only significant additions that we *do* propose are a brief Preamble that, like constitutional texts of other nations, summarizes the ideology behind the Mexican Constituent Power, and a paragraph in the new Article 71 to make possible the issuance of “constitutional development laws,” as explained in the following section.

In addition, it is planned to preserve, as all the constitutional reform decrees have done until now, the *total number of articles of the text* (136), without adding to or reducing them, based on the conviction that it is possible to redistribute all the regulated matters in a more balanced way into the existing articles. Moreover, it is advisable to respect the current placement of the articles that are emblematic of the Constitution, although that may not be the best from a technical point of view. Those articles so considered are the following: 1st (protective scope of the Constitution and human rights); 3rd (education); 14th and 16th (due process of law); 20th (guarantees in criminal procedure); 27th (direct domain of the nation over land and waters and agrarian property); 103rd and 107th (*amparo* suit); 115th (municipal autonomy); 123rd (workers’ rights); and 130th (separation between the State and religious associations).

2. *Reorganization*

Reorganization implies relocating the constitutional provisions in the article, section, subsection or paragraph that is most appropriate from a systematic and technical point of view and without altering its composition, except to correct obvious errors.

To this end, a four-column, comparative table was developed (not included with this study). The first column contains the current constitutional text; all the paragraphs were numbered sequentially, including sections and subsections. The second column contains the paragraphs that it was determined should be repositioned (for example, the “organic” provisions of Title One, Chapter One, were removed to a new chapter), leaving the

¹² Of course, the reorganization and the change in context of some provisions could be translated into new interpretations of a systematic type, but this addresses just one possibility that is difficult to evaluate at this point.

numbering unchanged, so that the reader can always know the origin of the relocated paragraphs and thus evaluate the suitability of the change. This exercise offers a text not yet assembled or refined, but which already clearly shows the advantage of the proposed changes.

3. *Consolidation*

The refined and consolidated text is shown in the third column. This text underwent various changes: the punctuation and composition are improved; in some cases the content is synthesized to eliminate redundancies and inconsistencies; the reorganized paragraphs are assembled; there is an improvement in the systematic presentation of paragraphs, sections and subsections; and the content of the parts that have been deemed “regulatory” were transferred to the proposed Constitutional Development Law, to be explained in the next section. For that purpose, the following criteria, among others, were followed:

- Always preserve in the constitutional text the principles establishing people’s rights, as well as their restrictions and exceptions.
- Maintain the method of selection or appointment, as well as the powers, of the nation’s three branches of government, transferring to the LCD only matters of procedure (for example, the formula for the allocation of deputies chosen by proportional election.)
- As for the so-called “autonomous constitutional bodies,” establish only the body’s name, purpose and main powers, but delegate to Congress the power to provide for their composition, nomination, substitution, incompatibilities and responsibility of their members (which have been and will also continue to be an object of frequent change).
- Transfer to the CDL the provisions that explain or specify constitutional principles (for example, those derived from the new criminal accusatorial proceedings), those which formulate public policies in the strict sense (such as those related to indigenous communities), or those which establish detailed procedures or exceptions, with variables subject to constant modification, such

as deadlines, percentages, dates, et cetera (for example, seizure of assets of criminal organizations), but always maintaining a constitutional basis from which new legislative regulation can be derived.

4. *Explanation*

In the fourth column of the comparative table, a detailed explanation is given of the proposed changes in placement and editing; also presented is any text that is to be deleted or that which is proposed to be transferred to the CDL.

V. **Proposal for a Constitutional Development Law**

In order for the proposal of reorganization and consolidation of the current constitutional text to be feasible and to allow for a new dynamics in the constitutional reform process, characterized by higher technical care and greater stability, the adoption of a Constitutional Development Law (CDL) is being proposed as a concomitant and necessary change.

This is not a new proposal. It should be remembered that in 1847 (during the war with the United States), in his famous dissenting opinion that would essentially become the Reform Act for the Federal Constitution of 1824 (see Appendix), Mariano Otero proposed the creation of “constitutional laws” to regulate matters related to the rights of man and citizen, elections, freedom of the press and the National Guard, among other subjects. Those laws could not “be altered or repealed within a period of six months between the submission of the bill and its discussion” (Article 20 of the Vote and 27 of the Reform Act). In more recent years, Héctor Fix-Zamudio and other authors have also stressed the importance of introducing in our legal system “organic laws” (as they are called in Spain, for example) or “constitutional laws,” such as the laws of development of constitutional precepts, in order to modify the current regulatory trends in the process of amending the constitutional text.¹³ The so-called “constitutional organic laws,” “constitutional laws” or

¹³ Fix-Zamudio, Héctor, “Hacia una nueva constitucionalidad. Necesidad de perfeccionar la reforma constitucional en el derecho mexicano. Las leyes orgánicas” in *Hacia una nueva constitucionalidad*, Mexico,

“constitutional development laws,” are laws that require a special voting majority that lies between the one needed to pass ordinary laws and that required for a constitutional reform. These are laws that in principle are more rigid than ordinary laws, but less so than the constitutional text, because the reform of the constitutional text requires, in our legal system, the participation of state congresses and the approval of a majority thereof.

The proposal developed here still requires the determination of some secondary aspects, but its essential elements, which are explained below, are now defined. While there already exists a multiplicity of laws in our legal system with some of the features of “constitutional development laws”, and it is usually the Constitution that defines the subject or subjects that those laws will regulate, our proposal recommends the approval of *a single law* entitled *Constitutional Development Law*. From the point of view of terminology, this title is preferable to the alternative name of “organic laws,” which has a precise connotation in our legal system to refer those laws that regulate the organization and operation of the branches of government and other public bodies, and to the phrase “constitutional laws,” that has, on the other hand, the disadvantage that the category does not exist as a special type of laws, but only as a term opposed to that of “unconstitutional laws.” It is recommended that it be a single law because, even if the proposal refers in the plural to “constitutional development laws,” it is advisable not to multiply these laws but to identify, whenever possible, a single one that brings together those provisions that are more closely linked to constitutional matters, given that they constitute direct derivations thereof.

The proposal thus entails a change in what is currently Article 71 of the Constitution, concerning the introduction of legislative bills to the Congress of the Union, in the following terms:

Congress may enact legislation to develop the content of constitutional laws. These laws may be introduced in either Chamber and their approval shall require the favorable vote of two-thirds of the members present in each Chamber. The

UNAM, 1999, pp. 191-228. A more comprehensive and complete study is that by Sepúlveda, Ricardo, *Las leyes orgánicas constitucionales*, Mexico, UNAM-Porrúa, 2006, with an introduction by Héctor Fix-Zamudio. A proposal similar to that which is developed here, with a reduced constitutional text and accompanied by one or two constitutional laws, is that by Pinto Muñoz, Jacinto Héctor, *Prolegómenos a la teoría y la reforma constitucional*, Mexico, UNAM, 2010, pp. 267 and following, although the author believes that this exercise should be used to further refine the constitutional code of laws.

President of the Republic may not formulate observations in relation to these constitutional development laws. Before their publication, the President of the Congress shall consult with the Supreme Court of Justice of the Nation on the constitutionality of said law. The Supreme Court must rule within 30 calendar days.

As can be seen, this is about one or more laws that are passed by a special vote, with a majority greater than that required for ordinary laws, but less than the requirements for the constitutional reform. Additionally, it requires a prior opinion on its constitutionality by the Supreme Court of Justice. This seems to be necessary, on the one hand, because, as an extension of constitutional matter, the CDL has to have always a foundation in the Constitution. On other hand, it is a convenient, politically speaking, because this may give constitutional certainty to the agreements reached by the political parties and other relevant political actors.

The first CDL should be passed simultaneously with the constitutional text resulting from the exercise of reorganization and consolidation, by means of the voting and the procedure specified in Article 135 of the Constitution. Future reforms by the Congress of the Union shall require only the approval by two-thirds of the members present in their Chambers, as well as the favorable opinion of the Supreme Court of Justice. The President of the Republic may not veto these laws, for the same reason that he does not the power to do so with constitutional amendments, and because the majority required for passing constitutional development laws is already equal to the one needed to override a presidential veto. It shall also be established that constitutional development laws may not be the object of a “preferential bill”, i.e., a bill introduced at the beginning of a legislative session by the President and that must be passed or rejected within a short, mandatory period, because they have to do with laws that are part of the “constitutional block”, along with the Constitution itself.

In terms of its content, it has been pointed out that the CDL will consist of all those provisions that, as a result of the exercise of reorganization and consolidation referred to in the previous section, are not considered essential to retain in the constitutional text. It is still required to define the specific technical details of its incorporation to the Law, but even now it is evident that the various parts that conform it should be amendable independently

of each other, depending on the subject matter in question, so that the process of disorder and lack of system that has characterized the reform of the Constitution until now does not happen again.

Comparative Table
Length of the current constitutional text and
of the reorganized and consolidated text
(as of July 10, 2015)

Title	Articles	Current	Reorganized/ Consolidated	Difference	
					%
First	1-38	21,682	16,063	-5,619	-25.9
Second	39-48	4,570	3,145	-1,425	-31.2
Third	49-107	22,586	18,466	-4,120	-18.2
Fourth	108-114	2,838	2,195	- 643	- 22.6
Fifth	115-122	8,786	4,128	-4,658	-53.0
Sixth	123	3,685	3,315	- 370	-10.0
Seventh	124-134	1,841	1,419	- 422	-22.9
Eighth	135	92	92	--	--
Nineth	136	85	85	--	--
Total		66,165	48,910	17,255	-26.1

NOTE: Estimated number of words in articles of the Constitution.

Appendix

About Constitutional Development Laws

Such laws are conceived as legal rules that in the system of sources of law would be located in an intermediate position between the Constitution and ordinary laws. Their main function would be to serve as a technical tool to relieve the Constitution of rules of a regulatory nature that make it lose coherence in content, altering its general character of supreme law, requiring the constant modification of its precepts, and limiting its adaptation to the needs and demands of a dynamic society.

Constitutional development laws are not alien to Mexican legal doctrine or the Mexican legal system. The first one to mention them as *constitutional laws* was Mariano Otero, who along with Manuel Crescencio Rejón, was one of the creators of the *amparo* suit. Both are among the most eminent jurists of the 19th century.

In 1847, the unitary or central republic entered into a crisis and Mexico faced war with the United States. A Constituent Congress was convened, composed of a large majority of pure and moderate liberals. From that Congress and amid the hardships imposed by the war, the Reform Act of 1847 emerged. Although it has been a constitutional text that is usually referred to for having restored the Constitution of 1824 and introduced the *amparo* suit at the federal level, it made several other contributions.

In only 30 articles, the Act of 1847 provided several innovations. In addition to the *amparo* suit (Article 25), it included a constitutional remedy that empowered the President of the Republic, in agreement with his cabinet, a minimum of ten deputies, six senators or three state congresses, to challenge laws deemed unconstitutional (Article 23). In this sense, the Act was a precedent of the reforms in this area that took effect in 1995, almost 150 years later. The Act was also the first constitutional document that established in Mexico the possibility of direct universal suffrage (Articles 1 and 18). In this, it was also ahead of its time by nearly 70 years, since the Constitution of 1857 maintained the system of indirect election, which was not modified until 1912.

Among the institutions adopted in 1847 there is another whose recovery by the constitutional system is still pending: the idea of “constitutional laws”. According to Mariano Otero, these laws would occupy an intermediate level between the Constitution

and the ordinary laws of Congress. In his *dissenting opinion* to the majority project of the Drafting Committee, and which, because of the haste in which the Committee worked, only proposed to restore the the Constitution of 1824, Otero made an extensive plea in favor of constitutional reform. In fairness to other colleagues, he acknowledged that two eminent liberal jurists, Joaquín Cardoso and Juan José Espinosa de los Monteros, had helped shape his text. Cardoso, considered one of the most learned men of the time, was a deputy, senator, judge of the Supreme Court, director of the National Library and founder of the Mexican Language Academy. He wrote little, but was respected for the elegance of his prose. His fundamental legal work is in the judgments and in the votes cast in the Court. Espinosa de los Monteros, who also had a broad public and liberal career, was one of the closest advisors of Valentín Gómez Farías, then acting vice-president of the Republic and one of the forefathers of the liberal reforms in the country.

Mariano Otero claimed that the *constitutional laws* would serve to complement the generality of the constitutional principles and that they would be placed hierarchically above the ordinary rules, because their development would be different. In this case, the difference did not consist in a qualified vote for its approval, amendment or repeal, but for an additional period of reflection:

But like this law (the electoral), the one about guarantees, the one about (public officials') responsibilities and the others that regulate the action of the Supreme Powers, *should not be equal, but above all other secondary laws*; it is established that they be characterized and distinguished with the special name of *constitutional*, and that they not be reformed within a period of six months from the submission of the proposal and its discussion. This measure will free such laws from the ill effects of haste, and will provide Congress with the aid of a deliberate discussion by means of the press, and of all the organs of the public will. Let us hope that such a measure could be adapted to all laws!

Otero's arguments convinced his peers, and the Constitutive and Reforms Act, whose text was based substantially on Otero's dissenting opinion, was adopted on May 21, 1847. Article 27 provided:

The laws addressed in Articles 4 [citizenship], 5 [fundamental rights] and 18 [electoral system] of the present Act, that of the freedom of the press, the organic law of the National Guard and all those regulating the general provisions of the Constitution and of this Act, are *constitutional laws* and cannot be altered or repealed within a period of six months between the submission of the bill and its discussion in the Chamber of origin.

This Act, which was crucial in the evolution of our constitutional law, was passed by a majority vote of the constituent deputies. Among this group, in addition to Otero and the aforementioned Cardoso and Espinosa de los Monteros, were José María Lafragua, Ignacio Comonfort, José Joaquín de Herrera and Benito Juárez.

In addition to what was pointed out by Otero, constitutional laws can serve as a correction to a problem that he had no occasion to experience, because his constitutional era – the first half of the 19th century– in contrast to ours, was marked by the so-called *immutability clauses*, i.e, clauses in the Constitution prohibiting any amendment to particular provisions, for example regarding freedom of the press, and the extreme rigidity of constitutional reform. In the Mexico of our time we suffer the opposite problem: the extreme frequency with which we amend the Constitution, thus generating a degree of volatility incompatible with the objectives of a basic set of laws. This phenomenon has resulted in the overload of the Constitution with laws of a regulatory nature.

It is true that the openness of the Constitution towards the changes that the country needs largely explains the political stability of Mexico. However, the appeal to reform the Constitution has evolved into a routine that can threaten the functionality of the Constitution itself as a model of the public, economic and social order. To include new needs of the Mexican State among the 136 existing articles, it has been necessary to develop extremely extensive provisions to address issues specific to the ordinary rules and regulations.

The introduction of intermediate laws to mitigate the overload of the Constitution without affecting the pace of the necessary institutional evolution reflects the experiences of constitutionalism of our time.

In 1958, France was the first European country to recognize different types of law in its system of sources of law, including the *organic laws*, which are the functional equivalent to the laws proposed by Mariano Otero and which the Reform Act of 1847 called *constitutional laws*. The French Constitution used this legal modality, which is formally different from the rest of the ordinary laws, to create and establish the structure, jurisdictions and procedures of its main public bodies. The French example has been followed by other constitutional democracies of our hemisphere and of Europe, including Portugal, which identifies them as “constitutional laws,” and Spain, which also calls such laws “organic laws.”

In Latin America, the French-inspired organic laws have also been adopted by a majority of constitutions. They are called “organic laws” in Ecuador, Peru and Venezuela; “constitutional laws”, in Guatemala and Nicaragua; “constitutional organic laws” in Chile; “supplementary laws” in Brazil; “statutory laws” in Colombia; and they do not have a specific name in Argentina, Costa Rica or El Salvador. The following table shows the current provisions of each of these constitutions and the particularities of each type of laws.

COMPARATIVE LAW TABLES REGARDING CONSTITUTIONAL LAWS IN EUROPE AND LATIN AMERICA

EUROPE (Chronological Order)

COUNTRY	CONSTITUTIONAL PRECEPTS
France (1958) Name: Organic laws	Article 46. Acts defined under the Constitution as organic shall be passed and amended in the following manner. The bill or proposition shall not be submitted for debate and vote in the first House to which it is referred before the fifteen-day period after it has been introduced. The procedure provided for in Article 45 will be applied. Nevertheless, in the absence of agreement between the two Assemblies, a bill may be adopted by the National Assembly on final reading only by an absolute majority of its members. Organic laws relating to the Senate must be passed in the same wording by the two Assemblies. Organic laws may be promulgated only after the Constitutional Council has declared them constitutional.
Portugal (1976) Name: Constitutional laws	Article 169. Form of acts: 1. The acts specified in Article 164(a) shall take the form of constitutional laws. 2. The acts specified in Article 164 (b) to (j) and Article 165 (b) to (j) shall take the form of law. 3. The acts specified in Article 166 (a) and (b) shall take the form of motions. 4. Other acts of the Assembly of the Republic shall take the form of resolutions. 5. Resolutions, excluding approval of international treaties, shall be published whether or not they are promulgated.
Spain (1978) Name: Organic laws	Article 81. 1. Organic laws are those related to the development of fundamental rights and public liberties, those that are approved by Statutes of Autonomy and the general electoral regime and others provided for in the Constitution. 2. The approval, modification or repeal of organic laws requires an absolute majority of the Congress, in a final vote over the entire bill.

LATIN AMERICA
 (Alphabetical Order)

COUNTRY	CONSTITUTIONAL PRECEPTS
Argentina (1994) Name: Not available	Article 77. Laws may originate in either Chamber of Congress, through bills proposed by their members or by the Executive Power, save for the exceptions that this Constitution establishes. Bills that modify the electoral system and the system of political parties shall be approved by an absolute majority of the totality of the members of the Chambers. (Text set forth by law 24.430).
Brazil (1988) Name: Supplemental laws	Article 59. The legislative procedure includes the preparation of: <ol style="list-style-type: none"> 1. amendments to the Constitution; 2. supplementary laws; 3. ordinary laws; 4. delegated laws; 5. provisional measures; 6. legislative decrees; 7. resolutions. Sole paragraph. A supplemental law will regulate the preparation, drafting, amendment, and consolidation of laws. Article 69. Supplementary laws shall be approved by absolute majority.
Chile (1980) Name: Constitutional organic laws	Article 63. Matters of law are only: <ol style="list-style-type: none"> 1) those which by virtue of the Constitution must be the object of constitutional organic laws; 2) those which the Constitution requires to be regulated by a law; 3) those which are the object of codification, whether civil, commercial, procedural, penal or other; 4) basic matters relative to the labor, union, precautionary and social security systems; 5) those that regulate public honors to prominent public servants; 6) those that modify the form or characteristics of the national emblems; Article 66. The legal rules that interpret constitutional precepts will require, for their approval, modification or abrogation, three-fifths of the Deputies and Senators in office. The legal rules to which the Constitution confers the character of constitutional organic laws will require, for their approval, modification or abrogation, four-sevenths of the Deputies and Senators in office. The legal norms for a qualified quorum will be established, modified or abrogated by the absolute majority of the Deputies and Senators in office. The other legal norms will require the majority of the members present in each Chamber, or the majorities applicable in conformity with Articles 68 and following.

	<p>Article 93. The powers of the Constitutional Court are: 1. To exercise the control of constitutionality of the laws that interpret any precept of the Constitution, of the constitutional organic laws and of the norms of a treaty that concern matters belonging to the latter, prior to their promulgation;</p>
<p>Colombia (1991) Name: Statutory laws</p>	<p>Article 152. By means of statutory laws, the Congress of the Republic will regulate the following subjects: a) Fundamental rights and duties of individuals and the procedures and actions for their protection; b) Administration of justice; c) Organization and regulations of parties and political movements; the statute on the opposition and electoral functions; d) Institutions and machinery of citizens' participation; e) States of emergency. f) Addendum. Legislative Act 2/2004, Article 4. Electoral equality among the candidates for President of the Republic who meet the requirements established by law. Transitory Paragraph. Addendum. A.L. 2/2004, Article 4. The national government or members of Congress shall present, before the first of March 2005, a draft statutory law to develop paragraph f) of Article 152 of the Constitution and also regulates, among others, the following matters: guarantees to the opposition, political participation of public officials, the right to equal access to the media that use the electromagnetic spectrum, predominantly state funding of the presidential campaigns, right of reply under conditions of equity when the President of the Republic is a candidate, and rules on disqualifications for candidates for the President of the Republic. The bill will have an emergency clause and may be subject to an insistence clause if necessary. The Congress of the Republic will issue the statutory law before June 20, 2005. The terms for prior review by the Constitutional Court of the constitutionality of the statutory bill are reduced by half.</p> <p>Article 153. The approval, amendment, or repeal of the statutory laws requires an absolute majority of the votes of the members of Congress and must be completed within a single legislative term. Such procedure will include the prior review by the Constitutional Court of the constitutionality of the proposal. Any citizen may intervene to defend it or to oppose it.</p>
<p>Costa Rica (1949) Name: Not available</p>	<p>Article 105. The power to legislate resides in the People, who delegate this power, by means of election, to the Legislative Assembly. Such a power may not be waived or limited by any agreement or contract, either directly or indirectly, except in the case of treaties, in accordance with the principles of International Law. The people may also exercise this power through a referendum to</p>

	<p>approve or repeal laws and partial amendments to the Constitution, when convoked by at least five percent (5%) of the citizens registered in the electoral roll, the Legislative Assembly, through the approval of two-thirds of all its members, or the Executive Branch together with an absolute majority of all the members of the Legislative Assembly.</p> <p>A referendum shall not be admissible for Bills related to budgetary, tax, fiscal or monetary matters, credit, pensions, security, approval of public loans and contracts or acts of an administrative nature.</p> <p>This instrument shall be regulated by two-thirds of all the members of the Legislative Assembly.</p> <p>Article 123. During regular sessions, the initiative for the enactment of laws may be taken by any member of the Legislative Assembly, or by the Executive Branch, through the Cabinet Ministers and by at least five percent (5%) of the citizens registered in the electoral roll, if the bill is a popular initiative.</p> <p>A popular initiative shall not be admissible for bills related to budgetary, tax or fiscal matters, or the approval of loans and contracts or acts of an administrative nature.</p> <p>Bills of popular initiative must be voted on definitively within the deadline period indicated by law, except those pertaining to constitutional amendments, which shall follow the process stipulated in Article 195 of this Constitution.</p> <p>A law adopted by two-thirds of all the members of the Legislative Assembly shall regulate the form, requirements and other conditions that must be fulfilled by bills of popular initiative.</p>
<p>Ecuador (2008)</p> <p>Name: Organic laws</p>	<p>Article 133. Laws shall be organic and ordinary.</p> <p>The following shall be organic laws:</p> <ol style="list-style-type: none"> 1. Those governing the organization and functioning of the institutions established by the Constitution. 2. Those governing the exercise of constitutional rights and guarantees. 3. Those governing the organization, jurisdiction, powers, and functioning of decentralized autonomous governments. 4. Those related to the system governing political parties and the electoral system. <p>The issuance, reform, repeal and interpretation of a generally mandatory nature of organic laws shall require an absolute majority of the members of the National Assembly.</p> <p>The others shall be regular laws, which cannot amend or prevail over an organic law.</p>
<p>Guatemala (1985)</p> <p>Name: Constitutional laws</p>	<p>Article 159. Majority for Resolutions The resolutions of the Congress must be reached through the favorable vote of the absolute majority of its members, except in those cases where the law requires a special number.</p> <p>Article 175. Constitutional hierarchy. No law may contradict the</p>

	<p>provisions of the Constitution. The laws that violate or distort the constitutional mandates are null and void ipso jure.</p> <p>To amend laws qualified as constitutional requires, the vote of two-thirds of the total number of deputies that compose the Congress, but only after a favorable ruling by the Court of Constitutionality.</p>
<p>Nicaragua (1987/2014)</p> <p>Name: Constitutional laws</p>	<p>Article 184. Constitutional Laws are: the Electoral Law, the Emergency Law and the Law of <i>Amparo</i>, enacted within the prevailing Political Constitution of Nicaragua.</p> <p>Article 195. The reform of constitutional laws shall be made in accordance with the procedure established for partial reform of the Constitution, with the exception of the requirement of the two legislative sessions.</p> <p>Article 192. A proposal for partial reform must specify the article or articles to be amended with a statement of the reasons for the modification. The proposal must be sent to a special commission, which shall issue an opinion within a period of no more than 60 days. The proposed reform shall then follow the process provided for the enactment of a statute. A proposal for partial reform must be discussed in two sessions of the National Assembly.</p> <p>Article 194. Approval of a partial reform shall require a favorable vote by sixty percent of the members of the National Assembly. Two-thirds of the total membership is required to approve a total reform. The President of the Republic shall promulgate the partial reform and in this case may not exercise the right to veto.</p>
<p>Panama (1972)</p> <p>Name: Organic laws</p>	<p>Article 164. Laws originate in the National Assembly and are divided as follows:</p> <ol style="list-style-type: none"> a. Organic laws, which are those issued in fulfillment of Sections 1, 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Article 159; b. Ordinary laws, which are those issued under the other sections of said Article. <p>Article 165. Laws shall be proposed:</p> <ol style="list-style-type: none"> 1. If they are organic laws: <ol style="list-style-type: none"> a. by permanent committees of the National Assembly; b. by the Ministers of State, as authorized by the Cabinet Council; c. by the Supreme Court, Attorney General of the Republic, and Solicitor General of the Administration, as long as they refer to the enactment or amendment of the National Codes; d. by the Electoral Tribunal on matters within its jurisdiction; 2. If they are ordinary laws: <ol style="list-style-type: none"> a. by any member of the National Assembly;

	<p>b. by Ministers of State upon authorization of the Cabinet Council; c. by Presidents of Provincial Councils upon authorization of the Provincial Council.</p> <p>All above-mentioned officials shall have the right to speak in the sessions of the National Assembly. The Presidents of the Provincial Councils and the members of the Electoral Tribunal will have the right to speak regarding draft laws that they have introduced.</p> <p>To be enacted, organic laws require a favorable vote of the absolute majority of the members of the National Assembly in the second and third reading.</p> <p>Ordinary laws need only the approval of a majority of National Assembly members present during their respective sessions.</p>
Peru (1993) Name: Organic laws	<p>Article 106. Organic laws regulate the structure and operation of the government entities provided for in the Constitution, as well as other matters whose regulation by organic law is established by the Constitution.</p> <p>Organic laws in draft form are handled like any other law. The vote of over half of the legal number of members of Congress is required for their approval or modification.</p>
Venezuela (1999) Name: Organic laws	<p>Article 203. Organic Laws are those designated as such by this Constitution, those enacted to organize public powers or to develop constitutional rights, and those which serve as a regulatory framework for other laws.</p> <p>Any bill for the enactment of an organic law, except in the case of those defined as such in the Constitution itself, must first be accepted by the National Assembly, by a two-thirds vote of the members present before the beginning of debate on the bill. This qualifying vote shall also apply to the process of amending organic acts.</p> <p>Laws defined by the National Assembly as organic acts shall be sent, prior to promulgation, to the Constitutional Division of the Supreme Court of Justice for a ruling on the constitutionality of their organic status. The Constitutional Division shall reach a decision within 10 days of receipt of the communication. If the Constitutional Division rules that the law is not organic, the law shall lose that status.</p> <p>Enabling laws are those enacted by a three-fifths vote of the members of the National Assembly to establish the guidelines, purposes and framework for matters that are delegated to the President of the Republic, which have the rank and force of law. Enabling laws should set the period during which they are in force.</p>

The topic of intermediate laws has been debated in Mexico by the respected jurist Héctor Fix-Zamudio. Fix-Zamudio argues that one way of mitigating the regulatory trend that is reflected in the constitutional reforms is by adopting a form of laws midway between the fundamental law and ordinary laws. He prefers to call them *organic laws*, as he rightly observes that *constitutional laws* are all those that have been declared in accordance with the Constitution. Agreeing fully with the view supported by the distinguishing jurist, there is the practical problem that there are already 26 laws that include in their name that of *organic law*.

On the other hand, one might argue that if today the term *constitutional*, as applied to the laws, plays an adjectival function, the use of that same word could well be distinguished in its function as a noun. But the semantic differentiation based on the fact that the word *constitutional* in some cases would have an adjectival function and in others a noun function could cause confusion, which is contrary to the intention that this modality offer solutions rather than create new problems. Therefore, a less confusing term is preferred: *constitutional development laws*. Thus is the obstacle of the laws already known as *organic* and those classified as *constitutional* overcome, and, at the same time, the historical proposal of 1847 is utilized with a reasonable change.

The advantages of the introduction of *constitutional development laws* to the system of sources of Mexican law can be summarized as follows:

- These laws would keep the Constitution from having rules that incur excessive detail. It would allow Congress to adopt rules through an aggravated procedure that, while alleviating the excessive growth of the Constitution, would provide a new way to reach agreements between the representative forces, at the same time protecting political minorities in Congress.
- The duration of a consensus would be assured because the required majority is even greater than that required for constitutional reforms in Congress.
- It would expand the powers of the Supreme Court of Justice, introducing the prior control of constitutionality of laws.

- It would reduce the need for amendments and additions to the Constitution, thus bringing greater stability to the constitutional text and its jurisprudence and thereby contributing to legal certainty for citizens and the enhancement of legal culture.
- It would provide that amendments to the Constitution be drafted according to enhanced technical criteria, at the same time encouraging the adoption of laws that are briefer and of more general content.

As is well known, the text of the Constitution has undergone numerous reforms. Although in the majority of cases it is possible to demonstrate their necessity and usefulness, their adoption has tended to become increasingly regulatory in character. At present, our supreme law is already among the most extensive in the world, and it is likely to continue to be the object of additions and reforms in the coming years. If we continue the pace of recent years, we will have a Constitution that is inaccessible to those who are not lawyers, and even to them.

The Constitution is the supreme law of the State, but this does not mean that it must contain all its legislation. On the contrary, as the heart of the national legal system, the Constitution can and should be brief – for several reasons. On the one hand, given its rank and importance, it is desirable that the citizenry in general be familiar with it. This becomes increasingly difficult due to its growing length and frequent changes. Secondly, it is important that the ordinary legislator can make the institutional adjustments that the times require, but always within what the Constitution provides and without having to submit it to endless adjustments that have made it become the most flexible of the legal codes in force in the country. Third, there is a constitutional court that controls the strict compliance with the fundamental law, so there is a full guarantee that Congress will never exceed the exercise of its powers.

In light of the arguments and the experiences already mentioned above, it is desirable to adopt the concept of “constitutional development laws”. These laws present two important differences compared to the others that Congress passes. On the one hand, a qualified majority, or two-thirds of the members present in each Chamber, is needed for their approval. This incorporates a principle of rigidity that gives stability to these laws.

Thus, the consensus reached to formulate them will be maintained over time, although this will not prevent subsequent agreements from being translated into the reform or repeal of these constitutional development laws, but always by the same majority required for their approval.

A second element of the type of laws proposed is that they are made subject to an assessment of their constitutionality by the Supreme Court of Justice. The presidential veto is not applicable in this case, because in order to override it, the Constitution requires a majority in both chambers, which is equivalent to that which is proposed for its approval.

In sum: the Constitutional Development Law is distinguished from ordinary laws because (1) its approval requires a qualified majority in each chamber of the Congress of the Union, and (2) because of the way of addressing said observations through a prior opinion of constitutionality by the Supreme Court of Justice of the Nation. Finally, the proposed law would reflect and develop in greater detail the general laws contained in the Constitution.