

The Relationship between Congress and the Government

Historical Background

The legislative authority or parliament is one of the oldest and most common political institutions in the world. Parliaments existed before democratic regimes emerged and continued even after these regimes collapsed.

The development of political systems now indicates that democracy could not exist without an active parliament, because the key roles of a representative democracy are concentrated in parliamentary assemblies.

In his classic study of the English Constitution (1867), Walter Bagehot identified six functions of any parliament throughout the political system: (1) elective, (2) expressive, (3) educational, (4) informative, (5) legislative and (6) financial.

Other scholars argue that the functions of congresses and parliaments in our day could be reduced to three: (1) **representation**, (2) **government oversight** and (3) **policy making**.

Throughout the 19th and 20th centuries, parliaments played a greater role and acquired their present form. In Europe and the United States, parliaments and congresses emerged as the most important political forums. Thanks to the diversity of these institutions, they could integrate social forces, neutralize conflicts and peacefully resolve disputes among different groups.

It is no accident, then, that as congresses and parliaments developed, democracies became better able to make decisions, to preserve governance and to ensure at least minimal legitimacy for state action. This also explains why even after democratic governments were overthrown, authoritarian regimes sought to maintain parliaments as a way to relieve political pressures.

As democracies emerged, congresses and parliaments provided a forum for public debate and thereby helped their societies adapt to change. This dynamic would be evident not only as a democracy is established but especially as the new regime is consolidated. Parliaments make most of the rules that preserve democracy itself and provide the economic and social content of political change.

The contribution of parliaments to political stability should not be underestimated, because essentially they are decision-making institutions, not just forums for representing social diversity. These assemblies bring together very diverse ideologies (left, right, welfarist, liberal, socialist or centrist) and positions (extreme or moderate), and these opposing interests meet and are resolved.

Once elected, Parliament is the place for competitive pluralism. During elections, debates focus on personalities, ideological struggles and the organizational strength of political party machines. In Parliament, party discipline and unity are tested daily, as is the parties' ability to contain and limit conflict.

But that is not all. Parliaments give political battles a new direction and, by institutionalizing them, confrontation becomes less violent and is replaced by other more civilized forms of dispute. In political deliberation, public debate and reasoned argument prevail and guide the decision-making process. Imposition and force are systematically replaced by discussion and persuasion.

Clearly, the logic of democracy is essential to the workings of parliament. Needless to say, discussion helps in decision making but does not by itself determine what should be done.

The process of political change in Mexico involved not only transforming our form of government and redesigning institutions but also bringing the political discourse of democracy into our everyday language. Words like “elections,” “parties” and “Congress” are now part of our idea of the *res publica*. Something similar has happened with such concepts as “checks and balances,” “transparency” and “consensus,” which are now part of the everyday discussion of Mexican issues.

We have moved from excessive concentration of power in the President to an unprecedented pluralism. Agreement and consensus have become common for decision making in Mexican democracy. Thus, when people think about the procedural mechanisms involved in the parliamentary process, they appeal to consensus as if it were a magic formula for reconciling the often deep political and ideological differences that go with living in a community.

Competing interests and world views are found not only in democracies but in all political systems. One could even argue that disagreement rather than consensus is at the heart of public life. That is why every democracy in the world has provided for constitutional mechanisms to ensure that decisions can be made even when only partial or temporary consensus, or none at all, has been reached. Such procedures result from an awareness of the difficulties and risks involved in striving for unanimity at all costs.

Unanimity is hard to achieve, since it requires a collective exercise of acceptance that is difficult in an increasingly pluralistic and diverse society. It is also dangerous because it involves a kind of socially shared illusion of what the right path should be. It is what political philosophers refer to as “the common good” and is presented as if, by magic, it were the sum of all thinking on what is “good.” The common good of a few cannot be the common good of all in contemporary societies; what may be beneficial for one segment of society could be completely devastating to others. That is why political differences exist.

This accounts for the fact that the rule for decision making in contemporary democracies, including Mexico’s, is not the abstract sum of collective goods, but rather the pre-eminence of governing for “the greatest number,” for those who have the most votes or seats in the legislature. Elections are precisely the mechanism for adding political preferences and for determining, through the political parties and political representation itself, who has the right to make decisions.

All the electoral systems and parliaments in the world use the majority-based decision-making formula. For this reason, Mexico has always had votes in Congress decided by a simple majority;

for constitutional changes, a two-thirds majority in Congress and a majority of state legislatures are required.

According to some observers, marketing and seeking public acceptance for the political rulers is a phenomenon of contemporary democracy that has quickly become part of the Mexican political dynamic. Although this is not a new political development, it is part of a very recent trend and has created the fiction that consensus is the right way to govern and the right way to legislate.

Thus, consensus has been raised to the status of a categorical imperative in political discourse as Mexico became a multi-party democracy—a kind of overriding principle. Under this logic of enlightened unanimity, differences are perceived as harmful to democratic life and as permanent sources of conflict. In the extreme, this kind of view categorizes political differences as deviant, and the danger arises that simply disagreeing or opposing may be seen as sedition, rebellion or treason.

This is a fallacious interpretation of what decision making in a democracy should be. A false thesis which assumes that parliamentary majorities are tyrannical, whereas in fact the democratic principle ensures that majorities are subject to periodic adjustment through elections. Elections may even replace one majority party with another.

For advocates of consensus, just having a majority is not politically correct; on the contrary, it is considered to suffer from such defects as expediency and instability, which are unacceptable from a purist and romantic point of view. It is wrongly believed that behind a majority agreement lies a secret deal, and often this thinking is the main obstacle to reaching agreements.

Diagnosis

Everywhere in Latin America, but particularly in Mexico, the Congress or Parliament is an emerging power.

Latin American democracies, marked by a presidential system in which the executive played an extraordinary role, have begun to reassess the role of Congress only in the last few years.

In Mexico, strong presidencies were a way to consolidate the state and strengthen the nation from the centre, but it must be said that, over the years, the extraordinary force of the executive undermined the dynamism and even the authority of the other branches of government.

It is important to define a few concepts and to make it clear that strong presidencies were not as unique to Mexico as people abroad suspect.

The division of powers, which some equate with a strong government and regard as a necessary condition for democracy to operate, has always worked only partially in most presidential systems, including Mexico's.

In the United States, the logic of dividing power was a legal imperative to prevent factions from monopolizing it and a requirement so that the different branches of government could resist one another—the system of checks and balances.

The division of powers in the remaining presidential systems always followed the simple logic of establishing operational limits. In practice, the executive, legislative, and judicial branches were always tempted to encroach on each other and they often succeeded.

Presidents in particular, but sometimes the other branches as well, stood out as the ones with real political power and, even unwittingly, as clear obstacles to democracy.

Federalism, which in many countries was the mechanism for alleviating tensions between the centre and the provinces, in our country was a lever for consolidating national unity, which was constantly at risk following independence.

In the 1930s, Mexicans were torn between two options which, though not mutually exclusive, were difficult to achieve together: namely, letting the dynamic of democracy (even without the minimal guarantees for co-existence) into a country fractured and wounded by a revolution that had lasted for a decade; or finding a formula to reconcile the forces that the armed movement had unleashed. It was a centralized arrangement which, although undemocratic, would save the country from the revolutionary authoritarianism that was becoming more and more entrenched.

The result was a regime that survived for seventy years and which, before it expired, was strong enough to shift toward a stable democracy with social peace.

The old regime in Mexico changed with the encouragement of the whole of society and of the government itself. This is not a paradox. The regime built between 1917 and 1940 ran its course and gave way to democracy, which did not suddenly emerge on July 2, 2000, as some have supposed.

Mexican democracy was largely built by all the political forces: over 34 years, through 5 electoral reforms, 10 elections, and more than 50 constitutional changes, culminating in a regime where the voters alone decide who will take power.

Today we have a democratic regime in Mexico that allows plurality and diversity to be reflected in Parliament, even though it seems that some do not like it.

The Mexican Congress, as I said before, is an emerging power, because for the last few years it has been reorganizing, recognizing its capacities and using its powers.

The debate on public affairs has gradually shifted to Congress. Currently, all matters of concern to the country are addressed in the Chamber of Deputies and the Senate.

It has not been easy for all politicians to accept and adapt to this new legislative dynamic. Some miss the old presidential style in which bills were simply sent to Congress and returned unamended with legislative approval a few days later.

Now the Mexican Congress and especially the Senate, of course, conscientiously debate and consider every bill. This careful review of proposed legislation is due to an awareness of the responsibility involved in representing the nation's interests.

Difficult topics concerning national politics are also discussed in the Mexican Congress. Sometimes it is inevitable that a debate will spill over to other topics and that issues which could have been processed promptly are delayed—that is the way it is in a democracy.

The first question to ask in the case of Mexico is whether the permanent existence of divided governments, that is, the absence of a legislative majority, has weakened or strengthened democracy. In principle, it seems clear that in the last three congresses (57, 58, and 59) we have not had confrontation between the executive and the legislature, which would have been detrimental to the political development of the country.

It is necessary, then, to specify the effects of pluralism on our democracy and whether these changes have weakened or strengthened it.

Two views have emerged since the beginning of President Vicente Fox's six-year term of office. According to the first one, divided governments are inherent in democracy and our experiences should therefore be seen as part of the transformation process of our political regime. The second opinion holds that, on the contrary, what is needed, as before, is a Congress dominated by one party because otherwise the legislature becomes a hindrance to national progress.

Experience shows no significant levels of conflict. During these years, "hostility" between the branches of government has never gone beyond political discourse.

Success of Presidential Legislation

57th Legislature (1997–2000)	58th Legislature (2000–2003)	59th Legislature (2003–2006)
Initiatives Total: 43 Approved: 35 Pending: 6 Rejected: 2 Legislative success rate: 81% Rejection rate: 4.6%	Initiatives Total: 53 Approved: 42 Pending: 10 Rejected: 1 Legislative success rate: 80% Rejection rate: 1.8%	Initiatives Total: 33 Approved: 19 Pending: 12 Rejected: 2 Legislative success rate: 58% Rejection rate: 6%

Such a controversial issue as the budget proved that it was possible to overcome the disagreements between the two branches without endangering financial stability. In the last phase of Ernesto Zedillo's government and over the first five years of President Fox's, Congress changed some budget items on the income or expenditure side, but none of the changes weakened the nation's finances¹.

¹ It is important to clarify that, since the 1970s it has been customary for the Chamber of Deputies, exercising its powers, to amend the Federal Executive's original budget proposal in a non-confrontational way. Weldon Jeffrey,

In the matter of legislative paralysis, which has been an issue of constant concern for scholars and critics of divided governments, a move away from conflict is evident. Over three legislative terms, Congress has found ways to reach agreements and continues to generate laws, some of them extremely important. Strictly speaking, legislative approval rates for the 57th, 58th, and 59th legislatures are virtually the same: about 25%. In other words, the lack of a parliamentary majority has not diminished legislative output.

One particularly important fact is that the legislative output of the Mexican Chamber of Deputies and the Senate has been very similar. The lower house passed 23% of the bills before it and the Senate, 26%. This indicates a very homogeneous performance in Congress as a whole and that legislative work went on without a majority.

It is true that when the country changed from a unified to a divided government, a drop in legislative output was observed, but this gap between bills submitted and laws passed can be explained by one key factor. The 57th, 58th, and 59th legislatures had the most bills ever submitted in our country's history. In other words, fewer laws are passed because more bills are presented.

It should also be stressed that the lack of agreements does not prevent legislators from reaching consensus. In fact, consensus is a particular form of agreement in which all parliamentary groups manage to be satisfied. In the everyday life of legislative assemblies, agreements are made and there is seldom a consensus.

This does not devalue our democracy or make it worse than others, since, as we saw before, in presidential democracies, political parties sign majority agreements all the time, and it is understandable that with several parties involved, agreement will be by majority, not consensus. One of the important features of our Congress is that the parties are still seeking to build consensus, which complicates the negotiations and their results.

Prospects

In Mexico, as in many Latin American countries, we must develop an optimum model for the relationship between Congress and the government.

I speak of the government because it is not only the executive carrying out the responsibilities and exercising the powers that we discussed above. Congress must interact with the judicial authority, the Auditor General of the Federation (*Auditoría Superior de la Federación*), autonomous constitutional bodies and, of course, the President.

The greatest challenge for establishing a good relationship lies in the institutional design, but redesigning it has limits inherent in the logic of the presidential system that, as in the case of majorities, hinder the creation of institutional hybrids like coalition governments.

1998. Legislative Delegation and the Budget Process in Mexico. ITAM, Working Document, Department of Social Sciences, Mexico: 31.

Even so, the main task of Congress in the coming years is to enhance its role in relation to public opinion. The institutional reform could first be internal and later external.

Begin at home. Boosting the Legislature's image, promoting its work and stressing its unbreakable ties to democracy are the task of all parliamentarians. In this context, I would outline a few challenges that I believe should be taken up:

1. Develop a set of instruments to effectively prevent influence peddling.
 2. Review the extent and limits of parliamentary immunity, so as to make restrictions and exceptions explicit.
 3. Generate a set of legal reforms for clarifying such procedures as impeachment and disqualification for office, in order to free them from political and situational pressures.
 4. Establish a regime of public-service incompatibility in cases of conflict of interest between legislative activities and private professional activities.
 5. Regulate agency and lobbying activities and make them transparent. It is essential that money not buy legislative influence.
 6. Establish legal instruments to protect voting one's conscience; such instruments invigorate parliamentary discipline and avoid party splits and break-ups.
 7. Promote mechanisms for transparency and control over the resources of Congress, in order to avoid suspicions of dishonesty and mismanagement.
 8. Create or institutionalize parliamentary discipline committees to establish penalties for legislators who act dishonestly.
 9. Facilitate access to all legislative information and the internal organization of Congress (via the Internet) to inform the public, non-governmental organizations and academic institutions and for their monitoring purposes.
 10. Make legislative support staff professional so that parliament can operate better.
- Commitment to having legislators who are more responsible and more open.
 - At the same time, counter all attitudes that could harm the public life of a country.
 - Democracy is not a set of cold rules or soulless mechanisms. It could not be. Otherwise, many nations would have disappeared long ago.
 - Democracy also requires the realization that fair play and straight accounting are necessary for institutions to be legitimate, trusted and strong.
 - Politics can indeed be dignified.
 - It is indeed possible to show citizens that there is much more to public life than scandals and corruption.
 - The greatest goal of politics is to serve the citizens, and our behavior should be directed to that end.