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# Democracy backsliding and populism. The crisis of the Mexican republic

Erosión democrática y populismo. La crisis de la República mexicana

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**Abstract:** Democratic erosion is a legal-social phenomenon that destabilizes Constitutional Republics due to the rise of so-called "populist" political leaders, who are legally (electoral law protects them) and legitimately (they have majority approval) elected; their objective is to destroy the institutional order contained in the Constitution to maintain their hold on power. Mexico is no exception; conflicts between the executive and the judiciary and constant attacks on independent organisms are currently putting federal democracy under strain. For this reason, this article is a documentary investigation that deals with the general concepts that give rise to the way political power is exercised. Using the historical method, it examines the evolution of forms of government; the Mexican nation has gone through three key and unstable events: empire, centralism and federalism, the latter of which served to found both democracy and the contemporary presidential system. Subsequently, it identifies the democratic fracture and rise of populism to describe its modus operandi. Finally, it is proposed to restructure the checks on power contained in the constitution relating to transparency, citizen participation and the powers of the branches of government.

**Keywords:** Democracy, State, Constitution, populism, political power.

**Resumen:** La erosión democrática es un fenómeno jurídico-social que inestabiliza a las repúblicas constitucionales por el ascenso de líderes políticos denominados "populistas", los cuales son legal (la norma electoral les ampara) y legítimamente (poseen aprobación mayoritaria) electos; su objetivo es destruir el orden institucional contenido en la Constitución a efecto de mantener la posesión de



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poder. México no es la excepción, actualmente los conflictos entre poderes ejecutivo-judicial y los constantes ataques a los organismos autónomos colocan en tensión a la democracia federal. Por ello, el presente artículo es una investigación documental, la cual aborda los conceptos generales que originan la manera de ejercer el poder político. Mediante el método histórico se examina la evolución de las formas de gobierno, la nación mexicana ha pasado por tres momentos clave e inestables: el imperio, centralismo y federalismo, este último sirvió para fundar tanto la democracia como el sistema presidencialista contemporáneo. Posteriormente, se identifica la fractura democrática y ascenso populista para describir su *modus operandi*. Finalmente, se propone reestructurar los controles de poder contenidos en la Constitución relativos a la transparencia, participación ciudadana y las facultades de los poderes públicos.

**Palabras clave:** Democracia, Estado, Constitución, populismo, poder político.

## INTRODUCTION

This article analyzes the decline of the democratic and institutional system in Mexico, taking as a starting point the chameleon-like characteristic of the country in adapting its form of government to the ideals imposed by political actors throughout its history, the latter being the winners of the eternal battle between liberals and conservatives, with the objective of obtaining or maintaining power. Currently, it is paradoxical that political leaders are popularly elected in compliance with the electoral law, yet they aspire to unbalance the institutional framework contemplated in the Constitution they swore to “guard and protect”. The attacks of recent years to the autonomous bodies and the judiciary by the executive power only weaken the State, thus creating a situation of democratic crisis. It is of primary interest to provide this research with elements to explain the way of operating, causes and effects of democratic erosion and the rise of populism, to conclude whether democratic life is being restructured in Mexico or whether we are witnessing the rise of a new form of exercising public power, which we will refer to as “democratized autocracy”. The reader is hereby informed that this work has no political purposes; it is the author's conviction as a jurist to always seek objectivity and protect the constitutional order. The following phrase of Fray Servando Teresa de Mier (1917) is appropriate: “The powerful and sinners are synonymous [...], because power fills them with pride and envy, provides them with the means to oppress, and assures them impunity”.

## POWER, REPUBLIC, DEMOCRACY AND CONSTITUTIONAL STATE

### A. Power

To search for a universally accepted definition of power turns out to be a complex task, the word, being abstract, is studied from the verb in infinitive, it is roughly inferred that it is the power or subjugation exercised by an individual. As for its etymological composition, we have the Greek roots *kratos* and *arkhê*, the first means “dominion”, “government”, “power”, in turn refers to the Greek god who possessed characteristics such as violence, war, coercion (Real Academia Española, 2023); the same etymology plays in harmony with other words as can be seen in “democracy”, “autocracy” and “aristocracy”. As for the second term “arkhê” meaning power, command or principle (Etimologías Chile, 2023), it is reflected in the words “oligarchy”, “monarchy” and “anarchy”. Consequently, both etymologies lead us to think that the essence of power is command, government, coercion and even violence or force.

In Power Theory, three elements stand out: coercion, ideology and utility (Bouza-Brey, 1991). The practice of force to achieve an end (obedience) is obtained from coercion; this element is exemplified in the figure of crime, implemented by the State, which subdues all persons to avoid negative actions that harm society or the State itself; secondly, the ideology pursues an end supported by certain dogmas or fundamental principles oriented to a goal (subjection), this element is perceived in the doctrines that constitute religions, for example “to enter purgatory after death”, in the Catholic tradition. Finally, the element of utility focuses on the conditioning of the individual -alone or in a group- to the mutual idea of “to give and to receive” to obtain subordination, for example, it can be observed in the labor relationship between an employer and an employee, the utility would be the labor in exchange for a retribution.

The aforementioned traces the path to conceptualize power as that relationship between two parties, a subordinating party whose purpose is the obedience or coercion of the second party called subordinate. Power is an animal attribute, however, the desire to control social power is an attribute of human nature, the latter is born from the social relationship that exists within human settlements and, as a rule, there will always be a party that exercises authority (dominant) over others (dominated). Originally the rousseauian theory proposes that the State, when established as an entity of political organization for human society, exercises power over the people, a term that should be understood as the dissenting collectivity, when the latter coexists in a natural state it becomes violent, consequently, the idea of the “social contract” is born, which proposes to distribute the power emanating from the community to an entity in charge of establishing order and security (Rousseau, 2007). However, social dynamism leads to the subjugation of the State to adapt updates that are in line with social development (this is achieved through the rupture of the traditional political order) (Bobbio, 1998).

John Locke sees two initial states in humanity: the natural state (state of equality between people, harmonious, each individual takes justice into their own hands) and the state of war (between individuals they are in constant conflict, it is violent and arbitrary), these share a common characteristic, there are no legal rules issued by any authority, ergo it develops various power relations (inspired by the Aristotelian work), segmented into three: paternal, despotic and political. When Locke refers to paternal power, it must be understood as the power exercised by parents over their children, including the teaching of values, principles and civil formation, once the children are conscious adults, they will be subject to the regime and jurisdiction of the State. On the other hand, despotic power arises because of the state of war, the will of the dominant-vanquishing party is imposed on the dominated party; by means of an agreement the dominant party provides protection and security, while the dominated party lends its labor and loyalty. Finally, Political Power arises mainly because the human being is a “political animal”, therefore, he needs to have social coexistence; this is when civil and political societies are born, whose purpose is to protect the property and life of each individual-member from the chaos of the states of nature and war. Consequently, the State is born as an organization, which to avoid any arbitrariness or absolutism, will divide the functions of public power: the legislator will issue the law emanating from the social will; the executor will be the one who will carry out the provisions contained in the laws; and finally a judging party in charge of applying the law through its sentences (Locke, 2023).

Thus, defining power and its functions is a complex task, if we fail to control who holds power and its faculties, it can become arbitrary and tyrannical. As Diego Valadés warns, the control of power tends to have two basic functions: to know how it is going to be exercised and to make

the execution of power more reliable. For example, in contemporary democracies, establishing mechanisms of control of public power will depend on its constitutional system (Valadés, 1998); such is the case of Mexico where there is a duality of mutual control between popular sovereignty and popular representation, on the one hand sovereignty lies in its citizens and they are free to exercise power, yet the constituent imposed a limit called “popular representation”, where significant decisions will be attended by players from the same citizenship, in order to avoid arbitrariness. Therefore, the rule is clear: the greater the power, the greater the limits and control.

### ***B. Republic and democracy***

To study Mexican democracy, we first must have in mind the form of government in the country. The roots of the republic are supported by Plato, who presents this form of government which aims for happiness and is achieved through justice, since “each one is given what corresponds to him” (Plato, 2019), for example, a community within a republic may request what its needs indicate, when the State satisfies them, then society is given what belongs to it. Following this logic, moving it to a hypothetical case: A group of NGOs called on citizens to march for the State to act against insecurity (Mansilla, 2024), if the State were to listen and, as far as possible, comply with social requests, we could speak of effective justice. The “republic” can be understood as the form of government where the members that make up the State stem from the citizenship, regardless of gender, religion, political ideals, economic situation, etc. In a republic there is no predilection to exercise political power, unlike a monarchy where there is already a blood lineage that holds the power.

The republic has had different meanings over time, it is a dynamic concept within political theory. The Renaissance republic is the product of liberal ideals, consequently, it provides a strong criticism against absolutist monarchies; currently republics are identified as representative, meaning that they need popular suffrage to elect public offices, such is the case of deputies, senators or president (Ortiz, 2007). To broaden the scope of the term “republic”, Sergio Ortiz (2007) proposes branching out into two main republican ideals. First, radical democratic republicanism, conceived mainly with Machiavellian thought, is a government originated within the citizenship, it lacks domination and patrimonial dependence on third parties, it also imposes communitarian obligations on its individuals, it has all the elements to operate with the direct plebiscite of the citizenship. On the contrary, liberal-democratic republicanism is based on Aristotelian ideals consisting in the government of laws, the citizens merely elect their rulers - representatives- to make decisions.

Currently, the relationship between republic and democracy is so close that they can mistakenly be seen as synonyms, however, the first term is a system of government, while the second tends to be an acquired characteristic of a form of government. It is necessary to mention that within a republic prevails the eternal battle of minorities versus majorities, political regimes arise that evolve its original essence; for example, with the aristocracy, the power of a select group of people with more accumulated wealth prevails over the other majority groups that do not have a large patrimonial wealth. Subsequently, the aristocratic groups will perpetuate themselves in the ranks of the State with their descendant generations through political influence, and their only motivation will be to accumulate the wealth or resources that the State possesses; such wealth is generated by the underprivileged masses, which is what we call oligarchy. With the passage of time, the underprivileged masses will revolt against the favored class in such a way

that in the end they will become the ones who hold political and economic power; this is the origin of democracy or “government of the poor” (Aristóteles, 2023).

It is natural that societies are immersed in politics, since a political regime is the nourishment of men (Plato, 1987), consequently, democracy plays an important role within a republic, it is important to seek the most appropriate definition that integrates the elements that make it up and not remain in the mere description of the name “demos” and “kratos” which means “power of the people”. Sartori broadens the perspective regarding the actual essence of democracy, beyond axiological or semantic values, he focuses on a material and tangible reality. The first area he considers is political democracy, which we generically understand as the State being the administrator of electoral processes and operating through governance with citizen participation. On the other hand, economic democracy refers to the “level playing field” in economic competition and possession of wealth. Finally, social democracy refers to the integral equality of conditions among citizens; this democratic sphere is complex, as macrodemocracies emerge in combination with microdemocracies (Sartori, 1993, p. 3-8). In this regard, I consider that the proposed approach to “social democracy” is perfectly suited to Mexican society, given that it is a multicultural country, as it also allows for the self-government of its indigenous peoples and communities -microdemocracies- without the interference of any external agent in their region, all under a federal democratic regime -macrodemocracy-.

Today's democracy is based on the liberal thinking of authors such as Rousseau, Locke and Hobbes, mainly under the ideas of freedom and equality among people, the same postulates that triggered the French Revolution of 1789, eradicating the absolutist monarchy. One of the main characteristics of liberal democracy is that it will designate the “demos” (people) as an amorphous mass of people living in a certain territory, and concepts such as “popular sovereignty”, “division of powers” and “fundamental rights” begin to be adopted (Salazar, 2006). Later, during the first decades of the 20th century, the wave of constitutionalism arrived, with authors such as Kelsen, Schmitt and Bobbio proposing a modern constitutional, political and democratic theory. At this point, social rights began to be recognized, which would pave the way for the development of vulnerable classes (such as workers and peasants). Democracy will be constitutionalized, that is, electoral processes and popular consultation will be elevated to a mandate of supreme law, the suffrage is a very personal act, likewise the “people” is now known as “citizenship”, the latter will be composed of individuals with a singular ethical value.

As previously analyzed, democracy is as dynamic as societies, it must adapt to the new demands of the people, therefore we can agree with Sartori (1993) when he provides parameters that the State must consider, for example, demographic growth and the constant change of social thinking -liquid culture- are transforming elements of the worldview of a society. Contemporary democracy makes certain exclusions for the exercise of suffrage, such as a certain age, whether the individual has citizenship, civil liberty, the ability to decide or issue a criterion. Rather than being a discriminatory issue, they are founded on the adoption of a good criteria by the electorate, as well as control in the number of suffragists. It should be added that citizens have the obligation to demand that the State implement public policies focused on the younger generations to prepare them and induce them to citizen participation and democratic education.



### *C. Constitutional State*

What makes a state constitutional? Undoubtedly, to answer the question, we must turn to the document by excellence concerning modern Constitutions: The Declaration of the Rights of Man and of the Citizen (1789), in its 16th article: “Any society in which the guarantee of rights is not assured nor the separation of powers established, does not have a constitution”. The above refers to two basic elements to call a State “constitutional”, the first is to ensure the proper execution and development of individual and collective rights, on the other hand, public power must be controlled through the division of functions, thus preventing all kinds of autocracies, totalitarianism or tyranny (essentially having power and using it against the law). Once the second half of the twentieth century arrived, strictly speaking the Rule of Law as a fundamental principle of governance is eclipsed by the Constitutional Rule of Law, this because the latter is broader in comparison to the former. A Constitutional State provides necessary mechanisms to control power, as Ferrajoli comments “a political constitutionalism” (Arrollo, 2017).

Now, constitutional democracy per se contemplates dividing power and assigning a part to the individuals who are members of society, it will also erect a set of mechanisms and legal norms related to the electoral “rules of the game”, these general laws will have a constitutional backing to avoid breaking the democratic order, henceforth we will call it “political-legal order”. An example of political order is observed in Mexico, through constitutionality control in electoral matters, the supreme law empowered the Judiciary of the Federation, specifically, the Suprema Corte de Justicia de la Nación (Supreme Court of Justice of the Nation, SCJN), who performs an abstract constitutionality control through the actions of unconstitutionality, invalidating general electoral laws contrary to the Constitution; On the other hand, the Tribunal Electoral del Poder Judicial de la Federación (Electoral Tribunal of the Judicial Power of the Federation, TEPJF) is in charge of the specific control, for which there is the Constitutional Review Trial (normally) and the Trial for the Protection of the Political-Electoral Rights of the Citizen, these will operate a control of constitutionality in each particular case when any act of authority or resolution restricts political-electoral rights recognized in the fundamental law (Gómez López, 2008).

It should be added that the Kelsenian constitutional theory establishes subjecting the supreme norm to the principle of constitutional rigidity, which consists of perpetuating in time the original face of the Constitution without any change (Micaela, 2017); moreover, given the dynamic demands of democracy, this does not coincide with the premise sustained by said principle by virtue of the changing social reality, the Constitution falls into an anachronism, the above is sustained by Article 28 of the second Declaration of the Rights of Man and of the Citizen (1793), which reads: “The people always have the right to revise, reform and change their constitution. One generation cannot impose its laws on future generations”. In that sense, if a new Constitution is adopted, its issuer must be (obligatorily) the original Constituent Power, otherwise, it will lack legitimacy if the author is one of the constituted powers, or if it tends to pursue political intentions or by conflict of interests (by means of social manipulation making the Constitution to lack essence or to not cover the collective needs). In addition, if it has undergone multiple reforms in the hands of the legislative or executive power, it loses meaning and essence, in turn, the principle of Constitutional Supremacy is violated, where the Supreme Law must remain solid before the other general laws (emanated by the aforementioned powers).

In conclusion, the origin of the Constitutional State within a democracy is originally based on the liberal ideal of equality and freedom of the individual, the Constitution is necessarily carved by the people, and must contemplate rights and division of powers, this fact is preceded by the rupture of a failed political system. The principle of Constitutional Supremacy must enforce the respect of the Supreme Law against the interaction with other ordinary laws enacted by some constituted power, however, it has an expiration date which is reflected in the uniform request of the citizens (constituent power).

## FORMS OF GOVERNMENT AND DEMOCRATIC RISE IN MEXICO

Throughout the history of political power in Mexico, there have been scenarios of political instability, international tensions and even civil wars amongst citizens. All the way to the height of democracy that rules today. It is an exercise of meditation to ask (from the historical introspective) if democracy is being corrupted or if we are witnessing the foundation of a new way of exercising public power within a republic. The historical journey begins in Independent Mexico, as in 1824, with the international recognition of the United Kingdom to the new country, Mexico began to relate globally. However, the importance of historical documents that preceded the era, such as the Constitution of Apatzingán of 1814, is emphasized.

### *A. Mexican Empires*

To begin with, Aristóteles defines monarchy as the government of a person, which operates on three assumptions: a). The prince cares for the common good of society; b). The prince satisfies his own interests and those of his family; c). The prince imposes himself on his subjects against the law, becoming a tyrant (Barragán, 2010). In this order of ideas, the Mexican historical evolution reveals two moments in which a monarchy was imposed. The first was Iturbide's Empire, when the path of independent Mexico was only just being traced, between 1821 and 1823, and in addition, republics were not trusted as stable forms of government (they had France and the United States of America as examples). The second one, on the other hand, was erected forty years later in 1864 and would culminate in 1867. As we can see, both were short-lived because of political instability and lack of control of power. Both empires had one characteristic in common: they planned to establish a moderate and constitutional monarchy.

On the one hand, the Plan de Iguala (Iguala's Plan) methodically worked out the desires of conforming a monarchy, the latter would continue to have a relationship with Spain; by recognizing Ferdinand VII as supreme ruler, the intention was discarded since the king could not leave Spain, according to the Constitution of Cadiz (Ávila, 2004). Agustín Primero had a rising country submerged in chaos, on one side were those who supported his reign, on the other those who considered that Mexico had to remain under the command of Spain and finally those who wanted to establish a republic; furthermore, the Nation had no money, no Constitution that governed the actions of authority or that declared rights and guarantees to the governed (both characteristics of a Constitutional State), nevertheless it was a legitimate government by means of the implicit approval of society through praise and recognition (Ávila, 2004). It seems that Iturbide's efforts to unify the plural people were a waste of valuable time to create a Supreme Law, which from the beginning would have followed the liberal ideal and adapted the Constitution of Apatzingán with monarchical elements. As time went by, Iturbide's government fell into authoritarianism (the second scenario outlined by Aristóteles), ergo he lost the support of his sympathizers for ignoring the main essence of the Plan de Iguala. Furthermore, the



Soberana Junta Provisional Gubernativa (Sovereign Provisional Government Junta, a congressional body that acted as a constituent power appointed by the emperor) had republican ideals, which discouraged hereditary power. In the end he was betrayed with the Acta de Casa Mata (Act of Casa Mata), which among other things put an end to the First Empire, objective stated in its 10th article, opening the way to the first republican and federal government of 1824 (Avila, 2004).

A few years later, the Second Empire under the mandate of a foreigner, imposed by the French army in its intervention in Mexico, Maximilian of Habsburg accepted the proposal made by the Junta Superior de Gobierno (Superior Governing Junta) to be invested as Emperor on the condition that this was the will of the people, thus guaranteeing legitimacy and popular approval. Maximilian and Carlota were characterized by their bourgeois liberal ideas, they received an independent country with an uncertain future due to foreign interventions, civil wars and economic instability. In the first two years of his mandate, he reorganized the government, the military and the imperial territory (dividing the states into departments) (Soberanes, et al., 2023). His Constitution called “Estatuto Provisional del Imperio Mexicano” (Provisional Statute of the Mexican Empire) (1865), represents a novel legal document for the time, since it had the basic elements of a contemporary fundamental law, since it declares rights and guarantees to the citizen (such as: equality, freedom of speech, legal security, property, freedom of worship, etc.), it also contemplates the division of powers -a topic ignored by the First Empire- as well as the military force. In addition, immigration to Mexico was promoted, slavery was eliminated (now when services were rendered by the “operators”, they had to be paid), education for all social classes was facilitated, the Empress created the Junta de Indios (Council of Indians), extolling a constitutional, moderate and plural Empire. However, the republican opposition (like Iturbide's government) conspired against the Empire, making it fall and restoring the Republic again, returning the adherence to the Constitution of 1857 (Soberanes, et al., 2023).

### ***B. Centralist Republic***

To understand the foundations of the unitary period in Mexico, centralism must be understood as a form of state whose functions fall on a single national entity, which in turn exercises power over other lower entities (called departments or provinces) (Barragán, 2010). Within the Congress in 1834, with the fragmentation of the liberals into moderates and radicals, they did not find any agreement regarding the differences on the establishment of a centralized federal republic or a moderate centralism; on the other hand, the conservatives would gain more political strength by allying with Santa Anna's supporters and moderates. The first federalism was altered in 1835, when Santa Anna proposed a change of regime, although the Constitution of 1824 prohibited reforms in topics such as the form of State, the federative entities yielded to the proposal, granting legitimacy to the change, despite being unconstitutional. The transition process led the Republic to a creative destruction of the constitutional and institutional apparatus of the State, leaving the federal entities, now called “departments”, without powers. A novel aspect was the incorporation of the Supremo Poder Conservador (Supreme Conservative Power), which acted as protector of the Constitution against the acts emanating from the legislative and executive powers. The incorporation of the centralist system brought with it the independence of Texas, U.S. intervention in the country and instability of the supreme executive power (Aguirre, 2012).

Nevertheless, indirect democratic processes were included, such as the designation of the body of the Junta Departamental (Departmental Council) or the election of members of the Electoral College, the latter body overseeing appointing Deputies to the General Congress and Members of the local Assemblies. By 1839, centralism took an unexpected turn when Santa Anna submitted to Congress reforms to the Constitution without respecting the deadline set by the Constitution to adapt substantial changes (Rabasa, 2017). Subsequently, the Santa Anna government lost popularity in 1841 (González, 2022). The decline of Santa Anna's dictatorship occurred when the Organic Bases of 1843 were promulgated, where the Supremo Poder Conservador was suppressed, a Martial State was created, arbitrary tribunals, and the death penalty was established, among others. The previous fact would bring consequences during the following three years, in 1846 the Constitutive Act and reforms restored order to the Republic. In 1856 an interim president and a Constituent Congress would be appointed, whose objective was to return to the federal regime of 1824.

### *C. Federal Republic: Democratic Rise*

The main characteristic of the Mexican federal spirit, as Carbonell points out, is to decentralize the centralized power that was inherited from the Spanish Crown, thus the municipality, by exercising its self-government, counterbalances the attempts to establish unitary governments (Carbonell, 2003). The first precedent of federalism is found in 1824, conceived under liberal and republican ideals and legitimized by a Constituent Assembly, resulting in a constitution that declares rights, divides powers, and organizes the federative entities; however, its mistakes were to faithfully copy the American model (Saucedo, 2018) and proclaim Mexico as a Catholic country. The provinces that made up the First Mexican Empire became federative entities; one year after the promulgation of the supreme law, the states began to establish their local constitutions, such is the case of Jalisco, Chiapas (entity that established the amparo), Yucatán, Tabasco, etc. (Barceló, 2016). The federalist block starts from Article 4, which establishes the form of government as a “representative, popular, federal, republic” (Constitución Política de los Estados Unidos Mexicanos, 1824). It recognizes the independent government of the federative entities, as well as their protection by the General Congress, establishing a solid federalism in Mexico. Democracy is indirect, that is, the Local Congresses oversee electing their federal congressmen, constituting themselves as a Junta Electoral (Electoral Board), subsequently, the Federal Congress -representing the legitimacy of the citizens- elects the head of the executive power; the above denotes a parliamentary system. In addition, the fundamental law of 1824 is novel because it contemplates the impeachment and the *desafuero* of public servants, it represents an advance in constitutional procedural law. It contains a reformability clause which must last for 10 years, after which it will be submitted to observations by the General Congress.

The second federalist wave was in 1857, preceded by the centralist stage, consequently, it marked the schism between the State and the Church, the return of bicameralism in the legislative branch and, on the part of the executive, the change of the figure of the government council to government cabinet. The mixed form between parliamentarism and presidentialism began to be adopted (Barceló, 2010). Its constitutional framework establishes the form of government as “representative, democratic and federal republic” (Constitución Política de los Estados Unidos Mexicanos, 1857); the term federal pact stands out to refer to the union between federative entities, where there is also a territorial delimitation, while the General Congress is in charge of admitting new entities; the Constitution of 1857 is broad in clarifying the competencies within

the Federation, Title V is the substance of the federal block where the municipalities are empowered to self-government. Democracy is indirect -like the federalism of 1824-, where federal deputies and senators are elected by local congressmen, it is worth mentioning that the ministers of the Supreme Court are elected by popular vote, and no public servant should occupy two positions at the same time. The fundamental law contemplates constitutional mechanisms such as constitutional controversies, amparo, annulment of constitutional privilege and impeachment.

Finally, the last stage of federalism that began in the 20th century and continues today, marking a global axis with the implementation of social rights and the institutional democratization of the State. This federalism is forged under a presidentialist system, has as its basis the autonomy of federal entities, citizen plurality and political alternation is recognized (Muñoz, 2015). Article 40 of the Constitution of 1917 establishes the form of government as a “representative, democratic, secular and federal republic” (Constitución Política de los Estados Unidos Mexicanos, 1917), it also recognizes the nation as multicultural, self-government and independence is preserved to the federal entities and at the will of the Congress of the Union new states are accepted. Democracy is solidified by making direct elections to occupy the positions of the executive and legislative power, likewise, autonomous organisms are created, for example the Instituto Nacional Electoral (National Electoral Institute) that protects the electoral-administrative matters, in addition to this, the Supreme Law of the Federation requires the entities to contemplate local electoral administrative institutions and integrates two democratic processes: the public consultation and the mandate recall, on the other hand, the milestone of electoral justice begins consolidating organisms such as the Tribunal Electoral del Poder Judicial de la Federación (Electoral Tribunal of the Judiciary of the Federation) and the local electoral tribunals.

Currently, the Constitutional State and the democratic system are vested with constitutional protection mechanisms such as constitutional controversies, actions of unconstitutionality, the amparo trial, the political trial, the mandate recall, public consultations; thus, facilitating the establishment of order in the exercise of public power, as well as the creation of a plural and democratic government. However, constitutional harmony has been affected by disagreements between the executive and the judiciary (Vallejo, 2023, December 17) and the constant attacks on the autonomous constitutional bodies (Martínez, 2023), generating institutional imbalance and social fracture. In addition to the above, the constitutional reforms proposed by the executive and the legislature have been criticized by jurists and political scientists for endangering the federal, democratic and representative Mexican Republic.

## DEMOCRATIC EROSION AND POPULISM

To start with, it is necessary to recall Ferrajoli's (2015) assertion on the performance of rights instead of declaring them in his theory of guarantist constitutionalism in analogy with Sartori and the materialization of democracy (Vega, 2019). Both postulates propose to break with the ideal or perfect -intangible- and transcend with impact on reality -tangible-. That is to say, Mexico in its Constitution (1917) contemplates democratic principles, political-electoral rights and sets the rules of the electoral field as well as the rights and obligations of citizens and political parties (intangible part), and rightly complied with the materialization of constitutional democracy (tangible part), empowering the Instituto Nacional Electoral (National Electoral Institute) and the Electoral Institutes of the federal entities (bodies autonomous from the public powers) to

oversee the administration and execution of the electoral processes, on the other hand, it judicialized democracy by creating a system of means of challenge in electoral matters protected by the Tribunal Electoral del Poder Judicial de la Federación (Electoral Tribunal of the Federal Judiciary) and the federal electoral courts, both in charge of settling disputes arising in electoral matters. It shows that democracy is not perfect, leaving behind the idealistic perception and starting to act the democratic life. So then, what is going on?

As warned in previous lines, democracy is an ambiguous term of different perception between citizens and States, therefore it results inorganic to implement elements foreign to the democratic system of a country, as proposed by Nohlen (2016), since it implies invading the social and historical context of the region (in this case, limiting ourselves territorially to the Mexican Republic). In recent months the debate has prevailed among jurists and political scientists, as the rise of erosion within the democratic regime is foreshadowed; thus, we concur with Little and Meng (2024) when they describe it as a “sabotage” carried out by internal (State) or external (political actors) agents against the democratic, legal and institutional system of the State, per se, unbalancing the Constitutional system -at least in the case of Mexico-. What Przeworski (2023) describes as “erosion” of democracy, refers to the setback, weakening or regression within the democratic system by political actors to obtain an electoral advantage while remaining in power and ignoring the Constitution. The above is a product of the omission to fully integrate the plural citizenship and by the discursive figures of political leaders who deny the rise of dictatorships and autocracies (Llanos, 2023), another prominent feature is the ambition of presidents to maintain power, dominating according to their convictions and restricting the rights of “opponents” (Mainwaring, & Pérez-Liñan, 2015).

Within the democratic development of a State, a solid constitutional and normative basis must be contemplated, as well as the integration of a plural society (Zovatto, 2011). However, the process of “populist reversion” proposed by Haggard and Kaufma (cited in Pérez-Liñan, 2017) is of particular interest to study. The theory is adequate in the Mexican reality, since the application of the failed model of neoliberalism at the end of the 20th century, caused the inflation of the Mexican peso, economic crisis and unemployment, ergo, the government led by the hegemony of the Partido Revolucionario Institucional (Institutional Revolutionary Party, PRI) was losing sympathizers, which opened a path to political alternation at the beginning of the new millennium with the triumph of the Partido Acción Nacional (National Action Party, PAN), the citizens placed their trust in a new “untainted” party due to the ambition for power (a fundamental element in Haggard and Kaufma’s theory), the situation of the Mexican Republic did not change with the PAN, nor with the return of the PRI in 2012; reaching the 2018 elections (where, again, the majority of citizens applied the formula previously mentioned with the 2000 election) marked the triumph of the party born of the National Regeneration Movement (MORENA), led by Andrés Manuel López Obrador (2018-2024). This brief account of political transitions serves to ground the possible democratic fracture in Mexico. The rise of MORENA was the result of the battle between economic and social democracy, since the economic one attends to the demands of the market, regardless of human capital; on the other hand, the social one contemplates humanism and building a well-being State, it is easy to perceive that the former is subduing the latter, bringing unemployment or financial instability to the workers (voters). These unhappy voters give way to political leaders whose electoral strategy is populism and, once in power, make the presidential figure stronger, subjecting the other powers (violating the “checks and balances”), in addition to omitting the fulfillment of civil liberties and political

rights, to finally establish an administration with “populist” policies (Bauer, & Becker, 2020). But what is populism?

To provide an objective definition of populism it is necessary to study it from three axes: the idea, the movement and the public policy (Panizza, 2009), it is wise to analyze the development of populism in this order because political leaders adapt the ideal to a movement through the figure of political speech, and when they manage to obtain power, they implement it in public administration. When considering a current definition of populism, it is not uncommon to fall into vagueness or derogatory terms in a political-social context, in another sense, it responds to a mere discursive figure as Laclau (2005) states “populism has not only been degraded, but it has also been denigrated”, even evoking a linguistic contagion given the affirmation and reiteration of its judgmental nature. Considering the disorganization of society en masse (Aboy, 2002), populism is described as a political movement formed in a legitimate social mass that seeks to satisfy collective demands, either by legal and peaceful means or through the violent use of force. However, to understand its essence, it is necessary to observe its origin.

Populism began in Russia and the United States, with the Narodniki and the People's Party, respectively, both mobilizations were organized by peasants to have their social demands heard to obtain the same rights as the bourgeoisie, which we now know as “classic” populism, as time went by it solidified into a political discourse and party by the end of the 19th century. The new wave of populism would arrive in the mid-twentieth century, with a strong criticism of neoliberal policies. Nowadays, when a populist government takes shape, it has several consequences such as the excessive presidential system, where the executive head sustains the rhetorical figure of the elite, eclipsing the freedom and rights of the weak moral people, in Mexico it gets stronger thanks to historical precedents such as the Viceroyalty of New Spain, Centralism or the Porfiriato.

Thus, the “populist” flag serves to modify the democratic system and as a shield for leaders with broad popular approval. Przeworski (2022) exposes a stealthy attrition increasing with the passage of time, the materialization of autocratic ideas disguised as populism, the popular leader takes the media, especially television to share his or her ideological message. The Polish political scientist warns of a series of characteristics of the current democratic “decline”: a). Institutional weakening; b). Lack of judicial independence; c). Obstacles to accountability and transparency; d). Limitation of rights and guarantees; e). Migratory-xenophobic policies. Within Mexican reality it is noteworthy that the last element does not apply since no measures have (yet) been taken against migratory flows and settlements within the Republic, however, throughout MORENA's six-year term, events have arisen that prove the intention to modify the constitutional and democratic framework in favor of the ruling party's interests, such as the constitutional reform that proposes to declare a law constitutional by the vote of four ministers (López & Gómez, 2024); the judicial reform that proposes the popular election of judges (Baranda & Guerrero, 2024), which causes a stir for apparently returning to the time of the second federalism with the Constitution of 1857; threatening to disappear the autonomous bodies that give balance to the public powers, as is the case of the Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales (National Institute of Transparency, Access to Information and Protection of Personal Data, INAI) (Sánchez, 2024), the Instituto Federal de Telecomunicaciones (Federal Telecommunications Institute, IFT), the Comisión Reguladora de Energía (Energy Regulatory Commission), etc., under the argument of



“controlling the decisions of public power” (Olivares & Urrutia, 2023); and violence against the rights of journalists and freedoms of human rights defenders (Bravo, 2024).

So, if autocracy (“one-man rule”) is amalgamated with populism, both will subdue the change of the democratic political regime with the following objectives: to seek hegemony (eliminating the plurality of political parties and congresses), repeal privileged sectors, promote institutions with their ideas, and “the people” will be the mask of a popular idol (Del Tronco & Monsiváis-Carrillo, 2020). Subsequently, the laws will be conveniently and unduly modified by these popular politicians within the legislative or executive powers, hence, the importance of the judicial independence of the Constitutional Courts (Ríos, 2022) that function as a control of an apparently autocratic law, but the problem comes when the Fundamental Law is reformed, and they adjust the autocratic or populist ideal. At this point, not only democracy is corroded, but also the whole governmental apparatus of the Democratic Constitutional State. As previously exposed in the analysis of the forms of government, Mexico has lived in constant political confrontations on two sides: imperialists against republicans, conservatives against liberals, centralists against federalists, and now it seems that we are entering the intellectual battle amongst “constitutionalists” and “populists”.

## CONCLUSIONS

Since the origin of the Constitutional State at the end of the 18th century, its primary objective has been to safeguard the rights and liberties of the citizenship, which are recognized in the Fundamental Laws of each State, in addition to controlling the exercise of public power so that it cannot be executed arbitrarily, either vertically or horizontally, against society -tyranny- or against the Rule of Law -anarchy-.

Currently, the Mexican Republic -constitutionally- is democratic, representative and federal; this means that the positions within the government come from the popular suffrage, through free, periodic and transparent elections, once the elected candidates are exercising the office in the name of the citizenship, we call it “representativeness”, which is distributed in each one of the autonomous federative entities.

Governance in Mexico since its independence has been unstable, there are several elements that open a political regime transition, such as: 1. “Innovative” political ideas for a collectivity disillusioned by its current form of government; 2. A “failed” regime, where illegitimacy, illegality, violence, civil wars or coups d’état prevail; 3. Political leaders who use radical ideals to overthrow the “failed” regime; 4. If political power is seized illegitimately or illegally, then the fallen will take force to overthrow the rising regime, otherwise it will endure without major problem. Apply these rules of regime transition and they will fit every moment of historical political change in Mexico. Democracy is not dying, however, it is in constant manipulation within the process of hegemony thanks to the populist movements that gain ground every day in Mexico, and even the danger of the phenomenon is limited, this is because the status quo is in crisis due to the evolution of a new form of government from a federal republic to a centralized autocracy, where even though democratic processes will exist, they will be suitable for the perpetual holding of power by those who follow the flag of populism, those who are not sympathizers will be an elitist opposition, who will be under constant violation of their rights and attacks of social-political scrutiny. It is undoubtedly the battle of a polarized society between the populists (those who favor the radicalism of the present administration, believe in the moral



people and militarized protection) and the constitutionalists (those who favor the perpetuity of the Constitutional State and its Institutions, believe in pluralistic citizenship and guard the federal pact). It is inevitable to stop the rise of populism, but it is sensible to reverse the damage as it began to grow: gradually, one way to limit power is with another force of power.

First, to boost citizens' confidence in the institutions (which are not yet part of the new regime), this through a complete approach to society, promoting a status of transparency, accountability and good governance, inviting citizens to consult the data provided by an institute that is truly autonomous and not delegated by some supreme power, but by the citizens themselves (without politicizing it). Second, to promote citizen participation through civic and democratic education within the agenda of the electoral and state Institutes of the federal entities. Third, to promote efficiency in the administration of justice in the Judicial Power to eradicate the myth of “delayed processes”, as well as the approach of the citizenship for the election of their judges (unlike the President's proposal) without the intervention of the executive or legislative branch, but by the Judiciary Council in collaboration with electoral and transparency institutions, to continue having judicial autonomy in Mexico. Finally, making the reformability of the Constitution more rigid, so that we avoid the supreme law being subject to “erasures and amendments” in each change of regime and adding a prescription clause so that it can develop and reap the fruits of the previous reform. However, the contemporary State faces multiple additional problems that accelerate its institutional corrosion, such as insecurity, the environmental crisis, the rise of technology, the rapid evolution of artificial intelligences, the crisis of markets, etc.

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