



# The Telecommunications Reform in Mexico 2014. An analytical approach

## *La Reforma de Telecomunicaciones en México 2014. Una aproximación analítica<sup>1</sup>*

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### **Abstract**

The work I present addresses the Telecommunications Reform in Mexico, approved and published in 2014. From locate in the Latin American scenario reforms in two distinct blocks from a reordering of economic integration and regional policy in 2014, it is proposed a theoretical framework to systematically to the various variables involved in shaping coalitions winning commercial policy aimed at trade liberalization or protectionist approach. The Mexican case can be explained by linking economic policies with state institutions, society and the international system as a dynamic interaction, constant reconfiguration from three analytical variables: i) the international context, ii) the ability to influence (leverage), preferences and strategies of employers, iii) State vulnerabilities, interests and initiatives. This logic-inferential derivation proposes a set of explanatory hypotheses for reform Telecomunicaciones in Mexico, and draws attention to the importance of integrative to the recent literature of democratic quality in Latin America approach.

### **Resumen**

La presente investigación aborda la Reforma de Telecomunicaciones en México, aprobada y publicada en 2014. Partiendo de ubicar en el escenario latinoamericano las reformas en dos bloques diferenciados a partir de un reordenamiento de la integración económica y política regional en el 2014, se propone un marco teórico que permita una aproximación sistemática a las diversas variables que intervienen en la configuración de las coaliciones de política comercial ganadoras orientadas a la liberalización comercial o proteccionista. El caso mexicano se puede explicar vinculando las políticas económicas con las instituciones del Estado, la sociedad y el sistema internacional en una interacción dinámica, de constante reconfiguración a partir de tres variables analíticas: i) el contexto internacional; ii) la capacidad de influencia (*leverage*), las preferencias y las estrategias de los empresarios y; iii) las vulnerabilidades del Estado, intereses e iniciativas. Esta derivación lógica-inferencial propone un juego de hipótesis explicativas para la reforma de Telecomunicaciones en México y llama la atención sobre la importancia de su enfoque integrativo para la literatura reciente de calidad democrática en América Latina.

### **Keywords | Palabras clave**

Telecommunications reform, distributional coalitions, legislative coalitions, international context, business sector, state.

Reforma de Telecomunicaciones, coaliciones distributivas, coaliciones legislativas, contexto internacional, sector empresarial, estado.

- 1 El trabajo constituye un resumen de un proyecto de investigación en curso, presentado por el autor a la Dirección de Investigación de la Universidad Iberoamericana para su evaluación por una comisión externa de dictaminadores, optando por financiamiento institucional. Avances discretos fueron presentados recientemente en un congreso de ALICE. Es importante enfatizar que no presenta resultados concluyentes; su exposición pretende perfeccionar el marco teórico-interpretativo en construcción, así como precisar la lógica inferencial del argumento. En palabras de Verba, Kim & Keohane (2000), “mejorar teorías y evidencias” es su único fin en estos momentos.

## 1. The Latin American context

In July 2012, the former Mexican hegemonic party Institutional Revolutionary (PRI) won the presidency. Lesson learned, his «young» candidate emphasizes in his campaign the need to «move» -reform-the political-economic dynamics of the country, and thus ensure a renewal in the international image of Mexico. To reverse six years of violent confrontation to the drug traffic, characteristic typical of the previous presidency; to break the legislative immobility and to displace old corporate structures that inhibit the development and the international leadership of the country. In short, a new national modernization strategy will be at the center of its campaign and governance.

Among the proposed reform package is a long-standing debt: reforming telecommunications in a historical scenario of high concentration of media and information technology, with the duopoly Televisa and TV Azteca -85% of the open and cable television audience- for one side and the other TELMEX, owned by the magnate Carlos Slim, controlling fixed telephony, cellular and international connections. Faced with these corporate entities with sophisticated legislative lobbying and close ties with political actors, negotiating a reform implies a consensus on corporate commercial interest with the new dynamic emanating from the «Pact for Mexico» and the legislative majority of the ruling party (PRI).

But the crux of the question arises: Will the new political scenario guarantee a reform that modifies the foundations of a market with monopolistic media and technological actors, limited competition and high cost offer? Can the predominant design of commercial television (private duopoly) be modified? Will the number of private and public television channels increase? Will the public-non-state television model be strengthened with government autonomy? What will happen to the community media? On the other hand, will the functions of the Federal Telecommunications Commission (COFETEL) - regulatory body - be reformed? What degree of participation will civil society have in this reform?

Based on these questions the present research proposes: a) to reconstruct the antecedents; b) analyze the institutional context; c) outlining the strategies of political actors (A1), media and technology (A2) and civil society (A3). Finally, the previous analytical route will allow us to interpret -contextualizing- the proposal of reform delivered

by the President to the Legislative, its discussion, and finally, the scope, contradictory elements and public reactions to the approved Law, as well as its uniqueness within the reformist context. As a corollary it is also intended to d) evaluate in the light of the theoretical literature the quality of democracy in the contributions of the Telecommunications reform in Mexico.

It is important to place the aforementioned reform in the current Latin American context, characterized by an intense debate on the State-media-civil society relationship, specifically in countries where leftist neo-populist governments have taken actions to deal with the intense double stress tension with the great media conglomerates: a) the great media actors have assumed the function of political opposition to the government and b) the concentrated ownership structure of the media actors (Mastrini and Becerra, 2009) limits the expression and circulation of the diversity of alternative discourses. In Santander's words, "despite electoral triumphs, hegemonic media discourses remain those of the opposition"<sup>2</sup> (2014, p.17). For his part, Kitzberger acknowledges that in addition to challenging the press by placing it in a populist way, in the place of the «anti-people» or the «establishment», the governments of the region have appealed to forms of direct communication that dispute journalism's claim to exclusive mediator between the State and civil society (2009, p.168).

In an attempt to synthesize the state-media and telecommunications reform scenario in Latin America, we could place the reforms in two distinct blocks from a rearrangement of regional economic and political

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2 An interesting explanation could be that the electoral defeats of the old traditional parties and the triumph of the progressive governments made the traditional political system very unstable, provoking centrifugal dynamics, a reconfiguration of the map, the withdrawal of the old party organizations and the consolidation of new, that is to say, the birth of «a new block of power in South America». In this context, the media system in South America has provided refuge and rearguard to the right-wing actors, since the political changes of the last decade, although they allowed to displace the oligarchies of the Executive Power, have hardly changed the state-middle relations built in the 1980s and 1990s (Santander, 2014). In this same direction, Sader assumes that the main South American media began to exercise in the last decade "the political and ideological direction of the Latin American right", and they become the place from which "the organic intellectuals of the oligarchy" act (2009, cit. In Santander, 2014, p.22).

integration: the first bloc included progressive governments (moderate reforms) and radical governments (radical reforms) that were integrated into organizations such as Mercosur, ALBA and CELAC with an alternative left orientation to the neoliberal capitalism of the Washington Consensus. The bloc was made up of countries such as Brazil, Argentina, Uruguay (Moderate Reformists) and Venezuela, Ecuador and Bolivia (Radical reformers). Both were characterized by a political confrontation of variable intensity between the State and the media system, with their respective ideological polarization (Kitzberger, 2010).

The second bloc is characterized by neo-liberal governments conditioned by integration into the Pacific Alliance and the North American Free Trade Agreements (NAFTA), including Mexico, Peru, Colombia and Chile, where reforms are underway, aimed at improving regulatory<sup>3</sup> frameworks and their objectives were: (i) to promote open markets for competition to promote efficient delivery of services (adequate quality, modern services and efficient prices); (ii) to prevent abuses of market power (excessive pricing and anticompetitive behavior) by dominant firms where competitive markets do not exist or fail; (iii) create investment-friendly environments to expand telecommunication networks; (iv) promoting confidence in the markets through transparent regulatory and licensing procedures; (v) promote greater connectivity through effective interconnection agreements; (vi) optimize the use of scarce resources, such as radio spectrum, numbering and rights. It is important to recognize that the effectiveness of the regula-

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3 Regulation is generally applied to markets whose structure makes it unlikely that competition will operate effectively. In the past, in these markets, with high fixed costs and a natural monopoly tendency, the regulator's role was to bring the industry's performance closer to the results it would have if it operated under competitive conditions. To the extent that technological advances have allowed the successful entry of more than one company into the telecommunications markets, the role of the regulator has changed. Currently, its objective is to generate an environment and conditions that promote effective competition, so that, the use of regulation is less and less necessary (Razo and Rojas Mejía, 2007).

tory body and its impact on quality of service depend on respect for its two central characteristics: independence<sup>4</sup> and technical capacity<sup>5</sup>.

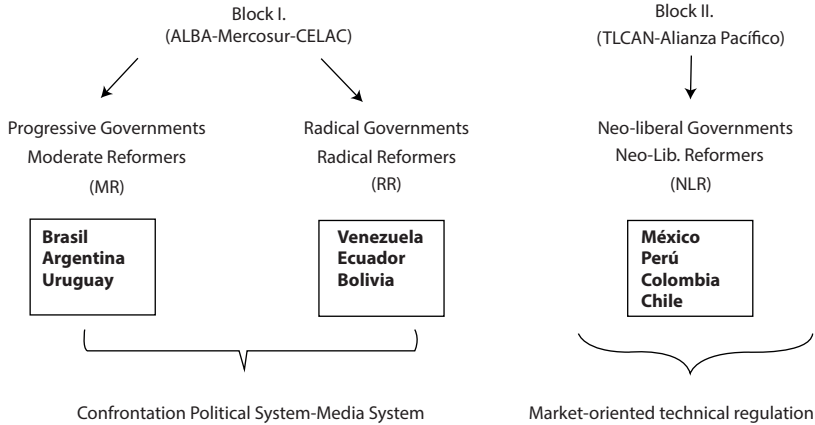
Finally, in a highly concentrated market (Mastrini and Becerra, 2009, Huerta-Wong and Gómez, 2013), with a weak regulatory body (COFETEL) (Mariscal and Rivera, 2005), media and technological actors with cross-ownership, which guarantees them wide market dominance and high «expertise» in the political lobbying (Telebancada), and in turn, political actors with close ties with media corporations, in addition to limited organizational and mobilizing capacity of the concerned civil society, constitute the complex environment for the discussion and approval of the reform in Telecommunications in Mexico. It is worth asking if this reform will bring important changes to the dynamics of telecommunications in the country, increase the competitiveness of the sector, increase the information options and reduce the costs of services, and whether it will have more channels and options for expression and deliberation the Mexican civil society.

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4 Although there are different models of organization of the regulator, the most accepted institutional structure has as its fundamental component its independence. An independent regulator is better placed to enforce regulations objectively and impartially. Such independence increases the likelihood that the regulator will protect competition and not competitors, which has positive effects on the development of the sector. In addition, the confidence of economic agents in the impartiality of regulatory decisions increases with the degree of independence of regulators. This confidence can stimulate the investment of incumbent operators and new competitors. The decisions of the regulator often tend to generate controversy among potential stakeholders and, therefore, attempts to exert pressure on them. Independence helps the regulator to act with neutrality and with autonomy with respect to political pressures or operators - risk of capture- (Razo and Rojas-Mejía, 2007, Mariscal and Rivera, 2005, Rozas-Balbontín, 2002).

5 Technical capacity is essential to identify the type and intensity of regulation that a sector should have, as market developments, technological developments and changes in operator structures and strategies should be continuously assessed. The determination of the degree of regulation required in the sector is a fundamental task of the regulator. Excessive regulation can be counterproductive and slow development. On the contrary, hasty liberalization (deregulation) can lead to anti-competitive practices, especially if there are operators with a dominant position or significant market power. (Razo and Rojas-Mejía, 2007; Mariscal and Rivera, 2005; Rozas-Balbontín, 2002).

**Figure 1. Blocks of Reformist Governments in Telecommunications in Latin America 2014**



Source: own elaboration

## 2. Theoretical framework

There is a prolific literature on structural reforms and their political cost in Latin America (Schneider & Wolfson, 2005; Haggard & Kaufman, 1995; Smith, Acuña & Gamarra (eds), 1994). On the other hand, the rapid and radical economic openness developed in Mexico since the second half of the 1980s and its implementation in the 1990s has been the subject of interesting studies (Palma-Rangel, 2007; Thacker, 2000; Heredia, 2002).

The present project tries to explain the recent reform of Telecommunications in Mexico from a theoretical perspective that allows us to integrate the diverse interacting variables and the contextual factors that influence the approval of the Law referenced *ut supra*. In this respect, the theory developed by S. Thacker in *Big Business, the State, and free trade. Constructing Coalitions in Mexico* (2000), is useful and suggestive interpretatively, as well as an excellent antidote to the short-range-often ideologized-explanations that predominate in Mexican public discussion.

The author in question (*op cit*), starting from questions about the reason for the variation in the patterns of trade liberalization in

developing countries, despite the similar international context of the 1980s, emphasizes that external factors can provide certain political opportunities and resources that will be mobilized, under certain conditions, to redesign the domestic political arena in which public policy reforms will take place. Thus, the approach integrates variables from the international context with an emphasis on the specific dynamics of each country within its political institutions (state, party system, executive-legislative ties, autonomy of levels of government, formal and informal rules for configuration and rotation of political elites, etc.) and ways of connecting with politically active social sectors. As a result of this dynamic, «trade policy coalitions» will emerge, in other words, competitive alliances linking public and private sector leaders with similar interests to promote or oppose certain trade policies (Thacker, 2000, pp. 20-ff.)<sup>6</sup>.

Under the premise that «winning» political coalitions define which policy will be successfully implemented and sustained, linking economic policies with state institutions, society and the international system in a dynamic interaction and constant reconfiguration, the author proposes an analytic framework where the intervening variable - both cause and effect - will be the “coalitions” (see Figure 2). Thus, the three analytical variables proposed are: i) the international context, ii) leverage, preferences and strategies of businessmen and iii) vulnerabilities of the state, interests, and initiatives.

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6 Thacker evaluates the predominant approach in the studies of Mexican economic openness centered on the institutional distance of potential opponents of free trade (unions), formerly corporate allies of PRI presidentialism, of the decision of the commercial open, which reduces the costs of openness and viability, as well as the characteristics of PRI's corporate presidentialism. However, it considers that they are not variables that fully explain the reform of Mexican openness, so it focuses its attention on the process of incorporating potential winners in a context of free (international) trade within the apparatus of design and implementation of public policies (2000, pp. 17-20). Later studies recognize as their «great merit» the empirical analysis of the preferences of business man and identify the range of factors that influence the attitude to adopt in the face of market reforms. A set of these factors revolves around contextual elements that influence interest calculations; another set considers the characteristics of large firms or individual plants that affect business decisions (Schneider & Wolfson, 2005: 353).

### 2.1. International Context

International actors such as the World Bank, the IMF and governments providing international credit impose strong “constraints” on policy options, from the conditional use of their credit practices, the implementation of their technical expertise and the imposition of economic sanctions. Such pressures can alter calculations of the relative benefits of different policies. Another important contextual factor is the economic crises that often precede the reforms and their impact on the perceptions and expectations of the economic agents (Schneider & Wolfson, 2005).<sup>7</sup> The relative weight of international constraints and opportunities depend on the location of a country in the international system and the ability of its political actors to capture and channel international forces. Another important factor will be the international opportunities presented. The 1982 crisis made Mexico one of the two largest indebted developing countries; however, its geographical proximity and political ties with the US allows access to a program of debt restructuring or reduction and ample credit from international lending agencies (IMF, World Bank and the US government itself). Mexican geography and its long border with the United States allowed it access to large foreign markets (such as that of the northern country itself), providing an incentive for export-based development platforms, radically different from the model of development from the substitution of imports of the decade of the seventies.

### 2.2. Business Sector

- a. Leverage, understood as the ability of one actor to exert pressure on another, derives from the control of the private sector over investment resources. Therefore, policy makers should pay close attention to the interests of those who control mobile capital resources when

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7 The authors acknowledge that the economic crisis makes businessmen more open to innovation in public policy because they perceive that the status quo is unsustainable. For other authors cited, the crisis reduces public rents obtained under the old regime, as well as incentives to defend the status quo, and generally weakens interest groups. Others argue that bad economic times make voters and politicians more willing to take risks and therefore to accept radical reforms that promise to be very profitable, even though they can also lead to large losses (Kingstone and Weyland, cited in Schneider & Wolfson, 2005, p.353).



levels of international capital mobility face the country. These investors can become attractive coalition<sup>8</sup> partners.

- b. Interest/preferences refer to the relative attractiveness of different segments of the private sector as coalition partners and trade policy interests rooted in different groups in the private sector. For Thacker (2000) generally, the holders of the largest mobile resources are able to adjust better to the liberalization of trade. The size of the company generally makes liberalization easier because the cost of adjustment is often lower on large firms than on smaller firms. Differences in the type of capital resource also affect interest on commercial policy as liquid resource holders will be better placed to respond to the signals of the new market resulting from trade liberalization, as well as reallocate their capital resources from the losing sector to the winner in the new conditions. Therefore, businessmen with large mobile capital can enjoy competitive advantages under free trade and will be more favorable to becoming members of coalitions favorable to trade liberalization. Conversely, small fixed-capital firms will be less able to adjust to new market signals, being more likely to sympathize with protectionist coalitions.
- c. The intensity of trade policy preferences (sector, size, resource mobility) determines the incentives to participate in trade policy coalitions. The direction of these interests (toward protectionism or free trade) defines which coalition of trade policy will seek to participate. Schneider & Wolfson emphasize that if the fluid and changing context, as well as the multiple facets of business organization, is added, it becomes more difficult to discern what the businessmen's preferences for market reforms might be (2005, p. 355).

Summarizing the above, when the entrepreneur has a high score in the capacity of structural leverage and interest in free trade, it will be more favorable to be included in a coalition oriented to free trade. On the contrary, if it has a significant capacity for structural influence but

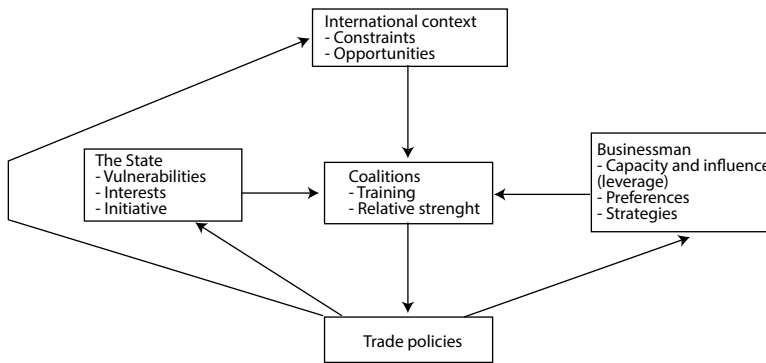
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<sup>8</sup> According to the author, states often develop specific policy concessions aimed at increasing the adjustment of expectations about the risk on return of capital over other countries and internationally attracting mobile investment resources (Thacker 2000: 29).

its interest is oriented towards protectionism, it will be more oriented to join a protectionist coalition.

Actors with little capacity for structural influence but clear interest in trade policy could be members of the respective coalition, but they will not be particularly influential. The combinations presented help to explain both the changing identities and the relative strength of competitive coalitions on trade policies from the perspective of businessmen (Thacker, 2000, pp. 34-ff).

**Figure 2. Political Coalitions and Free Trade**



Source: Thacker [2000, p. 34].

- d. **Strategies.** The participation of different factions of the private sector in trade policy coalitions depends on a number of factors. Large segments of the private sector whose capacity for structural influence tends to be larger often have less problems of collective action by participating directly in trade policy coalitions. In contrast, small firms whose capacity for structural influence tends to be smaller - fixed capital - are usually more dispersed and less likely to participate in coalitions.

Organizational and institutional variables also have influence, since small firms generally present greater logistics problems or high transaction costs in participating directly; while large firms frequently have the resources and time necessary for relations with the government and participate in coalitions. Small firms tend to have an indirect representation in the institutional channels - chambers

of commerce and associations -, so that sectors and firms with more effective institutional representation can counteract these effects, without achieving the active participation of the large firms.

### 2.3. The State (policy makers) and their vulnerability

Refers to the social pressures that the State faces to hold its authority. Structural vulnerability is linked to the State's dependence on private sector investment to achieve economic growth and employment (structural influence of businessmen). In addition, the state may be vulnerable to electoral pressure and the dynamics of partisan competition. A complete explanation of state vulnerabilities combines structural and non-structural variables that condition the political processes in which coalitions are constructed. In the case of Mexico, the structural vulnerability of the Mexican State is an important reason for the formal incorporation of businessmen in the stabilization and reform processes in the late 1980s and early 1990s. The vulnerability of the state to structural pressures will then depend on how much it can face without the support of businessmen- or with des-investment - the economic challenges. When the state has access to alternative capital resources and can use them to promote employment and economic growth, it may pay less attention to the interests of private capital. For example, the oil boom and the growth of the Mexican economy in the 1970s made the state less vulnerable to private capital; the collapse of oil prices in the mid-1980s had the opposite effect.

*Electoral challenges* to political authority can inspire a shift in the coalition of economic policies and generate incentives for policy makers to design and implement policies to reflect the strength and identity of the new support bases. In Mexico, growing electoral pressures resulting from the electoral victories of the PAN in the 1980s and the creation of the Left National Democratic Front (FDN) and its election result in 1988 forced the PRI government to form an unofficial alliance with the leadership of the PAN, recognizing its electoral victories in exchange for support for the implementation of its reformist agenda of economic opening.

The characteristics of state institutions and their interests, as well as their policy maker leaders, guide the state's participation in trade policy coalitions. Factors such as the balance of power between state agencies, the identity and interests of the main implementers of public

policies, the degree of independence of the Executive in relation to the Legislative and Judicial power, as well as the effectiveness of the State's organizational control over social groups. Another important element is the corporate control of social groups, which can make it easier for public policy implementers to isolate politicians in favor of 'losing' public policies and to organize and include 'winning' policy support. In Mexico, strong presidentialism and the dominance of the executive over other powers allowed the state to isolate potential opponents of policies of economic openness in other sectors of government. In addition, the control of the PRI of the trade union movement and the participation of the Mexican Chamber of Commerce in the signing of the agreements added to the coalition of economic opening in the nineties.

In this sense, the typology of coalitions in the economic reform policy proposed by Schneider & Wolfson (2005, pp. 360-ff) is considered useful for the analysis of the Telecommunications reform in Mexico:

**Chart 1. Types of coalitions in economic reform policy**

	Electoral	Legislatives	Distributives	In defense of public policies
Types of members	Groups of voters	Political Parties	Companies and organized interest groups	Individuals from the public and private sectors
Primary activities	Political campaigns	Legislate and implement public policies	Lobbying	Networking and proposal analysis
Exchange base	Votes	Votes in the legislature	Economic resources	Personal ties and ideology
Interaction between members	Limited	Intense, formal and permanent	Variable, often informal	Intense, informal and permanent

Source: [Schneider & Wolfson, 2005].

According to the authors (op. Cit.), the literature on economic reforms has focused on distributive and public policy coalitions, paying little attention to «legislative» and «electoral». A «legislative coalition» (or legislative-executive) consists of two or more parties represented in the legislature that consistently vote in favor of the president and the executive. Characteristics of the party system such as polarization and fragmentation constitute obstacles to reform, hence the advantages of

having majority governments. However, recent studies suggest that a greater number of effective parties may favor, in practice, the creation of coalitions and thus allow greater public management<sup>9</sup>.

«Public policy coalitions» consist of more or less fluid sets of individuals who participate in government management in specific areas, a small amount that is decided individually and varies by policy, period and country. Almost all variants of these coalitions begin with officials in high economic positions (finance minister, president of the Central Bank) and usually include representatives of organized social groups, businessmen, consultants and independent academics, as well as representatives of international financial institutions.

The «electoral coalitions» are presented in two variants: constructed and spontaneous. In the first type, legislative parties and coalitions sometimes try to form electoral coalitions by supporting certain candidates together and urging their traditional voters to support them. In the second type, informal coalitions of voters converge more spontaneously in the course of an election campaign as groups approach certain parties or candidates. Compared to other coalitions, elections are heterogeneous, mobilized for a short period of time, and the contact between their constituencies is scarce, and their main protagonists are “political businessmen”: candidates, partisan leaders, contributors to the campaign and companies linked to the media.

In this regard, it is suggestive to revise the approach proposed by Sosa Hernández from the approach of the “distributional theory of gradual change” that recognizes the constant change of institutions from a combination of three elements: ambiguity of rules, role of agency and power (2016, pp. 94). The agency or actor will be oriented to distribution and power as an effect of the institution, and if change drives power, ambiguity is allowed in the rule (its interpretation and

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9 When a relatively small number (from four to eight) of relatively stable parties compete, and none of them can realistically embrace the ambition to be a majority, the only path to executive positions is coalitions (Brazil and Chile during the nineties). In other cases, (the evolution towards a system with three effective parties - Mexico - or another one of more parties but one of them is dominant (Argentina), certain political leaders can hope to reach the majority in the next elections, and with that expectation they may choose to remain outside the coalitions and thus allow minority governments simply to remain afloat (Schneider & Wolfson, 2005, pp. 364-ff).

execution). Actors will be «agents of change» with definite preferences and preferred strategies consisting of specific institutional contexts, so that the types of agents facing change may have varying positions to promote or resist it: (a) «the rebels», who seek to eliminate rules and do not respect them; b) «symbionts» (or symbiotic), that when change happens, their model to be followed is inertial, they follow the rules as long as they get benefits; c) «the subversives», who follow the rules while they find the opportune moment to change them and; d) «opportunists», who follow the rules without being clear if they want to change them.

### **3. The Telecommunications Reform in Mexico**

The Telecommunications Reform is part of a prioritized package of five fundamental reforms promoted by the Presidency of the Republic as axes of economic growth and democratic governance in the framework of a legislative cooperation agreement between the various political parties. In a context of high concentration of media ownership, with a history of close links between the state and media and technological actors, and the negative antecedents of previous reforms in the sector, the presidential reform initiative needed organizational and institutional conditions conducive to its approval. López Leyva (2015, p.81) points to the conjunction of certain facilitating factors for the implementation of the reforms in the first third of the government of Enrique Peña Nieto:

- a. A favorable previous context in terms of distension and understanding, in which the demands of the President's reformist agenda were added by social groups (e.g. the «yosoy132» Movement).
- b. The generation of an alternative negotiating space to the Congress of the Union that allowed giving effective exit to the agenda of the Executive in consonance with the specific agendas of the participating political parties, with a careful timing.
- c. A change in the strategies of political relations of the two opposition parties, in which the weight loss of its two strongest figures was significant (Felipe Calderón and Andrés Manuel López Obrador, respectively).

Indeed, the political context characterized by the absence of strong questions about the previous election and the legitimacy of the President-elect favored parallel negotiation as a conciliatory strategy on the agendas of the main political actors (the Executive and the main opposition parties). Thus in its official version the «Pacto por México» “Pact for Mexico” becomes “the most relevant political agreement that has been made in decades in Mexico”. Its scope was even compared with the celebrated Moncloa Pacts, because “it is an agreement to carry out major actions and specific reforms that project Mexico towards a more prosperous<sup>10</sup> future.” The signatory actors were:

(...) aware that a National Pact, formed with the coinciding points of the different political visions of a Mexico, is indispensable, committing the government and the main political forces willing to promote a set of initiatives and reforms, to carry out effective actions so that our country improve “(ibid).

As López-Leyva rightly acknowledges (2015, p. 77), its greatest virtue was to be an effective channel for negotiation, it became its antipode subject to many criticisms: it seemed to nullify the difference by privileging unanimity in legislative deliberation.

The alliance strategy that constituted the «Pacto por México» allowed a package of important structural reforms to be approved in just two years. The President’s proposal for telecommunications reform, after a short period of discussion in Congress, was approved in both Chambers with broad support from legislators: in the Chamber of Deputies, it had the vote in favor of 92% of the legislators, while in the senators obtained 96% (Lopez-Leyva, 2015, Sosa-Hernandez, 2016, Sánchez-García, 2014).

With respect to media<sup>11</sup> actors, Sosa-Hernández (2016) details how their “reduced activism” to defend their positions reveals some

10 Excerpted from [www.pactopormexico.org](http://www.pactopormexico.org)

11 Sosa-Hernández conceptualizes them as groups of media power (GPM): 1. Select group of media owners that have the domain of a concession of a public good, specifically, of the frequency bands that make up the radioelectric spectrum. 2. Being this the center of its business activities, it tends to the concentration of the market (monopoly) or, to close sharing a space of the same (duopoly). 3. It makes use of both proactive and reactive mechanisms of action; the latter when the situation warrants it and requires to defend interests that in the short term infer that

calculation about the costs and benefits expected of the reform without representing an issue of conflict with Congress<sup>12</sup>, acting as opportunist agents who did not fight the reform, “let it run”, and adapt to its impact, without implying their full agreement<sup>13</sup>. This change in strategy can be explained by the profile of the incoming president, and more emphatically, by the presidential strategy itself designed to process the transformations it would undertake: reform was proposed and articulated in alliance between the Executive and the opposition parties (2016, p. 114).

The deliberative spaces where the interested civil society could counter the initiative of the political and media actors were limited. The House of Representatives gave priority to the media businessmen in their consultation. However, the Senators of the PRD received in 10 days representatives of various political sectors, specialists and academics, specifically the National Autonomous University of Mexico (UNAM). Subsequently, the four committees involved in the decision of the initiative agreed to receive experts, officials and concessionaires in public forums. Participants included the president of the CIRT, the president of the CCE, the director of TV UNAM, the advisers of COFETEL, all COFECO commissioners, researchers, academics, and even members of the #YoSoy132 Movement.

One of the most active groups of civil society was the Mexican Association of the Right to Information (AMEDI), which had delivered - according to its own version - a regulatory proposal in October 2013 to legislators from various parties, getting 18 senators to subscribe<sup>14</sup>.

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they will be attacked. 4. They develop better in opacity, because under the cloak of invisibility they can exert their ability to influence and pressure with more effective results (2016, p. 96).

- 12 For Sosa-Hernández, the attitude of the media power groups (GPM) was a cautious combination of strategies of public discussion with the use of mechanisms of institutional dialogue such as lobbying and participation in open consultations. The clearest activism came from the Business Coordinating Council under considerations that had to do with legal (in) certainty and the right to property (2016, 113).
- 13 Regarding media power groups, the author finally defines them as ambiguous agents for change, because it is the valuation of conditions that allows them to lean towards one option or another (2016, p. 115)
- 14 Cf. “Reform to telecommunications and broadcasting in Mexico: perspective of the Mexican Association of the Right to Information”, TLA, Journal of Social Sciences, Faculty of Law and Social Sciences, BUAP: New Era, Year 9, No. 39, October 2015-March 2016, pp. 188-212.



In a forum organized in the Senate in the first days of April 2014, the association recognizes that it has expressed - in the voice of its president Agustín Ramírez Ramírez - its arguments against the negative aspects of the presidential initiative, since it “perverted the purpose of the constitutional reform, because it was very far from the purpose that gave rise to it, “ that is, to satisfy the fundamental rights of freedom of expression, right to information and right of access to Information and Communication Technologies, as well as conditions for effective competition in broadcasting and telecommunications<sup>15</sup> services.

For AMEDI, the initiative sought a weak regulator, subordinated to the interests of the federal executive, by allowing the Ministry of Interior to keep watch over radio and television services and federal government bodies such as the Secretary of Communications and Transportation and the Commission Federal Regulatory Improvement Department of the Ministry of Economy interfere in the regulatory projects of the Federal Institute of Telecommunications. On the other hand, the initiative disfigured the principle of net neutrality, a basic condition for guaranteeing universal access to Information and Communication Technologies, and ignored the rights of audiences, the importance of public media and social use, “Gross omission” that limited the expression of ideological, ethnic and cultural diversities. It even excluded Higher Education Institutions from the means of public use “by stifling them with discretionary requirements”, in addition to prohibitions to have sources of financing.

However, the most visible attempt to counter reform from civil society seems to have been the «Front for Democratic Communication», formed on April 11, 2014 by politicians from various parties, academics, experts, artists and intellectuals with a critical stance regarding the presidential initiative, which was reflected in a public document stamped with their signatures<sup>16</sup>, and even the threat of resorting to the Supreme

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15 AMEDI considered that it was an asymmetric regulation in the treatment that it granted to the regulated markets; while on the one hand it is fortunately very timely in the measures that can be imposed on telephony, it is very limited in the treatment that appears to be imposed on television. “ Reform to telecommunications and broadcasting in Mexico:... “Ibidem, p. 208.

16 The “Front for Democratic Communication” signed by public figures such as Cuauhtémoc Cárdenas, Javier Corral Jurado, Sergio Aguayo, Elisa Alanís, Alma

Court of Justice of the Nation to resolve the unconstitutionality of the presidential initiative. However, the civic counter-reform attempt could not stop the outcome: the approval by a large legislative majority of the presidential initiative “without major changes.”

#### 4. A hypothetical-deductive model to explain the Reform

The Federal Law of Telecommunications and Broadcasting, published in the Official Gazette of the Federation on July 14, 2014, allows an interesting argumentative exercise by integrating variables of the political context with institutional, social organization and leadership factors.

V1. The «Pacto por México» as a strategy for prior political negotiation produced incentives for the construction of a broad legislative coalition to support the presidential initiative.

V2. The link between the President and the main political actors (A1) with monopolistic media and technological actors (Televisa / TELMEX) (A2) favors the combination of interests, expectations and strategies aimed at trade liberalization and free trade.

V3. The relevance in the international scenario of the mobile capital flows of these companies (Televisa, TV Azteca and TELMEX), which constitute conglomerates with resources, capital, technology and international influences. They have been successful businessmen in the international arena, even with important actions and properties in the United States, Europe and Latin America.

V4. High capacity of structural influence of these media and technological actors on the national economy, which exerts a pressure on the expectations of growth and economic stability of the government.

V3 + V4. It turns media businessmen (Televisa, TV Azteca and TELMEX) into attractive partners of «Trade Policy Coalitions» oriented to the market and free trade (winners).

V5. The fragmented and focused response in a specific sector of the civil society to the reforms in the sector and its null organizational antecedents.

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Rosa Alva de la Selva, Virgilio Caballero, Manuel Camacho Solís, Purificación Carpinteyro, Tatiana Clouthier, Gael García Bernal, Daniel Gimenez Cacho, etc. The critical public document signed by the members of the CDF can be consulted at <http://www.amedi.org.mx/prensa/comunicados/867-lucartrarreforma-en-comunicaciones-de-pena-nuno>

V6. The high technical expertise of the subject of Telecommunications raises the cognitive cost of its subjects, and limits its deliberative potential for broad social sectors.

V5 + V6. Limited, fragmented and little influence of the counter-reform proposed by sectors of Mexican civil society to the initiative of the Law.

Derived from the exposed above it can be inferred that:

V1 + V2 (A1): The «Pacto por México» generated a scenario of cooperative negotiation and allowed the integration of «winning» legislative coalitions, majority in support of the initiative of the Executive, including the opposition political actors.

V3 + V4 (A2): The international context favorable to the flow of capital and investment in the telecommunications sector marked by digital technological convergence and the integration of Mexico into international treaties of neoliberal orientation (North American Free Trade Agreement, Alliance of the Pacific), plus the high capacity of structural influence of the media/technological actors (A2), facilitated the identification of the interests and expectations of this business sector with the policy makers, making them attractive 'partners' of «trade policy coalitions» geared towards the market and free trade.

V5 + V6 (A3): The limited influence of civil society in the negotiation and approval of the Telecommunications Law in Mexico.

As can be seen, the various contextual, organizational, institutional and leadership variables that allow explaining how the presidential initiative to reform telecommunications can be approached, who are its main supporters or opponents, which factor or institutional dynamics generated the incentives for cooperation and construction of the legislative majority needed for its approval, which roles played the media/technological actors in the process of discussion and negotiation, and what were the main critical reactions of civil society.

## 5. Final Considerations

The paper attempts to draw attention to the specificity of the political negotiation process that allowed for the approval of the Telecommunications and Broadcasting Act in Mexico in 2014. Its specificity reveals the complexity of this process by focusing on diverse aspects that link the political context, the institutional dynamics, the

organizational potential of society and the interaction of interests, expectations and strategies of the various actors involved.

Any political initiative converted into a legislative proposal produces a scenario of negotiation between the various political actors, deploying their resources and influences. However, the political outcome generally activates several dynamics conditioned in the first instance by the rules and institutions, but also by the ability to influence the outcome of other involved actors. In the case covered, the capacity of structural influence of the business sector in the economic dynamics makes it a potential political actor. The convergence of interests and expectations within the elites, conditioned by international situations and the correlation of forces in the competitive dynamics of political actors, exert a decisive influence in the design of public policies. The capacity for pressure, determined by the organizational history and political activism of certain sectors of civil society, provides explanatory power; that is, the capacity of certain social sectors to deliberatively construct a demand and turn it into an issue of deliberation and political negotiation.

In addition to the above, the present research aims to draw attention to the relationship between the right to information and the quality of democracy under construction. As Levine and Molina acknowledge, if formal political equality (each person is one vote) is a minimum requirement of democracy, substantive political equality, one of whose main components is the distribution of cognitive resources among the population, is an indicator of the quality of democracy given its direct link with one of its crucial elements: the extent to which the electorate can make informed political decisions (2007, p. 24). Different forms of content elaboration and expression can impact on the informative capacity of audiences/voters, and when the agendas are differentiated, the «agenda setting» effect of media with greater technological infrastructure - or monopolistic contexts - but emphatically commercial or with strategic links with politicians, will be less on the citizen/elector.

Finally, today's democracies involve multiplicity of interactive, selective, informative, elective, deliberative processes; where ever the civic participation must have a lower cost, and conversely, a greater impact on the control of the exercise of power; that is to say, a greater incidence in the decisions of the public policies, the account of the

elites, the rule of law, the consensuses that base the legitimacy of certain laws, the new forms of citizen participation, etc. Thus, the connection between the study and the literature of democratic quality in Latin America is explicit and relevant.

## 6. References

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