Journal of Business and Economics, ISSN 2155-7950, USA
November 2022, Volume 13, No. 11, pp. 602-613
Doi: 10.15341/jbe(2155-7993)/11.13.2022/003

http://www.academicstar.us

Municipal Reelection and Political Segregation: An X-ray of Mexico

Luz Ríos Cruz
(National Autonomous University of Mexico)

Abstract: this paper aims to examine the consecutive re-election in Mexico, since 2014 this figure is a reality in almost all municipalities that are governed under the party system except in two states, Veracruz and Hidalgo. The elections of 2018 and 2021, in which 1380 municipal Town Halls were renewed under the modality of re-election, made visible a differentiated treatment, there are first (Mexican people) and second (Veracruz citizens) citizenship, this violates political-electoral rights, the principle of political equality between states, prevents the professionalization of the municipal public service and does not respect human rights.

Results: empirical evidence indicates that municipal re-election should be allowed throughout the country, so Veracruz and Hidalgo have to reform their law so that people can vote for their municipal governments again, receive the same treatment, there are career personnel and Mexico moves towards a general evaluation of this figure.

Key words: legislative configuration, political equality, municipality and re-election.
JEL codes: K, K16

1. Introduction

In Mexico, thirty states recognize municipal re-election for a second consecutive term, derived from it in the 2021 electoral process twenty-nine states renewed city councils under this modality. In contrast, in 2020 Hidalgo and Veracruz in 2021 elected municipal councils, for a term of four years and without the possibility of being re-elected, or helping to professionalize the public service for this level of government. The reality indicates that municipal re-election has been subordinated to the free legislative configuration of the entities.

The reasons: accountability and strategic planning, which were used in 2014 to modify Article 115 of the Federal Political Constitution, were used in 2012 by the Congress of Veracruz to increase the period from 3 to 4 years. Two years later the Union Congress amended the Federal Political Constitution to regulate the consecutive municipal election and forced the states to adapt their laws if and only if, the term of office is three years. The majority reformed its political constitution to incorporate re-election in city councils, not Hidalgo and Veracruz because their laws set a period of 4 years (Cámara de diputados, Diario de los debates, 2013).

The local reform of 2012 did not appear to infringe on the political right to be voted on in the possibility of re-election; however, with the updating of the state political constitutions, the principle of political equality is violated, there is an unjustified differential treatment between the citizens of Veracruz and the rest of the country,

Luz Rios Cruz, Master of Science in Economics, National Autonomous University of Mexico (UNAM); research areas: development economics, indigenous political representation in Mexico, law and politics in gender perspective. E-mail: luricur@gmail.com

while in the Mexican Republic municipal Town Halls can be re-elected, in Veracruz and Hidalgo it is not possible.

The concepts of rule of law, legislative freedom and municipal re-election are explained, municipal re-election in Mexico is discussed through its history, the federal reform of 2013 is explained, its results, the legislative dynamics of Veracruz, its attempt to recognize re-election late in 2020, the judicial battle it lost in the Supreme Court of Justice of the Nation and the consequences.

2. Literature Review

2.1 Legislative Configuration in the Constitutional Rule of Law

Can the Legislative Branch exercise its regulatory power freely? Or what are the parameters to observe? These questions acquire great importance in Mexico, since it is often defined as a *constitutional state of law*, but adopting this model implies respecting certain rules when presiding.

This model is characterized by the fact that the actions of the public authorities have as a border the fundamental rights and principles contained in the Political Constitution. This means that the liberal state and the formalistic vision of the principle of legality are abandoned, in which it is sufficient for the validity of a law that the competent authority issues it following the determined procedural scheme and moves towards a substantial perspective (Ferrajoli, 2003, p. 16).

In the new paradigm, attention is paid to the legislative process and any law or reform is subject to the guarantee of constitutional review. When transferring this model to our country, the limit of the Federal Legislative Branch must be the rights and principles that the Magna Carta recognizes (Carbonell, 2008, p. 114).

Restriction that also applies to the states (Mexico is a Federal State composed by thirty-two states), in this regard the Supreme Court of Justice of the Nation said that Legislative Branches of the States, although it enjoys autonomy to design its normative framework, is limited by constitutional mandates and human rights (SCJN, Jurisprudencia P./J.11, 2016).

This translates into a guideline for the action of the Legislative Branches and avoid that the legislative power is arbitrary. Likewise, they must observe jurisprudence 5/2016 issued by the Electoral Tribunal of the Federal Judicial Branch (TEPJF, Jurisprudencia 5, 2016), in which the Superior Courtroom reasoned that the freedom of legislative self-configuration in electoral matters is not absolute, but that it has to respect the right to equality, the international treaties ratified by Mexico, the bases and principles established in the Federal Political Constitution. Criterion that is binding on the regulatory subject.

2.2 Consecutive Re-election

Consecutive re-election can be examined in two aspects, in this work it is conceptualized according to the subject involved: candidates and citizenship. From the point of view of the person interested in competing, re-election is the expectation of running again for a popularly elected office, after having ruled for a period, this alternative of political participation is not automatic, nor is it a fundamental right, nor a constitutional principle (Commission, 2018, p. 17)

But, if it is protected by Article 25 of the International Covenant on Civil and Political Rights, it generates an obligation towards the signatory countries, so that any legislative measure that seeks to safeguard political freedoms does not discriminate, are based on objective, reasonable and equal criteria.

Under the level of citizenship, re-election is a mechanism of direct democracy, which makes it easier for the electorate to decide whether or not to endorse with a vote of confidence in the authority, for which they have the

opportunity to evaluate who wishes to be re-elected, according to fair and perceptible parameters.

In theory, ratification reflects how strong the relationship between the public servant and the people is, the decision-making of the official is subjected to scrutiny, accountability is required and in case of a fruitful service, there is a high probability that medium-term projects will be executed, which by their nature are not carried out in less than three years and in the face of a change of management they might not be executed (Campos, 1996, p. 26).

3. Re-election: A Historical Journey

3.1 Mexico and Its Municipalities

From the history of law, municipal re-election can be studied in two stages: prohibition and permission. The first phase took place in March 1933, when a second paragraph was added to section I of article 115 of the Constitution, the following:

In force 1917	Reform 1933
115. … I.- … II. … VIII	115. … I.- … The municipal presidents, aldermen and trustees of the City Councils, popularly elected, may not be re-elected for the immediate period. Persons who, by indirect election or by appointment or appointment of any authority, perform the functions of those offices, whatever the denomination given to them, may not be elected for the immediate term. All the aforementioned officials when they have the character of owners, may not be elected for the immediate period with the character of alternates, but those who have the character of alternates, if they can be elected for the immediate period as owners unless they have been in office. II. … VIII

Therefrom of 1933 allowed re-election for people who served as alternates, as long as they had not exercised the office, this led to a closed policy, which limited aspirations. The reasons, as stated in the session of the Plenary of the Chamber of Deputies on November 16, 1932, are due to events that arose in independent Mexico, to stop tyrannical governments and to escalate from a government of caudillos to an institutional regime (Cámara de diputados, 1932).

Reasons that in 2013 were questioned, since the Maderista movement focused on the non-presidential re-election, not on municipal presidencies, aldermen and trustees and the proposal to deny it for all vacancies of popular election, emerged from the Convention of the National Revolutionary Party, held on October 30 and 31, 1932.

They concluded that the regulation did not meet the goal of democratizing, but operated as an instrument of control of the hegemonic party and strengthened the presidential system, so that the conjuncture facilitated progress towards the stage of permission, openness, flexible politics or liberation.

In the plenary session of December 3, 2013 in the Senate of the Republic, when addressing the Opinion of the initiative, three arguments were highlighted: accountability, local work and professional service of municipal career (Senado de la república, 2013).

Accountability allows citizens to rate the performance of the people who were elected, based on their ability, performance and commitment, which would result in a stimulus or sanction. In turn, it leads to closer links between the electorate and the representations, if she wishes to be re-elected, she will attend to public affairs quickly, which will strengthen local governance.

In the same situation, the extension of the term consolidates the professional trajectory and raises the quality

of work of the city council, which gives rise to a specialist; however, in the discussion it was visible as a weak point, conditioning that the nomination was formulated by the same party or by a member of the coalition.

This could hinder the ideals of the project, since the parties having the last word on the people interested in participating via re-election, would limit the support of the citizens. Finally, Article 115, section I, second paragraph was amended in the following terms:

In force 1933	Reform 2013
115. … I.- … The municipal presidents, aldermen and trustees of the City Councils, popularly elected, may not be re-elected for the immediate period. Persons who, by indirect election or by appointment or appointment of any authority, perform the functions of those offices, whatever the denomination given to them, may not be elected for the immediate term. All the aforementioned officials, when they have the character of owners, may not be elected for the immediate period with the character of alternates, but those who have the character of alternates, if they can be elected for the immediate period as owners unless they have been in office. …	115. … I.- … The Constitutions of the states must establish the consecutive election for the same office of municipal presidents, aldermen and trustees, for an additional period, provided that the term of office of the municipalities does not exceed three years. The nomination may only be made by the same party or by any of the parties that are members of the coalition that have nominated it, unless they have resigned or lost their membership before the middle of their mandate. …

The 2013 amendment made it possible to re-elect for an additional period, provided that it does not exceed three years, either for the same position, the same party or the coalition, except if there is resignation or the militancy is lost and did not operate for the people who in 2014 occupied those jobs.

Adjustment that meant a turn of one hundred and eighty degrees, because the civil service of the municipalities that are governed by the party system would appear again on the ballot. It is important to note that in Mexico not all municipalities elect their authorities by party system, some have their internal regulatory systems and allow consecutive re-election since before the 2014 reform, under the figure of ratification.

In compliance with the reform, the local Congresses reconciled their legal framework, except Hidalgo and Veracruz, in 2009 the first extended the time to four years; the second made a similar change in 2012, so that when handling a different period to the federal system they were not obliged to homologate (Zepeda & Gómez, 2018, p. 4).

3.2 Veracruz and Its Municipalities

Historical precedents reveal that there is a negative correlation between temporality of office and successive election, for example, the State Political Constitution published on September 25, 1917, in its article 113 limited the duration to two years and prohibited re-election in its entirety, with this regulation the entity anticipated the reform of 1933 (Gobierno de Veracruz, 2000).

With the purpose of achieving political stability, in 1942 the constitutional precept 113 was reformed and in 1948 the Organic Law number 41 of the Free Municipality was approved, now the building positions would last three years and the immediate re-election was admitted under the same conditions as the diverse 115 of the Magna Carta.

In 1997 through decree number 59, the local legislature agreed to standardize the elections of governorship, deputations and town halls, so that for the only time the councils that began their regency on January 1, 2001 would remain in power for four years. In 2000, with the approval of the new Political Constitution, the wording of article 113 remained intact, but it was moved to number 70.

On January 5, 2012, Veracruz distanced itself from the Federation by modifying Article 70, first paragraph of its Local Constitution, in the following sense (Congreso de Veracruz, 2012):

In force	Reform 2012
Article 70. The councilors will last in their position for three years, and must take office on the first day of January immediately after their election; if any of them does not appear or ceases to perform their position, they will be replaced by the alternate, or will proceed as provided by law. ...	Article 70. The councilors will last in their position four years, and must take office on the first day of January immediately after their election; if any of them does not appear or ceases to perform their position, they will be replaced by the alternate, or will proceed as provided by law. ...

The reform extended the mandate to four years and in the second transitory specified that it would apply to the people elected in 2013. To understand this decision, it is necessary to review the legislative process, the initiative was addressed in the session of April 13, 2011 and started from the assumption that article 115 of the Constitution did not allow re-election, so going beyond three years was the alternative for two issues: it would strengthen the planning and provision of municipal services and promote the training of public servants.

In the voting session of the Plenary, on December 29, 2011, it was added as considerations that there would be independence in a scenario of non-concurrent elections of the municipalities and the legislature with respect to the State Executive, three years are insufficient to outline and execute the development plan, so it was unavoidable to strengthen the management.

This last element was considered key to accountability and to comply with the General Law of Government Accounting, in addition the figure of the municipality within federalism would be vindicated, the learning curve that every three years is affected by the start of governments and where long-term planning is non-existent would be better exploited.

For their part, the deputies that did not agree with the project expressed that, there is no evidence to prove that four years *per se* raises the administration and accountability, the appropriate way was re-election, since disparate elections increase public spending.

When confronting the local reform of 2012 with the federal reform of 2014, it is observed that the same conjectures are used for reverse purposes, however, these were not taken into account in the local constitutional amendment of 2015, so that for six years a differentiated treatment was visible, not justified between the 212 Veracruz municipalities with those of the rest of the country. Situation that created uncertainty in the citizenship, since there was interest in being re-elected in the mayor's offices.

In the plenary session of May 12, 2020, the State Congress took up the issue again and in the interparliamentary dialogue the reasons for the federal reform of 2014 and the antithesis of the local reform of 2012 were combined, homologating the elections of deputations and municipal ones, would allow an effective and efficient use of public resources (Congreso de Veracruz, 2020).

The approved wording was:

In force 2012	Reform 2020
Article 70. The councilors will last in office four years, ... The councilors may not be elected to the City Council for the following period; the same prohibition shall apply to members of the Municipal Councils. The councilors, when they have the character of owners, may not be elected for the immediate period as alternates;	Article 70. The councilors will last in office three years, ... The councilors may be elected and exercise the position to integrate the City Councils for up to two consecutive periods in terms of the federal Constitution.

but those who have the character of alternates, yes may be elected for the immediate period as owners, unless they have been in office.	The nomination for re-election may only be made by the same party or by one of the parties that are members of the coalition that have nominated them, unless they have resigned or lost their membership before the middle of their mandate.

The reform with an inclusive language adopted the wording of section I, of Article 115 of the Constitution, perhaps the ideal thing was, based on the experience of the other federative entities and the judicial criteria issued on the separation of office, to build a novel regulation that mitigates the technical problems for its operation. This while emphasizing that the legislative measure avoids in the medium term to violate principles and political-electoral rights.

However, the Supreme Court of Justice of the Nation (SCJN) in the Actions of unconstitutionality 148/2020 and its accumulated 150/2020, 152/2020, 153/2020, 154/2020, 229/2020, 230/2020 and 252/2020 invalidated the reform (SCJN, 2021).

The judgment declared founded the concept of invalidity raised against the legislative procedure due to lack of consultation with the indigenous and Afro-Mexican peoples and communities of the entity, since the Congress in article 5 of the Political Constitution, established that indigenous peoples have the right to participate fully in political life, economic, social and cultural of the State, without first carrying out a free, prior and informed consultation with the thirteen Veracruz ethnic groups and Afro-descendant community.

Procedural vice that the Supreme Court did not limit to the normative portion indicated, but extended the invalidity to the totality of the Decree, from a more progressive perspective, the ideal would have been to carry out an individualized study of the grievances, invalidate the portion that does not protect the right to consultation of the peoples and maintain that normative that is not linked to the subject.

The truth is that the invalidity had the effect of reviving the rules, that is, the regulation prior to the reform took effect and any amendment could be made after the 2021 electoral process, unless it was non-fundamental adjustments, with it the re-election for building positions became a failed proposal.

4. Results and Solutions

4.1 Results of Re-election in Mexico

Currently of the 2,469 municipalities that make up the Mexican Republic, of which 17% are governed by internal regulatory systems and the rest by political party system. Of the 2,042 municipalities that use the party regime, 84% recognize in their Political Constitution the figure of municipal re-election. The experience acquired by the 1,746 municipalities that recognize this figure and that are distributed in the states can be reflected in the following scheme:

X-ray of Municipal Re-election in Mexico: 2018-2021

Election year	Entities with elections	# Participating municipalities	Entities with re-election	Municipalities with re-election	# Nominations	Re-elections
2018	25	1396	23	1371	507	274
2021	30	1923	29	1711	517	311

Note. Own elaboration based on (INE, 2021) and the Program of Preliminary Results of the Local Electoral Public Bodies (OPLES).

The scheme shows that 29 of the 30 states that allow municipal re-election have already held elections under this modality, that is, 97% of the municipalities have already had the possibility of re-electing their councils. However, in 2018 only 37% of presidencies sought re-election, in 2021 the rate was reduced to 30%, that is, a third. When analyzing the relationship between contest and result, it is observed that more than half managed to be re-elected, the average is 57%, which is a positive thing.

4.2 Legislative Configuration VS Human Rights

In a *constitutional State governed by the rule of law,* the public authorities are not sovereign in their decisions, but their actions are subject to a control of regularity and must pass through the sieve of fundamental freedoms and the provisions that the Political Constitution protects.

Control that applies to the Union Congress, Legislative Branch of the thirty-two states and the paradigmatic case of the failed re-election in Veracruz, unfortunately the lack of judicial inaction led to a series of abuses, it should be clarified that in the action of unconstitutionality 50/215 with which the local reform of that year was fought, it was not exposed as a concept of invalidity that the non-adherence of the municipal re-election was an omission that violated human rights.

Transgression that is now much more visible, given that the jurisprudence P./J. 11/2016 (10a.) was no longer observed, which obliges the regulatory body to sanction its normative framework under constitutional principles and human rights.

In the same vein, jurisprudence 13/2019 establishes this figure as an eventuality of being elected again. With this precedent, the right to be voted on in the re-election aspect was placed on the same plane as the free legislative self-configuration held by the entities, consequently, their regulation and the conditions for their realization must be related.

Likewise, being an aptitude that maximizes the freedom to be voted, it enjoys the protection of the first constitutional article, as reasoned by the Superior Courtroom in the trial SUP-REC-1173/2017, when concluding that, if re-election favors the practice of a right, it automatically enters into the safeguarding of human rights (TEPJF, SUP-REC-1173, 2017).

Judicial criteria that give life to the hypothesis, given that the constitutional reform of Veracruz of 2015 by not incorporating the re-election in municipal Town Halls caused a damage, so it was possible to raise the invalidity of the norm, the Federal Political Constitution by recognizing the blanket, which must be done in an integral way.

The jurisprudence 1a./J. 87/2015 establishes that when the constitutionality of legislative distinctions is based on a suspicious category, a constitutional scrutiny must be made and the proportionality test must be used (SCJN, Jurisprudencia 1a./J.87, 2015).

The Supreme Court could analyze: If free self-configuration must respect human rights? And if therefrom under consideration generates a collision between the freedom of legislative configuration and the political right to be voted?

It is thought that, in fact, there was a probable injury, both categories being located in the same body of legislation have the same relevance, so it is possible to analyze the advantages and disadvantages of its application through what Robert Alexy calls *balancing* or *weighting*.

The Supreme Court in thesis CCLXIII/2016 (10a.) referred to it as an examination of constitutionality and broke down its methodology into four stages: 1) legislative intervention pursues a constitutionally valid or

legitimate purpose; 2) the measure is *suitable* to achieve its constitutional purpose; 3) there are no other alternatives to achieve this end, less harmful to the fundamental right (necessity); and, (4) the degree of attainment of the aim pursued is greater than the level of affectation caused to the fundamental right by the contested measure (proportionality in the strict sense).

Submit the Article 70 of the State Constitution, in force between 2012 and 2020, to a proportionality test would have been an interesting legal examination, since the reasons of the state legislature with that of the Union Congress were going to be compared, the scope of the free legislative configuration and the safeguarding of re-election would be determined as an expectation of the right to be voted in the light of human rights.

4.3 Equality VS Non-re-election

The non-re-election transgresses political equality, since 2014 in almost the entire country the option of competing for the same position immediately is contemplated, which in Veracruz did not happen, which has caused negative discrimination towards its 212 municipalities without re-election compared to 2,042 councils that do have that forecast.

Although the local legislature in 2014, based on its free configuration, decided not to admit re-election in town halls, such action by not exceeding the guarantee of control is invalid and the legislative power like any public entity is subject to the thresholds imposed by the Federal Political Constitution.

The Supreme Court in jurisprudence P./J. 11/2016 (10a.) concluded that the autonomy of the local Congress to draw up its normative framework is limited by the provisions and human rights, in the case at hand the first article of the Federal Political Constitution must be observed and which contains the principle of equality.

Which prohibits any discrimination based on suspicious categories derived from origin, culture, gender, age, disabilities, social, civil, health, religion, ideology, politics, sexual preferences or any other that undermines human dignity and limits the freedoms of people.

The Supreme Court defines equality as a parameter of constitutional regularity and radiates throughout the legal system, so any treatment that is discriminatory in relation to the execution of the rights guaranteed in the Constitution is incompatible with it.

When applying the principle of equality to the local reform of 2015, it is concluded that there could be a damage, while in the rest of the country the people elected to integrate the municipalities had the expectation of competing uninterruptedly, in Veracruz it was impossible due to a decision of the regulatory authority.

It could be argued a opposite direction that the local legislature being an autonomous entity did not have to regulate in a certain direction, but as the Supreme Court pointed out in the Action of Unconstitutionality 8/2014 all positive discrimination must pass the test of constitutionality, that is, justify that the measure is reasonable, necessary, pursues a legitimate objective, does not violate the provisions and is proportionate.

When analyzing the local constitutional reform of 2015, no justification is seen to prevent the successive nomination in city councils, but if it is advocated for deputations, an omission that is classified as discriminatory treatment, although it derives from the free legislative configuration, it reduces the political freedoms of Veracruz citizens, since they are vacancies of election, for the same time of management, only at a different level of government.

It is true that the increase to four years not only occurred in Veracruz, but in Coahuila, Puebla and Hidalgo, but the first two entities did resume the federal reform of 2014 in full, for their part the state Congress by not doing so placed the Veracruz municipalities on an inequality plane compared to the rest of the country and

violated the principle of equality.

On the one hand, Veracruz citizens lacked the opportunity to live at the same time as the thirty entities the experience of immediate re-election for building positions, nor did they verify whether under this figure the public service is perfected, nor did they have governments emanating from the professionalization of the municipal public service.

Citizens might ask: Why, if throughout the country, can the electorate punish their municipal leaders or endorse their trust in Veracruz? Without knowing that, if attractive government plans are implemented in one of the municipalities, they would perhaps stop in the next regime, since everything will depend on the vision of the candidacies.

On the other hand, the people elected in 2015 in the 212 councils did not have the facility to be re-elected, to build high-impact government plans, that is, six years and above all to take advantage of the learning curve, which did happen in almost the entire national territory.

In fact, in Veracruz the elected people knew that their right to be voted was for a period of 4 years, so they were unable to implement medium-term public policies to reverse the underdevelopment of their region and venture into the professionalization of the municipal public service, just when they could correct, given the experience acquired in the first years of government they conclude their mandate.

The fact that in the state the voting population cannot compensate through re-election for the good actions of the government, nor that its municipal authorities apply their skills and operate large-scale projects, places them in a scenario of inferiority, of unequal treatment.

Especially if one takes into account the time lag that exists in the designation, public spending to organize local elections is on the rise, one year to integrate the councils and another for deputations and governorship.

4.4 No Re-election Versus the Right To Be Voted

The non-immediate re-election in city councils has violated since 2015 the political freedom to be voted under this modality, since, although the Federal Political Constitution does not specify it as a power, if it catalogs it as an eventuality, so it is protected by the principle of equality contained in the first article.

Article 25 of the International Covenant on Civil and Political Rights mandates their custody and any legislative action on political freedom must be reasonable, objective and non-discriminatory. In the case under analysis, the damage becomes more visible when article 70 of the state constitution is confronted with the precedents generated by the court; the Electoral Tribunal of the Federal Judicial Branch in jurisprudence 13/2019 provided greater protection to re-election and concretized it as a particularity of the right to vote, susceptible to be regulated, from a weighting with other constitutional rights or values.

In the trial SUP-REC-1173/2017, re-election was conceived as a variant of passive suffrage, so it is covered by the first constitutional article and the reading of the rules that regulate it must be carried out in congruence with the *pro persona* principle.

By applying these judicial criteria to the matter, it is inferred that, in the local constitutional reform of 2015, the free legislative configuration prevailed over the consecutive election at the municipal level, despite the fact that the latter is an edge of the freedom to be voted.

Legislative measure that could not overcome the control of constitutionality, since, in the opinion of the local reform of 2015, discussed in the session of December 18, 2014, the LXIII legislature leaned for a space of 4 years,

for the reasons that at that time addressed the LXII legislature, greater planning, space the elections, reduce public spending and it is necessary to let time elapse to analyze the possibility of returning three years.

This reflects that in 2014 the local Congress carried out an isolated analysis of the duration of the commission and did not motivate its decision on rights and principles not to return to the municipal triennium that, for decades, had been adopted.

In fact, it uses the same argumentative scheme for divergent objectives, for example, in 1997 the legislature approved for the only time that the municipalities would last four years, that is, they would assume their responsibility in 2001 and culminate in 2004 in order to have homogeneous elections and reduce the budget in elections.

In 2012 it was assumed that 4 years consolidates the planning, separating the elections diminished the expenditure of resources and gave greater independence. Reasons that in 2013 the Chamber of Deputies used to decree concurrent elections, since these maximize public investment and in the case of consecutive re-election made a balance between the need to transform the municipal administration and guarantee the passive political freedom of the vote.

For the reform to be harmonious with constitutional mandates and political rights, the parliamentary dialogue had to have focused on weighing the free legislative configuration, the purposes of the 2014 federal reform and guaranteeing in the most favorable way the right to be voted.

From a constitutionalist perspective, the lack of a discussion in the local Congress in 2014 forged a negative legislative measure that violates the principle of equality of Veracruz citizenship and the power to be voted of the people who between 2015 and 2021 make up the 212 municipal Town Halls

In another aspect, not contemplating re-election in the legal system caused uncertainty in citizens, political parties and city hall officials, which led to queries to the Local Electoral Public Body of Veracruz and question: If the people who were elected in 2017 to integrate the councils, can apply in the day of 2021 for the same vacancy?

The Local Electoral Public of Veracruz based on its constitutional powers has pronounced, the answer given until the beginning of 2020 was that, the re-election for presidents, aldermen and trustees is not applicable, because article 70 of the Local Constitution contemplates that the duration of the commission in the municipalities is four years and the precept 115 fraction I second paragraph of the Federal Constitution, points out that, in order for the period to be appropriate, it must not be longer than three years.

With the 2020 reform, the answer is different, in 2024 the people who are elected in 2021 may be re-elected; however, this does not minimize the constant violation of the prerogative to be voted in its consecutive election aspect, since the people who ruled in 2017 are not in a position to retain their representation, but will have to let some time pass to try to integrate back into the municipal race.

This grievance to the political-electoral rights of Veracruz citizens, began in 2014 when the Federal Congress advanced towards the professionalization of the municipal public service and incorporated re-election, Veracruz supported by its free legislative configuration decided not to do so, which has prevented it from having an effective and efficient municipal career professional system.

4.5 No Re-election VS Municipal Career Professional System

The theoretical framework reveals that the successive re-election in deputations and councils is a bridge to move towards a career civil service, examine the results of the public service and sanction through the public vote

those who do not build a profitable government.

In the case of Mexico, the Magna Carta conceives the municipality as a basic level of government, having a geographical space and limited population density facilitates good governance practices, so that immediate re-election allows to know closely and in greater depth the social problems, and breaks with the inertia that leads the civil service not to raise its productivity from the beginning of its management due to lack of experience and to the finally take care of your future work.

In practice this means that, if the winner has an interest in building a political career and impacting the lives of their voters, they will make the most of or have the alternative of being re-elected or in their case having the vote of confidence for another position of popular election.

Supposed that by not applying in Veracruz it violates the political freedom of the people concerned, since they are deprived of the opportunity to become specialists in the municipal area, a scenario that was sought to be repaired with the adhesion of the immediate election in 2020.

Taking into account the social, economic and political context that our country and the entity are going through, it is essential to promote the professional career service at the municipal level and look for people with managerial leadership to face adverse situations.

The health emergency generated by SARS-COV 2 (COVID-19) is an area of opportunity for municipalities, their competences are conducive to play a more active role, some are doing so, others not because of their lack of skills in the public service, so they depend on the health policy implemented by the Federation or the governorship.

Experience that reflects the need to advance towards the professional service of municipal career, which would help optimize human capital, would have experts who have the vision and wisdom to develop and implement projects in the medium and long term. At the same time, it could empower the 212 municipalities and there would be an even floor for accountability, to punish or reward with the vote, as they have done in the Mexican Republic.

In short, the Veracruz legislature in accepting immediate re-election formally advanced, but it is not enough, it is necessary *to elaborate ad hoc* rules that make it effective, we must promote training programs, municipal public policies, evaluation and oversight, but above all those citizens are inserted in the public space and require the 212 councils to perform their tasks in a professional and ethical manner.

5. A Brief Conclusion

In Mexico, 86% of the municipalities governed by the political party system recognize immediate re-election, while two entities have not advanced towards this expansion, which may not be supported by a *constitutional state of law,* given that the legislature did not motivate its omission in the fundamental principles and rights contained in the Magna Carta.

The history of Mexican law studies re-election in two stages, from 1933 to 2014 dominated a prohibitionist policy that sought stability, end regional elites and avoid tyrannical governments, which ended up strengthening a hegemonic party system and a presidential regime.

At the end of 2013, the page is turned and progress is made towards a policy of openness, the Congress of the Union accepts the immediate election for deputations and town halls, the latter for a period of six years, provided that the registration is for the same vacancy and the same party or coalition.

In contrast, in Veracruz the decision of the local legislature has been very volatile in terms of the temporality of the position, in 1917 it determined that it would be two years, in the forties it changed it to three, in 2000 to four years, in 2005 it went back to the triennium, in 2012 it was again a four-year period, in 2020 through a constitutional reform it tried to adapt to the federal framework, establishing the mandate to three years and the consecutive re-election; however, such a change was invalidated by the Supreme Court. For its part, in Hidalgo the efforts to adjust its local regulation are scarce, only in 2018 a reform initiative was presented, which did not prosper.

As for re-election, the Veracruz legislature shows an orthodox vision, its prohibitionist policy prevails since 1917 and incorporated this principle for the formation of councils 16 years before the Federation. During this time there is no comprehensive dialogue, motivated by principles and rights, but the reasons for re-election are used to decree the extension of the administration to four years.

In 2014, when it was the opportune procedural moment to adopt this figure, no substantive arguments were given to isolate oneself from the Republic, a legislative omission that, in the light of a systematic interpretation of the Federal Political Constitution and judicial criteria, does not exceed the guarantee of constitutional control.

Veracruz's 2015 constitutional reform is a negative precedent for how free legislative configuration can violate human rights; exhibits the need for the judicial authority to review the actions of the regulatory body and assess whether a legislative measure passes the proportionality test.

The flexible policy seemed to take its place momentarily in June 2020, six years after the Federation and thirty entities of the country did so, but it was not so, since the Supreme Court declared its invalidity.

Empirical evidence shows that re-election is not a dead letter, from 2018 to 2021 twenty-nine of thirty states have already lived the experience, that is, 97% of the municipalities already had the possibility of re-electing their councils. While a third of the presidencies sought re-election, half of them won the race, which encourages the use of this figure.

The health emergency shows as an area of opportunity to legitimize the municipality as a level of government, citizens demand that they fulfill their mandate and play a more active role, accept re-election, design a training program for elected persons, that public policies be implemented in the medium term and consolidate the professional system of municipal career, so it is recommended that the Congresses of Veracruz and Hidalgo discuss and legislate on municipal re-election.

References

Cámara de diputados (1932). *Diario de los Debates Núm. 31, año I, XXXV legislatura , tomo 1*, Mexico: Crónica parlamentaria.

Cámara de diputados (5 de Diciembre de 2013). *Diario de los Debates*, Mexico: Crónica parlamentaria.

Campos E. (1996). "Los legisladores del PRI de 1934 a 1997: La perversidad teórica de la no-reelección", *Quórum*.

Carbonell M. (2008). "On fundamental rights", *Constitutional Issues*, Vol. 114.

Commission V. (2018). *Report on Term Limits, Part I: Presidents*, Strasbourg: Council of Europe.

Congreso de Veracruz (9 de Enero de 2012). Decreto núm. 542, available online at: http://www.editoraveracruz.gob.mx/gacetas/seleccion.php.

Congreso de Veracruz (22 de Junio de 2020). Decreto núm. 576, available online at: http://www.editoraveracruz.gob.mx/gacetas/seleccion.php.

Ferrajoli L. (2003). Pasado y futuro del estado de derecho. En Carbonell, *Neoconstitucionalismo*, Madrid: Trotta.

Gobierno de Veracruz (2000). "Textos históricos de la Constitución de Veracruz 1824-2000", available online at: https://www.segobver.gob.mx/juridico/pdf/TEXTOSHISTORICOSCONST.pdf.

INE (2021). "Instituto nacional electoral", available online at: https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/118602/numeralia-final05082021.pdf?sequence=3&isAllowed=y.

SCJN (2015). *Jurisprudencia 1a./J.87*. México: Semanario judicial de la federación y su gaceta.

SCJN. (2016). *Jurisprudencia P./J.11*. México: Semanario Judicial de la Federación y su gaceta.

SCJN (9 de Julio de 2021). "Diario Oficial de la Federación", available online at: http://www.dof.gob.mx/nota_detalle.php?codigo=5623458&fecha=09/07/2021&print=true.

Senado de la república (2013). *Diario de los debates núm. 35, LXII legislatura, año II*. México: Crónica parlamentaria.

TEPJF (Abril de 2016). *Jurisprudencia 5*, México: Gaceta de jurisprudencia y tesis en materia electoral.

TEPJF (2017). "SUP-REC-1173", available online at: https://docs.mexico.justia.com/federales/sentencias/tribunal-electoral/2017-05-10/sup-rec-1173-2017.pdf.

Zepeda R. and Gómez R. (2018). *Reelección Consecutiva en las Entidades de la República Mexicana*, México: Senado de la República.