

# *In Search of New Paradigms in the Mexican Public Administration: Civil Service and the New National Anticorruption System*

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The paper explores public administration development in México within two fields: the career civil service and the anticorruption policy. The differentiation between the institutional arrangements based on the classic formula of exclusive competences of each level of government and that of concurrent competences, more akin to modern federalism, has been used in the analysis. A qualitative and quantitative analysis of the institutional framework of the career civil service, at both the federal and subnational levels, sheds light on the predominance of patronage. This situation is dysfunctional with respect to the structure, objectives, and functionality of the National Anticorruption System. Finally, it is pointed out that México needs a new

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institutional structure in the career civil service based on a formula of shared competences, given that the absence or extreme weakness of public administration could hinder the efficacy of new institutional arrangements for combating corruption.

*Keywords:* career civil service, Mexican public administration, corruption, federalism, institutions, spoils system.

## 1. Introduction

In 2016, a series of constitutional and legislative reforms aimed at creating the National Anticorruption System (Sistema Nacional Anticorrupción, SNA) were adopted in Mexico. It was the result of an intense participation of civil society in the fight against the greatest scourge affecting the development of Mexican society. This is a remarkable effort towards the establishment of new institutions for combating corruption at the national and subnational levels. However, this measure is but a first step, as it is necessary to recognize that corruption is a complex, multidimensional problem with deep socio-cultural, political, and institutional roots. In the sphere of the state, this problem involves crucial aspects related to the distribution of powers among the different levels of government in the Mexican federal system.

The main objective of this paper is to analyze the limits imposed by the emergence of the SNA within the framework of a public administration with low levels of professionalism, mainly in local and subnational governments set in the context of interests and practices of the spoils system and bureaucratic patrimonialism.

This research project focuses on the degree of structural and functional alignment between the career civil service and the newly created institutions for combating corruption within the framework of bureaucratic patrimonialism and the system of distribution of powers in the Mexican federal system. In order to shed light on this issue, a review of the most relevant academic literature on the subject was carried out, together with a quantitative and qualitative analysis of México's institutional framework.

The first part of the paper consists of a theoretical overview of administrative development and patronage, with an emphasis on the emergence of civil service institutional framework. The second section analyzes the process of institutionalization of the civil service in México's public adminis-

tration, with special emphasis on institutional frameworks, mainly at the subnational level. The final section examines the system of responsibilities applying to the National Anticorruption System, the differences of the civil service within the framework of Mexican federalism, and contains an analysis of key components of the institutional capacity building.

## 2. Patrimonialism and Bureaucratic Development in Mexico

### 2.1. Corruption and the Institutional Structure of the State

Corruption of the bureaucratic apparatus is an inevitable aspect of government intervention in the economy, since bureaucratic power makes it possible to obtain income or profit through corruption. That is why members of society find the incentives to place themselves within bureaucratic organizations of the state while lacking necessary personal or professional capacities and credentials (Ehrlich & Lui Francis, 1999). According to Bennet and Estrin (2006), the degree of corruptibility of a bureaucracy depends on three main factors: 1) the level of domestic welfare, 2) the inefficiency of the tax system, and 3) the institutional structure. We are most interested in highlighting the third factor.

As Gerring and Thacker have pointed out (2004), one of the angles of analysis least explored in this field is the relationship between the different organizational levels of the state's political institutions. A centralized political system with few veto mechanisms and a more hierarchical institutional arrangement is more prone to corruption, while a decentralized political system with greater balance in territorial distribution of power could show greater resistance to corruption. Both political and administrative decentralization are important in order to improve the control and accountability in government, mainly at the local level. However, empirical evidence on the subject is often contradictory (Freille, Haque & Kneller, 2008). This suggests that no state institutional structure is better *per se* compared to another, but rather that its efficacy will depend on socio-political and cultural conditions, as well as on the level of development of each country.

A unitary state is a political system in which the central government exercises sovereignty over all the territorial units of the state. A federal state, however, is characterized by the greater or lesser distribution of respon-

sibilities among national and regional governments, with a varying degree of autonomy (Gerring & Thacker, 2004). This means that federalism provides a formula for distributing power among federal and subnational units (Weingast, 1995), thus allowing, to a greater or lesser extent, the preservation of political balance in the geographical, economic, social, and political spheres.

For academics such as Rose-Ackerman (2005), fight against corruption and non-transparency requires a number of institutional changes, especially the reform of administrative organizations. The education of civil servants for the design, formulation, and evaluation of public policies is particularly relevant. It is also important to introduce a merit-based system of selection and recruitment of civil servants. A central element of accountability and control of corruption in public administration is the existence of a genuine civil service career. Another essential reform is the introduction of open and participatory procedures. This means that there is a pressing need for the creation of public spaces more conducive to social and citizen participation, which would make necessary to take into account the opinion and resources of society as a relevant input in the control, accountability, and anticorruption policies (Rose-Ackerman, 2005). Thus, it is clear that there is a functional and structural pairing of accountability, fight against corruption, and the processes of institutionalization of the career civil service.

## 2.2. Political Patronage and the Career Civil Service

The debate on merit – as a key element of the career civil service – and political appointments to administrative positions within the modern state (Christensen, 2004) rests on the dichotomy between politics and administration, or rather between merit and political appointments. Far from having been bridged, the debate has taken on new force in the past few decades even in industrialized countries.

There has always existed a varying degree of structural and functional relationship between political and administrative systems within the institutional workings of the state, and the autonomy of the civil service systems with regard to elected officials has been relative. However, it is possible to distinguish two tendencies: in the developed countries with consolidated systems of career civil service, there is a process of politicization which increases political control, a trend that has been studied by Peters and Pierre (2004). In Mexico and Latin America, the situation is quite

different because of the phenomenon known as patronage, implying that access to administrative – mainly high-ranking – positions is controlled by members of a political clique or family, which suggests a degree of administrative underdevelopment.

In this region, it is difficult to find those predictable and coherent public administrations akin to the Weberian ideal. It seems that Weber confused his followers by insisting that the bureaucracy would wipe out all preceding social formations (Evans, 1996). Here, different pre-bureaucratic administrative organizations subsist in varying degrees in public administration mainly through bureaucratic neopatrimonialism.

Bureaucratic patrimonialism has its deepest roots in the spoils system. The “spoils system phenomenon is like a ghost. At first sight, it is invisible, but is felt to be all-present. It has many faces, but nobody knows exactly what it looks like” (Schröter, 2010, p. 141). Perhaps this is why, though not uncommon, it remains elusive. It is well known, but ignored at the same time. Therefore, it is necessary to explain the relationship between patronage and administrative development, particularly the link between public positions obtained by appointment and those obtained through meritocratic procedures and criteria.

It is important to note the relationship between the concepts of spoils system and patronage. The term patronage is used mainly in reference to a special form of the political spoils system, characterized by the exchange and transfer of resources or public goods between the two main actors: the patron and the client. Patronage has a particular character because the employer has access to public funds or can take advantage of his position while holding public office (Schröter, 2010). The relationship is asymmetric in nature and displays relative subordination among actors – the ruler or political leader exercises power over citizens who pledge their loyalty and political affiliation in exchange for resources, goods, or public services offered to them from a public agency by their “employer”.

In México, during the longstanding authoritarian presidency and the rule of the Institutional Revolutionary Party, the creation of a career civil service was never a priority of the groups in power, given the prevalence of the spoils system. The winner of the presidency freely allotted all administrative positions, mainly of middle and higher ranks (Arellano, 2013). However, the establishment of a genuine career civil service is still a pending task on the country’s political agenda.

México’s political reality reveals a manifest tension between the meritocratic system and patronage-based bureaucratic patrimonialism, made all

the more clear in the process of introducing a career civil service in the federal public administration. At the subnational level there is a predominance of various forms of patronage and bureaucratic patrimonialism, since career civil service systems are practically non-existent in state governments.

It is important to emphasize the advantages of the meritocratic system over bureaucratic patrimonialism. In the normative dimension, it is presumed that the Weberian systems require the civil service to have an egalitarian treatment of citizenry, to provide just and effective implementation of the law, and to implement adequate accountability mechanisms. At the functional level, civil servants in such a system are more competent to perform their duties than those chosen in other ways. Likewise, their extensive careers provide the organization with an institutional memory that could help improve policy process decision-making (Ramos Larraburu & Peters, 2013).

Thus, one of the main characteristics in the development of the state bureaucracy is its autonomy from partisan political interference (Du Gay, 2005). The core question is how to safeguard such autonomy, as a meritocratic element – particularly the career civil service – is one of the most effective institutions for this purpose.

There is a clear technical superiority and expertise of career civil servants. However, there are also stances identified with the right of the winning political parties to design and implement policies and programs in accordance with their political-electoral offer, which need the backing of people who hold key positions in public administration and are committed to their government programs (Ramos Larraburu & Peters, 2013).

According to Grindle (2012), public administrations in many countries – mainly in developing nations – are based on political patronage systems, which means that the main access route to non-elective positions in government for most civil servants is discretionary appointment for either personal or political purposes. Recruitment and public careers are controlled from the top, through hierarchical and vertical systems, since the contract between the employer and the employee is based on partisan political values, such as loyalty, personal interest or reciprocity, rather than on constitutive principles of a modern public administration, such as merit, experience or professional training. For Schuster (2016) it is necessary to remove patronage from decisions about public personnel, including the appointment, remuneration, promotion, and dismissal or removal of civil servants, regardless whether that is supported by a law or

practice within a particular political culture. In this line of argument, both formal and informal institutional arrangements constitute the structures and rules of the game that harbor the rules and practices associated with bureaucratic patronage and patrimonialism.

Schuster (2016) further claims that a fundamental oversight of the patronage theory is its tendency to downplay the exogenous political factors involved in the design of formal state institutions, which usually happens in Latin American countries, including México. In many cases, the same constitutions and laws monopolize the patrimonial bureaucracy's power of patronage in the hands of the head of the executive, be it federal or subnational. Once formal or informal institutions take over a certain public power, as is the case with the executive over its control of patronage in the appointment of public officials, the same power has the necessary inclination to take over other powers, particularly legislative and judicial powers (Schuster, 2016).

Schuster's (2016) contributions are particularly relevant in the analysis of the Mexican case. The institutional design of the career civil service leaves the powers of patronage relating to the appointment of the main administrative staff in the hands of the country's highest political authority – the president of the Republic. Thus, regardless of the political party in control of the federal executive branch, the power of patronage remains intact, even within the framework of formal institutions established by the law (the Law on the Professional Career Service in the Federal Public Administration (*Ley del Servicio Profesional de Carrera en la Administración Pública Federal*, LSPCAPF). This situation extends to the other hierarchical levels of the federal public administration. For example, heads of various agencies maintain equal powers because by taking advantage of their provisional appointments they can exercise this same power in an effective manner, incorporating their main staff and political operators. This trend only intensified with Felipe Calderón Hinojosa's access to México's presidency (2006-2012) – whose suspicious legality and legitimacy turned it into fertile ground for slowing down the advance of the career public service – a situation that became consolidated during Enrique Peña Nieto's presidency (2012-2018). With the return of the PRI to presidency, some of the uses and abuses characteristic of Mexican politics came back as well, particularly in the appointment of medium-level and senior officials in public administration. Perhaps this is the key to understanding the relatively failed process of institutionalization of the career civil service at both the federal and subnational levels.

### 2.3. The Components of Institutional Capacity Building

The Organization for Economic Cooperation and Development (OECD) defines institutional capacity as “organizational, structural and technical systems, as well as individual competencies that create and implement policies in response to the needs of the public” (2008, p. 92). The World Bank points out that the institutional capacity building encompasses three main dimensions – skills upgrading (who), procedural improvements (how), and organizational strengthening (what system). Defined in this way, institutional capacity building occurs by acquiring resources and integrating them in a way that leads to the more efficient and effective operation of institutions and organizations (European Commission, 2014, p.3)

According to Bhagavan and Virgin (2004):

“Institutional capacity thus encompasses, on the one hand, the functions (tasks) that institutions should have the competence (ability) to perform, and, on the other, the resources (human, technical and financial) and structures they need to that end. For ease of analysis, we subsume relations, rules, values, behaviour, etc. within the concept of structure” (p. 3).

That definition contains a variable number of elements identified as capacity components that make up the capacity system. “The institutional framework that sets the initial boundaries within which the capacity-building effort can take place. An institution’s framework is made up, on the one hand, of formal and explicit rules, regulations, policies, etc., and on the other, of informal and implicit norms and values, that govern the working of the institution.” (Bhagavan & Virgin, 2004, p. 3).

A central aspect of institutional capacity in developing countries is capacity building or capacity development. “It generally involves a cluster of institutions in either a single sector, or across several sectors. It embraces therefore both the micro-institutional approach dictated by the commitment to individual institutions and the macro-institutional one called for by a cluster of institutions.” (Bhagavan & Virgin, 2004, p. 2).

In this approach, the clusters and networks, as well as changes in the structures and modalities of interaction between institutions are the focus of analysis of capacity development.

By definition, capacity building refers to “a process, rather than a final outcome or an output (the results of capacity) which is more easily identified and quantified. Moreover, building capacity may lead to different



degrees or levels of capacity attained” (Greiling & Auriacombe, 2015, p. 101).

It is clear that “measurements of capacity building may be qualitative in nature and involve a time-frame, since capacity is strengthened over time. More importantly, capacity building involves a complex process (...) at the individual, institutional and environmental levels” (Greiling & Auriacombe, 2015, p. 101).

The concept of capacity building particularly in the field of public administration includes:

- the development of an impartial and professional administration;
- the development of a training system;
- adequate policy development and policy coordination capacity;
- an effective accountability system, with particular emphasis on the system of Internal and External Control (Smeriglio, et al., 2015, p. 18).

The analysis of the first two components of institutional capacity refers to the establishment and operation of the career civil service. The development of coordination capacity depends on the federative formula of distribution of powers applied in each case: exclusive powers in the career civil service, and concurrent authority with regard to the control and fight against corruption. With regard to the fourth element, it is clear that the institutional dimension, in addition to access to public sector information and accountability, includes the system for controlling and fighting corruption.

This paper covers two essential components for the study of Mexican public administration: 1) an analysis of the institutional development of the career civil service, and 2) a study of the process of constructing the national and local systems for controlling and fighting corruption.

The first part of the analysis covers the administrations of Vicente Fox, Felipe Calderón and the first three years of Enrique Peña Nieto’s government, with an emphasis on the regulatory and operational modifications of the career civil service in the federal public administration. The second part covers the last three years of the administration of President Peña Nieto (2015-2018), characterized by the intense process of construction of institutional arrangements corresponding to the SNA and the respective local systems in the country’s federal states.

### 3. The Institutionalization of Professional Service in the Framework of Bureaucratic Patrimonialism

Some of the causes behind the tension between political patronage and the failed professionalization of México's public administration can be attributed to the nature of the country's political transition. A central feature of this process is its high institutional deficit, combined with low levels of democratic political development. What proved pivotal to the success of political transition was the creation of new electoral institutions, which materialized with the establishment of the former Federal Electoral Institute, antecedent of the current National Electoral Institute and the Electoral Tribunal of Judicial Power of the Federation. Beyond reliable institutions for the organization of free and fair elections, the Mexican political transition did not generate new ones, not even those necessary for state reform. The central objective of transition was the institutionalization of reliable electoral systems and processes, not state reform in a broad sense.

This new electoral institution made party alternation possible in various areas of México's political system – federal, state, and municipal. The stellar moment arrived with the presidential election of 2000, starring Vicente Fox as the candidate of the National Action Party. Even though the institutional deficit remained a major weakness of political transition, the presidency of Vicente Fox established two central pieces of the new institutional order: The Federal Institute for Access to Public Information (Instituto Federal de Acceso a la Información Pública, IFAI) and the career civil service in federal public administration.

The establishment of the IFAI began with the adoption of the Federal Law on Transparency and Access to Public Information, by means of which the institution was founded as a federal public administration agency, with operative, budgetary, and decision-making autonomy. In 2014, an amendment of Article 6 of the federal Constitution designated the then IFAI as an autonomous constitutional body, provided with full autonomy in the technical, management, and budgetary fields. In 2015, with the adoption of the General Act on Transparency and Access to Public Information, the IFAI was transformed into the current National Institute for Transparency, Access to Information and Personal Data Protection (Instituto Nacional de Transparencia, Acceso a la Información y Protección de Datos Personales, INAI).

The LSPCAPF established the Career Civil Service System (Sistema del Servicio Profesional de Carrera, SSPC) in the centralized federal pub-

lic administration offices. It is important to note that the LSPCAPF, by explicitly excluding the parastatal sector, also limited its structural and functional efficacy in the federal public administration.

According to the LSPCAPF, the SSPC is a mechanism crafted to ensure equal opportunities for access to public service based on merit and comprises the following levels: a) general director, b) area director, c) area assistant director, d) chief of department, and e) liaison. The SSPC has an organizational, functional and operational structure based on seven subsystems: 1) planning of human resources; 2) recruitment; 3) professional development; 4) training and skill certification; 5) performance assessment; 6) separation and 7) control and evaluation.

The first Law on the Career Civil Service in the Federal Public Administration was abrogated three years later, in September 2007. The first regulation narrowed down the exceptions to provisional appointments and granted the Ministry of Public Administration (*Secretaría de la Función Pública, SFP*) ample powers of control, supervision and evaluation of the procedures for admittance into the public service. However, this generated a series of disagreements among different groups managing different agencies, since this regulatory framework clearly limited their decision-making capacity within the SSPC. Article 16 of the first Law (2004) prescribed that in the functioning of the SSPC would be coordinated through participation of the SFP and respective agencies. On the other hand, Article 19 of the second Law (2007) prescribed that each government agency would have control over the operation of the staff in the respective subsystems. This was an important change, since it reduced the SFP's decision-making and operational power, while broadening the agencies' margin of discretionary power by enabling agency heads to appoint their respective middle-rank and top officials.

Another relevant change in the regulatory framework of the career civil service was in relation to the exceptional character of appointments outside the SSPC. Thus, Article 10 of the first Law included as provisional career civil servants those appointed in exceptional cases, as those listed in Article 34 of the LSPCAPF. The second Law (2007) retained the same provision, but reinforced its margin of discretion. Article 92 has stipulated that provisional positions may be held for a period determined by the heads of agencies, senior officials or their counterparts. This period shall not exceed ten months, with the possibility for the same person to be appointed to different positions up to two times within two years. This new provision has considerably expanded the discretionary power of top officials in federal agencies.

While the first institutional benchmark in the development of civil service rests on the regulatory framework, the second is clearly insufficient, as it is the case with the SSPC in México's public administration. The greatest advances in the development of the career civil service occurred in the initial phase from 2004 to 2007. During this period, the registration of public posts subject to the SSPC was completed, there were 14,818 public competitions, 5,277 (35%) of which were declared void (Martínez, 2009). According to Klingner and Arellano (2006), a public service career in the federal public administration faces eight essential challenges: 1) the maintenance of culture of political control by the heads of agencies; 2) the need for new administrative culture; 3) the need for a new administrative and political balance in the SSPC implementation process; 4) the need for constant watch over the SSPC; 5) persistence of an authoritarian political culture; 6) persistence of corruption as part of political culture; 7) the risks associated with confrontation between the executive and legislative branches; 8) the limited scope of the law, i.e. exclusion of its implementation on personnel of numerous entities, agencies, and administrative departments and sectors.

The culture of political control based on a very complex administrative formalism needs to be changed (Klingner & Arellano, 2006). This requires support from the head of the executive branch and heads of different agencies, as these senior officials, seeing the threat the LSPCAPF posed to their ability to maneuver, have hindered the development of the SSPC because they seek to maintain control over their respective agencies at all costs.

México is in need of a new administrative culture that clearly distinguishes between the politically appointed officials and the high-ranking civil servants who are part of the SSPC. The spoils system is deeply rooted in México's public administration. Political officials tend to preserve their spheres of influence mainly by exercising their power to appoint their supporters to the SSPC strategic administrative positions. Some politically appointed personnel pretend to implement the civil service, while in truth they seek to maintain their personal and legal authority intact within a traditional hierarchical culture (Klingner and Arellano, 2006).

Thus, the design of a professional civil service system that yields the management and governance of the system to political groups and elected officials is Kafkaesque – the very institution created to control and limit the political influence is put in the hands of the cliques, and the spoils system still dominates in the Mexican public administration (Arellano, 2013).

One of the factors that have led to the relative failure of career civil service in the federal public administration is the lack of adequate institutional arrangements for implementing the SSPC, including its lack of autonomy and adequate participation of non-governmental actors – academic institutions and civil society organizations – particularly in areas related to fighting corruption or promoting social development.

The career civil service has not managed to consolidate itself beyond the mere regulatory framework. The efficacy of admission procedures to the SSPC has been questioned for two main reasons. First, ever since the SSPC's establishment it has been suspected that exams are provided clandestinely to favored candidates (a practice made possible because of inefficient surveillance or complicity of the internal control unit of each agency and the SFP). Secondly, the abuse – also routinely practiced since the SSPC's establishment, though by nature exceptional – of temporary appointments (Méndez, 2010). The SSPC has been hampered by the lack of commitment to consolidation of the public service that places merit (instead of partisan, personal, or group loyalty) as the final criterion for access to federal public service (Cejudo, 2012).

The practice continued during the presidency of Enrique Peña Nieto (2012-2018) with the Ministry of Finance and Public Credit (Secretaría de Hacienda y Crédito Público, SHCP) as the main example. The total number of temporary appointments during the first three years of Felipe Calderón's presidency was 376, while in the first three years of Peña Nieto's mandate the total was 379 appointments. The abuse of temporary appointments has reached such a degree that the temporary appointments in the Ministry of the Interior (Secretaría de Gobernación, SEGOB) range from the level of liaison to director general. In the first part of Calderón's presidency (2006-2009), there were 43 temporary appointments in 2007, 199 in 2008, and 298 in 2009 (416 in total). During the first half of Peña Nieto's administration, there were 288 appointments in 2013, 734 in 2014, and 391 in 2015, totaling 1,413 temporary posts (SEGOB, 2016).

Although the number of temporary appointments within the SHCP remains even, there is an exponential growth of 340% in the SEGOB, indicating a growing capture syndrome of the incipient career public service during the Peña Nieto's presidency. This means that mid-ranking and top management in public administration continue to be part of the spoils system supported by the ruling political party or the winning candidate to the country's presidency. This could explain the compliant hush of the main political forces, in patient wait of the latter's arrival to presidential

power, and with it the opportunity to place his or her political cadres in the main administrative positions.

One of the main limitations of the institutional scaffolding of the career civil service in federal public administration is the lack of a genuinely federalist approach, despite the fact that the LSPCAPF pompously calls it “Professional Career Service System”. The foregoing is questionable because of its functional and structural failures within the centralized administration, and because of its limited scope which leaves out large administrative sectors.

## 4. Progress of the Career Civil Service in México (2003-2015)

### 4.1. The Civil Service Development Index (CSDI)

The civil service is conceived as a management system for public employment and human resources assigned to public organizations. It incorporates a series of specific institutional arrangements, comprising a more or less articulated set of rules (both written and informal), structures, cultural guidelines, policies, processes, practices, and actions (Longo, 2002). The CSDI’s analytical framework has been put together by various researchers specialized in Latin American public administration, as the pioneering work of Longo (2002), and of Longo and Iacoviello (2010; 2013) confirms. The CSDI includes the study of civil service systems, based on variables such as efficiency, merit, structural consistency, functional capacity, and integrating capacity, as detailed in Table 1.

Table 1. *Civil Service Development Index (CSDI)*

INDEX	DESCRIPTION OF INDEX	SUB-INDEX	DESCRIPTION OF SUB-INDEX
Efficiency	Evaluates the degree of investment in human capital within the public service, as well as its congruence with fiscal policy and markets.		
Merit	Evaluates the degree to which the civil service incorporates the guarantees on the use of criteria and practices of professionalism in its policies and programs.		

Structural consistency	Evaluates the solidity and system- ic integration of civil service.	Strategic coherence	Evaluates the linking of civil service management and practices within government priorities.
		Management consistency	Evaluates the degree of development of the managing role and its relationship to the techno-structure.
		Process consistency	Evaluates the degree of interrelation between various subsystems related to human resources management.
Functional capacity	Assesses the ability of the civil service to effectively influence the behavior of public employees.	Competency	Assesses the ability of the civil service to ensure the development of capacities, skills and abilities that the public system needs.
		Incentive efficiency	Assesses the degree to which the management of a civil service promotes effective performance, learning and quality service.
		Flexibility	Assesses the degree to which the civil service incorporates practices and guidelines that enable adjustment to changes in the socio-cultural and political-administrative context.
Integrative capacity	Assesses the efficacy of the civil service from the harmonization of expectations and interests of different actors and pressure groups.		

Source: Prepared by the author based on information supplied by Longo and Iacoviello (2013).

Out of the five components of CSDI, the merit index allows assessing the degree of interference by partisan or group political interests in the career civil service. This means that merit should be the fundamental support of this system in countries such as México, where a strong spoils system and patrimonial culture predominate in public organizations. Since merit is vi-

olated by different political actors (political parties, groups, unions, elected officials, etc.), the career civil service becomes only a formal institution lacking real operational and structural efficiency within public administration. When a career civil service system lacks appropriate mechanisms of guaranteeing merit in recruitment and retaining procedures, it becomes an easy prey, captured by the political interests of groups competing for power at different government levels.

#### 4.2. CSDI in the Mexican Public Administration

One of the greatest shortcomings of the Mexican political transition is the slow institutional consolidation at various levels of government even during alternation of the presidency, with the governments formed by the National Action Party, except in matters of access to public information and the career civil service in the federal public administration.

Since the LSPCAPF was adopted, the development of the career civil service began in many sectors of the federal public administration. Some sectors at the federal level had already implemented their respective career systems, as was the case with the Mexican Foreign Service, whose inception dates back to 1934.

The evolution of Mexican career civil service is shown in Table 2.

Table 2. *Civil Service Development Index in México*

INDEX	2004	2013	Variation
Efficiency	35	40	5
Merit	47	40	-7
Structural consistency	45	40	-5
Functional capacity	40	39	-1
Integrative capacity	40	45	5
Civil Service Development Index (CSDI)	41	41	0

Source: Author, adapted from Strazza (2014).

With the adoption of the LSPCAPF and its secondary legislation, the CSDI reached 41 points (on a scale of 1 to 100) in 2004. The CSDI remained practically unchanged for almost a decade. Moreover, out of five



indexes that make up the CSDI, only Efficiency and Integrative Capacity show a positive evolution, rising from 35 to 40 points and from 40 to 45 respectively. All of the other indexes show a negative trend, with the Merit and Structural Consistency indexes being particularly critical. There is a drop of 7 and 5 points respectively. The negative trend is caused by the lack of transparency and credibility in the selection and recruitment processes, and by the abuse of temporary appointments.

The career civil service in the federal public administration has not been institutionally consolidated due to the mentioned structural and functional weaknesses. It has been captured by political parties, even during periods of political alternation in the presidency.

### 4.3. The Big Pending Issue: Professionalization in the State and Municipal Public Administration

One of the greatest limitations in analyzing the degree of progress in administrative development at the state level is the absence of disaggregated CSDI index. Lack of specific legislation in numerous states proves the predominance of patrimonialism and political patronage in a wide array of state governments, with some exceptions.

The situation is even worse in municipalities because of their chronic administrative and institutional underdevelopment, but also because many municipal governments are undergoing serious governance crises. Crises are mainly caused by problems of insecurity and by direct and indirect control that various criminal groups linked to drug trafficking and other illicit activities exercise over local governments, either by coercion or financial, political and electoral co-optation of the various local political actors – political candidates, civil servants and political organizations, including the political parties.

A central element in analyzing the degree of institutionalization of the career civil service at the subnational levels is the existence – or lack – of a specific legal framework. The differentiation between laws and regulations is rather important because regulation by law (as in Mexico City, Zacatecas, Veracruz and Guanajuato) brings on a greater degree of generalization and enforceability in the processes of institutionalization. The above shows that the process of civil service institutionalization mainly in the mid and upper tiers of state and municipal public administrations is at an initial stage, with low levels of development. The civil service subnational

institutional framework exists in only three of the 32 states, but there is lacking evidence of implementation of the career service legislation.

This marked institutional deficit in public service institutional consolidation at the subnational level is caused by the lack of integration of the national system in this area, stemming from the fact that public service falls within the exclusive jurisdiction of subnational governments, with the exception of public security, electoral administration or access to public information.

Thus, at the state level the professionalization of civil servants in the field of public security is the area that has received most attention because of the serious problem of crime and insecurity that has affected various regions of the country for more than a decade. This situation is corroborated in Table 3 with data relating to a selection of states.

Table 3. *Evolution of the career civil service regulatory framework in states*

State	Regulation	Category or public office within the CSC
Aguascalientes	Legislative Power Regulation on Civil Service Careers.	Department, office or unit heads, and managers of administrative units, from lower ranks to area director.
	Institute of Transparency Regulation on Career Civil Service.	Administrative; legal defense of information and protection of personal data.
	Professional Electoral Service Regulation.	Managerial and technical positions.
Chihuahua	State and Municipalities Public Security Career Civil Service Regulation.	Public Prosecutor's Office agents and experts, and police staff.
	Institute for Transparency and Access to Public Information; Career Civil Service Regulations.	Administrative; legal defense of information and protection of personal data.
State of Mexico	Cuautitlán Texcoco Valley Local Conciliation and Arbitration Board Career Civil Service Regulation.	Auxiliaries, agreements personnel, actuaries and labor technicians.
	Police Service Career Regulation.	Commissioners, inspectors, officials and basic scale.
Sonora	Audit and Control Superior Institute Supervisory Civil Service Career Regulation.	Institute administrative units' managers, officials and staff members.
	Public Security Police Internal Regulation.	Police career.

Coahuila	Attorney General's Office Career Service Regulation.	Public prosecutor, experts and criminal police.
	Public Security Career Service Regulation.	Commissioners, inspectors, public officials and basic scale.
Querétaro	Police Service Career System Regulation.	Commissioners, inspectors, public officials and basic scale.
	Attorney General's Office Career Service Regulations.	Prosecutors, experts, and investigative police.

Source: Prepared by the author based on state regulations data.

Based on provisions of Article 21 of the Constitution of the United Mexican States (*Constitución Política de los Estados Unidos Mexicanos*, CPEUM) and on the National Public Security System's General Act, the highest level of institutional consolidation of professional services at the subnational level is characteristic of public security and justice.

Another relevant trend is the emergence of career civil service systems in areas reserved for autonomous public bodies, particularly those dealing with elections, access to public information and inspection, which is a trend likely to increase in future years with the adoption of new institutional arrangements.

## 5. The Emergence of the SNA and its Institutional Decoupling with Civil Service

### 5.1. The Creation of the SNA's Institutional Framework (2015-2018)

The creation of the SNA's institutional framework can be understood in the context of two trends regarding the distribution of competences within the Mexican federal system:

- 1) Exclusive competences of various governments are increasingly reduced since the number of shared competences has substantially increased through excessive centralization of legislative competences in the Congress of the Union. Although the Mexican federal system rests on the original distribution of powers set down in Article 124 of the CPEUM, which establishes delegated powers for the federation, while other competences belong to the states. However, there is a predominance of the fed-

eral legislative power through the formula of shared competences established in Article 73 of the CPEUM, whose implementation has allowed the federal government to continuously widen its legislative powers.

2) The new institutional arrangements in electoral processes, access to public information, control, accountability and fight against corruption, emerging through recent constitutional and legislative reforms, deepen the cooperative nature of federalism, widen federal government's competences and, thus, intensify this trend.

Thus, there is a wide variety of formulas for distributing competences among the different levels of government, including mechanisms for coordination, collaboration, cooperation, or concurrence. This has given rise to a federative system with low levels of integration, where diversity of institutional arrangements prevails, as in the case of the civil service and the anticorruption system, which have very different institutional arrangements in Mexican federalism.

The establishment of the SNA, initially arising from the pressure exerted by various sectors of civil society, culminated in the amendment to Article 113 of the CPEUM and adoption of the General Law on the National Anticorruption System (*Ley General del Sistema Nacional Anticorrupción* – LGSNA). The SNA is an intergovernmental coordination body for auditing and control of public funds and for prevention, detection, and punishment of administrative liabilities and acts of corruption. It is shared by all three levels of government. While the career civil service is framed in federalism of a traditional nature – through the allocation of exclusive responsibilities at each level of government, the SNA is based on cooperation and coordination between the different government levels.

The effectiveness of the SNA depends on its systemic integration with the career civil service at the three levels of government. There is still doubt regarding the extent to which it is possible to combat corruption efficiently while there are public governments with low levels of administrative development, as is the case in the vast majority of states and municipalities.

## 5.2. The Construction of a New Institutional Framework in Federative Entities

The SNA consists of a) members of the Coordinating Committee, b) the Citizen Participation Committee, c) the Steering Committee of the National Audit System, and d) the local systems.

The second transitory article of the LGSNA prescribed a term of one year after its entry into force for both the Congress of the Union and the 32 state congresses to approve the legislative changes for the establishment of the institutional arrangement. This constitutional term ended on July 19, 2017. With the exception of Chihuahua and Veracruz, which approved their respective anticorruption laws outside that term, all the other states adopted the constitutional and legislative changes within the prescribed deadline. However, the institutional capacity for coordination and operation varies from state to state.

The review of four sets of institutional development indicators renders possible an analysis and initial evaluation of these formal institutional arrangements. The first set of indicators is related to the main dimensions of institutional capacity, including the degree of standardization between the mechanisms for integrating the SNA structures and the state systems. These indicators are shown in Table 4.

Table 4. Local institutional capacity building indicators

Generic Institutional capacity building indicators	Integration of the Coordination Committee	Constitution of the Citizen Participation Committee	Participation Steering Committee of the State Audit System	Participation and representation of Municipalities
States				
1. Aguascalientes	X	X	X	
2. Baja California	X	X		
3. Baja California Sur	X	X		
4. Campeche	X	X		
5. Colima	X	X	X	X
6. Coahuila	X	X		X
7. Ciudad de México	X	X	X	
8. Chiapas	X	X	X	X
9. Chihuahua	X	X		X
10. Durango	X	X		
11. Jalisco	X	X	X	X
12. México	X	X	X	X

13. Hidalgo	X	X		X
14. Nuevo León	X	X		X
15. Morelos	X	X	X	
16. Michoacán	X	X		
17. Nayarit	X	X	X	X
18. Oaxaca	X	X		
19. Guanajuato	X	X	X	X
20. Guerrero	X	X	X	X
21. Puebla	X	X		
22. Querétaro	X	X		
23. Quintana Roo	X	X		
24. San Luis Potosí	X	X	X	
25. Sinaloa	X	X		X
26. Sonora	X	X		X
27. Tabasco	X	X		
28. Tamaulipas	X	X		
29. Tlaxcala	X	X		X
30. Veracruz	X	X		
31. Yucatán	X	X		
32. Zacatecas	X	X	X	X
<b>Total</b>	<b>32</b>	<b>32</b>	<b>12</b>	<b>15</b>
<b>(% of total)</b>	<b>100%</b>	<b>100%</b>	<b>37.5%</b>	<b>46.8%</b>

Source: Prepared by the author based on state regulations data

The indicators referring to the integration of coordinating committees and citizen participation committees in the states show an advancement of 100%. This contrasts with the indicators referring to the participation of the respective state audit and accountability systems, whose institutional structure is found in only 12 states, which represents 37.5% of the total. A similar situation can be observed in participation of municipalities in the local anticorruption systems in only 15 states, a figure that covers

46.8% of the total. The legislation of 17 states does not provide for any mechanism for the participation of municipal control and audit bodies.

Another relevant weakness of subnational institutional arrangements is the lack of integration mechanisms for the state audit systems. These exist in 20 local systems, which represents 62.5% of the states.

A second set of indicators is related to the development of local institutional capacity, particularly of the structures for coordination between the SNA and the state systems, as well as of their operational capacity, including the management and budgetary autonomy of these structures (Executive Secretariats), as shown in Table 5.

Table 5. *Indicators of local anticorruption systems' capacity building*

Generic Indicator	Structural capacity (coordination mechanism between the SNA and the local system)	Operational capacity (administrative decentralization)	Operational capacity (budget autonomy of the Executive Secretariat)
States			
1. Aguascalientes	X	X	X
2. Baja California		X	X
3. Baja California Sur	X	X	X
4. Campeche	X	X	X
5. Colima		X	X
6. Coahuila	X	X	
7. Ciudad de México		X	X
8. Chiapas		X	X
9. Chihuahua	X	X	X
10. Durango	X	X	X
11. Jalisco	X	X	X
12. México		X	X
13. Hidalgo	X	X	X
14. Nuevo León	X	X	X
15. Morelos	X	X	X
16. Michoacán	X	X	X

17. Nayarit		X	X
18. Oaxaca	X	X	X
19. Guanajuato		X	X
20. Guerrero		X	X
21. Puebla		X	X
22. Querétaro		X	X
23. Quintana Roo	X	X	X
24. San Luis Potosí		X	X
25. Sinaloa		X	X
26. Sonora		X	X
27. Tabasco	X	X	X
28. Tamaulipas		X	X
29. Tlaxcala	X	X	X
30. Veracruz		X	X
31. Yucatán		X	X
32. Zacatecas		X	X
<b>Total</b>	15	32	32
<b>(% of total)</b>	46.8%	100%	100%

Source: Prepared by the author based on state regulations data

The greatest weakness lies in the differentiated development of coordination mechanisms of the 32 state systems with the SNA. Only 15 state laws provide for the powers and responsibilities of the respective subnational coordinating committees with regard to their integration into the SNA.

Considering the operational autonomy of local systems, management autonomy is provided for in all 32 states. There are decentralized agencies with legal personality and their own assets, as well as technical and management autonomy. The state laws have also ensured some degree of their budgetary autonomy (Executive Secretariats). In Baja California Sur, Durango, Morelos and Oaxaca, the legislation has established an obligation of the respective congresses to allocate a sufficient budget to guarantee the integral and effective functioning of the Executive Secretariats. The degree of financial autonomy in these four states is greater than in the rest.



## 6. Conclusion

Building the institutional capacity of the career civil service, and fighting and controlling corruption have followed two radically different paths. In the first case, the dominant actors at the central level, who have benefited from bureaucratic patrimonialism, have succeeded in submitting the institutional framework to their political interests, based on an old federalist formula. In the second case, the resistance has been limited by the establishment of new formal institutions based on a more cooperative federalism. The political forces represented in the Congress of the Union played a key role, providing the constitutional and legal principles and determining deadlines for the establishment of subnational institutions, based on the SNA.

The analysis of the SNA institutional platform and the career civil service in the context of distribution of powers in Mexican federalism reveals important structural and functional limitations, particularly the persistence of the patronage system. This is a serious obstacle to the fight against corruption, because of low levels of administrative development, especially in subnational governments.

The structural framework of the career civil service, being within the exclusive powers of states, has determined a distinct process of the new institutional development:

- a) In the federal public administration, the career civil service institutions are characterized by weak consolidation and autonomy with respect to the president of the Republic and the heads of various public agencies.
- b) In the states and municipalities, the institutionalization of the career civil service is non-existent, with the exception of some autonomous public agencies with specialized functions, mainly in electoral matters.
- c) There is no constitutional base of the structural and functional integration of the career civil service institutional arrangements between the federal government and state governments. The lack of a national system in this area hinders the coordination and structuring of the incipient institutional arrangements.

One of the main limitations of the SNA's institutional platform is its weak structural and functional consistency in conjunction with other institutions of the Mexican federal system. A central issue is its lack of structural and functional congruence with the civil service, mainly in subnational

and local governments, mainly because of the obsolete architecture of Mexican federalism. While a model of concurrent competences is applied in anticorruption matters, in career civil service there is a persistence of institutional arrangements based on competences exclusive to each level of government. These institutional differences hinder the effective functioning of the SNA.

At the federal level, career civil service has not been consolidated because of patronage, which continues even after presidential alternation. The situation is even more serious at the subnational level, as political transition has not preferred the new institutional arrangements. Thus, the spoils system and bureaucratic patrimonialism persist in state and municipal public administrations.

Recommendations for structural and functional integration of the career civil service and the anticorruption institutional arrangements are the following:

- a) Establishment of a new institutional framework for the career civil service based on the formula of concurrent competences, i.e. through a national system of civil service at all three levels of government, respecting the autonomy of each level, similar to that in electoral matters, access to public information, control and fight against corruption.
- b) Elimination of the spoils system and patronage could encourage professionalism, particularly in subnational governments. It is necessary to break this vicious circle by introducing new institutional mechanisms. There are three possible ways to achieve this. The first option, concentrated on the transfer of decision-making powers from one to another level of government does not seem feasible, because it would break the sensitive balance of powers. The second option is effective citizen participation that could limit these forms of power abuse. The third option is the establishment of autonomous public bodies entrusted with the strategic state function.

The anticorruption institutional framework is based on the constitutional formula of concurrent powers, which has favored the institutionalization of the national system and 32 state systems. There has been a significant progress in building coordination and operation capacities, and in the management and budgetary autonomy of the state institutions. Municipal level is the weakest link in these emerging institutional arrangements.

An analysis of the career civil service and the anticorruption systems in the 32 states shows a) there is a good level of institutional fit between

the SNA and the state systems, in legal terms; and b) extremely modest progress in the establishment of the career civil service institutional arrangements, because of non-existent national legal frame, resulting in the picture of institutional archipelagos with low institutional capacity.

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## IN SEARCH OF NEW PARADIGMS IN THE MEXICAN PUBLIC ADMINISTRATION: CIVIL SERVICE AND THE NEW NATIONAL ANTICORRUPTION SYSTEM

### Summary

*The paper explores public administration development in México within two fields: the career civil service and the anticorruption policy. The differentiation between the institutional arrangements based on the classic formula of exclusive competences of each level of government and that of concurrent competences, more akin to modern federalism, has been used in the analysis. A qualitative and quantitative analysis of the institutional framework of the career civil service, at both the federal and sub-national levels, sheds light on the predominance of patronage. This situation is dysfunctional with respect to the structure, objectives, and functionality of the National Anticorruption System. Finally, it is pointed out that México needs a new institutional structure in the career civil service based on a formula of shared competences, given that the absence or extreme weakness of public administration could hinder the efficacy of new institutional arrangements for combating corruption.*

Keywords: career civil service, Mexican public administration, corruption, federalism, institutions, spoils system

## U POTRAZI ZA NOVIM PARADIGMAMA U MEKSIČKOJ JAVNOJ UPRAVI: PROFESIONALIZAM I NOVI NACIONALNI SUSTAV BORBE PROTIV KORUPCIJE

### Sažetak

Rad analizira razvoj meksičke javne uprave u okviru dvaju novih polja: karijerne državne službe i antikorupcijske politike. Koristi se razlikovanje institucionalnih aranžmana zasnovanih na klasičnoj formuli o isključivim nadležnostima svake razine vlasti i onoj o konkurirajućim nadležnostima, svojstvenoj modernom federalizmu. Kvalitativna i kvantitativna analiza institucionalnog okvira karijerne državne službe na razini federacije te na subnacionalnim razinama daje uvid u dominantnu praksu patronaže. Takva je situacija disfunkcionalna za strukturu, ciljeve i funkcionalnost Nacionalnog antikorupcijskog sustava. Na kraju se zaključuje da je u Meksiku potrebna nova institucionalna struktura karijerne državne službe zasnovana na formuli o podijeljenim nadležnostima, budući da izostanak ili krajnja slabost javne uprave može onemogućiti efikasno funkcioniranje novih institucionalnih aranžmana za borbu protiv korupcije.

Ključne riječi: karijerna državna služba, meksička javna uprava, korupcija, federalizam, institucije, sustav plijena