



CENTRO STUDI SUL FEDERALISMO

PERSPECTIVES ON FEDERALISM



ISSN: 2036-5438

Strengthening the Participation of Local Congresses in the Mexican Constitutional Reform Process

by Rodrigo Brito Melgarejo

Perspectives on Federalism, Vol. 1, single issue, 2009

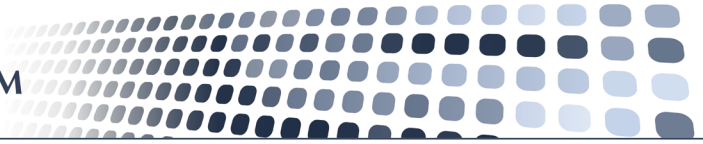


Abstract

On the fourth of July, an initiative presented by the Nayarit State Congress proposing the addition of a second paragraph to Article 135 of the Mexican Constitution was published in the Senate Gazette. The purpose of this reform, as established in the Statement of Reasons, is to increase the participation of State Legislatures in the constitutional reform process, in order to strengthen the federalist principle contained in Article 40 of the Constitution.

Key-words:

Nayarit State Congress, Mexican Constitution, State Legislatures, federalism



On the fourth of July, an initiative presented by the Nayarit State Congress proposing the addition of a second paragraph to Article 135 of the Mexican Constitution was published in the Senate Gazette. The purpose of this reform, as established in the Statement of Reasons, is to increase the participation of State Legislatures in the constitutional reform process, in order to strengthen the federalist principle contained in Article 40 of the Constitution.

On the basis of its doctrine, the Mexican Constitution has been classified as a rigid constitution, since Article 135 of the fundamental law establishes that, in order for additions or amendments made to the Constitution to be incorporated into it, the favourable vote by two-thirds of the congressmen present at the Congress of the Union and the approval of the majority of State Legislatures are necessary. Article 135 creates a special institution known as the “Permanent Constituent Power”, composed of the federal and local legislative bodies. The initiative presented by the Nayarit State Congress intends to strengthen the participation of local legislatures in this special legislative body, annexing a second paragraph to Article 135 of the Constitution establishing that any ruling in which constitutional additions or amendments are included, before being submitted for approval and forwarded by the competent legislative committee, shall be sent to the State Legislatures, so that they may report their opinions on the same within a 30-day period, without affecting the final vote reached in accordance with the stipulations currently set forth by the Constitution.

Pursuant to Nayarit’s Legislative Initiative, the proposed constitutional reform has four basic merits: a) the States may more actively participate in the constitutional reform process by issuing an early report; b) before being sent for approval by the committee, the report on the initiative will be made, to qualify the opinions expressed by the legislatures and, if necessary, to make the pertinent changes to the proposal under analysis; c) the idea that the report on the initiative made by the competent committee will be submitted rather than the initiative itself, is to prevent any initiative, inadmissible though it may be, from being sent to Congress; and d) it is expressly established that local congresses have a non-extendable period of time to exercise their right to issue an opinion before the proposals for reform are made, thus avoiding delays in the constitutional reform process.

With this initiative, it is intended that the political agenda return to the spirit of strengthening the dialogue between the Federal Legislative Branch and State Congresses,



so that the local Congresses may be heard and can participate in the discussions about constitutional reforms. This way, their participation in the legal review would not be limited solely to pronouncing themselves in favour of or against the proposals for constitutional reform.

This initiative has been assigned to the United Committees on Constitutional Affairs and Legislative Studies of the Senate. The question that comes up now is whether the intention to strengthen federalism through greater participation of local legislatures in the constitutional reform process will be reflected in Article 135, since exactly the same idea was an important part of a constitutional reform initiative presented to the Chamber of Deputies in 2005, whose ruling, is still pending three years on.