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Subnational Democracy? Democratization and the Exercise of Indigenous Rights in Nuevo León

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Abstract

This article analyzes why constitutionally recognized Indigenous rights fail to result in genuine political inclusion at the subnational level. Focusing on Nuevo León, Mexico, it analyzes how political liberalization, Indigenous mobilization, democratization, and state capacity interact with persistent illiberal structures and practices to shape the implementation of Indigenous rights. Even with advances such as increased electoral competition, executive and legislative turnover, constitutional reforms, Indigenous consultation processes, and affirmative action policies—stemming from the liberalization and democratization process—illiberal practices and institutional weaknesses continue to limit Indigenous peoples' participation in decision-making. This study shows two key mechanisms supporting this implementation gap: (a) partisan clientelism, which incorporates the Indigenous communities without producing substantive representation, and (b) concentrated state planning institutions that undermine participatory processes and reduce Indigenous rights to a procedural formality. This article contributes to subnational democratization studies by shifting attention to the organization and performance of the state, arguing that democratic quality should also be assessed through the capacity of state institutions to translate formally recognized rights into substantive political inclusion.

Keywords

democratization; inclusion; Indigenous rights; subnational democracy

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1. Introduction

A "transition" is understood as the interval between one political regime and another. It is determined by the process of dissolving an authoritarian regime and establishing (ideally) a democratic one. It is a period when the rules of the political game are not yet clearly defined and, consequently, become subject to arduous competition among political actors with different personal or collective interests. Those who define the rules of the political game will determine how power is distributed (i.e., who wins and who loses influence), what resources are legitimately applicable in the political arena, and who the actors are who can participate in it (O'Donnell & Schmitter, 2010). Those who distribute political power also create opportunities for individuals or groups to take control of institutions, or exploit them, to advance their interests at the expense of public interests.

To understand the transition process in Mexico and its consequences, it is worth considering the factors that made it possible. Following Stepan's (1988) typology, Mexico's transition into democracy began within the authoritarian regime itself, was largely driven by societal forces, and was facilitated by a bipartisan pact, especially between the Partido Revolucionario Institucional (PRI) and the Partido Acción Nacional (PAN). In other words, the transition originated from the core of the authoritarian regime, involving interaction among regime elites, opposition actors, and civil society.

If the political opposition and societal demands influenced the transition, what was the role of Indigenous peoples in this process? Despite the 1977 electoral reform—a liberalization process that represented the official initiation of Mexico's democratic transition (Woldenberg, 2012)—the emergence and pressure of the Ejército Zapatista de Liberación Nacional and the takeover of San Cristóbal de las Casas, Chiapas, in 1994 symbolized a long-suppressed demand for the political recognition of Indigenous rights inside the Mexican State and its democratic institutions, as well as for effective citizenship within the democratization process (Le Bot, 2006).

The resurgence of Indigenous movements in the late-20th century challenged traditional conceptions of the nation-state and citizenship. From their inception, these movements centered their demands on the recognition of indigenous peoples and, subsequently, the right to exercise self-determination (Yashar, 2007). The rise of these mobilizations in Latin America was perfectly timed—and thus successful—with political opportunity structures (POS) that allowed constitutional reforms that recognized Indigenous rights (see Martí, 2008, 2009; Tarrow, 2012). Yet, the formal recognition of Indigenous rights does not necessarily imply political inclusion in the democratization process. As Donna Lee Van Cott (1995) argues, in the process of establishing democracy, Indigenous peoples have often been excluded and, in the most severe cases, rendered invisible as political actors within the democratization of our countries. While it could be argued that contemporary democracy in Latin America emerged through constitutional reforms, the creation of institutions, and a redefinition of the state's role, simultaneous demands from Indigenous peoples arose. These demands challenged the legitimacy of these reforms and questioned the credibility of the institutions, calling for their inclusion in decision-making processes. Thus, our first research question is: Why do constitutionally recognized Indigenous rights fail to result in genuine political inclusion?

This article argues that an "implementation gap," understood as the failure to implement international standards and instruments—such as the 1989 Indigenous and Tribal Peoples Convention (ILO Convention

No. 169) or the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)—at the national and subnational levels (see Wright & Tomaselli, 2020), moves beyond the traditional focus on the relations between territories and extractive actions. We further argue that the implementation gap results from the interaction between uneven state and institutional capacities and the persistence of patrimonial and illiberal structures and practices within the state, thereby reshaping the implementation of formally recognized rights.

Through discretionary decision-making, selective policy implementation, and informal mechanisms of bureaucratic design, illiberal practices continue to constrain the substantive political inclusion of Indigenous peoples by limiting the state's capacity to implement constitutionally recognized rights. By analyzing the subnational case of Nuevo León—a highly industrialized state that has experienced significant Indigenous migration—this article demonstrates how these informal dynamics restrict access to the political and material conditions necessary for Indigenous peoples to exercise their rights.

The following section assesses how the theoretical development of transitions, liberalization, and democratization can be assessed through the advances and barriers of Indigenous rights. The section considers the progress and challenges associated with the recognition and implementation of Indigenous peoples' rights in Mexico since 1977.

2. Indigenous Peoples in the Transition, Liberalization, and Democratization Processes

The political liberalization that began in Mexico during the late 1970s expanded POS for historically excluded groups that were now allowed to organize collectively and demand political recognition (Tarrow, 2012). Official nationalism had excluded Indigenous peoples from political decision-making at both the national and subnational levels while limiting the effective exercise of their rights within their own communities (Gutiérrez-Chong, 2001).

In Latin America in general, during the late 1970s and early 1980s, Indigenous peoples had begun demanding recognition as political actors and the expansion of their collective rights. They became central actors in challenging the exclusionary foundations of the state (Van Cott, 2000).

These struggles aimed to achieve recognition of political pluralism, which is understood through culture, identity, and practices associated with the exercise of the right to self-determination (Wright, 2018). In other words, the efforts to secure political rights, particularly the right to self-determination, were linked to the acknowledgment of both individual rights and collective rights (González, 2013).

The constitutional recognition of Indigenous rights has led to a new area of conflict between Indigenous peoples and the Mexican state. As these rights became constitutionally enforceable because of their commitment to international mechanisms for the defense of human rights, the contestation shifted from the executive and legislative branches to the judicial power, the courts, through strategic litigation. This phenomenon produced the growth in political relevance of the Suprema Corte de Justicia de la Nación and of the Tribunal Electoral del Poder Judicial de la Federación, which became central arenas for interpreting constitutional protections and resolving disputes concerning Indigenous political rights (Aragón, 2022; Ríos, 2007).

Understanding why Indigenous rights achieved constitutional recognition yet continue to be unevenly implemented requires distinguishing between political transition, political liberalization, and democratization. Although these concepts are often used interchangeably, they refer to distinct political processes with different implications for the recognition and exercise of rights. The following sections develop this conceptual distinction.

2.1. Transition

O'Donnell and Schmitter (2010) define transition as the process through which an authoritarian regime passes to another regime, ideally a democratic one. During this period, political actors negotiate the institutional design that determines who participates in politics, which resources can be legitimately used, and how political power is distributed. This conceptualization is particularly relevant to the Mexican case: The expansion of political guarantees to historically excluded actors, such as the constitutional recognition of Indigenous rights, although it was a result of decades of mobilization, was an indicator of Mexico's democratic opening.

However, the recognition of rights does not necessarily imply their effective exercise. This distinction lies at the core of Guillermo O'Donnell's critique of democratic theory. According to O'Donnell (2007), the systematic violation of fundamental rights in Latin America—particularly the rights of people living in poverty and situations of vulnerability—has been a persistent feature of both democratic transitions and, above all, their outcomes. This persistence reflects the unexamined assumptions of democratic theory, which were largely shaped by the historical conditions under which democracy emerged and became institutionalized in the countries of the Global Northwest.

In the Mexican case, the democratic transition was deeply conditioned by institutional legacies inherited from the post-revolutionary regime. Throughout the 20th century, the close relationship between the PRI and the state apparatus consolidated informal mechanisms of political control, patronage, and state incorporation that became deeply embedded in Mexican political life. As Whitehead (2002, p. 132) argues, during the democratic interregnum, "during which the rules, norms, and identities of the principal political actors are open to renegotiation," the process of democratization involves not only electoral competition but also the gradual transformation of inherited institutional arrangements.

The legacy of a political system based on the fusion of party and state functions, an overconcentrated presidency, the subordination of social organizations—including trade unions, peasant organizations, workers' associations, and Indigenous organizations—to the dominant party, and a system of hierarchical representation and control (Whitehead, 2002), meant that the transition process was insufficient to place the political conditions of Indigenous peoples at the center of democratic debate. As a consequence, state policies continued to follow largely assimilationist approaches—whether framed through indigenismo, Indianism, or multiculturalism—that, in practice, excluded the political, economic, and social rights of Indigenous peoples in Mexico.

Tresierra (1995, pp. 207–208) anticipated that these institutional legacies would be reinforced by the neoliberal restructuring of the Mexican state, which further constrained Indigenous peoples' capacity to exercise their rights:

> In the foreseeable context of trade integrations in the Americas, indigenous peoples face a formidable challenge. Their high degree of dependence on government structures at a time of increasing privatization of the state's social initiatives makes them especially vulnerable to the economic hard times that they face and will continue to face as agricultural workers in a context of greater integration of markets.

All of this occurred within a context in which the circulation of elites, which had long been instrumental in sustaining the PRI regime, was disrupted by the neoliberal policies and economic transformations of the 1990s in Mexico. These reforms required the restoration of "market confidence" and presumed continuity not only in policy but also in the personnel occupying government positions (Whitehead, 2002, p. 138). These were the political and institutional conditions under which Indigenous peoples confronted Mexico's democratic transition and sought to exercise their newly recognized rights.

This interaction between democratic transition, enduring historical legacies, and neoliberal reforms is reflected in the growing international recognition of Indigenous peoples' political rights. Through the 1989 Indigenous and Tribal Peoples Convention (ILO Convention No. 169) and the 2007 UNDRIP, the political participation of Indigenous peoples was strengthened through the recognition of the right to consultation, based on the "free, prior, and informed consent" (FPIC) principle. These developments took place in a broader regional context in which Indigenous peoples were emerging as politically significant actors amid democratic transitions and political turbulence across Latin America (Tomaselli, 2018).

Despite the formal recognition of the right to consultation based on the principle of FPIC, its implementation is still far from achieving the objective of promoting political participation and addressing the demands of Indigenous peoples in democratic contexts. Whether in decisions concerning the use of land and natural resources, or in the design of public programs and state development plans, governments fail to conduct consultations. Even when consultations do take place, they more closely resemble symbolic compliance than genuine democratic participation (Mendoza, 2023b). For this reason, scholars such as Millacura (2021) have argued that the central problem does not lie with FPIC itself, but rather with who conducts the consultation. It is the nation-state and its representatives who constrain the democratic exercise of consultation, thereby obstructing both the effective exercise of Indigenous political rights and the broader process of democratization.

These limitations suggest that the formal recognition of rights is only one dimension of democratic change. Understanding why Indigenous rights remain difficult to exercise requires distinguishing between democratic transition, liberalization, and democratization. The first step is therefore to clarify the concept of political liberalization.

2.2. Liberalization

O'Donnell and Schmitter (2010) understood liberalization as the process of redefining and expanding individual rights. According to Przeworski (1988), and in conjunction with Dahl's (2009) axioms, the reduction in the real costs of individual or collective expression of disagreements with the ruling party encouraged various political, social, and economic sectors to voice their opinions without fear of punishment.

Despite political liberalization reducing the costs of expressing dissent and opening political and legal arenas that had previously been closed, these should not be understood as democratization. The expansion of civil and political liberties does not necessarily transform the distribution of political power or the institutional mechanisms through which political decisions are made.

The emergence of Indigenous self-government as a fourth level of governance in Chiapas and Michoacán, the recognition and practical exercise of Indigenous autonomy, and the change of arenas in which disputes over Indigenous rights are contested (from street struggles to court battles) were made possible by the liberalization of the political regime in Mexico. Thus, in a broader sense, liberalization can be defined as "the process that makes certain rights effective, protecting individuals and social groups from arbitrary or illegal acts committed by the State or third parties" (O'Donnell & Schmitter, 2010, p. 28).

Despite constitutional reforms, the formal recognition of Indigenous rights, and sustained Indigenous political mobilization, these changes have proven insufficient to guarantee the effective exercise of those rights. Indigenous individuals and communities continue to struggle for the effective exercise of their individual and collective rights (González, 2013). These limitations are rooted in enduring structural forms of exclusion. One illustration is Aparicio's (2019) concept of "triple oppression," which highlights how Indigenous women experience discrimination based on gender, poverty, and ethnicity. These forms of exclusion widen the implementation gap and constrain the effective exercise of Indigenous political participation and representation.

The Mexican case suggests that democratic transition and political liberalization were sufficient to secure the constitutional recognition of Indigenous rights, but insufficient to guarantee their effective exercise. The argument advanced here is that while political liberalization explains the formal recognition of Indigenous rights, democratization explains the political and institutional conditions that enable their effective exercise.

2.3. Democratization

Democratization concerns the political and institutional conditions under which formally recognized rights can be exercised. For that reason, democratization requires state institutions and employees who are willing and able to enforce those rights impartially. It therefore concerns the transformation of the institutional environment in which rights are implemented.

During a democratic transition, those who define the rules of the political game often retain disproportionate influence, while historically marginalized actors, such as Indigenous peoples, remain excluded. In that sense, the state's capacity to respond to Indigenous demands becomes a key factor in understanding and analyzing the democratization process.

As Whitehead (2019) argues, democratic dissatisfaction emerges from multiple sources, and every institutional reform satisfies only part of these demands while generating new political challenges. Accordingly, Whitehead (2002) sees democratization as a long-term, complex, multidimensional, reversible, and open-ended process whose trajectory depends on political forces, institutional arrangements, and state capacities. From this perspective, O'Donnell and Schmitter (2010, pp. 30–31) define democratization as:

> The processes in which the norms and procedures of citizenship are either applied to political institutions previously governed by other principles…or expanded to include individuals who previously did not enjoy such rights and obligations…or to encompass problems and institutions that were not previously subject to citizen participation.

This definition focuses on the practical conditions required to extend effective citizenship. Indigenous peoples have fought for recognition of their rights and for access to all the specific elements necessary to exercise those rights fully. This includes the acknowledgment of political autonomy, self-determination, self-government, and the right to land and territory, as well as the respect for their identities, cultures, and internal practices (Bello, 2004; Martínez, 2015). But also raises a crucial question: What role did Indigenous peoples play in Mexico's transition, liberalization, and democratization?

According to Van Cott (2004), the systematic exclusion of Indigenous peoples has led to societal conflicts that result in racism and discrimination, and these issues further delay the consolidation of democracies in Latin America. Key factors have been problematic in Mexico and throughout Latin America, such as the rule of law, political and electoral participation, and Indigenous peoples' involvement in decision-making processes concerning their own communities. In this context, can we truly consider ourselves a democracy when Indigenous peoples and communities face political and social exclusion?

The mobilization of Indigenous communities in Mexico coincided with the political system's opening and the constitutional acknowledgment of Indigenous rights. In other words, this mobilization was a necessary condition for the transition and liberalization of the Mexican political regime. However, it is important to analyze this connection first through the lens of social movement theory, and then to identify the conditions that either facilitated or hindered the full realization of constitutionally recognized rights.

3. Indigenous Mobilization During Political Liberalization

Having established that political liberalization created opportunities for the constitutional recognition of Indigenous rights, the remaining question is why Indigenous mobilization succeeded in securing constitutional recognition but was insufficient in ensuring the effective exercise of those rights. Social movement theory offers a useful framework for addressing the first part of this puzzle by explaining how political opportunities enabled Indigenous organizations to transform collective grievances into institutional demands.

Tarrow (2012) provides a category that allows for analytical clarity: the concept of POS. This framework emerges from an examination of political processes and highlights the significance of the timing of social mobilization. Thus, considering the why, who, and how of social mobilization is crucial, but it is not sufficient on its own. Tarrow argues that the timing of mobilization often plays a key role in determining the success or failure of a movement. Additionally, the concept of POS serves as a conceptual link between institutionalized (or conventional) politics and the politics driven by social movements.

As mentioned in McAdam et al. (1999), this type of interaction can result from changes in the institutional structure or the informal rules and institutions within a specific political system. In Mexico, political liberalization and the democratization process coexisted with enduring patrimonial practices inherited from the authoritarian period.

Martí (2008), in his comparative study of the presence and success of ethnic parties in six countries—Bolivia, Ecuador, Guatemala, Mexico, Nicaragua, and Peru—analyzes four broad categories: POS, repertoires of collective action, cognitive frameworks, and organizational structures. Martí applies these categories to understand the political relevance of ethnic organizations.

Analyzing repertoires of collective action, he notes that the determining variables include the capacity for contentious action and the extent of violence against Indigenous communities. Analyzing organizational structures, he identifies the variable of organizational solidity, which he operationalizes through brokerage; this refers to the multi-level coordination framework that connects communal, local, regional, and national bases, enhancing organizational density. Additionally, social or environmental appropriation is addressed, which reflects the movements' capacity to penetrate and claim other social spaces, thereby strengthening their impact and allowing for expanded reach. Looking at the category of cognitive frameworks, he argues that political actors require a mediating element to activate them, which provides meaning, belonging, and identity to the movement and its potential participants. He introduces the concept of mobilizing discourse, which he operationalizes through the development of an integrative discourse of Indianness, along with a connection to anti-neoliberal narratives.

Martí's (2008) analysis reveals that the political significance of ethnic parties does not depend on the number of Indigenous people and communities in a country. Instead, it hinges on several key factors:

> 1) intentional and strategic decisions made by certain actors; considering 2) the effectiveness of these decisions within an open institutional environment that recognizes differences; where 3) a decentralized territorial organization of power facilitates access to institutional resources; through 4) electoral rules that are flexible and accommodating; and 5) a context where traditional political actors are fragmented or facing crises. (p. 713)

This discussion provides the theoretical foundation for examining Indigenous mobilization in Mexico at the subnational level. A subnational perspective is essential because democratization has unfolded unevenly across Mexican states, generating distinct POS for Indigenous organizations (Behrend, 2012; O'Donnell, 1993). This variation allows us to examine how, beyond POS, differences in state capacity conditioned the implementation of constitutionally recognized Indigenous rights.

4. Nuevo León: Between Electoral Democracy and Illiberal Practices

Nuevo León has been recognized as a state characterized by electoral competitiveness, high political participation, and an economic and industrial development hub. The state's long record of electoral alternation since 1997 demonstrates that Nuevo León cannot be classified as a case of subnational authoritarianism in Gibson's (2005) sense. Rather, opposition parties have repeatedly gained access to executive power through competitive elections while informal power structures have continued to shape political decision-making and the implementation of public policies (Del Tronco, 2018).

However, the presence of democratic access to power does not guarantee that governments operate democratically, nor does it ensure that various social sectors genuinely have equal opportunities to participate in decision-making processes. Van Cott (1995) has long warned that the systematic exclusion of

Indigenous peoples by democratic institutions is a fundamental issue in the democratization of our countries. She pointed out that this exclusion delays the development of a democratic society based on respect for and promotion of the rule of law, which is essential for the meaningful participation of Indigenous peoples in decision-making.

To explain this pattern, this article uses the Behrend and Whitehead (2017) concept of illiberal structures and practices as informal mechanisms that limit the effective implementation and exercise of rights and "occur within the framework of national democratic politics, which, while flawed, guarantees a series of rights and institutions that can potentially be activated to ensure minimum standards of democracy" (p. 24). According to the authors, this variation depends on several factors: (a) institutional design (federal or unitary), (b) control of economic resources (structural), (c) partisan dynamics, (d) sociological explanations, and (e) ethnic and geographic diversity.

It is important to underline that these practices operate within democratic regimes, especially within the "gray zones" (O'Donnell, 1993) where the territoriality and effective presence of the state is low or nonexistent. In these spaces, authoritarian and democratic dimensions intermingle, providing an institutional setting in which both state and non-state actors undermine and restrict participation and weaken accountability through informal practices, even within electoral democracy. According to Behrend and Whitehead (2017), oligarchic families, co-opted media outlets, captured courts, and municipal machinery often concentrate power and limit and prevent other actors and groups from formulating their own demands and acting against a state apparatus that dominates, excludes, and violates their rights.

For the Nuevo León case in particular, Garza and Trak (2021) outline how the business elite dominates the decision-making process. This will serve as a foundation for our analysis of how Indigenous peoples and communities interact with government institutions, engage in collaborative processes, and navigate the dynamics of inclusion and exclusion in the state. Inclán (2017) succinctly noted that while electoral democracy has become routine, it "has also failed to achieve the liberal objectives that characterize a consolidated democratic regime: the promotion and protection of civil liberties and political rights beyond the act of voting" (p. 197).

Nuevo León is not a subnational authoritarian regime but a democratically competitive state in which persistent illiberal structures generate an implementation gap between formally recognized rights and substantive political inclusion. Consequently, we will focus on analyzing the case of Nuevo León.

4.1. Operationalizing the Framework

To operationalize the framework, it is especially important to clarify the details of institutional capacity, illiberal practices, and the concept of patrimonialism. In that sense, institutional capacity refers to the ability of institutions and employees to implement mechanisms that effectively operationalize constitutionally recognized rights. Illiberal practices are informal mechanisms that hinder the effective implementation of recognized rights. Patrimonialism constitutes a pattern of discretionary decision-making that fosters exclusion and resembles selective enforcement of the rule of law, depending on a commitment to personal, partisan, or other patronage systems in public offices. (Grindle, 2012; Mazzuca & Munck, 2020; Munck, 2024).

The operationalization for empirical analysis will be guided by theoretical approaches such as democratic transition, social movement theory, democratization, and illiberal structures and practices. Each approach builds a core concept that can be translated into empirical indicators, as shown in Table 1.

Table 1. Framework operationalization.

Theoretical approach	Core concept	Observable empirical indicator
Democratic transition	Political liberalization	Constitutional recognition of Indigenous rights
Social movement theory	POS	Indigenous consultation, institutional access
Social movement theory	Organizational capacity	Coordination among Indigenous organizations
Democratization	Institutional capacity	Implementation of Indigenous rights
Illiberal structures	Informal political practices	Clientelism, discretionary implementation, exclusion from decision-making

Source: Elaborated by the author based on Stepan (1988), O'Donnell and Schmitter (2010), Tarrow (2012), Martí (2008), and Behrend and Whitehead (2017).

The following section applies this analytical framework to the case of Nuevo León in order to identify the institutional mechanisms that explain persistent implementation gaps in the exercise of Indigenous political rights.

5. Analysis of the Conditions for Democracy in Nuevo León

Approximately 350,000 self-identified Indigenous people reside in Nuevo León, of whom over 80,000 speak one of Mexico's 368 recognized Indigenous languages, with nearly ninety percent living in a municipality within the Monterrey metropolitan area (MMA; see Rodríguez et al., 2021). This context is particularly striking because the MMA is the second-largest metropolitan area in México and is historically the most important industrial region in the country. Within MMA, highly affluent municipalities, like San Pedro Garza García, where the richest people in Latin America live, coexist alongside Indigenous populations who remain among the most socially and economically vulnerable. This demographic reality is particularly significant because the state's cultural diversity and plurality—coupled with the constitutional recognition of rights across international, federal, and subnational levels—place institutional conditions at the core of exercising Indigenous rights in Nuevo León.

It is important to highlight that following the 2001 constitutional reform that delegates the authority to legislate on Indigenous rights to the state level, which—along with the elevation of international treaties to constitutional rank in 2011—led the political regime and sociopolitical conditions at the subnational level to gain relevance. Although subnational variations were diverse—San Luis Potosí and Durango have an Indigenous consultation law, while other states like Aguascalientes, Coahuila, Tamaulipas, and Zacatecas do not even have an Indigenous rights law—the right to prior consultation at the subnational level, considering urban and migratory context, acquired political, social, and administrative relevance. Evidence of this includes the offices dedicated to serving Indigenous people in the municipalities of San Pedro Garza García, Juárez, and Monterrey in the state of Nuevo León, as well as the emergence of ethnic-based civil society organizations such as Enlace Potosino, Zihuakali, Zihuame Mochilla, and Procuración de Justicia Étnica (Wright & Aguirre, 2018, pp. 189–190).

Furthermore, this complex landscape prevents the interaction between Indigenous individuals, communities, and political institutions from being interpreted or analyzed through a single theoretical lens. Consequently, the following sub-sections examine the institutional recognition of Indigenous rights during the liberalization process, address the political opportunities and organizational dynamics that shaped Indigenous mobilization, and conclude with an analysis of the illiberal practices that continue to hinder the effective exercise of rights despite constitutional guarantees.

5.1. On Liberalization

Political liberalization was reflected in several institutional developments in Nuevo León: the creation of the Departamento de Educación Indígena within the Secretaría de Educación del estado de Nuevo León in 1999; the reform of education law in 2000, which incorporated the right to bilingual education; the official establishment of a sub-delegation for the Comisión para el Desarrollo de los pueblos Indígenas between 2004 and 2006; the inauguration of two Intercultural Community Centers by the Secretaría de Desarrollo Social del estado de Nuevo León in the municipality of Juárez in 2006; the creation of the Law of Indigenous Rights in the State of Nuevo León (see Mendoza, 2023b). It is important to highlight that these institutional developments are a response to the national strengthening of the recognition of rights in constitutional reforms and the creation of democratic institutions in the 90s decade.

These developments initially suggested that Nuevo León was moving toward a deeper process of subnational democratization. However, the limited implementation of recognized rights—including the right to prior consultation in the preparation of state and municipal development plans—together with persistent discrimination and limited progress in reducing inequality, has constrained improvements in the living conditions of Indigenous people in Nuevo León, especially in MMA. This gap between formal recognition and effective implementation requires closer examination of POS and Indigenous organizational capacity.

5.2. Political Opportunity Structure

On September 10, 2010, the Social Development and Human Rights Commission of the Seventieth-Second Legislature convened with representatives of indigenous peoples residing in Nuevo León. During this meeting, a commitment was made to draft legislation about indigenous rights. This legislation began to take shape through the parliamentary group of the Partido Nueva Alianza (PANAL) with the establishment of the Special Commission on Indigenous Affairs (Congreso del Estado de Nuevo León, 2011).

In late 2011, reforms to the local Constitution were approved to protect the rights of Indigenous people in the state. On June 22, 2012, the Indigenous Rights Law was enacted, setting the stage for an Indigenous consultation held in 2020 between July 2 and September 21 by the electoral authority—the Comisión Estatal Electoral–that generated affirmative action measures for the 2021 local election process.

These measures sought to increase Indigenous access to elected office in seven municipalities: Apodaca, García, Ciénega de Flores, Escobedo, Zuazua, Guadalupe, and Pesquería. Political parties were also required to nominate at least one Indigenous candidate in one of the 26 electoral districts for the local Congress. Ultimately, 10 Indigenous candidates were nominated for seats in the local legislature and 57 for municipal offices, including council and syndic positions (Rodríguez et al., 2021).

However, the political liberalization process that enabled the recognition of rights and mechanisms for their exercise does not guarantee that these advances permeate the broader governmental system and structure. This is because decision-making processes remain heavily influenced by factors that can rarely be fully regulated, modified, or anticipated solely through the legal framework. In other words, the human factor, alongside the degree of bureaucratic professionalization, dictates institutional functioning and—as discussed in the following section—acts as a major hindrance to implementing the right to Indigenous consultation.

5.3. Organizational Capacity

The political opportunity structure neither guarantees political inclusion through representation rights nor secures political influence within decision-making processes. For this reason, it is essential to analyze the organizational capacity of Indigenous peoples in Nuevo León. Organizations such as the Zihuame Mochilla, Procuración de Justicia Étnica, A.C., Zhuakali Casa de la Mujer Indígena, Enlace Potosino, and REDMIN (Red Intercultural de Apoyo e Inclusión de Personas Indígenas en Nuevo León)—despite their extensive expertise in improving conditions for Indigenous populations in the state—have not yet developed organizational processes that allow them to align their agendas for joint engagement with the government. This is largely due to leadership differences and a lack of coordination in establishing shared priorities (Mendoza & Rodríguez, 2020).

Organizational strength necessitates multilevel coordination at the community, local, regional, and national levels. In Nuevo León, Indigenous organizations have effectively coordinated efforts to bring about changes in laws and institutions. However, the results have not been the same in enforcing the right to prior consultation. These organizations have faced challenges in achieving multi-level coordination, and the social spaces they have claimed often experience conflicts not only with the state but also among themselves.

Additionally, the efforts made by organizations within communities can inadvertently create divisions among community members. When there is insufficient synergy and coordination among these organizations, it can lead to fragmentation, which hinders the community's ability to stand united against other political actors and government institutions. This division ultimately restricts the community's capacity to expand and exercise its rights effectively.

5.4. On Democratization and Illiberal Structures and Practices

In the context of democratization, the capacity to exercise rights is essential. Democratization emphasizes the importance of citizenship and agency (O'Donnell & Schmitter, 2010). However, Indigenous people in Nuevo León face significant barriers in exercising their rights due to institutional discrimination that permeates the state's democratic institutions, undermining their ability to assert these rights (Rodríguez et al., 2021).

If the lack of organizational strength contributes to the difficulty of exercising rights, it is also vital to consider the role of political actors. To explore how and when the exercise of rights is obstructed, it is important to analyze two mechanisms through which illiberal structures and practices undermine the democratization process: partisan and clientelist brokerage, on the one hand, and the concentrated state planning institutions that undermine participatory processes, on the other.

Studies such as Mendoza (2023a)—based on fieldwork comprising interviews with state political party leaders, public officials, representatives of organized civil society, Indigenous leaders, and members of the broader Indigenous community—highlight a widespread lack of interest among political and governmental actors in advancing an Indigenous agenda. However, interest among political actors, including opportunistic or spurious Indigenous leadership, surges during election cycles.

Furthermore, partisan and clientelistic dynamics rely heavily on political brokers who operate primarily in the "brown zones" conceptualized by Guillermo O'Donnell decades ago. Academic literature has demonstrated that the most prevalent clientelistic practices mediated through these brokers include the distribution of gifts, campaign merchandise, and campaign promises exchanged for electoral support. Naturally, it is these brokers—many of whom belong to the communities themselves—who largely leverage and capitalize on these selective benefits.

Thus, the electoral process has been followed by illiberal practices that marginalize the indigenous demands and hinder their exercise of rights. Beyond the oversight of electoral integrity institutions, these illiberal practices still determine the development of the electoral process and undermine the effective exercise of constitutionally recognized Indigenous rights.

The second mechanism concerns the concentration of decision-making authority within state planning institutions. As Garza and Trak (2021) show, business elites exercise considerable influence over strategic planning in Nuevo León, particularly through the Consejo Nuevo León (CONL).

The CONL, as an advisory board, represents an institutional pathway for the business elite from Nuevo León to influence state decision-making. It holds a central position in strategic planning, operating within state planning under the Ley de Planeación Estratégica de Nuevo León. Yet, failures to provide timely advice on FPIC and incorporate its requirements into the development of the Plan Estatal de Desarrollo (PED) reveal two key shortcomings: Not only does the CONL fails to ensure that the planning process is inclusive and complies with legal requirements, but decision-makers in general lack awareness of their obligation to consult Indigenous peoples and communities in Nuevo León in a prior, free, and informed manner.

As evidence, the following chronology, documented in Mendoza (2023a) and complemented by participant observations, allows reconstruction of the process regarding the PED and FPIC for Indigenous peoples.

The preparation of the 2022–2027 PED in Nuevo León revealed that the omission of the FPIC principle suggests, on the one hand, a lack of knowledge concerning the basic rights of Indigenous peoples, and on the other, a lack of sensitivity in attempting to remedy their error through simulation. Initially, the planning schedule relegated Indigenous participation to a series of "working groups" held between January 5 and January 31, 2022, without respecting the timing or procedures required for an effective FPIC process.

This reduced constitutionally recognized rights—anchored in local law, the Political Constitution of the United Mexican States, and international treaties such as Convention 169 of the International Labor Organization—to a mere administrative formality, thus fundamentally obstructing the exercise of Indigenous rights in Nuevo León from the outset.

Subsequently, the Secretaría de Participación Ciudadana organized a "dialogue session" on March 24 at the Citizen Cultural Lab as part of its approach to the FPIC process. The session was attended by approximately 30 participants invited by email through civil society organizations and the Intercultural Community Center of the Secretaría de Desarrollo Social. However, rather than conducting a formal FPIC process, the state government used a simple "dialogue session" as a substitute for its legal obligation to consult Indigenous peoples during the policymaking process. In response to the omission of the FPIC process, a group of academics and the REDMIN organization convened a protest and proposed a dialogue meeting with government authorities, which took place on March 27 at the Comisión Estatal de Derechos Humanos de Nuevo León. It is important to highlight that academics attended from the Universidad de Monterrey and the Universidad Autónoma de Nuevo León, as well as Indigenous women representing Náhuatl, Wixárika, Tének, Mixtec, Tzotzil, Zapotec, Otomí, Mixe, and Mazahua communities residing in nine municipalities within the MMA.

As a result of this social and academic pressure, the state executive improvised a two-stage participatory process consisting of information sessions (March 31–April 2) followed by consultation sessions (April 3) held in three Community Centers located in the municipalities of Juárez and General Escobedo. However, the consultation instrument—reduced to a standardized survey structured around the predetermined axes of the State Development Plan—lacked cultural appropriateness and was technically incapable of identifying the priority needs expressed by Indigenous communities.

The timing of the process ultimately confirmed the merely formal character of the consultation (see Table 2). The participatory exercise conducted on April 3, 2022, took place almost one month after the final version of the State Development Plan had already been submitted for governmental approval (between February 26 and March 3) and only one day before its official publication in the *Official Gazette of the State* on April 4. Consequently, the process failed to satisfy the substantive requirements of the FPIC principle.

Table 2. Timeline of the 2022–2027 PED.

Date	Event	Democratic implication
January 5–31	Working groups	Legally required FPIC omitted
March 24	Dialogue session	Informal participation substituted for consultation
March 27	REDMIN protest	Indigenous and academic pressure challenged the omission
March 31–April 2	Information sessions	Consultation procedures improvised after the plan was drafted
April 3	Consultation	Participation occurred after governmental submission
April 4	Official publication	Consultation had no meaningful opportunity to influence the plan

Source: Elaborated by the author based on Mendoza (2023b).

The failure to conduct an effective FPIC process resulted from limited institutional capacity and the state officials' unwillingness to incorporate the legally required consultation into the planning timetable. The CONL's failure to ensure that the process was inclusive and compliant with constitutional and international obligations represents a red flag about the profile of advisory institutions.

These omissions show how the routines, priorities, and incentives of decision-makers inside democratic institutions weaken and constrain the effective exercise of Indigenous rights despite their constitutional

recognition. Furthermore, the implementation gap is influenced by a lack of knowledge and discretionary mechanisms inside the government.

In that sense, if political liberalization expanded formal rights and created opportunities for Indigenous participation, the democratization process depends on the institutional capacity to ensure the implementation of the recognized rights. The implementation gap highlights the pressing need to strengthen state capacity, potentially through the establishment of a professional civil service capable of curbing distorted decision-making practices and addressing gaps in awareness within advisory bodies. The preceding analysis suggests that, failing to do so, electoral dynamics, ignorance regarding processes such as FPIC, and institutional simulation will continue to obstruct the capacity of Indigenous peoples in Nuevo León to exercise their rights.

6. Conclusion

The constitutional recognition of Indigenous rights in Mexico has not been accompanied by their effective exercise at the subnational level. The case of Nuevo León shows how, despite experiencing sustained electoral competition, repeated alternation in power, constitutional reforms, Indigenous consultation processes, and affirmative action measures, Indigenous political inclusion remains uneven.

This article supports the idea that the implementation gap in Indigenous political inclusion is influenced by two forms of illiberal institutional practice: partisan clientelism and concentrated planning arrangements that reduce legally required consultation to a procedural formality. These findings contribute to the democratization literature because, on the one hand, electoral competition and governance mechanisms are necessary but not sufficient for democratic inclusion; on the other, because the strengthening of institutional state capacity is fundamental to enforcing democracy.

Specifically, through subnational-level analysis, this article shows how formal democratic institutions coexist with illiberal structures and practices of political control. In this sense, democratization remains an open-ended process whose outcome depends on whether state institutions can translate recognized rights into effective and equitable public action.

Finally, this work set out three pathways to enforce the inclusion of Indigenous peoples within the political system in Nuevo León. First, support for interorganizational coordination could strengthen Indigenous organizations' capacity to articulate shared priorities and sustain collective action. Second, electoral institutions and political parties should develop durable mechanisms for Indigenous representation that extend beyond temporary affirmative-action measures and campaign-period outreach. Third, state institutions should establish a specialized and adequately resourced body with clear authority to coordinate the implementation of Indigenous rights, oversee consultation processes, and ensure compliance across government agencies.

Conflict of Interests

The author declares no conflict of interests.

LLMs Disclosure

The author used ChatGPT and Grammarly for English language editing, translation, and grammatical corrections during the preparation of this manuscript. All content was subsequently reviewed and verified by the author. I take full responsibility for the integrity and accuracy of the article.

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