

# A historical legal approach to town and city comptrollers in Chiapas

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## Abstract

This paper presents a historical background of the Municipality and the Municipal Comptroller in Chiapas Mexico, from the colonial period through its development during the Mexican independence and up until modern times. We start from a general point of view then shift to a particular focus, addressing the Municipality and its accounting control as it was known in Spain and during the pre-Conquest times in Mexico in order to understand the legal basis, organization and functioning of the Municipality in the state of Chiapas and its board of control.

*Keywords: Town, city comptroller, history, law, constitution.*

## I. Background of the Municipality

### Concept of a Municipality

Etymologically, "The Municipality voice emerges as a legal concept for the first time in Rome. It comes from *munare munus*, meaning load, encumbrance or provision ... *municipium* is the union of those obliged to pay tribute. And so was born the idea of *communitis*, ie, those who belong with the others in a municipality, and who must participate with them in the municipal positions within the *munus munare* or what eventually was called a municipality" (Robles, 2002: 26).

For Rendon Huerta (2008: 103), the municipality "is integrated by a population living in a specific geographical area administratively, which has a unit of government and is governed by legal rules according to its own purposes."

Most authors agree that the birth of the town happened in Rome. Tributes, or *munus munare* were imposed on conquered peoples so that they could continue to administer themselves, but in exchange for a lien or service.

In order to understand municipalities today, it is important to analyze some historical aspects from Mexico and Spain. The reason for including the latter is due to the influence it had on the organizational form of local life that existed in Mexico after the conquest, where the concept of a municipality was not known of in the sense of what was established following the arrival of the Spaniards.

## a) The municipality in Spain

For Barbosa (1982) the following characteristics were found in the sixteenth century Spain :

1. The main activity of the population was ranching and agriculture, with an incipient development of manufacturing and crafts.
2. The land was in the hands of farmers, through the *ejido* system, and in the hands of the nobility and clergy which was farmed by *solariegos* who were landless. In this period, the farmer paid more in kind with their work because the rights of landowners were restricted.
3. There was speculation of agricultural products, among other situations, that impeded economic development which most affected farmers.
4. Excess taxes such as the taking of cuts and royal charges resulted in a reduction of consumption.

The above items are from the feudal system that existed at that time. In addition, Spain was divided into several kingdoms with different political and administrative organizations. But this division of kingdoms were gradually being eliminated in order to establish a monarchy based largely on the Catholic religion. At this point, the privileges of the clergy and nobility were predominant, leading to a social breakdown by the subordination of economic, legal and social decisions , and the will of the Kings.

It was decreed that local customs would be respected as long as they did not go against the State. Capdequí says (1993: 61): "... in Castile, while the Columbian discoveries occurred, the town had come to a moment of great prostration and decay, being but a shadow of its former vigorous Castilian municipal system of the twelfth and thirteenth centuries ...".

Following the victory over the Arabs, the Spanish Kings encouraged the founding of towns and gave them rights to be governed by their own laws. These rights are known as local courts, which were instituted rules to protect municipalities from the abuses of the feudal lords. Acosta says that in the year 1020, Alfonso V of León adopted the Charter, which guaranteed the existence of local governments in the kingdom. The monarchy prevailed in Spain. Alfonso X, the Wise, tried to reduce the

powers of municipal councils by establishing strong tax burdens in the Code of the Seven Parties. According to Rendon Huerta (1998: 79):

“The trend towards centralization and increased real power originated with the revival of Roman law and the influence of the lawyers, which almost ended municipal autonomy. Considering that the towns were mismanaged, the kings placed judges of the courts. Thus were born the magistrates, who until in 1835 passed on their allocations to the primary judges, and to the government and economy of the mayors....”

This limitation of rights to municipalities was achieved through the appointment of magistrates, who had the power and interference in the judicial and administrative aspect remainder autonomy to the municipalities, as reported directly to the crown and not the mayor or the city council, which until then were the highest authority in the town.

Therefore, it appears that being directly appointed by the King and the monarchy of the time, the Comptroller was more powerful than the Mayor and City Council which resulted in the autonomy enjoyed by the Municipalities being undermined. Thus, decentralization that existed in earlier times, fell to a centralization that delimited the municipality only as an administrative body which could not make important decisions.

In 1504 Queen Isabel de Castillo died, and King Ferdinand ruled Spain with the help of Cardinal Francisco Jiménez de Cisneros. Expeditions continued under his government when the conquering Cuba took place. Martínez (1997: 52) in his book about Cortes, mentions that:

“Emperor Carlos V, the king of Spain was together with his mother Juana, crazy since 1506 after the death of her husband Philip the Handsome. Queen Juana remained in isolation in Tordesillas and survives until 1555. No documents were signed. However, the methods continue on and the most important requests were issued to Carlos and Juana. And like many others, Cortés received numerous titles, instructions, concessions and prohibitions...”

So in this manner under the reign of Charles V the events related to the conquest of Mexico were managed. The internal and external political experience of Carlos V is complex and vast. Born and educated in Ghent, he led Spain to their Flemish councils whose arrogance and disregard of the Spanish pride and traditions originated problems which were manifested in social tensions. Subsequently, in 1519, during the reign of Emperor Carlos V of Spain, several cities took up arms. However, they were unsuccessful and on April 21st 1521, the King's army beat the

villagers and it is said that this is when the autonomy of municipalities ended in favor of absolutism.

The lack of autonomy to govern, the imposition of excessive taxes, coupled with the economic and social situation of the time contributed to that the municipality in Spain in the thirteenth century, when America was discovered and Mexico invaded, was found in a scheme of monarchical rule through the annulment of local authorities.

## b) The municipality in Mexico

The description of the historical background of the municipality in Mexico has been divided into stages: pre-Columbian, in which some aspects of organization of peoples at that period are described; the conquest which corresponds to the arrival of Hernán Cortés and the establishment of the first municipality according to the Spaniards; and finally, the independent era, laying the foundations of the municipalities as found today from the first constitutions and until 1917.

### 1. Period pre-Conquest

Soustelle (2000:14) states that Tenochtitlan was a fairly complex social and political organization in which multiple forces were at work in transformation:

“...the Mexican city of the sixteenth century differed profoundly from the wandering tribe that, in 1395, had chosen some islands as a refuge amid the reeds. This difference did not affect only the number of inhabitants, territories, and resources-but also their quality. The city was no longer an enlarged tribe, but it had become something else: now it was a state committed to a race of expansionism , a diversified society, in which antagonisms began to emerge, the regime of the property changed , and public service and wealth began to come into dark conflict.”

For Leon (1983), in less than three centuries the Aztecs or Mexica were able to become the largest and powerful people of the time, and were at the height of their commercial, social and religious development. Tenochtitlan was receiving all kinds of goods coming from different regions, social classes existed; there was regulation of crime and family issues; courts had judges appointed by the King or *Tlatoani*; the source of law at the time was a custom linked to religion.

The form of territorial divisions or organization of the Mexica were called *Calpullis*. The *calpulli* or neighborhood, had control over the land they was in their territory. They were independent to decide on almost every aspect of government-both administrative and judicial-although they were forced to pay tribute to the empire. The *calpulli* were a more complete form of organization than the municipalities of Spain, since not only the organization had the effect of collecting taxes for the government, but is perfectly delimited classes, it made sure that not one of the *calpulli* members were hungry which involves aspects of social security, and there was a great union to celebrate their rites and ceremonies. It was a regimen based on a centralization of all of the provinces that formed the Aztec empire.

## 2. The Conquest

The first expedition to the Mexican coast was performed by Hernández de Córdoba in 1517 in the Yucatan and by Juan de Grijalva the following year. Diego Velasquez, governor of Cuba, sent an expedition led by Hernan Cortes, who on April 22 1519 founded the City of Villa Rica de la Vera Cruz. The existing rivalry between Diego Velasquez and Hernán Cortés is mentioned in most texts, which apparently comes from the monetary participation that each had granted to finance the expeditions, and that this gave them greater power or prominence over the other and what was discovered. Rendon Huerta states (1998 : 95) that "Afterwards the board appointed by Carlos V to know the differences between them, failed to forbid Velasquez who hereinafter mingled in the affairs of New Spain."

This is possibly the motive as to why he appointed Hernan Cortes Captain General, the Villa was founded, and the first mayors were named- Alonso Hernandez and Francisco de Montejo . Velasquez revoked Cortes' appointment before leaving for the expedition to Cuba. Cortez was unable to return since he had disobeyed the King and the punishment would be death by hanging, Therefore it was necessary to establish population centers that were the means to meet the legal requirement for the political support of the King and to act on his behalf and representation, thus becoming independent of Diego Velasquez. Some reasons for founding the first municipality were based on financial, political and military aspects since after the founding of the town, Cortés was appointed Captain General of the Communal Militias of the Real Cross (Vera Cruz). In order to settle the

neighbors of the Municipality, Cortés issued the administrative orders for organizing political life of the Municipality and force residents to settle permanently. In addition he established the ordinances governing the Municipality, such as:

## The Ordinances of Cortez

Established in 1524 and 1525, these obligations were military, religious, commercial, and residential in character with respect to the government. They established that each village should have two mayors with civil and criminal jurisdiction, four councilmen, an attorney general and a notary. It was also established that Cortes had to be present when a town council meeting was held.

Thus, Cortés following the form of government of the time, centralized power in himself, as was the Governor and Captain General, and in the villas decisions could not be made without his consent. According to the chronology in which they were issued, the ordinances can be classified as follows:

## City Ordinances

The Population Ordinances of Philip II regulated the founding of towns and gives solutions to new problems; For new locations required characteristics were carefully determined to populate the territory, which included: a good climate, healthy people, animals and plants.; the ways of founding populations in advance-comptroller, mayor, colony ; as well as the urbanization of the site through the establishment of streets, municipal building , *ejido*, pasture, political category (city, town or village) and the local government. (Wall, 1989)

## Royal Decrees of Carlos V

The main seals that belong to the municipality are:

- From the 1st of November 1521- limits the right of a buyer to a council fee that is not perpetual , but only for one lifetime, and can be sold to qualified people.
- From the 22nd of October, 1523, states that the cities of the Indies should have twelve councilmen, and the rest should have six .

- From the 21st of April, 1544, mandates that people who are not neighbors of the place cannot be elected as councilors or council positions.

## Royal Letters of Philip IV

Dated November 23, 1623, these decrees ordered that the Attorney is elected by the councilmen, but without being considered part of the council.

## The Ordinances of Mayors

On December 4, 1786, the “Ordinance of Mayors” was proclaimed. This system helps to reduce the autonomy of municipalities since all decisions are relegated to the Quartermaster General and the Viceroy, who were seen as direct representatives of the king-once again centralizing power.

## 3. Colonial Government

The first councils were formed by a head Mayor, two assistant Mayors, and eight councilmen. In 1526 there were 12 members of the town council. Later 15 members were designated in perpetuity since they usually bought their positions. Among their powers were the election of the two assistant Mayors, five councilmen and a Trustee.

## Municipal Government of the Colony

In 1523 Carlos V forbade Cortés to give the indigenous inhabitants parcels of land, but he disobeyed these orders since and he had already done this. He wrote stating that the reason for contempt was to reward soldiers and to keep the indigenous population controlled. In 1524 Cortés issued ordinances that described the form and manner in which the land could be used by the native inhabitants.

Meanwhile, Queen Juana in the decree of October 5, 1522 states that the position of town councilman will be sold to the highest bidder, which ends the free choice through election by the authorities. She also named the head mayors or comptrollers, thus finalizing the intervention of the kingdom in the councils.

The ancient manors of each indigenous town became local indigenous governments- a mix of aboriginal customs and the Spanish municipality . The Tlatoani was now called the cacique, and there was a governor, a general captain, a sheriff and councilmen.

With this, the administration was divided between the indigenous people and the Spaniards. The mayor had jurisdiction over the population of Indians and mestizos, while the comptroller was responsible for Spanish populations. There were positions which depended on the town council and were appointed by the council such as the Deputies of Property, which were responsible for overseeing the management of funds and to ensure the good condition of the finances of the City. There was also the Attorney, which according to Martinez Cabin (1997: 82), was the following: "The background of the trustee: his function was to defend the rights and interest of the cities and towns. They were chosen for year or two-year periods, and their expenses were borne by the population."

By then, the domains continued to spread. The municipality of Mexico City was established in December 1522, and in its first formal act on March 8, 1524, Francisco de las Casas was named Mayor.

## Organizational Role

In colonial times the councils had the following main responsibilities: Public works, construction, care and maintenance of bridges and roads, distribution of lots and layout of the city, care of public services (water, lighting, sales, security of the markets , management of the cutting and planting of trees, and granting of the rights to sell meat and bread).

In the early years of the colony, the city administration was concerned with production, consumption and social distribution through the management of the immediate interests of the community, which had great importance in the formation of our country.

However, the regulation of the town was a mixture of the ordinances issued by the kingdom and is why Cortes was considered necessary to issue the ordinances; these ordinances were adequate during the early years, however later when the differences between people born in Mexico, those descendants of Spaniards and Europeans (newcomers from Spain) as well as those born by mixing indigenous

with Spanish blood, the social reality had changed and needs arose for municipal autonomy and independence.

## 4. The Era of Independence

This period begins about the year 1786 with the establishment of the intendant system in Mexico, as it delves deeper into the differences between Creoles and Spaniards, since the municipalities power over the government is centralized, excluding Creoles of the political and administrative positions, thus deepening hatred and desire for independence from Spain. This concluded in 1821, when Iturbide proclaimed the Independence of the Mexican Empire.

### The system of administration offices in New Spain

According to Cruz Barney (1999:497) on July 4, 1718, Philip V established the system of municipalities in Spain as a form of administration and territorial division giving jurisdiction to the mayors on justice, treasury, war and police.

The special inspector José de Galvez and the Viceroy Croix, intended to establish the intendant system with the same characteristics of Spain, suspending the mayors and magistrates and accusing them of fraud of the royal heritage. On December 4, 1786, promulgating the "Ordinance of Mayors", the Mexican territory was then divided into twelve administrations, each with provinces and capitals. These were: Mexico, Puebla, Veracruz, Merida, Oaxaca, Valladolid, Guanajuato, Zacatecas, Durango and Arizpe.

The mayor replaced the governors, the councilmen and even the magistrates. Some larger districts and municipalities immediately joined the administrations of their respective province. Others followed suit according to how the vacancies were available or complying with the terms of the title holders.

By suppressing the other members of government, the mayor became the main representative of royal power in the provinces of New Spain, preventing their autonomy. This system lasted until 1812, with the emergence of the Cadiz Constitution which transferred the powers of mayors to other competent authorities. This system finally disappeared in 1824.

Some factors that contributed to the independence of Mexico among others are: The apparent weakness of Spain, resentment of the educated and affluent Creoles by the monopoly of political power of the Spaniards, the success of the revolution of black slaves in Haiti and its independence from France, the ideology of enlightenment, the agitation against the policies and interests of Madrid by the Jesuits, the examples of other Latin American countries (1811, independence of Paraguay, Argentina 1815, 1818, Chile , 1819 Colombia, Peru, 1821), and the New Spain upper class resistance against the reintroduction of the Constitution of Cadiz in 1820. (Margadant, 2001)

Indeed, one of the main causes that generated discontent among the population is the weakness of Spain regarding the French invasion. In 1808 the people called for the abdication of Carlos IV, who handed the crown to his son Ferdinand. Fernando VII ascended the throne by popular acclaim. Napoleon invaded Spain and installed his brother Joseph "Bottles" on the throne. The country rose against the Emperor and each province declared war against the invaders. Also, the council of Mexico City challenged the abdication of Carlos IV and his son Ferdinand VII in favor of Napoleon, arguing that such waivers were invalid because they were not voluntary and were against the right that people have to give their own institutions. Thereafter, the council recommended that the Viceroy should continue ruling ignoring the orders of Spain and that New Spain remain independent of French rule.

Francisco Primo de Verdad, trustee of the City introduced the idea of the Creoles, with respect to the idea that New Spain take over their sovereignty through their representative bodies. Viceroy Iturrigaray expressed interest in supporting the demands of the council and called a meeting of notable citizens, attended by members of The Audience, Consulate, Archbishop and the City council.

It was decided to recognize the viceroy as lieutenant of Fernando VII, and to not obey the orders of Emperor Bonaparte. Iturrigaray was later apprehended and replaced by Pedro Garibay. This caused discontent and radicalization of the Creoles. In Querétaro, Miguel Hidalgo, Ignacio Allende and Juan Aldam conceived a plan to integrate a board composed of representatives of the middle class through councils. They took up arms and clashed with the Spanish troops. José María Morelos joined the fight. On September 14, 1813, Morelos declared in his "Sentiments of the Nation", among other things, that: America is free and independent of Spain and every other nation and that sovereignty emanates directly from the people, placed in their representatives; powers were divided into legislative, executive and judicial branches.

On September 30, 1812, Viceroy Venegas announced in Mexico City the enactment of the Constitution of Cadiz, while the insurgents in 1813 proclaimed the Solemn Act of the Declaration of Independence of Northern America after the 1814 Constitution Apatzingán. Years later, in 1821, Vicente Guerrero issued the Plan of Iguala proclaiming independence and keeping the monarchy. The Treaty of Cordoba was signed after the Mexican Independence Act, which states that Mexico is a sovereign and independent nation from Spain. During this period and in the various documents that were enacted, no importance was given to the municipality, nor mentions were made regarding the aspect of autonomy.

In the Constitutional Elements of Rayon, public power was organized and it implicitly recognized the existence of the municipality, although it was not structured. The Constitution of 1814, of Apatzingán, even though it had no effect, provided that the condition of the Municipal Board was kept.

The Constituent Congress of 1823 issued by the Constitutive Act of the Mexican nation. On October 24, 1824, the first constitution of the country with federal character did not directly set the terms of the municipality, but in Article 161 provides that each State has the obligation to organize its government and previous administration which resulted in the first Organic Municipal Laws, modeled on the form of organization which was established in the Constitution of Cádiz.

In 1835 the legislative power does not recognize the President of the Republic, declaring themselves invested of the constituent power. Being conservative-leaning, they issued a centralist constitution, called the "Seven Constitutional Laws of 1836". It is the first that directly regulates the municipality. Some important aspects of this Constitution are: The Sixth Act, which regulates the division of the territory of the Republic and the internal government of the people. Among its articles are found : The provision for the obligation to make the bylaws and regulations of the internal police, the governor and municipal boards; that the municipality governments exist in the capitals of departments in which the populations are 4,000 in villages and towns of 8,000 inhabitants or more, should have Justices of the Peace, noting the obligations of the council which are security , assistance, health, welfare, primary education and public works.

The 1857 constitution was liberal and secured the federal form of political organization. This period is identified as one of reform and change, with liberals winning over conservatives. Regarding municipalities, it only mentions that the federal government should contribute to municipal

expenditures and enroll in the municipal register. The municipal government was guided by the decision of the local legislators, without the need to settle in the state constitutions, so that there was an unlimited power of the governors and legislators of the municipalities since no structure and integration was regulated- reserving it as the power of the states according to Article 72. (Lanz, 1947)

In 1906 the Mexican Liberal Party expressed the need to suppress political leaders and reorganize the missing municipalities. The Plan of San Luis stressed the need to regain freedom and no re-election in municipal elections. The Plan of Ayala stated that the municipalities have autonomy to serve communal interests and protect the decisions of the Federal and State Governments.

Carranza in 1916, took up these manifestations and in the draft of the Constitution refers to municipalities as the basis of a free government. It is in the Constitution of 1917 where the principle of a free municipality was established as political and economic independence, which can be freely administered through its own resources and funds awarded by the Federal government. The project established the form of representative, republican and popular government-an autonomous municipality and administration chosen through open elections. Following discussions of the Constitutional Commission of Queretaro on January 24, 1917, in which part II on the free administration of estates, there was a great controversy among several representatives which eventually became Article 115 which states regarding the municipality:

Section 115 - The states shall adopt for internal government, the republican form of government –a representative government,on the basis of its territorial division and its political and administrative organization, a free municipality according to the following rules:

I. Each municipality will be administered by a council of direct popular election, and there will be no intermediate authority between it and the State Government;

II. Municipalities freely administer their finances, which will form the contributions indicated by the legislatures of the states and that in any case will be sufficient to meet the municipal needs...

Therefore, Article 115 regulates the organization of the states to establish the basis of the territorial division of the free municipality and its political and administrative organization.

As seen from pre-Conquest times there was already a territorial division of people; during the conquest the first municipality was formed in accordance with the rules in Spain. In the Independence period municipalities were formed until the Constitution of 1917, where the municipalities' free administration was approved and the use of its own resources was established.

## II. Background of the Comptroller

For background of the Comptroller it is necessary to divide into two periods: the time before the conquest and thereafter.

### a) The Pre-Conquest Era

The highest authority of the fiscal organization of the day was the *Cihuacóatl* (civil servant, a kind of alter ego of the King), below him was the high *Capixqui*, who was in receiving what the lower *Capixques* gave him and keep accounts in respective books using hieroglyphics. The *Cihuacóatl* took care of distribution and proper use of taxes, with the authority to use them as he saw fit.

The control that he exercised was respect to the punishments that were given to the fiscal administrations if there was poor management of the tax collection process. If this occurred, they were imprisoned and condemned to death, and their wealth was given to the king.

### b) New Spain

In Spain accounting was done before the eyes of the king, who gave more attention to the collection of funds than its accounting. Some Accounting Ordinances were given by Juan II de Castilla at the beginning of the 15th century through the Ordinances of 1436 which created the Accounting House of Valladolid. In 1437 the Great Accountant of accounts was organized, and in 1442 the regulation and control of expenses was established.

Antonio Dougnac states that the royal treasury was entrusted to the royal officers, who were responsible for ensuring the collection, storage and investment in royal incomes. These officers were the treasurer, who

received the royal treasury and paid the expenses; The factor, which handled shopping, declining revenues and tax litigation; the seer, who watched the actual payment of royal fifths and the counter who kept track of the Treasury. They had to comply with the rules established in book 8 of the Collection of the Indies, added after the ordinances of 1542 in which their performance was established through joint management and joint responsibility, and shall submit reports every three years and a kind of state budget resulting year.

According Dougnac (1994) due to irregularities in the reports, in 1554 it was decided that in the places where there were hearings, accounts were given annually before the President and the judges, and every three years before the Governor and two councilmen. In addition these officers were overseen at their homes and given searches and visits which today would be called audits.

Other measures were taken to control the actions of officials, such as a personal guarantee given by the royal property owners; an oath of secrecy and to perform their jobs well with loyalty that was done at the beginning of the term of the management official; an inventory at the inauguration of the post of existing assets of the chest ; books that were rigorously kept of the accounts and were examined in inspections; and several locks with keys to the chest.

In 1787 the functions of treasurer and accountant were created, which were assigned by the factor, and a custody and depositary lieutenant. In 1789 a higher official was appointed, and in 1812 the treasurer was established as a provisional accountant.

On November 16, 1824, the dissolving of the directions and general income accounting was ordered; in 1825 a government direction and all other branches of the federation were established. This period was characterized by the centralization of the management and administration of the Treasury Department by establishing the Department of Accounts and reasoning, responsible for accounting, budgets and annual accounts and the Auditor General under the Chamber of Deputies with the obligation to examine the public accounts each year.

It wasn't until 1917 that the Secretaries of State Act was enacted, and in 1918 the Department of Comptroller was created and issued its own law of operation and depended on the Ministry of Finance. Its creation reflected the need for an office to exercise effective inspection on the management of the funds and assets of the nation through previous control.

In 1932 the Department of the Comptroller was suppressed by decree, and the Ministry of Finance took over the functions granted to it by the Federal Treasury. In 1935, the Federation of Accounting was created; In 1977 the Budget , Accounting and Federal Public Expenditure Law which aims to modernize the public expenditure management was enacted with the Ministry of Planning and Budget in charge of the central management and the systems of planning and control.

In 1982 through renovations and additions to the Organic Law of the Federal Public Administration, in effect from 1983, the Secretariat of the Comptroller General of the Federation (SECOGEF) was established, granting powers of surveillance, control and discipline with regard to the responsibilities of public servants.

In 1986 through President Miguel de la Madrid Hurtado, the Federal Public Interstate Entities was established, which according to the preamble of the initiative was primarily to strengthen the means of state control over the state sector and its autonomous management.

In 1992, the Ministry of Planning and Budget disappeared, and they were fused by the Ministry of Finance and Public Credit. It restructured the SECOGEF administratively and issued its Interior Regulation in 1993.

In 1994 the SECOGEF amended its name to Secretariat of the Comptroller and Administrative Development (SECODAM), which by decree on December 24, 1996 set new powers under the National Development Plan 1995-2000.

By decree on April 10, 2003 the Organic Law of the Federal Public Administration Reform and SECODAM changed its name to Ministry of Public Service, retaining much of its authority and powers and adding some fractions to Article 37 and 47 , among others. The Act was made in order to establish a structure for the better development of the control system and government evaluation agency that prevails today, although with modifications and adjustments.

From pre-Conquest times, and there was the figure of the tax collector. During the period of New Spain various rules and positions were created to perform the tasks of collection and expenditure control, but what really mattered was what was collected and not revision or good management. It is not up until the mid-sixteenth century is when the first steps of control were taken, and in 1918 the first Federal Comptroller Department was established.

### III. Legal basis of the municipality and the comptroller in Chiapas

The municipality is the political and administrative authority of the Mexican state and it is subject to its own legal standards. So first of all for the purposes of this study the Constitution of the State of Chiapas was referred to which incorporates the spirit of Article 115 of the Constitution of the United Mexican States. In that jurisdiction, legal action and administrative power is set.

#### The Constitution of the State of Chiapas

On September 12, 1824, Chiapas was annexed to Mexico through the "Act of Incorporation of the province of Chiapas in Mexico", issued on the 14 of September that same year as the " Solemn Pronouncement of the Federation of the Province of Chiapas Act ". The Constitution that was recognized at that time was the Federal Constitution of October 24, 1824, while the State Constitutional Convention was installed.

#### Background

The first Constitution of the State of Chiapas was approved on November 19, 1825 and published on February 18, 1826. In January of 1858 a second constitution was promulgated .The third was enacted on November 15, 1893. The fourth constitution dates from February 1, 1921, which by Decree No. 92 of July 17 1973 and Decree 103 of August 24, 1981, remains unchanged. The current Charter was enacted on August 25, 1981.

#### Constitution of 1825

In the Constitution of 1825 there is no specific chapter on the municipality. However, Decree 51 dated November 23, 1825 includes the "Provisional Regulations for the election of Members of the Legislature of 1825" which in the Chapter 3, rules 29 to 39, refer to the powers of mayors in terms of their municipalities. Also in Chapter 4 °, the powers of municipalities, rules 40 to 52, refers among other things the role of municipalities in taking care of cleaning up the streets, markets, plazas and hospitals.

## Constitution of 1893

In chapter II of this Constitution regarding “internal administration” , Article 53 provides that: The state administration must have political chiefs, councils and municipal agents, whose number, jurisdiction and powers are ascertained by law. Political heads are appointed by the Government and local councils by popular election.

Until this period there was a centralization of power in the figure of the Governor of the State, having say in the direct appointment of political bosses, while the Congress, according to Article 30 F. XIV and XV, were assigned the task of making the divisions of the Departments in municipalities and in determining the amount of the budget allocated to each of them.

## Constitution of 1921

In the Fifth Title “Of the Towns” in Articles 65 to 70 , it is seen that the legal personality of municipalities is recognized, and the autonomy in the management of its property as well as the duration in the order of the members of the City Council and their replacement in case of permanent absence of staff. Also in Title III, Section One, Chapter II the initiative and making of laws, the right to initiate legislation and decrees by the councils relating to municipal administration is recognized.

On November 15, 1922, pursuant to Decree No. 35, 2nd Art reformed of the State Constitution to establish the Law of Free Municipality municipalities and delegations of Chiapas were divided.

## Constitution of 1973

Amending and supplementing Title Five “Of the municipalities”, which recognizes the Free Municipality as the basis of territorial division and political organization, establishes the obligation for municipalities to check their accounts and propose the budget to be used, and increases the duration of the members of the City Council of one to three years and establishes the requirements to be a member.

## 1981 Constitution

Regarding the 1973 Constitution, only the content of the articles shall be amended to clarify the terms and implicit legal purposes. Title V becomes the Seventh Title "Of the municipalities", which contains Articles 58 to 63, among others, and the following: General Provisions- Identify their territorial jurisdiction, legal action and administrative powers, form of administration through a collegial body called a council, with authority and jurisdiction in cases that are stipulated by the state constitution and municipal organic law; Recognizes the legal personality required for all legal purposes. The City provides integration: For the mayor, vice-mayor and councilmen.

The current Constitution has changed slightly since its decree, primarily related to the integration of the municipalities according to population, disappearance of municipal agencies, requirements for membership of the City Council, and the inclusion of public services in charge, formulation, administration Municipal Urban Development Programs and regulatory aspects of the workers of the municipality.

## Municipality Law of Free State of Chiapas

This Act was enacted on February 4, 1931 by the then Governor E. Raymundo Enriquez, its main items are the following: (. Art. 1) The State of Chiapas, for administrative political operations is divided into municipalities First- at least five thousand inhabitants, Second, at least three-thousand, Third, minimum one thousand, categories and dependent Township Municipal Agencies that are attached. (. Art. 68) Members of the City Council and City Treasurer, are jointly responsible for the irregularities in the management of municipal funds; (Art. 69.) All residents of the Municipality have the right to complain to the relevant council or the state government's poor investment of municipal funds and all the facts that matter regarding the municipal treasury.

## The Municipal Comptroller

In the municipality, in first place is the control that corresponds to the mayor. The authorities exert a permanent hierarchical control over the operation of agencies and staff performance of their dependency. The Municipal Law of the State of Chiapas (LOMCH) provides in Article 59 of Chapter I the administrative organization of municipalities, which

may have a municipal comptroller in order to verify that permanent municipal actions are performed according to plans and programs approved by the City Council, as well as monitor the correct application of financial resources according to the approved aid and to serve the trustee in office who will propose to the municipal comptroller before the City Council a budget. Under this appointment, being under direct command of the comptroller.

Also, in Chapter IV Accounting, Article 28 of the Law of Budget, Accounting and Municipal Public Expenditure, it is established that the municipalities provide an area of Internal Control that will depend on the syndicate of City Hall.

An important aspect that concerns the subject of this paper is referred to the State Congress and the board of control, from August 18, 2003. According to Decree No. 207 published in the Official Gazette of the State, the Superior State Audit replaces the Treasury Accounting Office. It is on that date that the Superior Law of the State of Chiapas under article 1 has an objective the regular revision of public accounts of the State and the municipalities and their audit, compensation and financing, and determination of responsibilities among others. Municipalities must submit documentation on the public account, understood as the report that municipalities pay to Congress on their financial management in order to ensure that revenues and expenditures were exercised under the terms of the related legal and administrative provisions . Information will be presented on a monthly, quarterly, semiannual and annual basis.

The municipal comptroller legally arises from the 1917 Constitution, as Article 115 which allows the autonomy of municipalities and therefore the need to control the exercise of public spending. However, despite the importance of transparency in accountability in Chiapas, the relevant legislation is relatively new and may be considered insufficient, under which every member of society must set limits to the legitimately constituted political power.

## Conclusions

The calpulli was based on the centralization of all of the provinces that formed the Aztec Empire- a more complete organization than the municipalities of Spain, since it could raise taxes, identified social classes

within the regime, and watched that none of its members starved and existed a union for the celebration of rites and ceremonies.

The municipalities that were established during the colonial administration were divided between the indigenous population and the Spaniards. Municipal administration was concerned with production, consumption and social distribution by managing the immediate interests of the community. The administrative system that was subsequently established caused discord because the centralized political power, among other things, contributed to the independence of Mexico.

In the 1917 Constitution established the basis on which the principle of a free municipality actually developed and political and economic independence was established, which is freely given through its own resources and the participation of funds granted by the Federal government.

Moreover, when Chiapas was annexed to Mexico in 1824, the first constitution did not recognize municipalities. It was until 1893 that the chapter on the administration of the municipalities was established and in 1931 the Municipality Law promulgated the Free State Chiapas. This is where the history of the Municipal Comptroller was established in the state.

Although in recent years progress has been made in transparency, work still needs to be done in the area of municipalities, as there is still a lack of knowledge and training of municipal trustees who are the auditors of the municipality which do not rely on the creation of a municipal comptroller to verify the proper use of resources and power granted by citizens to municipal officials who must be brought under control in order to prevent diversion and abuse in the exercise of powers granted by the people.

Finally, it is important to note that the municipal control helps to ensure the proper functioning of the municipalities not only suitable for detecting damage to the treasury, but to prevent and eliminate irregularities in the handling of public funds.

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