Volume 7, Issue 13 – July – December – 2023

Journal-Public Economy

ISSN-On line 2524-2016

RINOE®

Journal-Public Economy, Volume 7, Issue 12, January-June 2023, is a journal edited semestral by RINOE. Taiwan, Taipei. YongHe district, ZhongXin, Street 69. Postcode: 23445: www.rinoe.org, journal@rinoe.org. Editor in Chief: MIRANDA-GARCIA, Marta. PhD. ISSN: 2524-2016. Responsible for the latest update of this number RINOE Computer Unit. ESCAMILLA-BOUCHÁN, Imelda. PhD, LUNA-SOTO, Vladimir. PhD, Taiwan, Taipei. YongHe district, ZhongXin, Street 69. Postcode: 23445 last updated December 31, 2022.

Journal-Public Economy

Definition of the Journal

Scientific Objectives

Support the international scientific community in its written production Science, Technology and Innovation in the Field of Social Sciences, in Subdisciplines of Structure and scope of government; Taxation, Subsidies, and Revenue: Efficiency, Optimal taxation, Incidence, Externalities redistributive effects, Environmental taxes and subsidies, Personal income and other Nonbusiness Taxes and subsidies, Business taxes and subsidies, Tax evasion; Fiscal policies and behavior of Economic Agents: Household, Firm; Publicly provided goods: Public goods, Publicly provided private goods, Project evaluation, Social discount rate; National government expenditures and related policies: Government expenditures and health, Government expenditures and education, Government expenditures and welfare programs, Infrastructures, Social security and public pensions, National security and war, Procurement; National budget, Deficit, and Debt: Budget, Budget systems, Deficit, Surplus, Debt, Debt management; State and local government; Intergovernmental relations: State and local taxation, Subsidies, and Revenue, State and Local budget and expenditures, Interjurisdictional Differentials and their effects, State and Local Borrowing, Intergovernmental relations, Federalism; Miscellaneous issues: Governmental loans and credits, Governmental property, International fiscal issues.

RINOE® is a Scientific and Technological Company in contribution to the Human Resource training focused on the continuity in the critical analysis of International Research and is attached to CONAHCYT-RENIECYT number 1702902, its commitment is to disseminate research and contributions of the International Scientific Community, academic institutions, agencies and entities of the public and private sectors and contribute to the linking of researchers who carry out scientific activities, technological developments and training of specialized human resources with governments, companies and social organizations.

Encourage the interlocution of the International Scientific Community with other Study Centers in Mexico and abroad and promote a wide incorporation of academics, specialists and researchers to the publication in Science Structures of Autonomous Universities - State Public Universities - Federal IES - Polytechnic Universities - Technological Universities - Federal Technological Institutes - Normal Schools - Decentralized Technological Institutes - Intercultural Universities - S & T Councils - CONAHCYT Research Centers.

Scope, Coverage and Audience

RINOE Journal-Public Economy is a Journal edited by RINOE® in its Holding with repository in Taiwan, is a scientific publication arbitrated and indexed with semester periods. It supports a wide range of contents that are evaluated by academic peers by the Double-Blind method, around subjects related to the theory and practice of Structure and scope of government; Taxation, Subsidies, and Revenue: Efficiency, Optimal taxation, Incidence, Externalities redistributive effects, Environmental taxes and subsidies, Personal income and other Nonbusiness Taxes and subsidies, Business taxes and subsidies, Tax evasion; Fiscal policies and behavior of Economic Agents: Household, Firm; Publicly provided goods: Public goods, Publicly provided private goods, Project evaluation, Social discount rate; National government expenditures and related policies: Government expenditures and health, Government expenditures and education, Government expenditures and welfare programs, Infrastructures, Social security and public pensions, National security and war, Procurement; National budget, Deficit, and Debt: Budget, Budget systems, Deficit, Surplus, Debt, Debt management; State and local government; Intergovernmental relations: State and local taxation, Subsidies, and Revenue, State and Local budget and expenditures, Interjurisdictional Differentials and their effects, State and Local Borrowing, Intergovernmental relations, Federalism; Miscellaneous issues: Governmental loans and credits, Governmental property, International fiscal issues with diverse approaches and perspectives, That contribute to the diffusion of the development of Science Technology and Innovation that allow the arguments related to the decision making and influence in the formulation of international policies in the Field of Social Sciences. The editorial horizon of RINOE® extends beyond the academy and integrates other segments of research and analysis outside the scope, as long as they meet the requirements of rigorous argumentative and scientific, as well as addressing issues of general and current interest of the International Scientific Society.

Arbitration Committee

Assignment of Rights

The sending of an Article to RINOE Journal-Public Economy emanates the commitment of the author not to submit it simultaneously to the consideration of other series publications for it must complement the Originality Format for its Article.

The authors sign the Format of Authorization for their Article to be disseminated by means that RINOE® In its Holding Taiwan considers pertinent for disclosure and diffusion of its Article its Rights of Work.

Declaration of Authorship

Indicate the Name of Author and Coauthors at most in the participation of the Article and indicate in extensive the Institutional Affiliation indicating the Department.

Identify the Name of Author and Coauthors at most with the CVU Scholarship Number-PNPC or SNI-CONAHCYT- Indicating the Researcher Level and their Google Scholar Profile to verify their Citation Level and H index.

Identify the Name of Author and Coauthors at most in the Science and Technology Profiles widely accepted by the International Scientific Community ORC ID - Researcher ID Thomson - arXiv Author ID - PubMed Author ID - Open ID respectively.

Indicate the contact for correspondence to the Author (Mail and Telephone) and indicate the Researcher who contributes as the first Author of the Article.

Plagiarism Detection

All Articles will be tested by plagiarism software PLAGSCAN if a plagiarism level is detected Positive will not be sent to arbitration and will be rescinded of the reception of the Article notifying the Authors responsible, claiming that academic plagiarism is criminalized in the Penal Code.

Arbitration Process

All Articles will be evaluated by academic peers by the Double Blind method, the Arbitration Approval is a requirement for the Editorial Board to make a final decision that will be final in all cases. MARVID® is a derivative brand of ECORFAN® specialized in providing the expert evaluators all of them with Doctorate degree and distinction of International Researchers in the respective Councils of Science and Technology the counterpart of CONAHCYT for the chapters of America-Europe-Asia- Africa and Oceania. The identification of the authorship should only appear on a first removable page, in order to ensure that the Arbitration process is anonymous and covers the following stages: Identification of the Journal with its author occupation rate - Identification of Authors and Coauthors - Detection of plagiarism PLAGSCAN - Review of Formats of Authorization and Originality-Allocation to the Editorial Board-Allocation of the pair of Expert Arbitrators-Notification of Arbitration -Declaration of observations to the Author-Verification of Article Modified for Editing-Publication.

Instructions for Scientific, Technological and Innovation Publication

Knowledge Area

The works must be unpublished and refer to topics of Structure and scope of government; Taxation, Subsidies, and Revenue: Efficiency, Optimal taxation, Incidence, Externalities redistributive effects, Environmental taxes and subsidies, Personal income and other Nonbusiness Taxes and subsidies, Business taxes and subsidies, Tax evasion; Fiscal policies and behavior of Economic Agents: Household, Firm; Publicly provided goods: Public goods, Publicly provided private goods, Project evaluation, Social discount rate; National government expenditures and related policies: Government expenditures and health, Government expenditures and education, Government expenditures and welfare programs, Infrastructures, Social security and public pensions, National security and war, Procurement.

National budget, Deficit, and Debt: Budget, Budget systems, Deficit, Surplus, Debt, Debt management; State and local government; Intergovernmental relations: State and local taxation, Subsidies, and Revenue, State and Local budget and expenditures, Interjurisdictional Differentials and their effects, State and Local Borrowing, Intergovernmental relations, Federalism; Miscellaneous issues: Governmental loans and credits, Governmental property, International fiscal issues and other topics related to Social Sciences.

Presentation of the content

In the first article we present, *Development of a grocery POS system for local businesses: "El manantial" case study from Santiago Centro, Tamazunchale, S.L.P.*, by BAUTISTA-LÓPEZ, Braulio, MARTÍNEZ-HERNÁNDEZ, Mariela Lizeth and HERNÁNDEZ-HERNÁNDEZ, Iván, with adscription in the Instituto Tecnológico Superior de Tamazunchale, in the next article we present, *Historical account and transcendental facts of the division of powers in Mexico*, by CORNEJO-ÁVALOS, Abrham Azael & GÁNDARA-FLORES, Antonio, with adscription in the Universidad de Guadalajara, in the next article we present, *Regulatory analysis on the application of protection measures in Mexico*, by RUBIO-MAYORGA, Edgar Fabián & REYES-CASILLAS, Brenda Anayeli, with adscription in the Universidad de Guadalajara, in the last article we present, *Conceptual legal analysis of restorative justice in Mexico*, by ORTEGA-SÁNCHEZ, Ruth Irene & DE LEÓN-VÁZQUEZ, Héctor Manuel.

Content

Article **Journal-Public Economy**
December 2023, Vol.7 No.13 1-10

Development of a grocery POS system for local businesses: "El manantial" case study from Santiago Centro, Tamazunchale, S. L. P.

Desarrollo de un sistema de punto de venta de abarrotes para los negocios locales: caso de estudio "el manantial" de la localidad de Santiago Centro, Tamazunchale, S. L. P.

BAUTISTA-LÓPEZ, Braulio†*, MARTÍNEZ-HERNÁNDEZ, Mariela Lizeth and HERNÁNDEZ-HERNÁNDEZ, Iván

Instituto Tecnológico Superior de Tamazunchale, S. L. P.

ID 1st Author: *Braulio, Bautista-López* / **ORC ID**: 0000-0002-6200-9145, **Researcher ID Thomson**: F-9609-2019, **CVU CONAHCYT ID**: 880314

ID 1st Co-author: *Mariela Lizeth, Martínez-Hernández* / **ORC ID**: 0000-0002-8635-193, **Researcher ID Thomson**: H-80932018, **CVU CONAHCYT ID**: 500901

ID 2nd Co-author: *Iván, Hernández-Hernández*

DOI: 10.35429/JPE.2023.13.7.1.10 Received July 10, 2023; Accepted December 30, 2023

Abstract

The main characteristics of grocery establishments are to fulfill the needs of customers related to basic goods basket. The process of the establishments operates as follows: At first, someone acquires the products (supplier), then the products are exhibited (warehouse) and finally the stock is sold (customers). In Mexico, there are two distribution channels which are Self-service (Retail) and Wholesale Channel (Abarrotero.com, 2017). Companies with a wholesale channel are established in large populations and strategic places, while self-services are established in places with little attendance; especially in rural communities. The management and strategies of companies depend on the technological tools and instruments they have. Computer systems allow these companies to have useful, fast, fluid information focused on their tactics and strategies, information that allows a timely change of course in a changing world. In this sense, information is a main weapon that helps management, products, and services to enter a competitive world. This work is the result of the development and implementation of a computer system according to the conditions in both infrastructure and level of computer knowledge of the grocery establishment located in a community.

Point of sale (POS), Information system, Management

Resumen

Las características principales de los establecimientos de giro abarrotero son satisfacer las necesidades de los clientes en cuanto a productos básicos. El proceso de los establecimientos, opera de la siguiente forma: Adquieren los productos (proveedor), se exhibe (almacén) y se vende (clientes). En México existen dos canales de distribución que son Autoservicio (Retail) y Canal Mayoreo (Abarrotero.com, 2017). Las empresas con canal de mayoreo se establecen en poblaciones grandes y en lugares estratégicos, en cambio los autoservicios en lugares con poca concurrencia; sobre todo en comunidades rurales. La gestión y estrategias de las empresas dependen de las herramientas e instrumentos tecnológicos de que dispongan. Los sistemas informáticos permiten que dichas empresas posean información útil, rápida, fluida y enfocada a las tácticas y estrategias de las mismas, información que un mundo cambiante permite un cambio de rumbo oportuno. En este sentido la información es un arma principal que ayuda a la gerencia, a los productos y a los servicios a entrar en un mundo competitivo. Este trabajo es el resultado del desarrollo e implementación de un sistema informático acorde a las condiciones tanto en infraestructura y nivel de conocimientos informáticas del establecimiento abarrotera ubicada en una comunidad.

Punto de venta (PDV), Sistema informático, Gestión

Citation: BAUTISTA-LÓPEZ, Braulio, MARTÍNEZ-HERNÁNDEZ, Mariela Lizeth and HERNÁNDEZ-HERNÁNDEZ, Iván. Development of a grocery POS system for local businesses: "El manantial" case study from Santiago Centro, Tamazunchale, S. L. P. Journal-Public Economy. 2023. 7-13:1-10.

† Researcher contributing as first author.
* braulio.bl@tamazunchale.tecnm.mx

Introduction

All companies have survived and prospered thanks to the good management of their accounting, some in a very rigorous way and other companies in a superficial way (especially micro-enterprises). Accounting is the financial information system that measures the economic activities of companies, processes this information into accounting statements (reports) and communicates the results to decision-makers (Llerena Cárdenas, 2013).

It has been observed that accounting information that is generated manually (calculator, cash register, Microsoft Excel) makes it difficult to generate accounting reports. In an increasingly globalised and competitive market, it is very important for SMEs to have reliable, complete, timely and connected information at all times in order to be able to provide immediate responses to changing situations (González Fernández, 2015).

Currently there are countless computer programmes that help to keep financial control for any type of company, there is software that has an annual cost (licence) for its use, others with a single payment for installation and you can also find trial versions (usually test versions).

Despite the fact that it is easy to obtain a dedicated computer system, there are many companies that have not managed to implement it in their administrative processes. This is the case of the company "EL MANANTIAL", a grocery store located in the community of Santiago Centro in the municipality of Tamazunchale, San Luis Potosí.

The establishment "El Manantial" does not keep accounts in its inventory nor in the sales it makes. Sales operations are carried out with the help of a calculator, which is why there is no inventory control (stock, expiry date, etc.), nor is there any record of sales, and therefore no statistics (total sales per day, products with the highest turnover, etc.).

From this perspective, it is evident that the company requires a computer tool to be able to keep an accounting control in a more efficient way and to achieve an adequate financial management in income and expenditure.

Theoretical basis

Background

According to the history of POS systems, the first mechanisms that were created to streamline these business processes were mechanical cash registers, which date back to the 19th century. The main purpose of these machines was to prevent theft by company employees (User, 2018).

The incursion of information systems into administrative and accounting operations is not new, as mentioned by Ferran and Salim (2008), the first computer applications in the company for accounting management were introduced around 1960. In Mexico, it was in the 1980s when its use began to become widespread among companies and government institutions, thanks to the appearance and expansion of PCs (Mochi Alemán, P. O., 2006).

A PoS (Point of Sale) system is a set of hardware and software tools, which mainly allow businesses to invoice their sales, also facilitating the control of their cash flow, inventories, suppliers, purchases, accounts receivable and payable, expenses and fixed costs, profits and losses, among other functions (López Madueño, J. R., 2021).

Definitions and associated concepts

MSMEs

The Instituto Libertad y Democracia (2012) defines MSMEs as Extralegal Enterprises that have as fundamental characteristics, the absence of legal permits to operate as an organisation and therefore lack of control and organisation for their operation. On the other hand, Giles Navarro, C. A. (2020) mentions that micro, small and medium-sized enterprises could be defined as those entities recognised as such by the Ministry of Economy and the Ministry of Finance and Public Credit and that for the purposes of their stratification, the number of workers that comprise them and the economic sector to which they belong are considered.

ISSN 2524-2016

Grocery shop

A grocery shop or corner shop, as they are commonly known, has been a source of employment and income for decades in Mexico. They are businesses that have become a tradition in the idiosyncrasy of neighbourhoods in Mexico, regardless of their social status (comercialtrevino.com, 2022). According to the portal https://www.sysipos.com (2022), their main function is to supply first-hand products, but we must also highlight the good treatment they offer to the community, strengthening ties with their customers and creating a unique and very distinctive loyalty.

Sale

The Dictionary of the Royal Spanish Academy defines sale as "the action and effect of selling. Quantity of things that are sold. Contract by virtue of which one transfers one's own thing to another's domain for the agreed price.

Custom software

A custom software is a computer programme designed ad hoc for an entity, this type of software is created with the user, the company and the ways of working in mind; that is to say, it is a computer programme completely customised for a company and, therefore, it is designed to satisfy all the needs of that business (Immune, 2021).

Point-of-sale (POS) system

According to Gómez Conesa, M. J. (2013), the POS (Point of Sale) is the 21st century evolution of the classic cash register. A point of sale system is basically divided into two parts, the first is the hardware (tangible part), such as: computer equipment (computer, monitor, keyboard, mouse), barcode reader, ticket printer, cash drawer, electric scale, bank terminal. The software part (intangible part) is the specialised computer program to perform the inventory and sales operations. The software is designed to interact with the hardware mentioned above.

Software development methodologies

In Carvajal's 2008 paper, it is described as "A methodology is a collection of procedures, techniques, tools and auxiliary documents that assist software developers in their efforts to implement new information systems. A methodology is made up of phases, each of which can be divided into sub-phases, which will guide system developers in choosing the most appropriate techniques at each stage of the project and also in planning, managing, controlling and evaluating it".

Extreme Programming (XP)

Extreme Programming is undoubtedly the standard-bearer of agile methodologies. It was born as a fairly successful attempt to establish a set of practices that would facilitate the completion of projects. After a few successful tests, these practices were translated into theoretical form, giving rise to a methodology that maintained its main principles and practices (Carvajal, 2008).

Databases

Kendall and Kendall (2005) state that "databases are not just a collection of files. Rather, a database is a central source of data intended to be shared among many users for a variety of applications. Cohen and Asín, (2000) define a "database as a series of organised and interrelated data that are collected and exploited by the information systems of a particular enterprise or business".

Database management system (DBMS)

The DBMS is the software or set of programs that allow the creation and operation of a database; a set of programs that handle the creation of and access to databases. The DBMS is used to define the data, i.e. the types of data to be stored are specified; the DBMS is used to load the information and also includes modules to perform queries, update and generate reports (Cohen and Asín, 2000).

ISSN 2524-2016

Relational data model

For Groff and Weinberg (2003) a relational database is a database in which all data visible to the user are strictly organised as tables of data values and in which all database operations are performed on these tables.

XAMPP

Is an apache distribution that includes several types of free software (Bou, 2019). X indicates that it can be used for any operating system, A for apache, M for MySQL, P for PHP and P for Perl.

Apache server

The Apache web server is a free web server developed by the Apache Server Project whose goal is to create a reliable, efficient and easily extensible web server with free open source code (Díaz & Vargas, 2002).

MySQL/MariaDB

It is used for data storage for services. It supports SQL language and multi-user connection, but in general, it is used for small-medium sized applications (Pavón, 2014).

Phpmyadmin

It is a tool written in the PHP language and accessed through web pages that guarantees the control of our databases with a simple and intuitive yet powerful interface (Lozano, 2018).

Visual basic

Visual Basic .NET, then visual basic 2005, visual basic 2008 and now visual basic 2010, changes the idea of programming from the initial versions. Now object-oriented programming is required, which will force the developer to program in an orderly manner, with methodological programming rules analogous to those of other object-oriented programming languages (Sierra, 2016).

Methodology to be developed

The research covers from the analysis of the company's logistics to the development of a software application (applied technological research).

For the development of the software, the extreme programming software (XP) methodology was used. The methodology consists of 4 steps: Planning, Design, Coding, Testing.

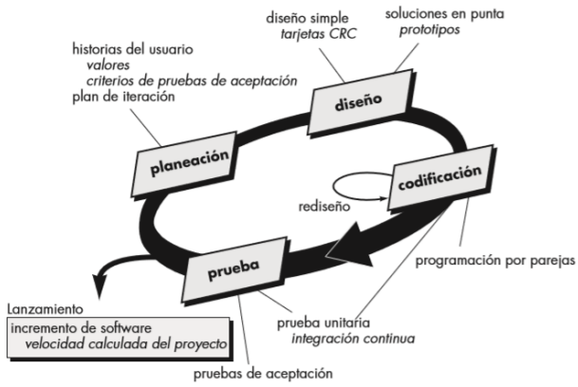


Figure 1 Extreme programming process
Source: Pressman. (2010)

Phase 1: Planning

A visit was made to the company to meet with the owner of the company and observe the company's logistics (input, process and output), and with the information obtained, a diagram of the company's logistics was drawn up.

Once the result of the analysis of the company's requirements was obtained, the user stories were developed.

Phase 2: Design

Second phase of the model, for the development of the project, the recommendations proposed by XP were considered.

- Simplicity: For the design of the user interface, the Visual Basic 2010 language was used. The recommendations suggested by the methodology were followed at all times.
- CRC Card: In this section the database schema was designed.
- Refactoring: During the development of the project, it was necessary to make some adjustments.

ISSN 2524-2016

Phase 3: Coding

Client always present: During the development period of the application, there was constant contact with the client. Normally the meetings with the client took place on weekends and there was also contact via telephone (WatsApp).

Standards in the code:

- Standards in the Database: The database names were all lower case. The restriction and normalisation rule was applied.

- Standards in the code: Coding has a proper structure (tabular), understandable variable name handling and at all times the code was commented.

Phase 4: Testing

The XP methodology focuses on the execution of tests throughout the project, in order to ensure the realisation of what was planned at the beginning of each iteration. The development team participated in this process along with the client with their contributions, especially in the acceptance tests.

- Unit tests: Tests were carried out at all times, with the intention of eliminating any faults before presenting them to the client.

- Acceptance tests: Once the application had been integrated, the technical requirements and installation manual were completed, as well as a screenshot of the system and training was provided on how the application works.

Results

Result 1: Planning

Company logistics

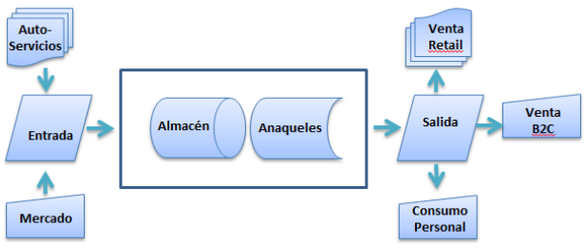


Figure 2 Logistics of the company "El manantial".
Source: Own elaboration, (2023)

Result 2: Design

For the design of the software, the most appropriate and functional tools were used, always seeking to optimise and minimise costs. The design is classified in two types: Database (MySQL) and User Interface (Visual Basic 2010).

Application architecture

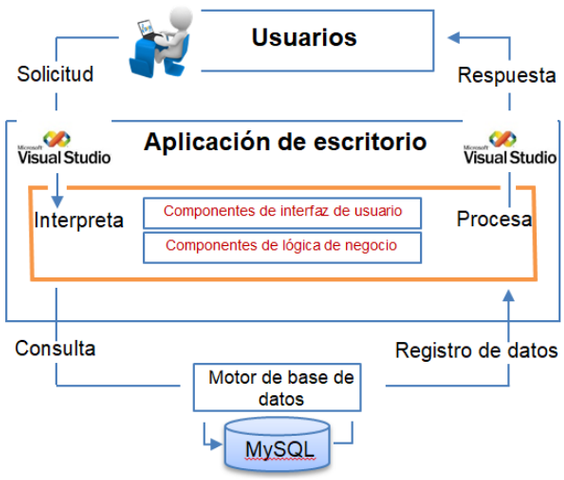


Figure 3 Application architecture
Source: Own elaboration, (2023)

User Interface

Access to the system

Figure 4 Access to the system
Source: Own elaboration, (2023)

Initial configuration

Figure 5 Initial configuration
Source: Own elaboration, (2023)

ISSN 2524-2016

- Main window.

Figure 6 Main window
Source: Own elaboration (2022)

- Printer configuration.

Figure 7 Printer configuration
Source: Own elaboration (2023)

- User administration.

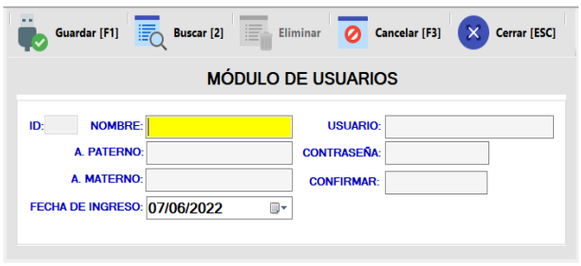


Figure 8 User administration
Source: Own elaboration (2023)

- Assignment of privileges.

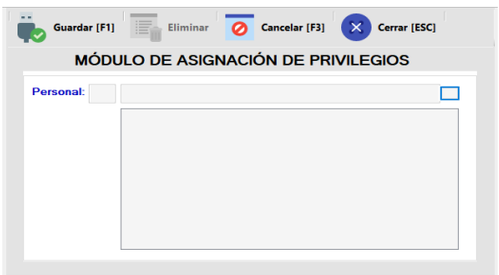


Figure 9 Assignment of privileges
Source: Own elaboration (2023)

- Database backup.

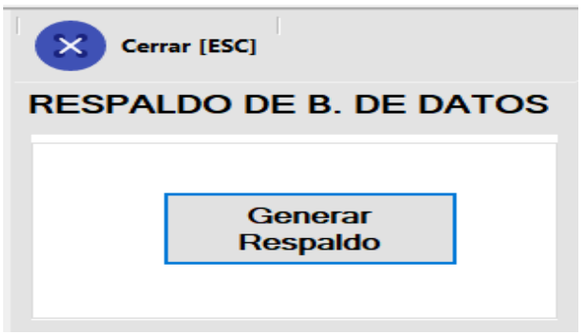


Figure 10 Database backup
Source: Own elaboration, (2023)

- Supplier management.

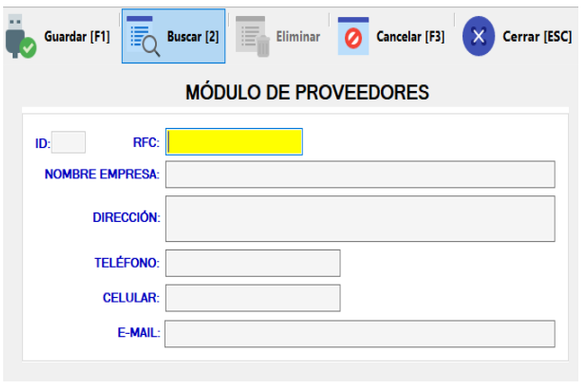


Figure 11 Supplier module
Source: Own elaboration (2023)

- Classification administration.

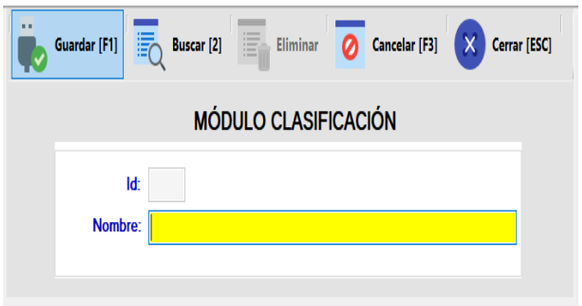


Figure 12 Classification administration
Source: Own elaboration, (2023)

- Customer administration.

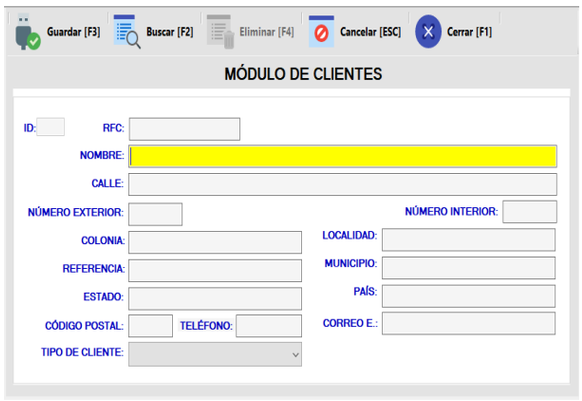


Figure 13 Customer management
Source: Own elaboration (2023)

- Product stewardship

Figure 14 Product stewardship
Source: Own elaboration, (2023)

- Purchasing administration (input)

Figure 15 Purchasing administration (input)
Source: Own elaboration, (2023)

- Point of sale.

Figure 16 Point of Sale
Source: Own elaboration, (2023)

- Search engine.

Figure 17 Search engine
Source: Own elaboration (2023)

- Extra expenses.

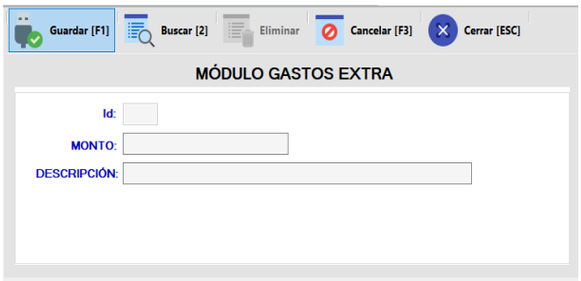


Figure 18 Extra expenses
Source: Own elaboration (2023)

- Box cut.

Figure 19 Box cut
Source: Own elaboration (2023)

- Customer credits

Figure 19 Customer credits
Source: Own elaboration (2023)

- Reports

Figure 20 Reporting module
Source: Own elaboration (2023)

Result 3: Testing

The application is developed in Visual Basic 2010, so it only works on Windows OS.

Hardware:

- Pentium IV 1GHZ processor. Or higher.
- Hard disk space: 100 MB
- Ram: 512 or higher.

Software:

- Operating System: Windows XP (Service Pack 2) or higher.
- Microsoft Excel 2003 or higher (for reports).
- MySQL Database Manager.
- mysql-connector-net-6.5.4 driver.

Acknowledgement

Thanks are due to the company that allowed the research of the functional requirements for the development of the customised point-of-sale system and the subsequent implementation for evaluation.

Funding

This work was financed by the Instituto Tecnológico Superior de Tamazunchale, SLP, with hours for the development of the project during the semester.

Conclusions

The system was implemented using the appropriate tools and a friendly user interface was designed, so that it can be operated by people with few computer skills.

The software was designed to meet the precise needs of the company Abarrotes el Manantial, during the development focused on the requirements provided by the client but can be replicated in other businesses with similar activity.

Recommendations

It is recommended to look for new hardware alternatives to minimise costs, since replication in other businesses with the same line of business will not be able to absorb the cost.

Continue with the analysis of the processes (which could not be detected) in order to improve the system, especially the balance of its costs.

References

Abarrotero.com. (2017). Las 10 categorías más relevantes de Abarrotes. Obtenido de https://abarrotero.com/blogabarrotero/las-10-categorias-mas-relevantes-abarrotes-segun-iscam.

Admin. (2017). Consejos para administrar tu tienda de abarrotes. Evo Blog. https://www.evopayments.mx/blog/consejos-para-administrar-tu-tienda-de-abarrotes/

Bou, R. C. (2019). Usando XAMPP con Bootstrap y WordPress. Mercedes Gómez Alcalá.

Cohen Karen, D. y Asin Lares, E. (2000). Sistemas de información para los negocios. México: Mcgraw-Hill Interamericana Editores, S.A. de C.V.

Comercialtrevino.com (2022). Tiendas de abarrotes VS tiendas de conveniencia. Obtenido en: https://www.comercialtrevino.com/tiendas-de-abarrotes-vs-tiendas-de-conveniencia [25 May0 2022].

Díaz, J. M., Sampedro, L., & Vargas, F. (2002). Instalación y configuración de Apache, un servidor Web gratis. Ingeniería y Desarrollo. Obtenido en https://www.redalyc.org/pdf/852/85201202.pdf

Ferran, C. & Salim, R., 2008. Enterprise Resource Planning for Global Economies: Managerial Issues and Challenges NetLibrary, Inc Premier Reference Source, Idea Group Inc (IGI), 2008.

Giles Navarro, C. A. (2020). Recomendaciones para las MIPyME ¿Qué hacer para sobrevivir a la pandemia del Covid-19?

Gómez Conesa, M. J. (2013). Desarrollo de software para la gestión de un terminal punto de venta.

González Fernández, P. (2015). Implantación de un SISTEMA ERP en una PyME.

Immune, M. (2021). Software a medida: ¿Cuándo es recomendable?. Obtenido en https://immune.institute/blog/software-a-medida-cuando-es-recomendable/

Instituto Libertad y Democracia (2012), Evaluación preliminar de la economía extralegal en 12 países de Latinoamérica y el Caribe, Resumen Ejecutivo. Perú, Instituto Libertad y democracia.

López Madueño, J. R. (2021). Diseño e implementación de un prototipo de sistema en punto de venta (PoS) basado en Blockchain [Tesis de Maestria, Universidad Autónoma de Baja California]. https://repositorioinstitucional.uabc.mx/bitstream/20.500.12930/8822/1/ENS093111.pdf

Lozano Banqueri, J. M. (2018). Creación y gestión de una base de datos con MySQL y phpMyAdmin. Consultado en https://hdl.handle.net/10953.1/9445.

Llerena Cárdenas, M. B. (2013). Implementación de un sistema de información contable financiero automatizado para la Empresa Telecomunicaciones del Ecuador (TELECOM) del cantón Pelileo de la provincia de Tungurahua (Bachelor's thesis, Escuela Superior Politécnica de Chimborazo).

Mochi Alemán, P. O. (2006). La Industria del software en México en el contexto internacional y latinoamericano. Cuernavaca, Morelos, México.

Pavón Puertas, J. (2014). Creación de un portal con PHP y MySQL (4a. ed.). RA-MA Editorial. https://elibro.net/es/ereader/tamazunchale/106413? page=17

Real Academia Española: Diccionario de la lengua española, 23.ª ed., [versión 23.5 en línea]. <https://dle.rae.es> [24/05/2022].

R. Groff, J. y N. Weinberg, P. (2003). SQL Manual de referencia. España: McGraw-Hill.

Sierra, F. J. C. (2016). Microsoft Visual Basic. NET. Lenguaje y Aplicaciones. Grupo Editorial RA-MA.

ISSN 2524-2016

Solano Rodríguez, M. E. (2015). Punto de venta [Tesis de Maestría, Instituto Tecnológico y de Estudios Superiores de Occidente]. https://rei.iteso.mx/bitstream/handle/11117/7355/TOG 20- 20PUNTO 20DE 20VENTA 20- 20Mario 20Solano.pdf?sequence=3

User, S. (2018, 10 octubre). Historia y evolución de los sistemas POS. Software POS Colombia. Obtenido en https://softwarepos.co/noticias/historia-evolucion-sistemas-pos.

ISSN 2524-2016

Article **Journal-Public Economy**

December 2023, Vol.7 No.13 11-17

Historical account and transcendental facts of the division of powers in Mexico

Relato histórico y hechos transcendentales de la división de poderes en México

CORNEJO-ÁVALOS, Abrham Azael† & GÁNDARA-FLORES, Antonio

Universidad de Guadalajara. Centro Universitario del Norte. México.

ID 1st Author: *Abrham Azael, Cornejo-Avalos* / **ORC ID**: 0009-0003-7227-7850, **CVU CONAHCYT ID:** 1272960

ID 1st Co-author: *Antonio, Gándara-Flores* / **ORC ID**: 0009-0009-2334-7916, **CVU CONAHCYT ID:** 1272959

DOI: 10.35429/JPE.2023.13.7.11.17 Received July 10, 2023; Accepted December 30, 2023

Abstract

The term “power” has multiple meanings, it can express the absence of obstacles or inconveniences that could otherwise affect others. When the term power is considered in the sense in which it is used in the Mexican Constitution, it is taken as a synonym for authority that dictates, commands, disposes, orders and sanctions by means of theoretically limited powers or attributions conferred by it; finally, it is a form of denomination that is preferably political, therefore avoiding private interests. There have been different constitutional reforms which have been transcendental for the good performance of government by means of exercising the constitution. These reforms gave different emphases in the way of exercising the powers of each of the branches of government, to such an extent that at some point in 1836 there were four branches of government in which the executive branch took attributes from the legislative, these branches did not enjoy full autonomy and institutional freedom because they were always subordinated or conditioned by the latest decisions made by the Conservative Power.

Power, Historical evolution, Division of Powers, Constituent Power, Legislative Power, Executive Power, Judicial Power, Supreme Conservative Power, Fourth Power

Resumen

El término "poder" tiene múltiples significados, puede expresar la ausencia de obstáculos o inconvenientes que de otra manera podrían afectar a otros. Cuando se considera el término poder en el sentido en que se utiliza en la Constitución Mexicana, se toma como sinónimo de autoridad que dicta, manda, dispone, ordena y sanciona mediante facultades o atribuciones teóricamente limitadas conferidas por ella; finalmente, es una forma de denominación preferentemente política, por lo que evita intereses particulares. Ha habido diferentes reformas constitucionales que han sido trascendentales para el buen desempeño del gobierno mediante el ejercicio de la constitución. Estas reformas dieron diferentes énfasis en la forma de ejercer las facultades de cada uno de los poderes del Estado, a tal grado que en algún momento de 1836 existían cuatro poderes del Estado en donde el poder ejecutivo tomaba atribuciones del legislativo, estos poderes no gozaban de plena autonomía y libertad institucional ya que siempre estaban subordinados o condicionados por las últimas decisiones tomadas por el Poder Conservador.

Poder, Evolución histórica, División de Poderes, Poder constituyente, Poder Legislativo, Poder Ejecutivo, Poder Judicial, Supremo Poder Conservador, Cuarto Poder

Citation: CORNEJO-ÁVALOS, Abrham Azael & GÁNDARA-FLORES, Antonio. Historical account and transcendental facts of the division of powers in Mexico. Journal-Public Economy. 2023. 7-13:11-17.

* Author's correspondence (E-mail: miriam.mery@uadec.edu.mx)
† Researcher contributing as first author.

Introduction

The term power has multiple meanings; it can express the absence of obstacles or inconveniences in order to impose itself on others. When the term power is considered in the sense in which it is used in the Mexican Constitution, it is taken as a synonym of authority that dictates, commands, disposes, orders and sanctions in the exercise of powers or theoretically limited attributions that it confers; finally, it is a form of denomination that is preferably political, thus avoiding a private interest. There have been different constitutional reforms that have been transcendental for a good governmental performance through the constitutional exercise. These reforms have given different emphasis to the way in which the powers of each of the powers of the nation are exercised, to such an extent that at a certain time in 1836 there were four constituent powers in which the executive power took attributions from the legislative power, these powers did not enjoy full autonomy and institutional freedom because they were always subordinated or conditioned to the latest decisions taken by the Conservative Power.

Background and Transcendental Changes in the Division of Powers

Throughout the ages, the division of powers has undergone changes in legislation with the intention of counteracting a single power. The division of powers is a doctrinal principle projected in history from Aristotle to Montesquieu, who were concerned with the division of powers, deducing its principles from a concrete historical reality. From the comparison between various constitutions of his time, and taking into account the city-state realised in Greece, Aristotle differentiated the deliberative assembly, the group of magistrates and the judicial body from the various combined forms. Locke and Montesquieu formulated the modern theory of the division of Powers, for Locke, the human frailty the temptation to abuse the Power would be very great, if the same persons who have the power to make the laws had also the power to execute them; for they could dispense themselves from obeying the laws they formulate and accommodate the law to their private interest. (Tena, 2013. p. 212)

Montesquieu says in a sentence that has become the core of the system so that power cannot be abused, being necessary that power stops power. (Tena, 2013) The limitation of public power, through its division, is in Locke, and above all in Montesquieu; when the legislative power and the executive power are found in the same person or in the same body of magistrates, it is no guarantee of freedom, nor when the judicial power is not separated from the legislative and executive power. The new destiny given to the separation of powers, by placing it at the service of liberty, was inspired Locke and Montesquieu by the conquest of public liberties in which the English people had engaged their history.

For Locke, inspired by his theory of the division of powers, the legislature, which makes general rules, the executive, which implements them through execution, and the federative, which is in charge of foreign affairs and security, it was Coke's idea that the difference of functions and organs, if only the judges and not the king could rule on civil and criminal cases, meant that the jurisdictional function was entrusted to an organ independent of the monarch and independent of the governmental function of the monarch. And if the king was under the law, then the law emanating from Parliament was alien and even superior to the will of the sovereign. The absolute supremacy of the law advocated by Coke gave rise alternatively, in the following years, to royal and parliamentary absolutism and the dictatorship of Cromwell, which made it possible to realise that it was necessary to establish a harmonious formula of balance between the power that made the law and the power that executed it (Tena, 2013. pp. 213, 214). (Tena, 2013. pp. 213, 214).

Montesquieu respected the legislative function, as Locke had explained it, although without noting the king's intervention in parliamentary activity, which was peculiar to the English system. After distinguishing the three classes of functions. Montesquieu conferred them on three different bodies, with the aim of preventing the abuse of power.

Montesquieu states that in 1776 the first constitutions of the States that would form the American Union appeared, and all the constitutional documents of continental Europe and America accepted the division of powers as an essential element of their organisation.

ISSN 2524-2016

And not satisfied with instituting the three Powers, some of the early constitutions formulated the principle doctrinally. Thus the Massachusetts Constitution of 1780 declares that the reason for separating the Powers into a legislative, an executive and a judicial branch is to ensure that their government is of laws and not of men.

"In the present age in which we live today, the theory of the separation of the functions of power is nothing new; it was duly enshrined in the Declaration of the Rights of Man and of the Citizen in 1789", and is currently inscribed in all democratic constitutions, According to traditional theory, it is divided into executive, legislative and judicial powers. This classic division, initiated by Montesquieu, is still in force in the majority of countries' constitutions; in our country, Article 49 of the Political Constitution enshrines the principle of the division of power into executive, legislative and judicial functions.

The Mexican Constitution enshrines the division of the three branches of government, the Legislative, Executive and Judiciary, and implements their collaboration by two main means, making it necessary for the validity of a single act to require the participation of two branches or granting one of the branches some powers that are not peculiar to that branch, but to one of the other two. (Tena, 2013. pp. 216, 219).

All of Mexico's constitutions have enshrined the division of powers, but they have not done so in an identical manner, as the variants that have existed refer to two criteria, the first referring to the formal importance of the organs among themselves and the second referring to the number of them. Thus, in the constitutional history of our country, it can be seen in its different constitutions and fundamental laws that the intention has always been to maintain a separation of the established powers, with the purpose of balancing them so that each of them obtains its own autonomy and independence; that is why there are different constitutional antecedents that have evolved over time.

It should be mentioned that, from the Constitution of Apatzingán of 1814, historically considered by the Nation as the first political constitution of Mexico, elaborated and promulgated by the General Constituent Congress of the Nation, in turn and as main precursor José María Morelos y Pavón, López Rayón among other historical characters that participated in its emergence.

Article 11 of the Constitution in question stated: "...three are the powers of sovereignty: the power to make laws, the power to enforce them, and the power to apply them to particular cases". ... (Calzada, 2014, p. 177). This is how sovereignty was related to the division of powers, that is, in this Constitution the concept of sovereignty was totally linked to the exercise of the three powers, in addition, in Article 44 of the same document, two corporations were created called Supreme Government, which is interpreted as corresponding to the Executive Branch and the other Supreme Court of Justice, which is the Judiciary, Here what is relevant is to see how over time the names of many government institutions have changed and that today they are still in force but known by another name, such is the case of the three powers currently known as the Legislative, Executive and Judicial Branches, Calzada, (2014):

"... the representative body of the sovereignty of the people will remain with the name of supreme Mexican Congress. Two corporations will also be created, one with the title of Supreme Government (Executive Branch), and the other with the title of Supreme Court of Justice (Judicial Branch)." (p. 177).

In this Constitution of Apatzingán of 1814, as previously described, we find significantly in the two aforementioned numerals those two interpretations that the constituent in turn highlighted the link that existed between sovereignty and the division of powers, as well as the names that at the time were given to each power.

ISSN 2524-2016

On the other hand, the Constitution of 1824, created on 31 January 1824 but ratified on 4 October of the same year by the Constituent General Congress, is considered a social and Constitutional experiment, since it contained or was made with a mixture of Hispanic and American antecedents of the respective constitutions of Cadiz of 1812 and the then current constitution of the same time of the neighbouring country of the United States of America, taking them as references and examples in their different and respective systems of constitutional government.

Thus, with regard to the constituent powers, this first constitution of 1824 in its Article 9 stated, "The Supreme Power of the Federation is divided, for its exercise, into Legislative, Executive and Judicial; and two or more of these may never be gathered in one corporation or person, nor may the Legislative be deposited in one individual" (Calzada, 2014, p. 177). It is precisely where the division of powers is constitutionally established as such with the names of Legislative, Executive and Judicial, enshrining that two or more powers could not be gathered in a single corporation or person, it should be remembered that in Mexico there were many projects or preliminary drafts of Constitutions, but really the history of the country only recognises as such three main documents, the Constitutions of 1824, 1857, and the current Constitution of 1917, leaving aside or unnoticed as previously mentioned the Constitutions of Apatzingán of 1814, the conservative centralist Constitution of 1836 as preliminary drafts that were fundamental for the realisation or consolidation of the first three mentioned. Now, in the Constitution of 1836 called the Constitutional Bases and Laws of the Mexican Republic, also known as "the Seven Constitutional Laws", was one of the most conservative constitutions enacted in Mexico, the second constitutional law of this document establishes the organisation of a supreme conservative power, which would be deposited in five individuals who are granted powers of the utmost importance to control or supervise the other powers. The contrast with the Constitution of 1824 is seen in its second title referring to the form of government, which is that of a popular and federal representative republic, which establishes that its constituent parts are states and territories, whereas the Constitution of 1836 proclaimed the territorial division into departments that are managed by a central government.

In this order of ideas, it was a couple of waters to find that from this document a fourth constituent power was created and it is relevant and significant how transcendental it was in its functioning and attributions at the time, since a system of four constitutional bodies was established, that is, apart from the three Powers that are known today, another one was created that history itself narrates was the one that subdued the traditional ones, called the Supreme Conservative Power, which was conferred and deposited in five individuals whose most outstanding powers were: declaring the nullity of laws and decrees, declaring the nullity of the acts of the Executive Power and those of the Supreme Court of Justice, declaring the physical or moral incapacity of the President of the Republic, suspending the Court of Justice, suspending the sessions of the General Congress for up to two months, even to the point that this Supreme Conservative Power had the constitutional power to re-establish any of the three Powers when they had been dissolved due to revolutionary issues. Sánchez, (2007).

"...in addition to the three powers that we know, he created another one that subjugated the traditional ones: the Supreme Conservative Power. In the second law, he established the profile of that innovation, as follows:

...Article 1.- There will be a supreme conservative power which will be deposited in five individuals, one of whom will be renewed every two years, with the first, second, third and fourth time, the one designated by lot, without entering into the draw the one or those who have been appointed to replace him or them. From the fifth time onwards, the oldest shall be drawn. (p. 404).

The Supreme Conservative Power established and proclaimed in the centralist Magna Carta of 1836 can be summarised as having been created with the purpose of being an intermediary between the other three Powers and to watch over their actions so that the limits of their attributions were not exceeded, It is worth mentioning that the subjects in charge of this power were conservatives, giving them powers that historically were considered unconstitutional, as they exceeded their functions, keeping the three Powers under subjection, that is, they did not enjoy full autonomy and institutional freedom, as they were always subordinated or conditioned to the final decisions taken by the Conservative Power.

ISSN 2524-2016

It is reiterated once again that the Constitution of 1836 was the fundamental basis for the immediate draft that would later give life to the consummation of the Federal Constitution of the United Mexican States of 1857, sanctioned by the Constituent General Congress on 5 February 1857, drafted during the presidential term of Ignacio Comonfort, it was a totally liberal constitution, arising from the ideas of the Plan of Ayutla. It established freedom of expression, freedom of assembly and freedom of conscience. It prohibited titles of nobility and corporal punishment, as well as the death penalty, because it already had liberal overtones that tried to focus on obtaining human rights for the governed, as there were already rigorous forces in the administration of justice that were surpassed with excessive force of power towards society, that is, excessive abuses of authority, referring to the division of powers as mentioned by Sánchez (2007):

The Political Constitution of the Mexican Republic of 1857, which abolished the Senate of the Republic despite having enshrined the Federal State form, stands out. By integrating the Legislative Branch with an assembly of deputies, it gave such strength to this body that the presidents of the Republic at that time, including Benito Juárez, faced severe difficulties in exercising their offices (p. 405).

This Constitution really reaffirmed the division of powers and the exercise of their functions, it has great influence in terms of the rebirth and consecration of fundamental rights, as well as the proclamation of different laws that changed the course of government, to mention a few and as an example; The Juarez Law, whose objective was to take away the privileges of the Catholic Church and the military, the Churches Law, which arose to prohibit ecclesiastical charges, among other things, this document has an emphasis on defending individual guarantees and enforcing the rights of the governed, It expressly alludes to the freedom of transit, association and worship, and has great importance or interference in determining the definitive separation between church and state, eliminating the vice-presidency and the senate and proclaiming that education will be provided by the state itself to the greatest extent possible.

On February 5, 1917, sixty years later, Venustiano Carranza, who was the President of the Mexican Republic at the time, promulgated the Constitution that still governs us today and is the current Constitutional document, similar to the ideas of the Constitution of 1857 but with other ideologies a little more focused on the development of the country and its governed, the current Constitution established and reaffirmed positions such as: the federal system, the separation of powers, non-reelection, a Legislative Branch in two Chambers, and a Permanent Legislative Commission, it is worth mentioning that unlike its predecessor, i.e. the Constitution of 1857, the current one gave great strength to the Executive Branch, since in constitutional articles 29, 49 and 131 it was expressly interpreted that extraordinary powers to legislate could be delegated to the executive, Tena, F. (2009):

In the explanatory memorandum to the First Chief's bill, it was criticised that "without the slightest obstacle, the Head of the Executive Power had been given the power to legislate on all kinds of matters, having been reduced to delegating powers.

To put an end to this situation, an addition to Article 49 was presented in the draft and approved by Congress, the second part of which was worded as follows: "Two or more of these powers may not be combined in a single person or corporation, nor may the Legislative be deposited in an individual, except in the case of extraordinary powers of the Executive of the Union, in accordance with the provisions of Article 29". (p. 239).

The last sentence of the last two lines of the aforementioned quote is the one that produced the initiative of the Executive to intervene in legislative matters, that is to say, to carry out its own legislation, since Article 29 of the Constitution delegated legislative powers to the president, such was the power and the exercise of the same that Tena, F. (2009):

...seven days after the Constitution came into force, on May 8, 1917, Congress granted President Carranza legislative powers in the field of Finance, without a fixed time for its exercise, that is, without observing the formalities of article 29... (p. 240 and 241).

With this unprecedented situation, the Executive in 1917 undoubtedly violated one of the most important constitutional precepts regarding the division of powers, such as article 49 of the Constitution, which expressly stated and still states that the powers of two or more powers cannot be deposited in a single person or corporation, but this addition to the last paragraph of article 29 of the Constitution is what the Executive used to justify its legislative exercise. Tena, F. (2009).

Years later, the Supreme Court issued a decision, justifying that delegation in terms so broad as to cause astonishment. The Court said: "The decree of 8 May 1917, which granted the Executive extraordinary powers in the field of finance, enabling it to issue all the laws that should regulate the functioning of the Federal Public Treasury, did not limit those powers to the issuance of the Revenue Law and the Expenditure Budget, and although the Congress of the Union has issued such budgets for the fiscal year 1923, this does not mean that the powers of the Executive to issue the other laws necessary for the functioning of the Treasury, creating permanent revenue funds, which are considered when enacting the revenue and expenditure laws, which have a transitory character, ceased; and the issuance by the Congress, of such budgets, incapacitated the Federal Executive to legislate only in respect of them, during that year.". (p. 241).

With this freedom granted by the legislature to the executive, the latter acted for an indefinite period of time in bad faith to a certain extent in the exercise of two constitutional attributes, that of legislating and executing at the same time, something which, constitutionally speaking, throughout the history of the Constitutions mentioned in this article, it is difficult to find any other action of this nature that has been consummated, And it was not until a reform to article 49 of the Constitution was pronounced, which, through its interpretation, definitively pronounced the definitive exercise of the division of powers, that is to say, that each power would dedicate itself to its strictest natural function, that of legislating and executing, respectively. Tena, F. (2009):

Under these conditions, after the situation described above had prevailed for more than twenty years, on the initiative of President Cárdenas, which became a constitutional reform on 12 August 1938, the following paragraph was added to Art. 49, in its final part: "In no other case shall the Executive be granted extraordinary powers to legislate". The case referred to in the addition is that of the paragraph immediately preceding it, i.e. the case of the exception in Article 29 (p. 242).

Finally, with the addition to article 49 in its final part, as mentioned in the previous quote, is that it puts an end to such a transcendental historical event where for years the Executive power was endowed with the power to exercise legislative functions, or at least by the own efforts of the executive, which for questions of the norm embodied in the constitution and interpretations of the same, it was enveloped with the power to do so, notwithstanding this, Congress vindicated itself by making the necessary reforms and additions to solve and compensate such a situation, so now the Executive Branch is clearly still empowered to legislate, but article 49 of the Constitution clearly states that this power will only be given in accordance with the provisions of articles 29 and 131 of the Constitution, the first of which limits it to legislate or suspend constitutional rights or guarantees in the event of a serious disturbance of the public peace that puts society in general in imminent danger; The second of the aforementioned articles expressly mentions that legislative power may be given to the executive only in cases of mere urgency regarding the regulation of international trade, the country's economy or any other purpose that is beneficial to the country, thus limiting the cases in which the executive may intervene in purely legislative functions.

Methodology to be developed

The methodology used in this research is based on the technique of historical documentary analysis of the literature, where only certain important fragments of the main theme have been compiled in a punctual manner, and with this it becomes a descriptive research approach, as these studies show, narrate, review or identify facts, situations, features, characteristics of an object of study, but no explanations or reasons are given for the situations, facts or phenomena.

Results

As a final result we can allude that through the arduous and exhaustive research we found historical accounts of the bibliographic literature analysed here that were of great transcendence and importance throughout history on the Division of Powers, certain facts that were precursors to give a true idea to the governmental institution analysed so that it would evolve and develop through time with better efficiency and effectiveness in its functions in front of society.

Conclusions

When talking about Constitutionalism in the country of the United Mexican States, it is necessary to go back to the historical background that has shaped the direction and form of government that the nation has had, with specific regard to the issue of the division of powers, through this detailed analysis and scrutiny of the different constitutional documents that have contemplated this form of government, different historical events have been clearly identified, which to a great extent were transcendental to find the guideline and the good governmental functioning through the constitutional exercise of the aforementioned division of powers throughout this document: Executive, Legislative and Judicial powers.

Thus, the constitutions analysed, as well as the historical figures who intervened in them, always and at all times gave different emphases on the form of exercise in terms of the powers of each of the powers of the nation, to such an extent that at a certain time in 1836 there were even four constituent powers, and so on, different events have been presented, some good, others bad, which have been building the political life of the country, and it has only been through political changes and the passage of time itself, where the same legislations have tried to strategically evolve the exercise and the endowment of faculties that the Political Constitution gives to these three main organs of government, with the ultimate aim of really obtaining a system or form of government worthy for the country and its governed where the legislations are beneficial for the construction and development of the Nation.

Because it is worth mentioning that this division of powers and form of government has been distinguished that for its exercise and good functioning must be based on the autonomy, freedom, sovereignty in the exercise of its functions in each of the three powers.

References

Calzada F. (2014). Derecho Constitucional. Editorial Porrúa.

Sánchez, E. (2007). Derecho Constitucional. Editorial Porrúa.

Tena, F. (2009). Derecho Constitucional Mexicano. Editorial Porrúa.

Tena, F. R. (2013). Derecho Constitucional Mexicano. Porrúa.

ISSN 2524-2016

Article **Journal-Public Economy**
December 2023, Vol.7 No.13 18-22

Regulatory analysis on the application of protection measures in Mexico

Análisis normativo sobre la aplicación de medidas de protección en México

RUBIO-MAYORGA, Edgar Fabián† & REYES-CASILLAS, Brenda Anayeli

Centro Universitario del Norte de la Universidad de Guadalajara, Guadalajara, México.

ID 1st Author: *Edgar Fabián, Rubio-Mayorga* / **ORC ID:** 0009-0009-2077-0268

ID 1st Co-author: *Brenda Anayeli, Reyes-Casillas* / **ORC ID:** 0009-0006-0125-1778

DOI: 10.35429/JPE.2023.13.7.18.22 Received July 25, 2023; Accepted December 30, 2023

Abstract

In Mexico, protection measures are those framed in article 137 of the National Code of Criminal Procedures and as their name indicates, they are those mechanisms or measures established as norms by the legislator but dictated or authorized by the Public Ministry or by a Judge. for the protection of victims from their aggressor, to avoid future acts of violence against the victim or offended party. The present research work seeks to highlight a gap in current legislation, since protection measures should not be dictated only when the aggressor is known but should be implemented even when the identity of the aggressor is unknown, this to achieve true protection of the victim against any act of violence.

Protective measures, Human rights, Crime, Victim, Aggressor, Security, Legal reasoning, Authority, Normativity

Resumen

En México, las medidas de protección son aquellas enmarcadas en el artículo 137 del Código Nacional de Procedimientos Penales y como su nombre lo indica son aquellos mecanismos o medidas plasmadas como normas por el legislador, pero dictadas o autorizadas por el Ministerio Público para la protección de las víctimas de su agresor en la etapa inicial de la investigación del hecho delictivo, con el fin de evitar futuros actos de violencia en contra de la víctima u ofendido. Con el presente trabajo de investigación se busca evidenciar un vacío en la legislación vigente, pues las medidas de protección no deberían de dictarse únicamente cuando se conoce al agresor, sino que deben ser implementadas aun cuando se desconozca la identidad de este, esto con el fin de lograr una verdadera protección de la víctima frente a cualquier acto de violencia.

Medidas de protección, Derechos humanos, Delito, Victima, Agresor, Seguridad, Razonamiento jurídico, Autoridad, Normatividad

Citation: RUBIO-MAYORGA, Edgar Fabián & REYES-CASILLAS, Brenda Anayeli. Regulatory analysis on the application of protection measures in Mexico. Journal-Public Economy. 2023. 7-13:18-22.

† Researcher contributing as first author.

Introduction

Currently, protection measures are very important figures in criminal law, as they represent a fundamental part of the rights of victims or offended parties. They are precautionary orders or mechanisms whose objective is to adopt urgent security actions in favour of the victims to guarantee their safety. Their purpose is to restore the safety and peace of mind of the victims, as well as to safeguard their physical and emotional integrity against possible subsequent threats or reprisals by the aggressor.

This article addresses the problem of the application and justification of the protective measures framed in the National Code of Criminal Procedures, foreseen in article 137, issued during the investigation stage, which aim to prevent or avoid an eminent future risk to the safety of the victims, within the judicial procedure. For the present research, the qualitative paradigm was used, in its bibliographic-documentary modality, through the use of academic articles, books, doctrine, journals, theses and legislation, which were the main source of help for the collection of information on the research topic. In addition, the general method applied to this research was inductive, as it allowed the analysis of particular facts and events in order to reach a generality that serves as a reference in the research.

Some authors such as Córdova et al. (2019) argue that:

Protection measures are those attitudes and decisions taken into account by the State through its various public institutions, in order to make effective the care and protection of the victim of aggression, with respect to the aggression itself and its aggressor; they are mechanisms that seek to provide support and protection to victims of aggression and prevent the continuation of these. (p. 65).

According to the above, the primary objective of protective measures is to provide care and protection to the victim or offended person in order to prevent the aggressor from continuing the aggressions against the victim. In other words, they are provided to provide physical and emotional security and tranquillity for the victims.

Protective measures are contemplated in Article 137, Chapter I, Title VI of the National Code of Criminal Procedures and are issued when it is considered that an aggressor puts the life or integrity of the victims at risk.

Textually, this article states that:

The Public Prosecutor's Office, under its strictest responsibility, shall order the application of suitable protection measures when it considers that the accused represents an imminent risk to the safety of the victim or injured party. The following are protective measures:

I. Prohibition on approaching or communicating with the victim or injured party.

II. Limitation on attending or approaching the home of the victim or offended party or the place where he or she is located.

III. Immediate separation from the home.

IV. Immediate surrender of objects of personal use and identity documents of the victim in the possession of the person likely to be responsible.

V. The prohibition of intimidating or annoying conduct towards the victim or offended party or persons related to them.

VI. Police protection of the victim or injured party.

VII. Immediate assistance by members of police institutions to the home where the victim or injured party is located at the time of the request.

VIII. Transfer of the victim or offended person to temporary shelters or refuges, as well as their descendants.

IX. The return of the victim or injured party to his or her home, once his or her safety has been safeguarded (Congreso General de los Estados Unidos Mexicanos, 2023, pp. 41-42).

ISSN 2524-2016

It is therefore unavoidable to point out the problems and the scope of the legal vacuum that exists in the Protective Measures enshrined in Article 137 of the National Code of Criminal Procedures in order to show that they are mechanisms to protect the victim from her aggressor and that they should be implemented even when the latter's identity is not known.

Development

Evidently, there is a legal vacuum in this article which violates the right to protection of victims or offended parties who may be susceptible to suffering another act of violence because the person responsible for the crime is not recognised. The question then arises: under what reasoning criteria does the Public Prosecutor's Office justify the protection measures that it must necessarily provide to victims of crimes perpetrated against them when the perpetrator is unknown?

This research uses a qualitative model with a bibliographical-documentary approach based on the use of academic articles, doctrines and current legislation that serve as support when collecting information on the research topic. In addition, the general method applied to this research was the inductive method through the analysis of particular events, in order to subsequently create generalities for the development of this research, and thus be able to determine a conclusion of the research topic.

In a hypothetical case in which a crime of intentional homicide with a firearm is committed inside the home of the person identified at the time as the deceased, in this context at the time of the event a person is present, who recognises the aggressor who committed the crime, depriving the person of life, followed by the presentation of the offender to the Public Prosecutor's Office and the opening of the corresponding investigation file, under the reasoning that there is well-founded fear, and an eminent danger in which the integrity of the person is vulnerable, and because there is an eminent danger on the part of the aggressor against the safety of the victim recognised in the investigation file and in the Criminal Code applicable in the state where the crime is perpetrated, framed as a serious crime, which justifies the measures of protection for the victim within the procedure, in this sense the Agent of the Public Prosecutor's Office bases the granting of the same.

Under the cited in Article 137 of the National Code of Criminal Procedure, by stipulating that the accused represents an eminent risk against the safety of the indirect victim.

Unlike the opposite case, in a crime of disappearance committed by private individuals, where unknown persons hooded with firearms enter the victim's home, using force, in the presence of a person, therefore, due to the way the events took place, the person does not know data that would help to identify the aggressors who caused the illegal deprivation of the victim's liberty, under this tesitura he/she presents himself/herself before the Public Prosecutor's Office to file a complaint for such fact, which empowers him/her within the process as a victim, Now, according to Article 137 of the National Code of Criminal Procedures, the agent of the Public Prosecutor's Office will have to justify the reasoning and offer the corresponding protection measures to the victim, despite not knowing information about the aggressors involved in the commission of the offence, As with the aforementioned crime, it is assumed that there is a well-founded fear and an eminent danger to the integrity of the person, and because there is an eminent danger on the part of the aggressors, even if their identity is unknown, for possible attacks on the victim's safety.

Victims of crime, usually after the crime has been committed, are in most cases exposed to multiple victimisation, i.e. they are vulnerable to further acts of violence against them by the same offender who had already committed the criminal act against the victim. To avoid this type of situation, Article 5 of the General Law on Victims establishes that:

All government authorities must ensure the widest possible application of protective measures for the dignity, freedom, security and other rights of the victims of crime and human rights violations, and also states that the authorities must at all times adopt measures to guarantee the security, protection, physical and psychological well-being and privacy of the victims. (Congreso General de los Estados Unidos Mexicanos, 2023, p. 4).

ISSN 2524-2016

It is therefore essential to have protection measures that allow the safety of the victims or offended parties to be established in an efficient manner, and it is also necessary to comply with precautionary measures to ensure that the damage is repaired, which is why it is imperative to establish efficient legislation that guarantees the safety and well-being of the victims or offended parties against their aggressors. This recognises that the protection of victims or offended parties arises from a bilateral relationship between the State and the victims, in which, on the one hand, there is the obligation of every individual to support the administration of justice during criminal proceedings, when a crime is known or has been witnessed; and on the other hand, the right of any person to receive protection for their person, property and family when these legal assets are at risk or are threatened.

In this way, according to Villanueva (2015), security becomes a necessary condition for full freedom and must be guaranteed at all times to the victims or offended parties. Thus, security is interpreted as an instrument at the service of guaranteeing rights and freedoms, which can only be conceived within a system coherent with democratic values of solidarity, tolerance, peaceful coexistence and public service for all citizens and at the service of the common good for society (pp. 20-21).

Internationally, the Inter-American Court of Human Rights has clarified and defined the repercussions necessary to guarantee the protection of victims whose physical or moral integrity is at risk due to threats of harm, as well as the obligation to protect their integrity.

Conclusion

To conclude, it is important to highlight that the issuing and application of protection measures are applied in the initial stage of the investigation, when the investigation file is initiated, which does not mean that the aggressor is subjected to trial and an incriminating sentence is passed, It should be pointed out that these measures are of a preventive nature and their main purpose is to avoid re-victimisation by the aggressor, to protect and safeguard the safety of the victims recognised in the investigation file, which is why it is important that they are applied in a timely manner, and that they are followed up and supervised.

It must be emphasised that all persons have the fundamental right to live with dignity and to have their physical and psychological integrity respected, which is why protection measures seek to preserve these rights, especially in situations where the victims may be at risk, in this sense protection measures are preventive and seek to avoid victims suffering further harm or re-victimisation as mentioned above.

Considering that providing protection to victims is crucial to ensure their effective participation in legal processes, focusing on victims, if they feel safe, they are more likely to cooperate with justice, which strengthens legal systems and contributes to the delivery of justice, because by providing protection measures, a more conducive environment is created for victims to seek help and justice without fear of reprisals.

The existence of protection measures strengthens society's trust in the institutions in charge of guaranteeing security and justice, which is essential to maintain stability and respect for the rule of law, so they should be granted regardless of the classification of the facts, whether or not the aggressor(s) are known, as protecting victims is aligned with human rights principles, The provision of protection measures contributes to building fairer and more equitable societies, where all people have the opportunity to live free from violence and discrimination, framing the fact that the state has a responsibility to protect its citizens, including victims, and that protection measures are a concrete expression of this commitment.

It must be paramount that even if it is not known who the perpetrators may be, protection measures can be issued and implemented by the competent authorities to provide security for the victims and thereby safeguard their integrity. And for this it is important that the Public Prosecutor's Office provides legal reasoning for the safety and integrity of the victims who are part of the investigation process, it is vital that the Public Prosecutor's Office and the supporting authorities guarantee the protection of the victims, because although it is true that in the commission of a crime the active subjects will always be participants, and even if the identity of the perpetrators is unknown, they will always be the victims.

ISSN 2524-2016

Even if the identity is unknown, it is understood that there is a person or persons responsible, so that the investigation stage is responsible for gathering evidence to prosecute and charge those responsible, although the issuance and application of such protective measures are at the discretion of the competent authority.

In short, providing protection measures to victims is not only an ethical and legal obligation, but also contributes to building societies that are safer, fairer and more respectful of fundamental rights.

For this reason, it is necessary to reform the National Code of Criminal Procedures to establish that these protection measures are applicable with the precedent of protecting and safeguarding the integrity of the victims even if the aggressor is unknown, as established in the Criminal Code of the State where the offence is committed.

References

Congreso General de los Estados Unidos Mexicanos. (2023). *Código Nacional de Procedimientos Penales*. https://www.diputados.gob.mx/LeyesBiblio/pdf/CNPP.pdf

Congreso General de los Estados Unidos Mexicanos. (2023). *Ley General de Víctimas*. https://www.diputados.gob.mx/LeyesBiblio/pdf/LGV.pdf

Córdova Pérez, L. V., Córdova Aldás, V. H., Gómez Alvarado, H. F. (2019). *El principio pro homine como base para la legislación de medidas de protección de género. Revista de comunicación de la SEECI,* (48), 65-86. https://doi.org/10.15198/seeci.2019.48.65-86

Villanueva Castilleja, R. (2015). *Medidas de protección y providencias precautorias*. https://archivos.juridicas.unam.mx/www/bjv/libros/9/4032/4.pdf.

ISSN 2524-2016

Article **Journal-Public Economy**
December 2023, Vol.7 No.13 23-28

Conceptual legal analysis of restorative justice in Mexico

Análisis jurídico conceptual de la justicia restaurativa en México

ORTEGA-SÁNCHEZ, Ruth Irene† & DE LEÓN-VÁZQUEZ, Héctor Manuel

ID 1st Author: *Ruth Irene, Ortega-Sánchez* / **ORC ID:** 0009-0000-0910-4314

ID 1st Co-author: *Héctor Manuel, De León-Vázquez* / **ORC ID:** 0009-0008-5184-5915

DOI: 10.35429/JPE.2023.13.7.23.28 Received July 25, 2023; Accepted December 30, 2023

Abstract

Restorative justice is a new way of achieving justice, derived from the evolution of the criminal justice system, which emphasizes the reparation of harm, reconciliation and social reintegration of both the victim and the offender, with the participation of all parties involved, as opposed to retributive justice, which is based on punishment as a response to the crime and seeks retribution for the harm caused. The implementation of restorative justice varies according to jurisdictions and is supported by various legal frameworks, including international treaties and conventions that promote this figure. The creation of this opinion article was based on a methodology that includes research, analysis and expression of ideas in a clear and persuasive manner. New Zealand stands out as a successful case in the implementation of restorative justice, highlighting the priority given to the reparation of harm and the restoration of relationships in its legal system. In Mexico, it is based on a legal framework that varies according to the states and is supported by international treaties, its application seeks to repair the damage caused and the restoration of relationships between the parties, contributing to a more equitable and effective justice in society. This article was carried out under a qualitative approach due to the theoretical basis of restorative justice, the deductive method was used through the study of general knowledge to particulars, finally, the research technique used was the review of bibliographic sources, as well as local, national and international legislations for the full development and understanding of the same.

Restorative justice, Restorative justice, penal system, Reparation of harm

Resumen

La justicia restaurativa es una nueva forma de alcanzar la justicia, derivada de la evolución del sistema penal, en la cual se enfatiza la reparación del daño, la reconciliación y la reinserción social tanto como de la víctima como del infractor, con la participación de todas las partes intervinientes, a diferencia de la justicia retributiva que se basa en el castigo como respuesta al delito y busca la retribución por el daño causado. La implementación de la justicia restaurativa varía según las jurisdicciones y se apoya en diversos marcos legales, en los que se incluyen los tratados internacionales y convenciones que promueven esta figura. La creación de este artículo de opinión se basó en una metodología que incluye investigación, análisis y expresión de ideas de manera clara y persuasiva. Nueva Zelanda se destaca como un caso de éxito en la implementación de la justicia restaurativa, resaltando la prioridad dada a la reparación del daño y la restauración de relaciones en su sistema legal. En México, se sustenta en un marco legal que varía según las entidades federativas y está respaldado por tratados internacionales, su aplicación busca la reparación del daño causado y la restauración de relaciones entre las partes, contribuyendo a una justicia más equitativa y eficaz en la sociedad. El presente artículo se realizó bajo un enfoque cualitativo debido a que se fundamentó teóricamente la justicia restaurativa, se empleó el método deductivo por medio del estudio de conocimientos generales a particulares, por último, la técnica de investigación utilizada fue la revisión de fuentes bibliográficas, así como las legislaciones local, nacional e internacional para el pleno desarrollo y entendimiento de este.

Justicia restaurativa, Justicia restitutiva, sistema penal, Reparación del daño

Citation: ORTEGA-SÁNCHEZ, Ruth Irene & DE LEÓN-VÁZQUEZ, Héctor Manuel. Conceptual legal analysis of restorative justice in Mexico. Journal-Public Economy. 2023. 7-13:23-28.

† Researcher contributing as first author.

Introduction

Restorative justice is an alternative to the criminal justice system, which is based on the reparation of harm, with the participation of the intervening parties to achieve reconciliation.

Restorative justice in its strict dimension, referring to the criminal justice system, is defined by the United Nations as an evolved response to crime that respects the dignity and fairness of each person, builds understanding and promotes social harmony through the "healing" of the victim, offender and community. (De la Fuente, 2012, p.1).

It aims to address conflict and crime in a comprehensive but above all problem-solving oriented manner, promoting personal responsibility and the reintegration of offenders into the community, rather than simply imposing punitive sanctions, restorative justice seeks to make the offender take responsibility for his or her conduct and take steps to repair the harm caused to the victim and the community, this may include apologies, community service, compensation and other types of reparation.

Restorative justice involves the active participation of the parties involved in the conflict, the victim, the offender and, in some cases, members of the community, so that all have the opportunity to express their concerns, needs and expectations in order to work together to find solutions.

One of the central goals of restorative justice is to restore damaged relationships, which involves seeking reconciliation between the victim and the offender, where possible, and reintegrating the offender into the community in a way that reduces the likelihood of recidivism.

Restorative justice is also considered a crime prevention tool as it focuses on addressing the underlying causes of offending behaviour and helping offenders to avoid committing future offences; it is a flexible approach that can be adapted to a variety of situations and can generally be used in cases of minor or so-called petty crime, including in cases of domestic violence although the application may vary according to jurisdiction and circumstances.

It uses a variety of processes and methods to achieve its goals, which may include victim-offender conferences, mediation, restorative circles, and other actions that promote dialogue and collaboration.

Origins and evolution of restorative justice

In Mexico, the origins and evolution of restorative justice date back several decades. In the 1990s, restorative justice began to gain momentum in Mexico as various actors, including academics, human rights advocates and justice system professionals, became interested in the possibility of introducing alternative methods to criminal justice, in part due to the perception that the traditional criminal justice system had limitations in terms of effectiveness and access to justice. One of the most significant developments in its evolution was the reform of the Mexican Constitution in 2008, which included important changes to the Mexican criminal justice system, including alternative dispute resolution mechanisms and the introduction of the principle of restorative justice.

In the Political Constitution of the United Mexican States, a third paragraph was added to Article 17, which states:

> "The laws shall provide for alternative dispute resolution mechanisms. In criminal matters, they shall regulate their application, ensure reparation of damages and establish the cases in which judicial supervision is required".

Following this reform, restorative justice pilot programmes were carried out in various states of Mexico. These programmes focused on testing restorative justice methods in specific cases and evaluating their effectiveness in conflict resolution and the satisfaction of the parties involved. As a result, several Mexican states began to develop and approve specific laws for the implementation of restorative justice at the local level, which allowed for its adaptation depending on the needs and situations of each state, as well as training and education programmes for the operators of the justice system, mediators or moderators of restorative processes.

ISSN 2524-2016

Fundamental principles of restorative justice

The fundamental principles that underpin restorative justice are the foundation on which this alternative approach is based, providing the basis and guidance for its implementation. Restorative justice places the victim at the centre of the process, recognizing the suffering and needs of the victim as a priority, seeking to restore the harm caused and allowing victims to express their concerns, needs and interests by providing them with the opportunity to actively participate in the resolution of the conflict.

Similarly, restorative justice recognises the importance of holding the offender accountable for his or her actions rather than simply punishing; it seeks to make the offender take responsibility for his or her actions and face the consequences of his or her behaviour and work to repair the harm caused.

The active participation of the parties involved, the victim, the offender and the community, is essential to the success of restorative justice, as it encourages dialogue and open communication between the parties, which contributes to joint decision-making and the search for mutually acceptable solutions.

It focuses on repairing the harm caused, including material compensation, restitution of property, sincere apology and rehabilitation of the offender, i.e. it aims to restore harmony and re-establish the integrity of the affected parties.

It also seeks to prevent recidivism of the offender through accountability and addressing the causes of the offending behaviour. It promotes a proactive approach to addressing the offender's needs and reducing the likelihood of future offending.

The community can play an active role in monitoring and supporting the process, contributing to the offender's reintegration and the well-being of affected parties.

Restorative justice should be applied equitably and without discrimination, all individuals involved should be treated fairly and respectfully, regardless of their ethnicity, gender, sexual orientation, religion or other personal characteristics, all in accordance with the National Law on Alternative Dispute Resolution Mechanisms in Criminal Matters (2014).

Comparison with retributive justice

Restorative justice and retributive justice are two different perspectives on conflict resolution and the administration of justice. Retributive justice is based on the idea that punishment is a proportionate response to a crime, and its main objective is to impose an appropriate punishment on the offender as a form of retribution for the harm caused to society, this approach tends to focus on the culpability of the offender and the application of penalties proportionate to the seriousness of the crime, as Cardenas (2007) points out. "Retributive justice is what exists in criminal justice, and will continue to exist, and is based on giving a wrong for a wrong, that is, repaying the offender with a punishment", p. 204.

As has been said, restorative justice focuses on repairing the harm caused by the crime and restoring the relationships between the parties involved, including the victim, the offender and the community, instead of punishing the offender, restorative justice seeks that the offender takes responsibility for his actions and participates in a process of reconciliation and reparation, Cárdenas (2007) explains, "Restorative justice involves more parties in response to the crime, instead of giving protagonism only to the State and the offender, it also includes victims and communities. "p.204.

Practical implementation

The implementation of restorative justice in particular legal systems involves adopting approaches that prioritise repairing the harm caused by a crime and restoring the relationships between the parties involved, a clear example of how restorative justice has been implemented is in New Zealand, as it is widely recognised as a success story.

In New Zealand, Family Group Conferences are based on the traditional Maori system of conflict resolution, an indigenous ethnic group that is applied primarily in cases involving young people and this approach incorporates Maori cultural and justice values, highlighting the importance of family and community in conflict resolution.

ISSN 2524-2016

The process involves multiple stakeholders, including the offender, the victim, their families and community representatives by holding a meeting or conference where all parties sit together to discuss the offence, its consequences and remedial measures. Community participation in this process is essential as it provides a broader perspective on the impact of the offence on the community as a whole.

Benefits and criticisms

Restorative justice is an approach that has gained recognition for its potential benefits in the criminal justice system, while at the same time it has faced some important criticisms and challenges.

Among the most prominent benefits of restorative justice is its ability to reduce recidivism by focusing on offender accountability and reparation of harm, i.e. it primarily addresses the causes of criminal behaviour and seeks the transformation of offenders into productive members of society, restorative justice gives an active role to victims, allowing them to express their needs, concerns and desires for reparation, Restorative conferences and dialogues can help rebuild trust and the social fabric in crime-affected communities by offering alternatives to prison and traditional courts, restorative justice can contribute to alleviating the overburdening of the criminal justice system and reducing the costs associated with incarceration.

However, there are challenges to Restorative Justice, one of them being its lack of permanent application throughout the criminal justice system as its implementation is limited or non-existent in some states of the Mexican Republic.

There is also the concern that in some cases victims may feel pressured to participate in processes that they do not want or that it may be traumatising to feel close to or be with their offender or perpetrator again, which is why restorative justice may not be suitable for all types of crimes or for situations where there are significant power imbalances between the parties.

All of this can face challenges in ensuring the inclusion of all those involved in the process, which is why calculating or measuring the effectiveness of restorative justice and its impact on reducing recidivism can be a challenge, making it difficult to obtain clear data on its success.

Legal analysis of restorative justice

The implementation of restorative justice in Mexico and in different jurisdictions is supported by a legal framework that varies from state to state or federative entity, we find a limited legal framework that supports the implementation of restorative justice in Mexico, such as The National Law of the Comprehensive System of Criminal Justice for Adolescents (LNSIJPA), establishes the basis for the implementation of restorative justice in cases involving adolescents who commit crimes in which reparation for harm and the active participation of victims in the process is promoted.

Article 21. Restorative Justice

The principle of restorative justice is a response to the conduct that the law defines as a crime, which respects the dignity of each person, builds understanding and promotes social harmony through the restoration of the victim or offended person, the adolescent and the community. This principle can be developed individually for the aforementioned persons and their respective environments and, as far as possible, among themselves, in order to repair the damage, understand the origin of the conflict, its causes and consequences.

Currently, in Mexico, there are mediation centres dedicated to resolving a wide range of disputes, these centres are a part of the courts and therefore provide their services free of charge. Despite this situation, most states lack legislation on Alternative Justice, nor do they have regulations to supervise the functioning of established mediation centres and their services, as the responsibility for enacting an Alternative Justice Law lies with the local congresses.

ISSN 2524-2016

STATE OF THE REPUBLIC	ALTERNATIVE JUSTICE BODY	SERVICES IT PROVIDES	DEPENDENT ON:	OPERATES FROM:
Baja California Sur	Centro de Mediación	Mediation, Civil, Family, Criminal and Community Mediation	Superior Court of Justice of Baja California Sur	19/01/2001
Hermosillo, Sonora	Unidad de Mediación Familiar	Family and Community Mediation	Autonomous University of Sonora	16/03/2000
Michoacán	Centro de Mediación	Fundamentally Mediation in Commercial Matters.	Superior Court of the State of Michoacán	1997
Monterrey	Centros de Mediación	Mediation and Conciliation in Family and Community, Civil and Commercial matters.	Municipalities of San Pedro de la Garza García and Guadalupe	
Querétaro	Centro de Mediación	Mediation in Civil, Criminal and Family matters	Superior Court of Justice of the State of Querétaro	Sep/1999
Quintana Roo	Centros de Asistencia Jurídica, zona norte, zona sur.	Amicable composition, Mediation, Conciliation.	Judicial Branch of the State of Quintana Roo.	1997

Table 1 States and forms where Restorative Justice is provided
Source: Parliamentary Gazette Wednesday 24 August 2005 / LIX/2SPR-17-143/6057

International Conventions and Treaties:

Mexico is a signatory to international treaties that promote restorative justice and victims' rights, this legal framework supports restorative justice in Mexico, but even so there are challenges and limitations in its implementation, such as lack of resources and adequate training, as well as resistance to changing traditional judicial practices.

United Nations General Assembly resolution 56/261 of 31 January 2002, entitled "Basic principles for the implementation of restorative justice programmes in criminal matters", sets out the restorative justice measures to be adopted to fulfil the commitments made in paragraph 28 of the same declaration, which states that: It can be used at any stage of the criminal justice system, subject to national legislation. It requires sufficient evidence to charge the offender and the voluntary consent of the victim and the offender. The victim and offender must agree on the central facts of the case. Cultural and power differences between the parties must be taken into account. The safety of the parties is a primary concern. When restorative processes are not appropriate, the case is referred to the criminal justice system, with emphasis on offender accountability and support for the reintegration of the victim and offender into the community.

It also mentions its functioning as follows: Member States should consider establishing regulations for restorative justice programmes, including conditions for referral, case management, qualification and training of facilitators, programme administration and operating standards, procedural safeguards that ensure fairness to victims and offenders, such as the right to legal counsel, full information about the process and non-coercion to participate and conversations in restorative processes are confidential, unless the parties agree otherwise or the law so provides. The results of agreements in restorative justice programmes can be judicially supervised and have the same value as judicial decisions, excluding future prosecutions for the same facts, in the event that no agreement is reached between the parties, the case is referred to the ordinary criminal justice system, without the lack of agreement being used in subsequent proceedings. Facilitators must be impartial, respect the dignity of the parties and encourage mutually respectful resolution and must have knowledge of local cultures and, in some cases, receive training before assuming their functions.

Is alternative justice viable or not in Mexico?

However, it is essential to understand that restorative justice does not seek to eliminate legal sanctions, but to focus on the reparation of harm and the responsibility of the offender since traditional sanctions are still applicable in serious cases. Another point of concern is the possible lack of protection of victims, especially in violent crimes, however, restorative justice should be implemented with a focus on the safety and well-being of the victims.

The inequality of power in restorative justice conversations is a valid argument. Because there is the potential for offenders with more resources or communication skills to benefit to the detriment of victims, facilitators should balance power and foster equality in conversations and should ensure fair treatment for all parties.

ISSN 2524-2016

Successful implementation of restorative justice requires adequate resources and training, which may be a challenge in Mexico due to budgetary and staffing constraints, although it can be challenging, investment in restorative justice can pay off in the long run, reducing recidivism and improving relationships between people.

Conclusion

Restorative justice emerges as a transformative and hopeful approach to the criminal justice system in Mexico and around the world, although this effort has been valuable, challenges remain related to a limited legal framework to support restorative justice throughout the country.

In stark contrast to retributive justice, restorative justice stands out for its emphasis on reparation of harm to victims and reconciliation between the parties involved, rather than the simple imposition of punishment.

United Nations General Assembly resolution 56/261 provides valuable guidance for the implementation of restorative justice programmes in criminal matters. These basic principles emphasise the feasibility of restorative justice at any stage of the criminal justice system, subject to national legislation, and stress the importance of sufficient evidence as well as the voluntary consent of the victim and the offender.

However, in assessing the feasibility of restorative justice in Mexico, it is crucial to address legitimate concerns that offenders may fear avoiding legal consequences, but it is important to remember that restorative justice does not seek to eliminate legal sanctions, but to complement them, focusing on reparation of harm and accountability of the offender, noting that traditional sanctions are still applicable in serious cases.

The lack of victim protection, especially in violent crime, is also a valid concern, however, restorative justice must be carried out with a focus on the safety and well-being of victims, ensuring adequate precautions and support, and it is paramount that restorative justice facilitators have and fulfil the responsibility to balance power and promote equality in conversations, ensuring fair treatment for all parties involved.

References

Cabello P, Gorjón F, Gorjón Gómez, J, Sáenz C, Sánchez A, Steele G, y Zaragoza J. Comentarios a la Ley Nacional de Mecanismos Alternativos de Solución de Controversias en materia Penal de 29 de diciembre de 2014.

De la Fuente, V. (2012), ¿Qué es la Justicia Restaurativa? Criminología y Justicia, (4), 6-11. Del Consejo Económico, D. Social de las Naciones Unidas, número 12/2002.“Principios básicos para la aplicación de programas de justicia restitutiva en materia penal”. Preámbulo”.

Diario Oficial de la Federación, 18, junio, 2008. http://www.dof.gob.mx/nota_detalle.php?codigo=5046978&fecha=18/06/2008

Gaceta Parlamentaria Miércoles 24 de agosto de 2005 / LIX/2SPR-17-143/6057 https://www.senado.gob.mx/65/gaceta_del_senado/documento/6057#:~:text=Actualmente%20se%20encuentra%20en%20v%C3%ADas,%2C%20Puebla%2C%20Chiapas%20y%20Oaxaca.

Márquez Á. (2007). La justicia restaurativa versus la justicia retributiva en el contexto del sistema procesal de tendencia acusatoria. Prolegómenos. Derechos y Valores , X (20), 201-212.

Merino Ortiz, C., & Romera Antón, C. (1998). Conferencias de grupos familiares y sentencias circulares: Dos formas ancestrales de resolución de conflictos dentro del paradigma restaurativo. P.287,288 y 289.

ISSN 2524-2016

[Title in Times New Roman and Bold No. 14 in English and Spanish]

Surname (IN UPPERCASE), Name 1st Author†*, Surname (IN UPPERCASE), Name 1st Coauthor, Surname (IN UPPERCASE), Name 2nd Coauthor and Surname (IN UPPERCASE), Name 3rd Coauthor

Institutional Affiliation of Author including Dependency (No.10 Times New Roman and Italic)

International Identification of Science - Technology and Innovation

ID 1st Author: (ORC ID - Researcher ID Thomson, arXiv Author ID - PubMed Author ID - Open ID) and CVU 1st author: (Scholar-PNPC or SNI-CONAHCYT) (No.10 Times New Roman)

ID 1st Coauthor: (ORC ID - Researcher ID Thomson, arXiv Author ID - PubMed Author ID - Open ID) and CVU 1st coauthor: (Scholar or SNI) (No.10 Times New Roman)

ID 2nd Coauthor: (ORC ID - Researcher ID Thomson, arXiv Author ID - PubMed Author ID - Open ID) and CVU 2nd coauthor: (Scholar or SNI) (No.10 Times New Roman)

ID 3rd Coauthor: (ORC ID - Researcher ID Thomson, arXiv Author ID - PubMed Author ID - Open ID) and CVU 3rd coauthor: (Scholar or SNI) (No.10 Times New Roman)

(Report Submission Date: Month, Day, and Year); Accepted (Insert date of Acceptance: Use Only RINOE)

Abstract (In English, 150-200 words)

Objectives
Methodology
Contribution

Keywords (In English)

Indicate 3 keywords in Times New Roman and Bold No. 10

Abstract (In Spanish, 150-200 words)

Objectives
Methodology
Contribution

Keywords (In Spanish)

Indicate 3 keywords in Times New Roman and Bold No. 10

Citation: Surname (IN UPPERCASE), Name 1st Author, Surname (IN UPPERCASE), Name 1st Coauthor, Surname (IN UPPERCASE), Name 2nd Coauthor and Surname (IN UPPERCASE), Name 3rd Coauthor. Paper Title. Journal-Public Economy. Year 1-1: 1-11 [Times New Roman No.10]

* Correspondence to Author (example@example.org)
† Researcher contributing as first author.

Introduction

Text in Times New Roman No.12, single space.

General explanation of the subject and explain why it is important.

What is your added value with respect to other techniques?

Clearly focus each of its features

Clearly explain the problem to be solved and the central hypothesis.

Explanation of sections Article.

Development of headings and subheadings of the article with subsequent numbers

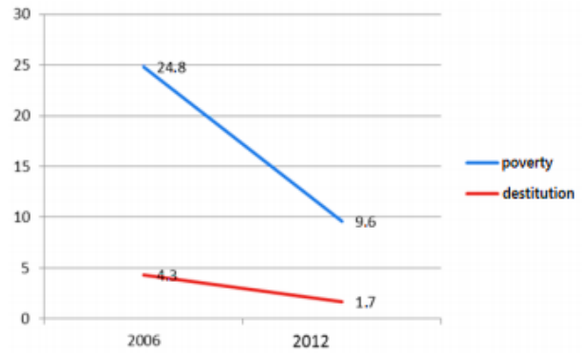
[Title No.12 in Times New Roman, single spaced and Bold]

Products in development No.12 Times New Roman, single spaced.

Including graphs, figures and tables-Editable

In the article content any graphic, table and figure should be editable formats that can change size, type and number of letter, for the purposes of edition, these must be high quality, not pixelated and should be noticeable even reducing image scale.

[Indicating the title at the bottom with No.10 and Times New Roman Bold]



Graphic 1 Title and Source (in italics).

Should not be images-everything must be editable.

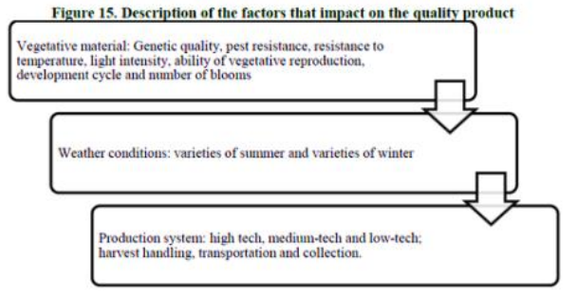


Figure 1 Title and Source (in italics).

Should not be images-everything must be editable.

	Cluster		Error		F	Sig.
	Mean square	df	Mean square	df		
SOLVENCY	77.287	4	.426	532	181.247	.000
LIQUIDITY	77.182	4	.427	532	180.669	.000
SIZE	62.602	4	.537	532	116.616	.000
PROFITABILITY	68.655	4	.491	532	139.738	.000

Table 1 Title and Source (in italics**).**

Should not be images-everything must be editable.

Each article shall present separately in **3 folders**: a) Figures, b) Charts and c) Tables in .JPG format, indicating the number and sequential Bold Title.

For the use of equations, noted as follows:

$$Y_{ij} = \alpha + \sum_{h=1}^{r} \beta_h X_{hij} + u_j + e_{ij} \qquad (1)$$

They must be editable and number aligned on the right side.

Methodology

Develop give the meaning of the variables in linear writing and important is the comparison of the used criteria.

Results

The results shall be by section of the article.

Annexes

Tables and adequate sources

Thanks

Indicate if they were financed by any institution, University or company.

ISSN 2524-2016

Conclusions

Explain clearly the results and possibilities of improvement.

References

Use APA system. Should not be numbered, nor with bullets, however if necessary numbering will be because reference or mention is made somewhere in the Article.

Use Roman Alphabet, all references you have used must be in the Roman Alphabet, even if you have quoted an Article, book in any of the official languages of the United Nations (English, French, German, Chinese, Russian, Portuguese, Italian, Spanish, Arabic), you must write the reference in Roman script and not in any of the official languages.

Technical Specifications

Each Article must submit your dates into a Word document (.docx):

Journal Name
Article title
Abstract
Keywords
Article sections, for example:

1. Introduction
2. Description of the method
3. Analysis from the regression demand curve
4. Results
5. Thanks
6. Conclusions
7. References

Author Name (s)
Email Correspondence to Author
References

Intellectual Property Requirements for editing:

-Authentic Signature in Color of Originality Format Author and Coauthors

-Authentic Signature in Color of the Acceptance Format of Author and Coauthors

ISSN 2524-2016

Reservation to Editorial Policy

RINOE Journal-Public Economy reserves the right to make editorial changes required to adapt the Articles to the Editorial Policy of the Journal. Once the Article is accepted in its final version, the Journal will send the author the proofs for review. RINOE® will only accept the correction of errata and errors or omissions arising from the editing process of the Journal, reserving in full the copyrights and content dissemination. No deletions, substitutions or additions that alter the formation of the Article will be accepted.

Code of Ethics - Good Practices and Declaration of Solution to Editorial Conflicts

Declaration of Originality and unpublished character of the Article, of Authors, on the obtaining of data and interpretation of results, Acknowledgments, Conflict of interests, Assignment of rights and Distribution.

The RINOE® Management claims to Authors of Articles that its content must be original, unpublished and of Scientific, Technological and Innovation content to be submitted for evaluation.

The Authors signing the Article must be the same that have contributed to its conception, realization and development, as well as obtaining the data, interpreting the results, drafting and reviewing it. The Corresponding Author of the proposed Article will request the form that follows.

Article title:

– The sending of an Article to RINOE Journal-Public Economy emanates the commitment of the author not to submit it simultaneously to the consideration of other series publications for it must complement the Format of Originality for its Article, unless it is rejected by the Arbitration Committee, it may be withdrawn.

– None of the data presented in this article has been plagiarized or invented. The original data are clearly distinguished from those already published. And it is known of the test in PLAGSCAN if a level of plagiarism is detected Positive will not proceed to arbitrate.

– References are cited on which the information contained in the Article is based, as well as theories and data from other previously published Articles.

– The authors sign the Format of Authorization for their Article to be disseminated by means that RINOE® in its Holding Taiwan considers pertinent for disclosure and diffusion of its Article its Rights of Work.

– Consent has been obtained from those who have contributed unpublished data obtained through verbal or written communication, and such communication and Authorship are adequately identified.

– The Author and Co-Authors who sign this work have participated in its planning, design and execution, as well as in the interpretation of the results. They also critically reviewed the paper, approved its final version and agreed with its publication.

– No signature responsible for the work has been omitted and the criteria of Scientific Authorization are satisfied.

– The results of this Article have been interpreted objectively. Any results contrary to the point of view of those who sign are exposed and discussed in the Article.

Copyright and Access

The publication of this Article supposes the transfer of the copyright to RINOE® in its Holding Taiwan for its RINOE Journal-Public Economy, which reserves the right to distribute on the Web the published version of the Article and the making available of the Article in This format supposes for its Authors the fulfilment of what is established in the Law of Science and Technology of the United Mexican States, regarding the obligation to allow access to the results of Scientific Research.

Article Title:

Name and Surnames of the Contact Author and the Coauthors	Signature
1.	
2.	
3.	
4.	

Principles of Ethics and Declaration of Solution to Editorial Conflicts

Editor Responsibilities

The Publisher undertakes to guarantee the confidentiality of the evaluation process, it may not disclose to the Arbitrators the identity of the Authors, nor may it reveal the identity of the Arbitrators at any time.

The Editor assumes the responsibility to properly inform the Author of the stage of the editorial process in which the text is sent, as well as the resolutions of Double-Blind Review.

The Editor should evaluate manuscripts and their intellectual content without distinction of race, gender, sexual orientation, religious beliefs, ethnicity, nationality, or the political philosophy of the Authors.

The Editor and his editing team of RINOE® Holdings will not disclose any information about Articles submitted to anyone other than the corresponding Author.

The Editor should make fair and impartial decisions and ensure a fair Double-Blind Review.

Responsibilities of the Editorial Board

The description of the peer review processes is made known by the Editorial Board in order that the Authors know what the evaluation criteria are and will always be willing to justify any controversy in the evaluation process. In case of Plagiarism Detection to the Article the Committee notifies the Authors for Violation to the Right of Scientific, Technological and Innovation Authorization.

Responsibilities of the Arbitration Committee

The Arbitrators undertake to notify about any unethical conduct by the Authors and to indicate all the information that may be reason to reject the publication of the Articles. In addition, they must undertake to keep confidential information related to the Articles they evaluate.

Any manuscript received for your arbitration must be treated as confidential, should not be displayed or discussed with other experts, except with the permission of the Editor.

The Arbitrators must be conducted objectively, any personal criticism of the Author is inappropriate.

The Arbitrators must express their points of view with clarity and with valid arguments that contribute to the Scientific, Technological and Innovation of the Author.

The Arbitrators should not evaluate manuscripts in which they have conflicts of interest and have been notified to the Editor before submitting the Article for Double-Blind Review.

Responsibilities of the Authors

Authors must guarantee that their articles are the product of their original work and that the data has been obtained ethically.

Authors must ensure that they have not been previously published or that they are not considered in another serial publication.

Authors must strictly follow the rules for the publication of Defined Articles by the Editorial Board.

The authors have requested that the text in all its forms be an unethical editorial behavior and is unacceptable, consequently, any manuscript that incurs in plagiarism is eliminated and not considered for publication.

Authors should cite publications that have been influential in the nature of the Article submitted to arbitration.

Information services

Indexation - Bases and Repositories

Research Gate (Germany)
Google Scholar (Citation indices-Google)
Mendeley ((Bibliographic References Manager)

Publishing Services

Citation and Index Identification H.
Management of Originality Format and Authorization.
Testing Article with PLAGSCAN.
Article Evaluation.
Certificate of Double-Blind Review.
Article Edition.
Web layout.
Indexing and Repository
ArticleTranslation.
Article Publication.
Certificate of Article.
Service Billing.

Editorial Policy and Management

Distrito YongHe, Zhongxin, calle 69. Taipei - Taiwan. Phones: +52 1 55 1260 0355, +52 1 55 6159 2296, +52 1 55 6034 9181; E-mail: contact@rinoe.org www.rinoe.org

RINOE® Journal-Public Economy

Advertising & Sponsorship

(RINOE® - Taiwan), sponsorships@rinoe.org

Site Licences

03-2010-032610094200-01-For printed material, 03-2010-031613323600-01-For Electronic material,03-2010-032610105200-01-For Photographic material,03-2010-032610115700-14-For the facts Compilation,04-2010-031613323600-01-For its Web page,19502-For the Iberoamerican and Caribbean Indexation,20-281 HB9-For its indexation in Latin-American in Social Sciences and Humanities,671-For its indexing in Electronic Scientific Journals Spanish and Latin-America,7045008-For its divulgation and edition in the Ministry of Education and Culture-Spain,25409-For its repository in the Biblioteca Universitaria-Madrid,16258-For its indexing in the Dialnet,20589-For its indexing in the edited Journals in the countries of Iberian-America and the Caribbean, 15048-For the international registration of Congress and Colloquiums. financingprograms@rinoe.org

Management Offices

Distrito YongHe, Zhongxin, calle 69. Taipei - Taiwan.

Journal-Public Economy

2524 2016
ISSN 2524-2016

www.rinoe.org