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ACCESS TO ELECTORAL RIGHTS: PANAMA

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Access to Electoral Rights: Panama

Henio Hoyo and Maria Rubi

1. Introduction

In terms of its political development, Panama is an atypical case in Latin America. First, it was the last Spanish-speaking country to achieve independence, in 1903 – around 80 years later than most of the others. Second, Panama did not get such independence from a European power, but from another Latin American country (Colombia). Third, such independence was achieved by a combination of domestic forces and the intervention of an external power, the United States of America – this intervention was driven by economic and geopolitical interests regarding the construction of a maritime channel across the Panamanian isthmus that would link the Atlantic and Pacific oceans.

The first decades of the Republic were marked by political instability and the overwhelming American control over Panama. Then, after 1940, the influence of the armed forces rose continuously culminating in 1968 in a coup led by General Omar Torrijos. The military kept power until 1989 and, during most of this period, Presidents were directly appointed by them. Presidential elections were held again in 1984, but they were neither free nor fair. In 1989 a new election was won by the democratic opposition, but the military ruler (General Manuel Noriega) refused to recognize defeat and launched a campaign of repression. Paradoxically, the real transition to democracy in Panama was allowed by the US military invasion of Panama later that year that led to the capture of Noriega and his transfer to the US on drug-trafficking charges.

The long military period severely hindered the development of democratic institutions in Panama. However, after 1989 there has been a sustained effort to institutionalise a democratic system based on free and competitive multiparty elections. For instance, a strong and independent electoral authority (the Electoral Tribunal) was set up – even if it had existed on paper since the 1950's (Ricord 1986). So far, it has supervised five presidential elections.

In general terms, the current electoral system and legislation in Panama are in line with other Latin American countries, even if we can also find some particularities. As in the rest of Central America and Mexico, the Constitution of Panama specifies that only Panamanian nationals can have political rights, excluding therefore foreigners from enjoying any political rights (Panamá, 1972: art. 132). Also, Panama has followed trends in Latin America towards the extension of the right to vote to non-resident citizens, which was first exercised in the 2009 presidential elections. Panama has held several referendums on key matters related to the Panama Canal – a signal of the enormous economic, social and political importance of it for the country. For instance, in 2006 a referendum was called regarding the construction of a third set of floodgates (OEA 2008; Ritter 2016).

2. Historical background

During the Spanish colonial period (16th – 19th centuries) Panama was part of the Spanish Viceroyalty of New Granada, which also comprised the current territories of Colombia, Ecuador, Guyana and Venezuela.¹ Most of these territories became independent at the same time in 1819, forming the Republic of “Gran Colombia”. Panama, however, remained under Spanish control until 1821 when it too joined Gran Colombia. This Republic was dissolved ten years later and one of the newly emerging countries was the Republic of New Granada – the direct predecessor of modern Colombia, which included Panama as an administrative unit.

In 1846 a treaty between USA and New Granada recognized Panama as part of the latter in exchange for a concession for the construction of a railway between both coasts by the US, as well as transit privileges for American citizens through the territory. The rationale was the need of a more efficient link between the West and East coasts of the United States at a moment when there was no railway connection between these yet, which made the land trip hazardous, and the maritime route implied a months-long trip around the southern tip of the continent, the Cape Horn in Chile. The Panama railway shortened this trip by allowing both passengers and cargo to disembark on one side of the isthmus, travelling to the other side, and then taking a second ship to their final destination (Cardona 2015: 282-283; Cueva 1997: 47-70).

However, the real geopolitical and economic interest of the US and other world powers was the construction of a waterway in the zone that would link the Atlantic and the Pacific oceans. The first attempt to build such canal, made in 1880's by a French company, was a complete failure. In 1902 the United States acquired the rights for the project. This led to the Herrán-Hay Treaty between the US and Colombia. In exchange for a payment of 10,000,000 US Dollars, plus 250,000 per annum until 1917, the US would acquire territorial, security and administrative control not only of the canal, but also over a strip of land on each side of it ('Canal Zone'). This treaty was signed in August 1903, but the Colombian Senate refused to ratify it, arguing that it violated the territorial sovereignty of Colombia (Cardona 285-286).

In response to the Colombian rejection of the treaty, and instead of negotiating a new one, the US chose to support the already-existing secession movements in Panama. On November 3rd, 1903 Panama declared its independence with American naval support.² Ten days later, the US officially recognized the new Republic and immediately signed a new diplomatic agreement with it: The Hay–Bunau-Varilla Treaty of November 18th, 1903 which, as the former one with Colombia, granted the US the right to control, administrate and operate both the future canal itself and territories on each side of it. What is more, Panama as a whole became an American protectorate (a status that ended in 1939) and the Canal Zone an US unincorporated territory until 1979.

¹ Besides these, the Viceroyalty also comprised territories nowadays located in Brazil, Suriname, and Peru. Venezuela was separated from the Viceroyalty in 1777, still during colonial times, but briefly joined the Republic of Gran Colombia after its independence.

² However, Panama officially celebrates its independence as happening on November 28th 1821, implying that it was achieved directly from Spain, not from Colombia.

Without disregarding the undeniable existence of local forces pushing for secession from Colombia, the Panamanian independence in 1903 was thus a direct consequence of the economic and geo-political interests of external actors. Not surprisingly, besides the US, the new Republic was also quickly recognized by the European powers and then by many Latin American countries as well. Colombia itself recognized the independence of Panama in 1909.

Post- independence Panama had a series of nominally democratic and constitutional regimes that in fact did not meet these criteria. This was due to, first, the concentration of economic and political power in a small elite coupled with deep social fragmentation; second, the increasing military influence in politics; third, the direct influence of the United States in the political and economic life of the whole country even after the protectorate officially ended in 1939 (Gandásegui, 2006; Guevara 2012; Sanchez 2003).

What is more, a military coup in 1968 deposed the recently elected President Arnulfo Arias, bringing to power General Omar Torrijos Herrera, who governed as head of state until his death in a plane accident in 1981. During his regime, a new Constitution was drafted (1972) in which Gen. Torrijos was mentioned by name as “leader of the Revolution” and was granted a number of executive powers, including the ‘coordination’ of the Public Administration; the appointment and removal of all state Ministers, most high-level public servants, and the ranks of the Armed Forces; and also the power to ‘direct the Foreign Relations’ of the country (Alessandria 2000: 137-138; Ricord 1992: 592-594).³ A charismatic leader and skilful negotiator, Torrijos managed to re-negotiate a new treaty for the Panama Canal (Torrijos-Carter Treaty, 1977) through which Panama regained sovereignty over the Canal Zone, even if the US retained strong administrative and operative controls as well as military rights; furthermore, the treaty stated that the Canal itself would be transferred to full Panamanian control on December 31st, 1999.

Following Torrijos’ death in 1981, two brief military regimes ensued before Gen. Manuel Noriega became head of the armed forces and therefore, *de facto* ruler of Panama in August 1983. Noriega was a military engineering graduate, trained in intelligence and counter-intelligence in the US, and had strong links with the CIA. However, he was also heavily involved in drug-trafficking activities – a fact that would seal his fate at the end.

During most of the military rule, political parties were prohibited and elections were limited to local level and for the nominally legislative, mostly symbolic 505-member National Assembly of Community Representatives. Furthermore, there were occasional democratic exercises such as the referendum to approve the Torrijos-Carter treaty, held in October 1977. During the military regime there were several Presidents of the Republic that were elected by the National Assembly (during the 1970’s) or through national elections that were widely recognized as fraudulent (e.g. 1984) (Furlong 1993: 19). However, these Presidents were mostly figureheads with no real power, and were in fact selected or deposed according to the interests of the military leadership.

Internal opposition grew steadily against the regime during the 1980’s despite repression by the military regime (Domínguez 1997). A new call for presidential elections in 1989 led to the victory of one of the opposition candidates, Mr. Manuel Endara, in spite of political coercion and electoral manipulation by the regime. However, General Noriega refused to recognize the results, denouncing American interference in the election in favour of Mr. Endara. Then he ordered *Batallones Dignidad* (a paramilitary force created in the 1980’s) to take control of the streets and physically attack the opposition. On May 11th, both Endara

³ The 1972 Constitution is still in force, but with several modifications.

and the second vice-president-elect (Guillermo Ford) were badly beaten with iron clubs by *Batallones Dignidad*, in plain view of international journalists. Images such as that of Mr. Ford covered in blood turned the international opinion against Noriega and paved the ground for *Operation Just Cause* – the US invasion of Panama on December 20th 1989 to capture Noriega and put him on trial in the US for drug-trafficking charges. Whether intended or not, this invasion finally paved the way for Panama's transition to democracy. Endara was sworn as President on the first day of *Operation Just Cause*, in a US military base within the Canal Zone (NDIIA – NRIIA 1989; Pérez & Seligson 2007: 11).

Since Noriega's fall, Panama has undergone a series of significant political transformations. In 1990 the Armed Forces were transformed into a civil force and in 1994 a constitutional reform formally abolished all standing military forces, even if temporary or special units, such as the Presidential Guards were not dismantled. This makes Panama one of the few countries of the world (and the second in Central America after Costa Rica) without a formal army.

Since 1989, Panama has experienced five general elections (i.e. Presidential, Vice-Presidential, and Legislative Assembly elections) in 1994, 1999, 2004, 2009, and 2014, with levels of participation above 70% (Otero 2088: 283) as well as several local ones and those to elect representatives to the Central American Parliament (*Parlamento Centroamericano*, PARLACEN). In general, such elections have been considered fair even if in 2014 the Electoral Tribunal ordered new elections for seats to the National Assembly in some constituencies due to accusations of unlawful intervention by authorities in the electoral process. The democratic evolution of post-transitional Panama can be explained by the strengthening of electoral institutions, both by law and by virtue of an implicit political agreement. For instance, the Electoral Code is revised thoroughly by a multi-party commission (National Commission of Electoral Reforms) right after each presidential election (Otero 2008: 281). Popular confidence in the Electoral Tribunal is high; in fact, it is still well above the average in Latin America despite important variations in time, e.g. from 66.1% (2004) to 49.0% (2006), to 62.7% (2010) (Barreda & Ruiz 2013; see also Pérez 2013: 61; Pérez & Seligson 2007: 10; Sobrado 2008: 6-8).

Furthermore, political rights for citizens have been extended. Voting rights for citizens overseas were introduced for the 2009 General Elections (Tribunal Electoral Panamá 2007). However, the participation of non-resident citizens has been extremely limited. In 2009, only 1,706 of these non-residents registered to vote (most of them in the United States) and only 530 votes were cast, which amounts to 0.03% of the electorate (INE 2016:18). For the 2014 elections, electronic voting through the internet was introduced as an alternative to the standard postal vote. While 5,407 non-resident citizens were registered to vote in such elections, only 949 (17.55%) actually cast a vote using either method (Cerrud 2014).

3. Eligibility: who has electoral rights under national law?

The Constitution of the Republic of Panama states that voting is both a right and a duty of every Panamanian citizen (Panamá 1972: art. 135). However, the only sanction for not voting is the exclusion from the Electoral Registry and therefore the loss of political rights for those citizens who did not vote in three consecutive elections. In any case, they can apply for re-inscription in the local offices of the Electoral Tribunal (Panamá, 2013: art. 20).

As in the rest of Latin America, in Panama there is a conceptual and legal differentiation between *nacionalidad* ('nationality') and *ciudadanía* (citizenship). *Nacionalidad* denotes a juridical link between a given Nation-State and the individual, thus corresponding to the Western concept of 'citizenship'. By contrast, *ciudadanía* refers to a set of rights and duties (mostly, but not exclusively political ones) that the nationals of a given state enjoy after reaching the age of majority and sometimes by complying also with certain conditions such as not being subjected to judiciary processes – even if this varies from country to country. Therefore, *ciudadanía* is a sub-set of *nacionalidad*, and largely (but not exclusively) corresponds to enfranchisement.

Panamanian nationality is acquired by universal *ius soli*; qualified *ius sanguinis*; or naturalization (see Rodríguez 2016). For *ciudadanía* no condition other than age (18) is mentioned in the Constitution (Panamá 1972, art. 135) – we can therefore consider it as enfranchisement; it is a condition for voting, being elected, or holding any public office (Panamá 1972, arts. 131-132). *Ciudadanía* can be suspended in some cases. Following other countries in Latin America, Panama has adopted a regime of 'permanent nationality' – namely that citizenship-by-birth cannot be legally renounced or lost. However, in the Panamanian case, the declaration of renunciation; the adoption of a second nationality 'to which the person had no birthright'; or being in the service of an 'enemy state', will lead to loss of *ciudadanía* – that is, disenfranchisement. A further case is the suspension or loss of the franchise by judiciary mandate (Panamá 1972, art. 13, 133; 2013, art. 9; Rodríguez 2016: 11-12).

3.1. Citizen residents

The Electoral Code states that all citizens must be listed in the Electoral Registry in order to vote for President, Vice President, members of the National Assembly, Mayors, Township Representatives (*representantes de corregimiento*) and Township Councillors (*concejales de corregimiento*),⁴ but can only vote in the polling stations of the township where they are registered as residents (Panamá 2013, art. 6). The Electoral Code (arts. 380-382) also specifies that citizens will vote for the 20 representatives from Panama in the Central American Parliament (PARLACEN) in elections that should be held simultaneously with those for President and Vice-President.

The Code also mentions, even if in a less specific way, the right of citizens to vote at special occasions such as in referendums and plebiscites (Panama 2013, arts. 358-360); in mandate revocation votes (applicable only to representatives to the National Assembly, and to municipality / township authorities; arts. 361-376-A and 239 of the Constitution) and for representatives in a Parallel Constitutional Assembly (arts. 377-379) but only when the Constitution provides for it. The Constitution mentions just some causes where referendum or plebiscite are applicable, sometimes vaguely such as regarding mandate revocation of National Assembly representatives (Panamá 1972, art 151, last paragraph), and in three more

⁴ In political-administrative terms, Panama is divided into ten Provinces and three indigenous regions (*comarcas indígenas*). Each comprise certain number of municipalities, and in turn, these include *corregimientos* (townships).

Authorities of municipalities (mayors, vice-mayors, etc.) as well as of *corregimientos* (representatives, councillors) are elected. However, provincial authorities (governors) are appointed by the President and those of the indigenous regions are elected through special systems of indigenous self-government.

precise articles (313, 314, 325) on provisions for Constitutional reforms; the election of the Parallel Constitutional Assembly, in charge of drafting a new Constitution; and on matters related to the Panama Canal, respectively.

The right to run as candidates or to be appointed to political posts is reserved to Panamanians by birth, as long as they have not adopted a different nationality – since this implies disenfranchisement, as mentioned above. If the person is a naturalised citizen, then s/he might be barred from certain posts, such as President, Vice-President, or member of the Supreme Court of Justice (Panamá 1972: arts 153, 204; 2013: art. 226); or s/he might be subjected to special provisions, such as 15 years of residence in the country after naturalisation (for candidates to the National Assembly) or 10 years for municipality and township authorities (Panamá 1972: arts. 179, 226; 2013: art. 227).

Before transition to democracy, the electoral laws stated that candidates running for President and Vice-President had to be nominated by a legally recognized political party. In other words, independent candidates could run for executive posts at the local level only (see e.g. Ricord 1986: 334). In 2009 the Supreme Court of Justice ruled that art. 233 of the Electoral Code, which stated such limitation, was unconstitutional and in 2012 a law was passed to formally allow independent candidates to run for these posts. However, a maximum of three independent candidates can compete for executive posts in both national and local elections (Panama 2013, arts. 234, 246-A, 261). In other words, nowadays independents can run in all types of executive and legislative elections in Panama, even if subjected to special requirements such as collecting signatures in support of their candidacy equivalent to 2% (for presidential elections) or 4% (for elections to local executives and the National Assembly) of the votes cast in the last election for the respective post (Panama 2013, arts. 246-A, 251, 260).

3.2. Non-resident citizens

Since 1983, Panama has (nominally) permitted its citizens living abroad to vote in all elections – but only if they were listed in the Electoral Registry, returned to the country, and cast their vote in the polling station corresponding to their last residence in Panama. In other words, there were no effective absentee voting rights.

In 2006 a reform was introduced in the Electoral Code, in order to set up an Electoral Registry of Residents Abroad (*Registro de Electores Residentes en el Exterior*. RERE). The citizens registered in RERE can vote in the election of President and Vice-president only (Panama 2003, art. 6) as long as none of the exclusions listed in the Code for all citizens apply to them; for emigrants the most important among these is of course the condition of not having adopted another nationality (Panama 1972, art. 13; 2003, art. 9).

To enable non-resident enfranchisement postal voting was first used for the General Elections of 2009. However, the participation from overseas was extremely reduced, as only 1,706 non-residents registered to vote (most of them in the United States) and only 530 votes were eventually cast, accounting for 0.03% of the electorate (Tribunal Electoral 2009:104). This was probably caused by the complex system devised for inscription in RERE, as it demanded either registering in Panama itself, or filling in, printing and signing an online form and then authenticating the signature with a Panamanian consul or with a local notary and then sending it with further ID copies via mail to Panama (Tribunal Electoral Panama 2007, art 7).

This registration procedure was greatly simplified for the 2014 elections, with an interview via skype replacing the signature authentication (Tribunal Electoral Panama 2012). Also, a new voting method (via internet) was introduced as an alternative to the standard postal vote. In spite of this, participation was once again very low: only 949 votes were cast (Cerrud 2014).

There is an interesting legal lacuna regarding candidacy rights: neither the Constitution nor the Electoral Code contain any provisions regarding a minimum residence period for the election of President or Vice-President. Non-resident citizen can therefore qualify for these posts, as long as they are Panamanian by birth, their political rights have not been suspended, and they are at least 35 years old. The same seems to apply to the appointment of cabinet ministers (Panamá 1972, arts. 179, 196). Paradoxically, other posts, such as member of the National Assembly, Mayor, Township Councillor, or Township Representative, require a minimum residence of one year for candidates representing a political party (Panama 1972: art. 153 and 226; 2013: art. 256). However, the same registration period is not explicitly required in the case of independent candidates.⁵

3.3. Foreign residents

Immigration to Panama is rather low compared with European or North American cases, but it is certainly increasing. Between 1960 and 1980 the foreign-born population actually decreased from 68,320 to 47,894 but an upward trend emerged thereafter. In 2000, there were 83,410 immigrants in Panama, and in 2010 their numbers had almost doubled to 157,309. It is estimated that in 2015 there were 184,710 foreigners living in Panama. In any case, this is still a small number: just 4.6% of the total population of 3,975,404 (INEC 2017: 48; United Nations Population Division 2016; World Bank 2016).⁶

The increase of foreigners in Panama in the latest decades can be explained not only by the arrival of foreigners *per se*, but also by the launch in 2010 of the programme *Crisol de Razas*, which aimed at the regularisation of foreigners who were either living in Panama without proper migration documents or who had over-extended their stay. By means of this programme, 57,652 foreigners coming mostly from Colombia, Nicaragua, Dominican Republic and Venezuela were regularized between 2010 and 2014 (Servicio Nacional de Migración Panamá 2016).

Despite their increasing presence in Panama, and the fact that art. 20 of the Constitution recognises the equality before the law of foreigners and Panamanians, foreign residents are still deprived of all political rights. Article 132 of the Constitution states that such rights are reserved to *ciudadanos* only – that is, to Panamanians of legal age. Also, beyond the legal realm, there is a socio-cultural element: even the simple suspicion or rumour that foreigners are getting involved in Panamanian politics leads to strong social condemnation. In the last years, there have been reports of a rise in anti-immigrant attitudes

⁵ In principle, this could mean that non-resident citizens are allowed to run for such posts.

⁶ INEC also provides migration figures but based on “entry of passengers to the Republic” (*entrada de pasajeros a la República*) and dividing these between visitors (tourists) and residents, the latter including Panamanian nationals and foreigners – 280,273 in 2014 and 106,668 in 2015 (INEC 2017: 78). However, such figures seemingly refer to border control statistics, and it is not totally clear (a) whether they include foreigners already in the country, and (b) whether they count multiple entries by the same person as one or not. To avoid confusion, we have used international statistics on migration.

(e.g. Arcia 2015, Cejas 2014). It is therefore unlikely that there will be a change in the legislation regarding the rights of foreign residents in Panama in the short term.

4. Exercising electoral rights

According to article 1 of the Electoral Code (Panama 2013), every citizen has a duty to register in the Electoral Registry and to obtain an identity card, which is also issued by the Electoral Tribunal. In principle, all citizens of Panama are entitled to vote, unless one of the provisions for the suspension of political rights mentioned above applies to them. These are: being subjected to judiciary procedures or sentences that imply disenfranchisement; acquiring a foreign citizenship ‘which they were not entitled to by birth’; explicitly renouncing the Panamanian citizenship; being at the service of an enemy state, or not voting in the past three elections (Panamá, 2013, arts. 9 and 20).

Generally speaking, the procedures for voting for both national and local authorities (as well as for representatives to PARLACEN) are well-defined and standardized, as are the means and procedures for contesting elections. However, the processes that should be followed for other democratic exercises, such as referendums, plebiscites, recall votes and elections to a Constitutional Assembly, are less clear, and left to specific regulations that will be published by the Electoral Tribunal on an *ad hoc* basis (Panamá 2013: arts. 360 and others).

4.1. Registration Procedures: Becoming a voter

Resident citizens: As explained above, in order to exercise their political rights citizens must be included in the Electoral Register. For that they must register at the offices of the Electoral Tribunal at their normal place of residence within Panama. They also must notify the Electoral Tribunal of any change of residence that involves moving from one *corregimiento* to another (Panama 2013, arts. 6, 10, 11). If the citizen fails to do this, s/he might still be able to vote, but only at the former address (art. 22). In other words, voting in polling stations outside the registered place of residence, but within the country itself, seems impossible even for elections of non-local authorities, such as President and Vice-President. This seems paradoxical, given the fact that citizens residing overseas can vote for these same authorities if they happen to be in Panama on election day, because there are special polling stations set up for them (see below).

Non-resident citizens: In order to vote, Panamanian citizens living abroad need to comply with the standard requisites – obviously apart from those of registration and residence in the country. They must have an official voter ID and enrol at the RERE. Such enrolment (as well as registering address changes) can be done either via internet or personally in the offices of the Electoral Tribunal (Tribunal Electoral Panama 2007, arts. 5-10; 2012).

In the first case, the person should go to the Electoral Tribunal website (www.tribunal-electoral.gob.pa) and fill in a registration form. Thereafter, s/he should schedule an interview via skype with an officer of the Electoral Tribunal. Citizens should have their voter ID at hand for the interview. After that, they are registered (or their address is changed) and they can vote

(Tribunal Electoral Panama 2012). Offline registration is similar, but done in person at the offices of the Electoral Tribunal in Panama.

4.2. Registration Procedure: Becoming a candidate

According to the Electoral Code (Panama 2013), all Panamanian citizens have the right to run for any electoral office, provided their political rights are not suspended and that they comply with the specific requirements for the position.⁷ Furthermore, they cannot be elected to any executive or legislative offices at any level if, up to six months before the election, they worked as Ministers, Deputy Ministers, General Secretaries, Under-secretaries, Directors, Under-directors and some other high-ranking offices of the executive and judiciary branches; or were Provincial Governors, Ombudsman, or members of the Civil Force, among other offices (art. 27). In other words, these persons must quit their present posts before the elections if they want to compete in them.

Other conditions and procedures regarding specific offices include the following:

President and Vice President: as noted above, the Constitution (art. 179) only mentions two specific conditions: being a Panamanian citizen by birth (therefore excluding naturalised citizens), and being at least thirty-five years old. The Electoral Code (2013) adds to this the provision that aspiring candidates should not have been sentenced for a crime that implied five years or more of incarceration (art. 226).

Candidate to these offices can run either via a political party, or as independents. The first case is quite straightforward, as the political party (or coalition) will register its candidate by name at the office of the Electoral Tribunal (Panama 2013, arts. 244 to 246). The second is much more demanding, as the candidate must collect signatures of support in two rounds: a preliminary one, as a kind of ‘qualifying sample’ for the Tribunal; and a second and definitive round that must document support for the independent equivalent to at least 2% of the number of valid votes cast for the same office in the last election. A maximum of three independent candidates can be registered in this way; if there were more, the three with most signatures will be allowed to compete (arts. 246-A to 246-G).

Member of the National Assembly: The Constitution (art. 153) mentions as specific conditions being a Panamanian citizen by birth, or by naturalisation with fifteen years of residence in Panama; being at least twenty-one years old on election day; not having been convicted for a crime that carries a sentence of five years or more of incarceration; and being a resident of the corresponding electoral district for at least one year before running for the office.

The Electoral Code does not add further requirements for these offices. The conditions for party candidates to the National Assembly are essentially the same as for President and Vice-President; but for independents they are more stringent: for instance, the threshold of signatures supporting a candidacy is set at 4% of the number of valid votes cast for the same

⁷ There seems to be an oversight in the reform of the Electoral Code (Panama 2013). Art. 233, which restricted elections for President and Vice-President to candidates presented by political parties, was declared unconstitutional by the Supreme Court in 2009. In 2012 a number of articles were reformed to legalize independent candidates for these offices. However, art. 3 of the same Code, which enumerates the positions for which independent candidates can run, was left unchanged and it does not include President and Vice-president.

office in the last election, with the further complication that such supporters cannot be members of any political party (Panama 2013, art. 251).

Mayors, Township Representatives, and Township Councillors: According to art. 226 of the Constitution, Township Representatives should (1) be Panamanian citizens by birth, or by naturalisation for at least ten years before the election date; (2) be at least eighteen years old on election day; (3) have no previous conviction for a crime that carries a sentence of five years or more of incarceration; and (4) be a resident of the respective township for at least one year before the election. The Electoral Code extends the same conditions to Mayors and Township Councillors, except for age, which is not specified (Panama 2013: 227). The procedures are essentially the same as for candidates to the National Assembly (including the 4% threshold) and the condition that supporters should not be members of a political party also applies in this case (Panama, 2013: arts. 256-264)

4.3. Casting the vote

Resident citizens: For this group, the procedure is quite straightforward. On election day, citizens should go to their assigned polling station. In the case of General Elections, they will receive ballots for President or Vice-President as well as for the 71-seat National Assembly. For the legislative branch Panama uses a mixed system, combining 26 single-member districts for which a plurality electoral system is used, as well as further 13 multi-member districts for which the open list system is used. This allows the citizens to vote either for the list as printed, or to vote for specific candidates within that list (Otero 2008; Valdés 2013). If further elections are held concurrently (e.g. PARLACEN representatives; Mayors; Township Representatives or Councillors), then the voter will receive the corresponding ballots as well. It is important to note that since 2007, Panama allowed the vote in hospitals, nursing homes, and prisons – in the latter for persons subjected to preventive detention only.

The secrecy of the vote is assured by means of small cabins. After closing, each polling station counts the votes and records the results in an official report, which is then sent to the electoral authorities to be added to the nation-wide calculation. Then, as a standard procedure, the ballots must be burned in each polling station right after the calculation (Panamá 2013: art. 312). It has been argued that this is counterproductive, as it does not allow recounts if the official report contains errors or conflicting information (Valdés 2013: 237).

Non-resident citizens: There are three options for non-resident citizens to cast a vote – after registering at the RERE, as explained above.⁸ The first option is on site: if the citizen is in Panama on election day, s/he can cast votes for President and Vice-President in a special ballot box at the Electoral Tribunal offices. The second option is via internet, through a dedicated webpage where voters first log in with their credentials and then are provided with a virtual ballot. The third option is through standard mail: the person also registers on the internet but, instead of voting immediately, she/he downloads and prints a paper ballot that is marked in the same way as a standard paper ballot and then sent through mail. Even if non-

⁸ However, if the citizen lives abroad, is not registered in RERE and is physically in Panama on election day, then she/he can vote in the polling station corresponding to her or his last address in the country just as a normal resident citizen.

resident participation in elections has been very limited so far (as explained above) among voters there is a clear preference for the internet option (Ramea 2014).

5. Conclusions

Panama is an atypical case of democratisation in Latin America. On the one hand, its late independence, as well as the long-standing influence of the US (either in formal or informal ways) in its political, social and economic affairs and the decades of tight military rule have left the country with less democratic experience compared to the rest of the region. However, since its transition to democracy in 1989, Panama has managed to create solid democratic institutions that, so far, have been successful in overseeing elections both at the local and at the national level. Panama has also been very active in expanding the political and civil rights of its citizens both at home (e.g. voting stations in hospitals and jails) and abroad – even if in the latter case the results have been not as expected. Currently, the public and political debates regarding new electoral reforms are centred on assuring gender parity in elections and granting effective access to political rights to marginalized groups such as indigenous communities.

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