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ACCESS TO ELECTORAL RIGHTS *HONDURAS*

Martha Lorena Suazo

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Access to Electoral Rights¹

Honduras

Martha Lorena Suazo

1. Introduction

The aim of this work is to scrutinise the electoral rights of Honduran citizens who reside both in the country and abroad. For this, a brief review of the evolution of electoral laws is needed.

During the process of transition to democracy, the Electoral and Organisations Law of 1977 was enacted with the single purpose of governing elections for representatives to the National Constituent Assembly.

The Law's provisions contained principles, mechanisms and procedures such as the principles of popular sovereignty, universal suffrage, direct and secret vote (except for the blind or people with disabilities in both hands, who vote publicly), proportional representation and recognition of two forms of electoral participation – via political parties or as an independent candidate.

The 1977 Law put an emphasis on political parties' internal democracy mechanisms, recognising, legalising and stimulating the participation of the various internal factions inside each one. Moreover, it encouraged the registration of new parties by cutting down on registration requirements, in particular the minimum amount of members, which fell from 15,000 under the previous electoral law to 10,000. In addition, the Law opened the electoral process to independent candidates for the first time, with registration requirements that are indeed possible to meet.²

Later, at a second stage, the Electoral and Political Organisations Law of 2004 introduced changes in four different areas of the electoral system: the mechanism of election of representatives; the duration of electoral campaigns; party alliances; and control of the political parties' financing.

¹ The 'Report on access to electoral rights: Honduras' was originally published in Spanish and subsequently translated by Ms. Mariana Mendes. The original report 'Acceso a los derechos electorales: Honduras', first published in July 2015, can be consulted online at:

http://cadmus.eui.eu/bitstream/handle/1814/36500/EUDO_CIT_ER_2015_11_Honduras.pdf?sequence=1

² Romero, Ramón, *Legislación Electoral en Tres Décadas de Transición Política en Honduras*, 2012.

As far as the changes in the election of representatives are concerned, the most important one was the incorporation of the open list proportional representation system, popularly known as ‘cross vote’ (*voto cruzado*), which replaced the closed and blocked list system, in which voters cast a single vote for the pre-defined list of representatives of a political party. With regard to the provisions of the new Law on electoral alliances, they were meant to replace traditional coalitions with a more dynamic and transparent system. As for the control of political financing, the Law forbids parties and their candidates from receiving funds from state-licensed companies as well as companies that undertake illicit transactions, in addition to prohibiting contributions from managers and business partners. It also outlaws anonymous sources of financing.

However, various reforms established by this Law were never put in place after their approval, including: (1) the prohibition of the National Congress’ president to run as a presidential candidate in the period after being elected and (2) the shortening of the electoral campaigns’ period, which continue to be held during the two years prior to elections, with all the harmful consequences that carries.

According to Paz Aguilar, ‘a fundamental characteristic of the new law is that it can only be reformed or repealed by a qualified majority of two thirds of the total number of National Congress members (art. 51 of the Constitution)’.³

In short, ‘the main feature of the new Electoral Law of 2004 is the fact that it deals with political parties’ alliances together with the participation of civil society, which was only intermittently achieved through the coalition Civic Movement for Democracy. The law “appears as a contradictory mix of progress and stagnation, of democratic evolution and backwardness... and shows the fissures and inevitable contradictions that derive from an arduous and prolonged process of political coordination”.⁴ With regard to the control of political parties’ financing and their campaigns, Aguilar stresses that they should be permanently monitored given the danger represented by the infiltration of funds coming from drug trafficking and organized crime.⁵

It is important to note that Honduras was the first Central American country to end military rule (with the exception of Costa Rica⁶) and began the process of transition to democracy at the end of the 1970s/ beginning of the 1980s. The main tasks at this stage were: the drafting of the Electoral Law, the setup of the National Constituent Assembly and the enactment of the Republic’s Constitution, which maintained a presidential form of government that dated back to the 1821 independence from Spain. The functioning of institutions associated with democratic governance was also revived, as it is the case of the National Congress of the Republic and the National Electoral Court.

In this context, the most important achievements when it comes to electoral legislation is the establishment of internal elections inside political parties, the principle of proportional representation in these elections, the softening of the requirements for the registration of new political parties, the recognition of the right of independent candidates to run, the establishment of ‘residential voting’, the right to vote abroad and the improvement of the voter registration process.

³ Paz Aguilar E., *Reforma Política Electoral*, 2008, <http://pdba.georgetown.edu/Parties/Honduras/Leyes/ReformaElectoral.pdf>.

⁴ Ibid, and quoting Meza, Víctor, *Democracia, legislación electoral y sistema político en Honduras*, Tegucigalpa, CEDOH-Edigraphic, 2004, p. 3.

⁵ Ibid.

⁶ Costa Rica started its democratisation process in 1940.

2. The advent of electoral rights

Honduras has experienced a permanent state of political instability since its inception as an independent state, including 300 internal rebellions, civil wars and frequent changes in government. Most of these took place during the twentieth century, with a strong presence of military governments (1963-1980) following successive *coups d'état*.

In 1980 the country initiated a process of political transition towards democracy with the election of representatives to the National Constituent Assembly, which had the responsibility to nominate General Policarpo Paz García as provisional president. Under his mandate, general elections were called for 27 November 1981, in which the first civil president of the transition would be elected together with representatives and mayors.⁷

The current legislation does not establish any restrictions in terms of civil status, sex, wealth or education in order for citizens' rights to be exercised. However, before the 1957 Constitution only Honduran males over the age of 21 were recognised as citizens, together with Honduran males over eighteen years of age who were either married or literate.⁸

Political rights were granted to women in 1955 by means of Presidential Decree No. 29 of 1955, previously approved by the government of Julio Lozano Díaz through the ratification of Legislative Decree No. 30 of 25 January 1954. Women participated in elections for the first time in 1957. The formalisation of the right to vote was, however, not sufficient for women to stand for elections and take office. Social, economic, political and cultural factors placed women in an unequal position, combining to exclude them from the full enjoyment of their citizenship rights.

Changes in this regard required hard work from national and international instances, among them the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in which the signatories⁹ committed to hasten the necessary measures to promote *de facto* equality between men and women.

3. Eligibility to vote

Citizens' eligibility to run for offices elected by popular vote is determined by the Republic's Constitution, the Electoral and Political Organisations Law and its Regulations, the Civil Code and other related laws.

Chapter II of the Electoral Law deals with equal political opportunities, establishing in art. 103 that the State guarantees a participatory democracy and the full exercise of citizenship rights both to men and women, based on equal opportunities. Art. 104 of the same law sets out that the State, via the Supreme Electoral Court, shall ensure that there is no gender-based discrimination in governmental bodies, political party structures and in the selection of candidatures for publicly elected posts. With this aim in mind, political parties internally approved, with the participation of women, a policy of gender equality whose compliance is monitored by the Supreme Electoral Court.

⁷ Suazo Matute, Martha, Población Electoral, en *Tres Décadas de Transición Política en Honduras*, 2012, p. 212.

⁸ Political Constitution of the Republic of Honduras 1936, Legislative Decree, art. 24.

⁹ Honduras signed the CEDAW in 1980, ratifying it in 1982. From that date onwards it is part of Honduran statutory law.

3.1. Resident Citizens

Age

The minimum voting age is eighteen years old. There are no limits regarding the maximum age while the minimum age to run for posts subjected to popular election varies depending on the office. The lower age limit for President of the Republic is 30 years old,¹⁰ whereas 21¹¹ and 18 are the minimum ages to run for representative and mayor, respectively.¹²

Mental Disability

Electoral legislation does not make an explicit reference to mental disability. However, when it states that the electoral roll is the orderly register of citizens who have capacity to vote, elaborated in accordance with the law,¹³ it ends up incorporating the issue of aptitude. In this regard, art. 155 of the Honduran Civil Code establishes that every individual is legally entitled to vote. Those considered entirely incapacitated include dementia sufferers, and pre-pubescent and deaf-mute persons who cannot make themselves understood in writing. As a consequence, their acts do not produce any type of legal obligations. This indicates therefore that they cannot exercise the right to vote. Mental disability, however, has to be declared by a court ruling.

Loss of citizenship due to Detention Order or Court Conviction

The suspension of citizenship occurs, according to art. 41 of the Constitution, in cases of pre-trial detention for an offence meriting a heavier punishment; a final court conviction based on a criminal offence; and judicial interdiction. Art. 38 of the Penal Code makes a distinction between primary penalties and accessory ones. The primary ones are: detention, imprisonment, fines, absolute disqualification and special disqualification. Accessory penalties are: civil interdiction and confiscation. Absolute or special disqualification is imposed as an accessory penalty to detention every time the law does not impose it as a primary penalty. Art. 48 of the Civil Code establishes that absolute disqualification applies to public offices or positions and professional and political rights held during the conviction time. It produces:

- 1) The deprivation of all the public offices or positions and the exercise of occupations held by the convict, even when publicly elected;
- 2) The deprivation of all political rights and the incapacity to regain them; and
- 3) The incapacity to obtain public offices or positions, occupations and the abovementioned rights.

In this regard, it follows that:

1. When a pre-trial detention is decided based on evidence of a criminal offence, the presumption of innocence is suspended and the person is put in jail. If the offence is punished by a term of imprisonment of more than five years and is not bailable, the accused loses the rights to hold public offices, to elect and be elected, that is, his/her citizenship rights.

¹⁰ Constitution of the Republic of Honduras, art. 238.

¹¹ *Ibidem*, art. 128.

¹² Municipalities Law, art. 27.

¹³ Art. 43 of the Electoral and Political Organizations Law.

2. When a final court conviction is delivered in criminal proceedings and, as an accessory penalty, the offender temporarily loses his/her citizens' rights to work, vote and be elected. These are recovered once the sentence has been served.

Finally, the imposition of sentences in which the convict is deprived of exercising the right to vote and running for public offices, together with the convictions that consist of these penalties, shall be reported to the Supreme Electoral Court, in particular to the office responsible for the electoral roll.

Art. 51 of the Electoral Law establishes that state powers must provide periodic reports to the Supreme Electoral Court regarding the cases of disqualification, rehabilitation, loss or suspension of citizenship, naturalisation, in addition to reports on senior officials in the national police and the army, with the exception of auxiliary staff. Furthermore, the law determines the loss of electoral rights based on the following reasons:

1. Providing services in times of war to the enemies of Honduras or its allies;
2. Providing assistance against the State of Honduras, either to a foreigner or a foreign government in a diplomatic complaint or before an international tribunal;¹⁴
3. Performing military or political services in a foreign nation without the licence of the National Congress;
4. Compromising the freedom to vote, adulterating electoral documents and employing fraudulent means to boycott popular will;
5. Inciting, promoting or supporting the continuity or re-election of the President of the Republic;
6. In the case of naturalised Hondurans, for having resided abroad for more than two consecutive years after naturalisation without the authorisation of the executive power.¹⁵

3.2. Non-resident citizens

One of the advancements of recent electoral legislation is the incorporation of the right to vote for Honduran citizens residing abroad, in accordance with the Law for the Exercise of Suffrage of Hondurans Abroad, enacted in 2001. This law, however, establishes that Honduran citizens who reside abroad and are registered to vote, can only do so in the elections for President and Vice-President. Their condition of non-residents excludes them from standing for any elected office.

Voting abroad must take place on the same election day as in Honduras, between 6:00 a.m. and 4:00 p.m. local time.

This initiative has generated much criticism in Honduras, due to its high cost and the idea that the relation cost versus actual number of voters is highly unequal.

¹⁴ In these cases, the National Congress is in charge of declaring the loss of nationality.

¹⁵ In cases 3, 4, 5 and 6, the executive is responsible for the declaration stating the loss of nationality.

According to *El Heraldo*, ‘it is estimated that the Supreme Electoral Tribunal has allocated around twelve million lempiras (around 500,000 euros) to electoral processes taking place abroad, an average of four million for each election. To this date, and since 2001 when it was first practiced, the vote of Hondurans abroad has been a failure given that a very reduced number of our fellow countrymen have actually exercised this right. In summary, only a little more than 18,000 votes were registered in three elections, an average of 6,000 per election’.¹⁶

Additionally, this practice has faced logistic complications and it has been implemented solely in six cities of two states of the United States.

3.3. Ethnic minorities

Honduras is a multicultural and multi-ethnic country. The seven groups who have survived up to this day are: the Tawakas, the Pech, the Tolupanes, the Chortis, the Negros Ingleses - the Garífunas, the Miskitos and the Lencas.¹⁷ Each group has its ancestral language. The Lenca population is the largest in number, followed by the Miskito population and the Garífuna one. In total they represent around ten per cent of the country’s population.

In spite of the fact that the Constitution determines that ‘it is the duty of the State to adopt measures aimed at protecting the rights and interests of the existing indigenous communities in the country, especially the land and forests in which they are settled’¹⁸ and that the country ratified in 1994 the International Labour Organisation’s Indigenous and Tribal Peoples Convention (also known as Convention 169) and adopted the UN Declaration on the Rights of Indigenous Peoples in 2007, the reality is that these ethnic minorities are still lagging behind when it comes to employment, education levels, access to healthcare, basic housing infrastructure and property protection.

The final report of the EU election observation mission in 2013 states that: ‘During the election process, the Supreme Election Tribunal (TSE) neither devised specific voter education programmes for these communities, nor published documentation in indigenous languages. Of the 128 members of the outgoing Congress, just three were Afro-Honduran (Liberal Party and PINU), and there are no Garífuna members in the incoming Congress, since none of the 20 Afro-Hondurans who presented themselves at the primaries went through to the general elections. Ten presented themselves in the department of Atlántida, four in Colón, four in Cortés, one in Francisco Morazán and one in Islas de la Bahía. In the department of Gracias a Dios, a Miskito candidate won a seat for the Liberal Party, as did an English-speaking Afro-Honduran in Islas de la Bahía.’¹⁹ Despite all the limitations mentioned, ethnic minorities have succeeded in gaining some representation, incipiently granting them visibility in municipal and parliamentary spheres.

¹⁶ elheraldo.hn/csp/mediapool/sites/ElHeraldo/Pais/story.csp?cid=583942&sid=299&fid=214. Accessed on 1 May 2015.

¹⁷ Translator’s note: the Tawakas, the Pech, the Tolupanes, the Chortis, and the Lencas are the indigenous (autochthonous) groups in Honduras, while the Garífunas y creoles and the Miskitos are groups that appeared in the sixteenth century.

¹⁸ Constitution of the Republic of Honduras, art. 346.

¹⁹ www.eueom-honduras.eu.

4. Eligibility to become a candidate

4.1. Presidential election

Beginning with the 1982 Constitution, presidential elections are held together with elections for the three vice-presidents, taking place on the last Sunday of the month of November every four years.²⁰

The Constitution establishes that in order to become President of the Republic of Honduras it is necessary be a Honduran national by birth, that is, born in national territory or born of a Honduran father or mother by birth.

Length of the presidential period

The Constitution establishes that the presidential mandate lasts for four years. This period was extended to six years during Tiburcio Carías Andino's dictatorship (1932-1949), a rule that was kept until 1982 when the four year period was revived.

Presidential re-election

On 22 April 2015 presidential re-election became possible. After various tries by political sectors favourable to the idea of presidential re-election and two constitutional complaints, the Constitutional Division of the Supreme Court of Justice declared the inapplicability of art. 239²¹ (in which re-election was forbidden) as well as the removal of art. 330 of the Penal Code²² (which punished those who attempted, supported or spoke about re-election).

This decision is the corollary of the efforts of a political civic movement that put forward proposals to revise a norm that seemed set in stone.²³ Nowadays there is an opposing political movement protesting against this reform.

4.2. Election of representatives

In order to be elected representative, it is required: to be Honduran by birth, to be at least twenty-one years of age, to be in exercise of the rights of citizenship, not to be a member of the clergy, and to have been born in the department for which one is running for office or to have resided therein for at least the last five years prior to the date elections are called.²⁴

²⁰ Constitution of the Republic of Honduras, Legislative Decree 131 of 11 January 1982.

²¹ Constitution of the Republic of Honduras, art. 239: 'A citizen who has held the title of the Executive Power may not be President or Vice-President. He that violates this provision or advocates its amendment, as well as those that directly or indirectly support him, shall immediately cease to hold their respective offices and shall be disqualified for ten years from exercising any public function.'

²² Penal Code, art. 330: 'A citizen who has held the title of President of the Republic will be sanctioned with a six to ten years prison penalty when promoting or committing acts in violation of the constitutional article that prohibits him from holding the Presidency of the Republic again or holding that post under any other title. The same punishment applies to those that directly support him or who proposed to reform that article. If the offenders are public officials, they shall be disqualified for ten years from exercising any public function starting from the date of the offense'.

²³ <http://www.proceso.hn/component/k2/item/89807-la-reelecci%C3%B3n-presidencial-reaviva-el-debate-pol%C3%ADtico-en-honduras.html>.

²⁴ Agreement 002- 2013 Regulation on the Registration of Candidates of Political Parties that Participate in General Elections 2013, art. 13.

4.3. Local elections

For one to become a member of the municipal board, he/she needs to be: Honduran by birth, born in the municipality for which he or she is running for office or having resided therein for more than five consecutive years, over eighteen years of age, in full exercise of his/her political and civil rights and literate.

The Electoral and Political Organisations Law determines in art. 101 that the following cannot be part of a municipal board: ‘Citizens who fall under art. 199 of the Constitution of the Republic cannot be part of municipal boards’²⁵ as well as the spouse and relatives within the fourth degree of consanguinity or first degree of affinity of those cited in no. 7 of art. 101. Spouses and relatives cannot be part of the same municipal board either. These incompatibilities affect those holding the abovementioned positions six months prior to the election date.

Only Hondurans by birth can run for elected offices.²⁶ In this respect the country follows a mixed system in the sense that Honduran nationality is granted based on the *ius soli* principle of being born in the territory (Right to Soil and Land), regardless of where the parents were born. Honduran nationality is also acquired via *ius sanguinis* based on a blood affiliation to a Honduran father or mother, even when born outside the country.

Having multiple nationalities is not an obstacle to run for the presidential office as long as Honduran nationality is the one embraced by the candidate. Non-resident citizens, on the contrary, are not able to stand for a publicly elected office since one of the requirements to run for representative or for a municipality is to live for more than five years prior to the election in the department/municipality for which one is running for election.

²⁵ Constitution of the Republic, art. 199. ‘The following may not be elected representatives: 1. The President of the Republic; 2. Magistrates of the Supreme Court; 3. Secretaries and Sub-secretaries of State; 4. Military heads [jefes] with national jurisdiction; 5. Holders of high office in the superior organs of management, government and administration of the decentralised institutions of the State; 6. Members of the military service on active duty and members of security forces or of any other armed force; 7. All other public functionaries or employees of the Executive Power and the Judicial Power as established by the Law, except those who hold a teaching or health-care position; 8. Members of the National Tribunal of Elections; 9. The Procurator General and Sub-Procurator General of the Republic, Comptroller and SubComptroller General of the Republic and the Director and Sub-Director of Administrative Probity; 10. The spouse and relatives within the fourth degree of consanguinity or second degree of affinity of those cited in numbers 1, 2, 4, 8, and 9 above, and of the Secretaries and SubSecretaries of State in the Departments [Dispachos] of Defense and Public Security; and 11. The spouse and relatives of the chiefs [jefes] of military regions, commanders of military units, departmental or sectional military delegates, and delegates of security forces or of other armed force, within the fourth degree of consanguinity or second of affinity, when they are candidates in the department where they exercise jurisdiction.’

²⁶ Art. 23 of the Constitution of the Republic. ‘The following are Hondurans by birth: 1. Those born within the national territory with the exception fo the children of diplomatic agents; 2. Those born abroad of a Honduran mother or father; 3. Those born on board Honduran vessels or aircraft of war, and those born on merchant vessels while they are in Honduran territorial waters; and 4. The infant of unknown parents found in the territory of Honduras.’

5. The exercise of electoral rights

5.1. Registration procedure: Becoming a voter

Every Honduran citizen registered in the National Electoral Census is entitled to vote in the elections for president, representatives to the National Congress and municipal boards.²⁷

The registration in the National Electoral Census is automatic, that is, the National Registry of Persons (RNP) has the obligation to register male and female citizens once they turn eighteen years old and request their identity card from the RNP. The registration of naturalised persons in the Civil Registry of the municipality of residence is also compulsory within the fifteen days following the obtainment of the Naturalisation Agreement.²⁸ Once the naturalisation is registered, an official document of identification is granted and registration in the National Electoral Census follows automatically.

The Electoral Law assures the right to vote to Hondurans that are about to turn eighteen years old before the election day; for this, they may present a request for their identity card before the RNP, as long as they turn seventeen up until five months before the election day. Identity cards are ready for delivery starting from the day they reach eighteen years of age.

5.2. Registration procedure: Becoming a Candidate

Publicly elected offices are the following:

- a) President and three Vice-Presidents;
- b) Twenty Proprietary Representatives²⁹ and their respective substitutes in the Central-American Parliament (PARLACEN);
- c) 128 Proprietary Representatives and their respective substitutes in the National Congress; and
- d) 298 mayors, representative mayors and councillors corresponding to their respective Municipal Board.³⁰

There are two ways to become a candidate for a publicly elected office: running as an independent candidate or as a result of primary elections practiced within political parties. The Supreme Electoral Court sums up and officially declares those who are elected.³¹

²⁷ Electoral and Political Organizations Law, art. 7.

²⁸ National Registry of Persons Law, art. 73.

²⁹ In Honduras the nominees for Representatives register at the Supreme Electoral Court (TSE) following the formula of a Proprietary Representative and a Substitute Representative. If elected, the proprietary representative enters the National Congress to represent the department for which he was elected. The replacement representative substitutes the proprietary representative if this one is absent temporarily or definitely.

³⁰ Agreement 002- 2013 Regulation on the Registration of Candidates of Political Parties that Participate in General Elections 2013, art. 3.

³¹ Electoral and Political Organizations Law, art. 125.

According to the Electoral Law, political parties are obliged to carry out internal primary elections in order to select their candidates. These elections take place every third Sunday of the month of February of the electoral year. They are supervised by the Supreme Electoral Court with the support of the National Electoral Commission of the respective political party.³² The Electoral Law of 1977 introduced internal elections within political parties, even though they were put in practice for the first time only in the 1985 general elections. The institution of this type of elections brought significant changes in the traditional patterns of candidates' selection, eliminating the discretionary power of the heads of the party.

This system is nowadays highly institutionalised, visible in the fact that there are fixed dates for their execution. In this regard, internal primary elections of traditional political parties resemble a first electoral round of a country with a two-round system.

The Supreme Electoral Court sums up and officially declares the elected candidates according to the following: the presidential formula results from the simple majority of votes; the list of elected candidates to the National Congress is calculated by adding up the total of votes gained by each candidate, ordering them from the highest to the lowest, in a way that the first place is occupied by the one that had the largest number of votes, the second place by the second most voted and so on, until the completion of the number of representatives elected by each department. In the departments that elect only one representative and his or her respective substitute, elections are based on a simple majority rule.

The Electoral Law sets the same procedure for the election of representatives and their respective substitutes to the Central-American Parliament, based on nationwide results.

The process of choosing candidates to elected offices must be completed within 45 working days, starting from the date elections are held.

The Supreme Electoral Court will order the publication in the Official Journal *La Gaceta* of the list of candidates resulting from the primary process within each political party. It will then proceed with their registration within the fifteen days following the call for general elections (art. 125).

Once registered and after the primary electoral process has been concluded, no changes in the list of candidates to publicly elected offices are allowed, except for the cases foreseen in art. 138. Any change that does not abide by this requirement will be considered null and void. Violating what is stipulated in this article is akin to committing an offence of falsification of public documents.³³

³² *Ibidem*, art. 113.

³³ Electoral and Political Organizations Law, art. 126.

5.3. Equality of political opportunity

One of the most important advancements in electoral matters in Honduras was the establishment of a norm that guarantees the equitable gender distribution of offices elected by popular will. The enactment of the Law on Equal Opportunities in the year 2000³⁴ was the product of the intense work of female politicians and women's movements. This law created for the first time a gender quota, establishing that women must occupy a minimum of 30 per cent of elected public offices and parties' top positions. Nonetheless, the 2001 elections did not produce the expected results concerning seats allocated to women, with an actual reduction in comparison to 1997. In this year the percentage of seats taken by females was 9.3 per cent while in 2001 it was only 7 per cent.

For its part, art. 105 of the electoral legislation's reform states that in order to achieve real participation for women, a baseline of 30% shall be established and applied to political parties' top positions, representatives and substitute representatives in the National Congress, the Central-American Parliament, mayors, deputy mayors and councillors. In departments where representation consists of only one representative, these requirements do not apply. For this, political parties must foster women's participation through the creation of mechanisms that allow their real and effective incorporation in the different spheres of party politics.

In practice this reform represented more of a setback than a step forward in the achievement of women's citizenship rights since placement mandates were abolished and, as a consequence, women were relegated to rank positions that did not grant them real chances to be elected. Moreover, the progressive system established by the Law on Equal Opportunities was also eliminated, meaning that the quota of 30% was now fixed, working in practice as a ceiling for women's participation rather than a starting point. In this sense, the Electoral Law represented a step back in women's rights.³⁵

Decree 54-2012 modified the Electoral Law in 2012, raising to 40 per cent the quota of women in the list of candidates to decision-making positions, including top positions in political parties as well as publicly elected offices. The quota must be applied to nominations for the presidential ticket, representatives and substitute representatives in the National Congress, the Central-American Parliament as well as mayors, deputy mayors and councillors. The principle of equality shall prevail when electing only one candidate, meaning that representatives and their respective substitutes must be of a different sex.

The same Decree added art. 105A to the Electoral Law, establishing that from the 2016 electoral period onwards the principle of parity will be applied (50 per cent women and 50 per cent men). The Supreme Electoral Court is in charge of formulating the regulations concerning the principle of parity.³⁶

³⁴ In 2000 the Law on Equal Opportunities for Women was enacted via Legislative Decree No. 34-2000. Its goal is to integrate and coordinate the actions that the State and Civil Society have to perform in order to eliminate all types of discrimination against women and achieve gender equality before the law, prioritising the spheres of family, health, education, culture, means of communication, environment, work, social security, credit, land, housing and participation in decision-making inside power structures.

³⁵ International Foundation for Electoral Systems. Women's political participation, August 2013.

³⁶ *Ibidem*. Official Journal of the Republic of Honduras *La Gaceta*, 15 May 2012. Decree 54-2012.

5.4. Casting the vote

Presidential, legislative and municipal elections take place simultaneously on the same day, the third Sunday of the month of November every four years. Separate votes and separate ballot boxes are used for each election.

Separate vote

Separate voting on a single ballot paper was used for the first time in the general elections of November 1993. The choice of candidate for President – with their photos on the ballot paper – and the one for mayor was for the first time detached, meaning that one had to vote separately for elected position.

Separate ballot papers were introduced with the 1997 general elections. From that year onwards the voter receives three different ballot papers. The first to select the president and vice-presidents; the second to elect the representatives of the voter's department; and the third the members of the municipal board. The 2004 Electoral and Political Organisations Law introduced, in the second, the name and photo of the representatives, used for the first time in the primary elections of 20 February 2005.³⁷

'Residential voting'

One of the most important developments of the electoral reform was the establishment of 'residential voting' (*voto domiciliario*), determining that citizens will exercise their right to vote in the polling station that is most easily accessible and geographically closest to their place of residence.³⁸ It was put in place for the first time in the 1997 general elections, despite being regulated only on 22 February 2000.

Citizens can only request the modification of their legal voting address in cases where they have residence or are originally from the municipality to which they wish to switch. They should personally manage the change in their voting address before the Municipal Registry. Any modification different from the ones named constitutes an electoral offence.

Changes in legal voting addresses must be made before the four months prior to the primary and general elections day. The institution of 'residential voting' freed political parties from the high costs of mobilising followers in each election.

Non-residents' vote

On 18 July 2001, via Legislative Decree No. 72, a Special Law regulating the Exercise of Suffrage of Hondurans Abroad was enacted. In accordance with the Special Law and the Electoral and Political Organisations Law³⁹, Hondurans who live outside their national territory can vote in general elections.

³⁷ Posas Mario, *Institucionalidad Democrática*, 2012, p. 143.

³⁸ Electoral and Political Organizations Law, art. 58.

³⁹ *Ibidem*, Chapter III, Suffrage of Hondurans Residing Abroad, art. 61.

This law establishes that General Consulates or Consular Sections are considered Electoral Auxiliary Bodies. They are responsible for calling the respective Honduran resident citizens who wish to exercise the right to vote in their jurisdiction as well as formulating a preliminary list with the following information: 1) name and surname of the citizens in accordance with their Identity Card; 2) number of their Identity Card; 3) place and date of birth; 4) current place of residence. This list must be signed by all the members of the Local Electoral Board, sealed and dated by the Consul. The forms for gathering the data and residence-updated information are previously sent by the National Electoral Court via the Ministry of Foreign Affairs. In order to update residence information, devices MorphoTouch are used for biometric verification.

The choice of cities where voting is possible is also made by the National Electoral Court through a simple majority. So far six cities in the United States have been chosen: Miami, Houston, New Orleans, Washington D.C., New York and Los Angeles.

There are however a number of limitations in this regard. For example, Hondurans living abroad can only vote in the elections for the Presidency and Vice-Presidency and should do it on the same day elections take place in Honduras between 6:00 a.m. and 4:00 p.m. of their local time.

The 27 November 2001 was the first time Hondurans residing abroad were able to vote. Although it was estimated that at that time there were more than 600,000 Honduran citizens living abroad, only 10,826 registered in the United States, out of which 41.95 per cent cast their vote. In 2005, out of the 11,510 that registered, merely 4.03 per cent actually voted, with a dramatic increase in abstention. As for the 2009 elections, only 26 per cent of the 11,528 people who registered in the United States went to the polls.⁴⁰

6. Conclusion

Electoral legislation as well as the institutionalisation of democracy have experienced significant advances in the last few decades in Honduras. The path, however, has not always been a straight line, with occasional setbacks.

The institution of intra-party elections aimed at selecting candidates to the presidency, to parliamentary elections and to municipal bodies was a sign of democratic progress, contributing to undermine the traditional practices of nepotism and patronage. Voting in separate ballot papers and 'residential voting' also helped improve the transparency of electoral processes and consequently increased citizens' trust in the results of the ballot. Political values are therefore more congruent with democracy nowadays.

Access to posts decided upon popular vote is still highly nationalistic, being the exclusive privilege of Hondurans by birth. There is no prospect to reform the legislation in a way that naturalised Hondurans could become candidates.

Similarly, the participation of foreigners who have legal residence in Honduras has never been considered, unlike what happens in Argentina or other South American and European countries.⁴¹

⁴⁰ Suazo, Martha, *Población Electoral en Tres Décadas de Transición Democrática*, 2012, p. 222.

⁴¹ For a good explanation of how foreign residents may vote in Argentina, see: http://www.sanluis24.com.ar/index.php?option=com_content&view=article&id=31128:como-votan-los-extranjeros-residentes-en-la-republica-argentina&catid=34:catlaciudad&Itemid=54; however, the system of

Despite the institutional advances so far achieved, Honduras is still seen as having a relatively low level of democratic development, together with countries such as Colombia, Paraguay, El Salvador, Bolivia and Guatemala.⁴²

The Active Citizenship Dialogue Group, sponsored by the United Nations, establishes that ‘one of the requirements to achieve a stable and sustainable democracy is the consolidation of the Rule of Law. For that, strong and independent institutions are needed, with the capacity and authority to implement and enforce the Law.’⁴³ It points out that ‘in Honduras, the lack of independence of the institutions proved to be an “Achilles’ heel” in the process of strengthening the country’s democratic system. It is therefore necessary to revise the procedures for the appointment of senior officials in the institutions in charge of imparting justice. These institutions are essential in a democratic system of checks and balances’.

Due consideration of the implementation of these reforms will undoubtedly imply a comprehensive process of public consultation and search for political and social concertation between the main economic and political forces. Only in this way can an effective and practical consensus be achieved, in accordance with the general interests of the Honduran society and not the ones of partisan or sectary factions.

When one speaks of political reform one is speaking of the political system, that is, the ensemble of institutions, practices and norms that form such a system. Countries that wish to improve the quality of their democracy by means of electoral reforms should answer the following question: What reform to the electoral reform?

A good starting point is to clearly identify which legal body needs to be reformed. If it is the Constitution, the reform will potentially be focused in the amplification of inclusion, recognition of actors and improvements in the conditions of governance. Circumstantial arrangements must be avoid and long-term agreements must be made, as arrangements with short-term ends are generally harmful for democracy. To adapt the supreme norm in order to integrate subsequent laws is, of course, a legal aberration.

It is necessary to grant a larger political significance to the various actors, that is, to recognise the vulnerable sectors – such as women, indigenous peoples and others – and implement positive discrimination policies in electoral matters.

On the other hand, if special legislation such as the Electoral Law or the Law of Political Parties is that which needs reform, the goals must be to increase transparency, assure equal status, strengthen political parties and regulate the emergence of new parties.

Political reforms have therefore their own contexts, which invite one to think of a good diagnosis based on the inclusion of certain elements:

1. To look at other countries’ experiences on institutions and procedures.
2. To understand previous reforms since the goal is to achieve a balance between stability and change.
3. To know the types of parties: mass parties, cadre parties, etc.
4. Social and economic conditions, since a reform amidst an economic crisis is usually not a prudent act.

allowing foreign residents to vote has been criticised, for a summary of some of the issues, see: http://elpais.com/elpais/2011/01/25/actualidad/1295947035_850215.html, accessed on 7 May 2015.

⁴² Posas Mario, *Institucionalidad Democrática*, 2012.

⁴³ <http://www.hn.undp.org/content/dam/honduras/docs/publicaciones/Propuesta%20de%20Pacto%20por%20la%20Transformaci%C3%B3n.pdf>

5. To know the advancements and challenges of political parties' financing.

This last point deserves special emphasis since the issue of the parties and electoral movements' funding generates strong debates in countries facing a permanent economic crisis such as Honduras and when high levels of corruption and little transparency and credibility affect political processes.

Among the main goals of any reform in political parties' funding, the following deserve to be highlighted: to limit money's influence, to avoid the inflow of funds deriving from organised crime, to prevent corruption, to strengthen political parties, to regulate electoral competition and to control political campaigns' costs.

Honduras, like most countries in Central America and the Caribbean, faces significant challenges in this regard. It is crucial to put this topic on the agenda so as to secure the effective enjoyment of electoral laws in an equal and inclusive fashion. Legal reforms concerning public, mixed and private funds, allocation of funds, judicial and administrative control, regulation of candidates, post-electoral transparency, regulation of advertising in terms of time and money, civil society monitoring mechanisms and the imposition of sanctions are all important. Although a much needed subject of reform, it is lamentably not part of public debate so far.

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