



European Union Election Observation Mission HONDURAS

General Elections – 24 November 2013

PRELIMINARY STATEMENT

Transparent voting and counting after an unequal and opaque campaign

Tegucigalpa, 26 November 2013

Summary

- Election day took place in a peaceful atmosphere. Despite serious indications of a trade in accreditations and some other irregularities, it was clear that there was genuine diversity in the party political composition of polling station staff, which was reflected in a very positive evaluation of both the transparency of voting processes and respect of the will of the voters during the counting process. The system for transmission of results forms provided political parties with a reliable tool to verify the results published by the Tribunal Supremo Electoral (TSE, Supreme Electoral Tribunal).
- Candidates from all political parties exercised their rights to freedom of assembly, expression and movement throughout the campaign, albeit within a context of the country's poor security conditions. The lack of reporting and investigation of crimes has limited the extent to which it is possible to attribute a political nature to the cases of violence or intimidation of candidates reported to the European Union Election Observation Mission (EU EOM).
- The campaign period is long, expensive and unequal, and its financing lacks transparency. The EU EOM recommends that political parties launch reforms to reduce the cost of campaigning, fixing limits on spending and shortening its duration, as well as establishing mechanisms for auditing and sanctioning.
- The TSE was conscious that its need to be transparent was greater than ever in the context of a new political landscape. Its willingness to enable transparency was evident in its expansion of the role of the Consejo Consultivo (Consultative Council) of political parties; in its ensuring that party representatives could be present at all locations and activities relevant to election preparations, and in the access provided to Honduran and international election observers.
- The TSE did not consistently establish clear timeframes and at times delayed important decisions, leading to implementation challenges. In addition, it was slow to establish good coordination with the Tribunales Departamentales and Municipales (Departmental and Municipal Election Tribunals, TEDs and TEMs), missing the opportunity to engage with these politically-composed bodies, which could have both increased efficiency and enabled a greater sense of institutional cohesiveness.

- The Voter Register is not accurate and reliable, constituting a weakness in the electoral framework. However, the programme by the Registro Nacional de Personas (Civil Registry, RNP) to end political parties' involvement in the processes for accessing identity cards was a significant step towards ensuring that citizens have direct access to the institution.
- The 2013 elections have been the most observed in Honduran history, with the TSE accrediting some 700 international observers, as well as 20 national observation missions which deployed some 15,000 Honduran election observers. Honduran civil society has shown itself to be vibrant, diverse and committed to engaging with the electoral process.
- While the Honduran legal framework enables the holding of democratic elections, the Election Law lacks procedural detail and a number of areas are inadequately provided-for. This is the case, for example, with respect to party and campaign funding, as well as the resolution of electoral complaints and appeals.
- The increase of the quota for women's participation from 30% to 40% for the primary elections in 2012 and the general elections of 2013 (as well as a further increase to 50% for future processes) constitutes an improvement in the framework for gender equity. However, the use of open lists in primary elections limits the ability to ensure that the minimum quota is reflected in the final candidate lists, or in the number of women ultimately elected.
- The media provided wide coverage of the election campaign and all candidates were able to present their campaign platforms. However, EU EOM media monitoring revealed a clear imbalance in the visibility granted to different parties in the media, both with respect to news coverage and, most particularly, paid advertising. The National Party disposed of the greatest resources by far, and enjoyed a significantly greater amount of coverage, which was also more positive in tone than that granted to other parties. As the party of government, the National Party also benefitted from heavy broadcasting of institutional advertising on television and radio and in newspapers.

Preliminary conclusions

Background

The 2013 general elections took place at a crossroads in the political history of Honduras. Following the June 2009 coup d'état and the failure to implement the San José-Tegucigalpa Accords which sought a solution to the constitutional crisis, some countries did not recognise the government which emerged from the 2009 elections. After the establishment of the Truth and Reconciliation Commission and intensive negotiations, in 2011 José Manuel Zelaya and Porfirio Lobo signed a new agreement which paved the way for the return of the OAS to Honduras. Both Honduran political actors and the international community have hoped that the 2013 elections might bring a definitive end to the crisis sparked in 2009.

On 24 November 2013, Honduran citizens elected not only a president but also 128 members of the National Congress, mayors for the country's 298 municipalities and 20 members of the Central American Parliament. Nine political parties as well as independent candidates competed in these elections, and unlike in 2009, these represented the full spectrum of Honduran politics.

Legal framework

The Honduran legal framework for elections is primarily established by the 1982 Constitution, the 2004 Law on Elections and Political Organisations (hereinafter Election Law), and the 2005 Law on the Civil Registry, and it enables the holding of democratic elections. However, the Election Law suffers from gaps and lack of detail in a number of areas, most notably with regard to party and campaign funding. Relying on its power to publish regulations, the TSE issued regulations on the registration of candidates; campaign propaganda; changes of residence; national and international observation and the transmission of results. Nonetheless, procedural gaps remain, not least with respect to the system for electoral complaints.

Election Administration

Appointed by the National Congress in May 2009, before constitutional crisis and the subsequent birth of several new political parties, the Tribunal Supremo Electoral had to overcome perceptions that it represented the old two-party system. The TSE's approach was to prioritise the transparency of its activities. The TSE's commitment to transparency was demonstrated in many instances: in the way it enabled political party representatives to have access to all relevant processes, locations and information; in the manner in which it accredited a wide range of observers and then granted these the necessary access to information and processes, and certainly in the way it expanded the role played by the Consejo Consultivo, the body of all political parties which hitherto had had the right to be consulted and informed, and came in practice to approve many elements of the technical preparations for the elections. However, at times, the TSE's failure to establish clear timeframes and take decisions accordingly led to delays which made implementation of plans more challenging.

The TSE's emphasis on neutral administration also led it to distance itself from its politically-composed representations at departmental and municipal level, leaving these without institutional leadership and insufficient information. The TSE allowed very late composition of TEMs and had limited and late communications with both Municipal and Departmental Election Tribunals (TEMs and TEDs). In addition, the TSE opted not to directly train all polling station staff, which in some cases limited their efficiency. It may have been more constructive to engage more wholeheartedly with the TEDs and TEMS, for the sake of smoother administration and towards emphasising a spirit of public service. At times the lack of resources and communication granted to TEMs in particular limited these bodies' ability to provide the necessary support to election preparations.

While the TSE's high levels of transparency provided evidence of its ability to administer the elections impartially, it did not, on the other hand, fulfil its tasks as an arbiter of complaints, instead opting to delay, dismiss or refer complaints to other bodies.

The delay in determining which results transmission system to use impacted upon its implementation and although technical and software challenges were met, logistical problems persisted and the recruitment and training of sufficient Custodios Electorales (scanning operators) was initially insufficient. However, the emergency measures taken after the simulations of the transmission system were reflected in a high rate of success, to the extent that both speed and transparency requirements were met.

The TSE produced high quality training materials and developed programmes not only for electoral staff but also the police, the armed forces and investigators of electoral offences, as well as civil society organisations and voter education staff. However this well-established plan struggled under the pressure of the extra tasks brought about by preparations for the results transmission system, resulting in last-minute changes to training which at times limited its effectiveness for lack of time and attendance.

Voter Registration

The right to vote in Honduran legislation complies with the principles of universal suffrage, with the exception of the suspension of voting rights for citizens charged but not yet tried for felonies. In any case, there is no provision to enable voting for those detainees who retain the right to vote.

Based on the Civil Register and jointly managed by the Registro Nacional de Personas (Civil Registry, RNP) and the TSE, the Voter Register is significantly flawed, constituting a weakness in the electoral framework. No systematic attempt has been made to clean the register and it is widely acknowledged that some 30% of entries relate to people who have emigrated or died, while in other cases small numbers of living citizens have found themselves removed as 'deceased', or on another occasions have discovered that they have been subject to an unrequested change of residence. While these instances are clearly due to administrative flaws, allegations of fraudulent change of registered residence persisted throughout the electoral period and EU EOM observers recorded credible accusations, invariably involving the National Party and the Liberal Party. The TSE's regulation stipulating documentary requirements for changing residence had limited impact, given that these could be provided by the same municipal authorities most likely benefit from changes of voters' residence. Public perception of the unreliability of the civil register and provision of identity cards has engendered practices such as multiple applications, which, when undetected by administrative systems, further damage the register's credibility.

This year, the Registro Nacional de Personas (RNP, Civil Registry) has sought to depoliticise its processes for applications for and distribution of national identity cards. In this respect the mobile brigades which received applications for identity cards and later distributed them constitute a significant improvement, although EU EOM observers rarely witnessed significant numbers of deliveries, noting that better publicity and longer distribution hours at voting centres would have been useful. Although it is unlikely that political parties were entirely removed from the distribution process, the brigades established a clear step in the right direction.

Campaign environment

The EU EOM found that candidates from all parties exercised their rights to freedom of assembly, expression and movement throughout the campaign, without any greater security problems than those experienced by citizens in day-to-day life. Nevertheless, the EU EOM recorded cases of intimidation or violence against candidates in 12 departments. In nine cases the reported subject of threats or violence were candidates for Libre; six cases concerned the Anti-Corruption Party (PAC), three concerned Faper, and two cases affected the Patriotic Alliance (APH), National Party (PNH) and Liberal Party (PL), and one case each affected Democratic Unification (UD), the Christian Democracy (DC), and PINU. However, since the victims of these incidents did not report them and the authorities did not carry out timely investigations, it has not been possible to determine if the attacks were carried out for political reasons.

The election campaign lasts 90 days, and entails costs which are excessive in a country with the pressing needs of Honduras. The fact that the law does not establish a ceiling on spending creates a tendency not only towards excess but also generates inequality between the resources available to political parties. The EU EOM obtained random samples of campaign materials in the streets throughout the country which illustrate this imbalance. On 2 November, 64% of posters belonged to the PN, 15% to Libre, 9% to UD, 5% to PL, and 4% to each of DC and PAC, while other parties had an almost insignificant presence. Two weeks later on 16 November, the imbalance was reduced but was still clear: PN, 47%; PL, 20%; Libre, 11%; UD and DC, 8% each, while the remaining parties did not have more than 2% of the presence.

The use of public resources by parties in power - prohibited by article 142 of the Election Law – exacerbated the imbalance. The EU EOM observed this practice in 14 departments, in all cases to the benefit of the National Party, except for those cases in Choluteca and Cortés, where the Liberal Party also benefitted.

Campaign funding

According to the last report issued by the Institute for Access to Public Information (IAIP) before the elections, none of the parties fully complied with their obligation to submit information on their campaign funding, as required by the Election Law as well as the Law on Transparency and Access to Public Information. The laws stipulate sanctions but neither the TSE nor the IAIP had imposed any before the elections, with the result that imbalances went unchecked during the campaign period.

The opacity of political parties' accounts not only highlighted a climate of disregard for the law and damaging the credibility of both institutions and political parties, but in addition fuelled public's view that drugs traffickers and organised criminals are able to put candidates forward and shape their decisions once elected – a perception which even representatives of State institutions have expressed in public.

The EU EOM suggests to political parties that, for future elections, they promote legal reforms to enable limiting campaign spending, both by limiting the duration of campaign periods and by imposing a ceiling on spending, and to establish mechanisms to audit spending and sanction those who breach the rules.

Media

The media gave ample coverage to the election campaign and all candidates were able to present their programmes and opinions across a variety of formats. However, the results of EU EOM media monitoring between 17 October and 17 November revealed that the National Party and Liberal Party obtained much greater visibility than other parties in the monitored media. This finding was particularly clear with regard to paid advertising, of which 46% was for the National Party on television and radio, and 42% in the written press, followed at some distance by the Liberal Party which had 17% and 36% respectively in these media, and Libre which had 26% and 9%. In addition, constant State advertising across all monitored media, often touching upon campaign themes, could have indirectly benefitted the party of the outgoing president.

Public media granted free airtime for electoral propaganda to all parties and some private media followed suit, contributing to the space for pluralism. However, the distribution of this airtime reflected the political affiliations or economic interests of the media owners, whose political links were already reflected in their companies' editorial lines. In some cases, journalists and media owners were also candidates and benefitted from further advantage. For as much as these practices are common-place in Honduras, they raise serious conflicts of interests.

With regard to the respect of campaign regulations, the TSE considered only very few of the complaints submitted by political parties, contributing to a climate of mistrust in the independence of the electoral authority. There were also a number of violations rules of the period of campaign silence.

In 2012, Honduras registered the highest incidence of homicides in the world and many media workers are among the victims of violence. The high rates of attacks and death threats against journalists and social commentators and the serious pressures these professionals work under is a cause of concern. Nonetheless, it is rarely possible to determine the cause of attacks on journalists, given the systematic lack of investigation and resulting impunity, which explains why even the most credible human rights organisations often carry different figures for attacks on journalists.

The EU EOM noted an absence of critical and investigative journalism, and also noted that self-censorship is common practice. Many communicators opt for anonymity: the vast majority of articles on political subjects are signed only with initials, or not at all.

The widespread practice of 'machaca' (bribery) exacerbates the insecurity of Honduran journalists, turning them into hostages of whomever has paid. It is common for journalists themselves to demand payment for covering or ignoring news stories or to turn to extortion to increase their income. A code of ethics with higher standards would increase respect for the profession and help reduce journalists' vulnerability. Equally, the pursuit of those who attack journalists would improve the conditions in which they work and help re-establish a climate of trust between professionals in the sector.

Women's participation

Honduras has ratified the Convention for the Elimination of all Forms of Discrimination Against Women, and its national law prohibits discrimination on the grounds of gender. The Election Law was reformed in 2012 to increase the minimum quota of women in directly-elected positions from 30% to 40% for the 2013 elections, and then to 50% for future elections. The quota applies as much to political parties which hold primary elections as it does to those who do not have to, since they have only one internal current. However, the outcome of primary elections, which use open lists, may easily result in a final candidate list which does not include at least 40% women. In these elections, women made up 40.4 % of candidates for National Congress, and just 20.8% of all candidates for mayoralties. Women's presence in candidate lists varied between parties: PINU put forward the greatest number of women for National Congress (47%) and as mayors (32%), while of Libre's candidates for National Congress, just 30% were women and of the Liberal Party's candidates for mayor, women made up just 7.4%.

Indigenous and Afro-Honduran ethnic groups

Honduras has ratified Convention 169 concerning Indigenous and Tribal Peoples in independent countries, and the Constitution reflects the international principles of self-determination of peoples, recognising the rights of indigenous and Afro-Honduran communities.

For these elections, the TSE did not carry out any voter education campaigns or publish election documents in native languages, despite the fact that some groups such as the Misquitos, the Tawahkas and Afro-Hondurans have maintained their own languages. Although it is not possible to register political parties which are only present at regional or local level, the Election Law does provide for independent candidates in general elections. However, no indigenous or Afro-Honduran candidate relied on this provision, instead participating within existing party structures.

Election Observation

The TSE's commitment to transparency was illustrated in its approach to election observation: the regulation issued on this element of the process fully complies with international declarations of principles for national and international observation, granting all accredited bodies with full access to the relevant activities and locations, while committing observers to impartiality and non-interference. The regulation's introduction of the category of international 'acompañantes' further expanded the range of groups able to observe, since it provided a clear mechanism for accreditation of groups invited by Honduran organisations and political parties. All categories of observers have the same rights and responsibilities.

Honduran civil society has shown itself to vibrant, diverse and committed to engaging with the electoral process. The TSE accredited over 20 Honduran election observation missions, many of which were consortia of numerous civil society organisations. The 2013 elections are the most observed in Honduran history, with some 15,000 Hondurans observing the process.

Complaints and appeals

The Election Law provides for the annulment of elections and the declaration of results but does not give any procedural detail on how to submit a complaint on election day. The TSE took a passive approach both to complaints it received during the campaign period -some of which were submitted in September and have still not been resolved - as well as in its power to sanction infractions on its own initiative. Taking a positive measure, the Public Prosecutor's Office opened the Unidad de Delitos Electorales (Electoral Offences Unit, UDE), for a four-month period. The UDE received 33 complaints for alleged threats, fraudulent changes of residence and falsification of public documents. All of these are under investigation.

Polling, counting and transmission of results

Election Day unfolded in a calm and well-ordered atmosphere: despite logistical concerns at various stages of preparations, it was clear throughout the day that overall, the TSE had succeeded in preparing the materials, locations and systems for a smooth voting process.

Both at opening and throughout the course of the day, polling stations were staffed by a wide representation of political parties. The National Party, Libre and Liberal Party were present in almost all polling stations observed (99%, 99.5% and 97% respectively), followed by the Christian Democracy Party (78%), UD (70%), PAC (66%), PINU (62%), Faper (61%) and finally the Patriotic Alliance (55%). EU EOM observers reported a large number of cases in which it appeared that accreditations had been traded, as polling staff purportedly representing UD, DC and Faper in particular did not know the name of their party, their candidates, or alternatively they simply stated they were representing the National Party or had been trained by them. However, both because of the balancing presence of other parties and in view of the general respect of procedures and principles, these trends did not have any impact on voting or counting processes in the polling stations observed by the EU EOM.

Honduran election observers were present in 42% of the polling stations visited by the EUEOM, with the most strongly-represented missions being from the CONADEH, followed by Hagamos Democracia, CARITAS and CESPAD.

During the course of Election Day, EUEOM observers evaluated the overall conduct and transparency of voting processes as good or very good in 92% of polling stations where they observed. Custodios were present in 92% of the voting centres attended and EUEOM observers considered that Custodios carried out their role well or very well in 75% of cases (and badly in just 5% of cases).

Although space did not always allow for members of the public to be inside the polling station during counting, the public nature of the process was respected, with people able to watch through open doors and windows. Having observed the counting processes, including attribution of votes to candidates and completion of results forms, EU EOM considered the recorded results always reflected the will of the voters in the polling stations they attended.

The rate of invalid votes in the presidential election was 1.91% on average in the polling stations observed by the EU EOM, and 4.8% in the elections for National Congress, highlighting the

greater difficulty voters experienced with the open list ballots and indicating that better voter information would have been useful.

Results forms were successfully scanned and transmitted in accordance with the SIEDE system in almost all polling stations attended by the EU EOM: presidential and National Congress results were transmitted in 89% and 81% of cases respectively. Where transmission did not succeed, it was for technical reasons of hardware, network coverage and a log-in difficulties. In 90% of cases, results forms were printed and given to all political parties present, with the exceptions being due to lack of ink or paper.

On election night, the TSE communicated clearly to the public and political parties alike, announcing presidential results as they arrived and publishing them online. When some 20% of results forms did not comply with the minimum standards previously agreed with political parties, the TSE convened a meeting with the Consejo Consultivo to explain, discuss and seek political parties' opinions on how to proceed.

The European Union Election Observation Mission (EU EOM) has been present in Honduras since 3 October 2013, following an invitation from the Government of the Republic of Honduras. The Mission is led by Chief Observer, Ulrike Lunacek, Member of the European Parliament, from Austria. In total, the EU EOM deployed 99 observers from 26 EU Member States and Norway across the country to assess the whole electoral process in accordance with international and regional commitments for elections, as well as the laws of Honduras. A delegation of members of the European Parliament, headed by Pilar Ayuso MEP, also joined the mission and fully endorses this Statement. The EU EOM is independent in its findings and conclusions and adheres to the Declaration of Principles for International Election Observation signed at the United Nations in October 2005. On Election day, observers visited 449 polling stations in all 18 departments of Honduras to observe voting and counting. The EU EOM will remain in-country to observe post-election developments and the tabulation of results and will publish a final report, containing detailed recommendations, within two months of the conclusion of the electoral process. The EU EOM wishes to express its appreciation to the citizens of Honduras, to the Government of the Republic, to the Tribunal Supremo Electoral, to the political parties and civil society organisations for their cooperation and assistance in the course of the observation. The EU EOM is also grateful to the Delegation of the European Union to Honduras and the European Union member states' diplomatic missions resident in the country for their support throughout.

An electronic version of this Preliminary Statement is available on the Mission website www.eueom-honduras.eu and at www.facebook.com/MOEUE.Honduras.2013

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