

## PRELIMINARY REPORT OF THE MISSION OF FOREIGN VISITORS<sup>1</sup> OF THE ORGANIZATION OF AMERICAN STATES ON THE FEDERAL AND LOCAL ELECTIONS IN MEXICO

June 8, 2021

The Mission of Foreign Visitors of the Organization of American States (OAS/MFV) for the June 6, 2021, federal and local elections in Mexico congratulates the citizenry for its commitment to democracy, along with the Government of Mexico and electoral authorities for successfully holding these elections. It also highlights the participation rate, which, according to preliminary data, exceeded 52%,<sup>2</sup> more than four percentage points higher than the previous midterm elections.<sup>3</sup>

The electoral process ratified how important the institutional strength, professionalism, and experience of its autonomous and independent electoral authorities are for Mexican democracy. Over the last 30 years, the now-defunct Federal Electoral Institute (IFE) and the current National Electoral Institute (INE) have organized 23 federal elections and, in conjunction with local public bodies (LPBs)<sup>4</sup>, 271 local elections. It was specifically this institutional strength that facilitated holding the largest elections in Mexico's history,<sup>5</sup> particularly considering it took place in the context of a pandemic.

This electoral process also saw significant progress on inclusion, with a variety of affirmative actions and measures aimed at guaranteeing the full and free participation of all persons. At the same time, however, the impact of political violence on the electoral process was made clear, along with deep polarization that made it difficult to reach the crucial agreements necessary for democratic coexistence and peaceful conflict resolution.

Led by Argentine attorney Santiago Canton, the Mission was comprised of 36 members<sup>6</sup> from 16 nationalities. It also included specialists on issues relevant to the electoral process: 10 experts on electoral organization and technology, political-electoral financing, political participation of women, political participation of indigenous persons and persons of African descent, electoral justice, and voting abroad, as well as access to the media, the use of social networks, and freedom of expression.

In view of the global health context and restrictions on mobility, the OAS/MFV implemented a mixed work modality (in person and virtual), as OAS missions have been doing since the start of the pandemic. All the members of the Mission who traveled to Mexico from abroad were tested for COVID-19 to confirm they did not have the virus prior to their arrival in the country. Likewise, to protect the specialists, observers, and

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The official language of this report is Spanish.

<sup>1</sup> A "Foreign Visitors Mission," established under Mexican law in section 2 of article 44 of the General Law on Electoral Procedures and Institutions, enjoys the same functions, privileges, and immunities established in Article 24 of the Inter-American Democratic Charter for OAS Electoral Observation Missions. In this document, except where indicated otherwise, the term *observer* is used to refer to the foreign visitors of the OAS Mission.

<sup>2</sup> According to data from the Preliminary Electoral Results Program (PREP) 2021, with 99.55% of the votes counted.

<sup>3</sup> Available at: [http://biblioteca.diputados.gob.mx/janium/bv/ine/2016/estcen\\_parciu\\_elfed15.pdf](http://biblioteca.diputados.gob.mx/janium/bv/ine/2016/estcen_parciu_elfed15.pdf)

<sup>4</sup> Local electoral management authorities.

<sup>5</sup> Based on the nominal list (more than 93.5 million people), the number of offices up for election (around 20,000), the infrastructure (around 163,000 polling stations), and the number of polling station officials (1,464,822).

<sup>6</sup> 19 men and 17 women.

actors with whom the Mission met, a variety of measures were implemented, including the use of personal protective equipment, social distancing, and surface disinfecting.

The Mission began its work on May 10 with a series of virtual meetings with the objective of gathering the impressions of the various actors on the current electoral process. The Mission arrived in the country on May 26 and had a presence in 18 Federal entities: Mexico City, the State of Mexico, Baja California, Baja California Sur, Campeche, Chihuahua, Guerrero, Jalisco, Michoacán, Nayarit, Nuevo León, Querétaro, San Luis Potosí, Sinaloa, Sonora, Tlaxcala, Veracruz, and Zacatecas.

During the pre-electoral stage, the Mission met with electoral and government authorities; leaders of the 10 national political parties; civil society representatives; and representatives from the media, academia, and the international community. These meetings provided the OAS/MFV team with valuable insight into the technical aspects of the electoral process and enabled it to garner impressions from the different actors on the political context surrounding the elections.

## PRE-ELECTORAL STAGE

### - *Significant progress for this electoral process*

For this election, progress was made on implementing affirmative action measures aimed at broadening the exercise of political rights. The Mission recognizes the adoption of legislation to combat gender-based political violence and extend the principle of gender parity to all State agencies and branches of government. It likewise recognizes the expansion of affirmative action to enhance the political participation of indigenous peoples and the adoption of affirmative action measures for Afro-Mexican persons, persons with abilities, sexually diverse persons, and migrants. These decisions are in line with the criteria issued by the Inter-American Commission on Human Rights (IACHR) in the sense of guaranteeing that the political participation rights of all persons be ensured in such that they have an effective right to elect and/or be elected to government and legislative offices.<sup>7</sup> In this same regard, the OAS/MFV welcomes the pilot project to enable persons in pretrial detention to vote, an initiative that is to be implemented in all penitentiaries for the 2024 elections. These measures denote a political-electoral system that has made decisive progress down the path toward inclusion.

Another innovation in the electoral process was the addition of voting over the Internet as one of the options for Mexicans living abroad, an option chosen by two thirds of the nominal list of voters abroad.<sup>8</sup> Electronic voting machine pilot projects were also implemented in Coahuila and Jalisco.

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<sup>7</sup> Specifically with regard to the rights of LGBTI persons: IACHR, “Recognition of the rights of LGBTI persons.” OAS/Ser.L/V/II.170 Doc. 184. December 7, 2018, para. 111.

<sup>8</sup> National Electoral Institute (INE). Numbers on the electoral process (updated through May 4, 2021). Available at: <https://portal.ine.mx/numeralia-proceso-electoral-2021/>

## - **Formula for assigning seats**

On March 19, 2021, the General Council of the INE established the mechanism for applying the formula of seat assignment using the principle of proportional representation in the Chamber of Deputies,<sup>9</sup> with the objective of making effective the constitutional principle establishing that no political party can have a number of seats in the chamber (by relative majority and proportional representation) that exceeds its percentage of the national vote by eight percentage points.<sup>10</sup> For these purposes, the INE established that the "effective affiliation" of each candidate winning by the principle of relative majority would be verified, with their party being assigned the electoral victory. Should they have no "effective affiliation," the victory would be counted based on coalition to strike the best balance between votes and seats obtained. Should the candidate have stood for reelection without "effective affiliation," the victory would be counted for the party of the parliamentary coalition under which their candidacy was registered. This decision was appealed by the Partido Encuentro Solidario (PES), the Movimiento Regeneración Nacional (MORENA), and the Partido Acción Nacional (PAN). It was upheld by the Upper Chamber of the TEPJF toward the end of April<sup>11</sup> on the grounds that its aim was to protect "legislative plurality" and set limits and parameters to prevent overrepresentation limits from being skirted.<sup>12</sup> Several actors expressed to the Mission their disagreement with this decision at the time it was handed down.

## - **Equity during the campaign**

A significant portion of the discussion prior to the election amongst political actors, the government, and civil society revolved around the constitutional provisions related to the impartiality of the use of public funding; equity during the campaign; and limits on government advertising,<sup>13</sup> in light of allegations that public servants were not complying with these regulations.

The Mission learned that during the electoral process, the INE received 190 complaints alleging violation of Article 134 of the Constitution.<sup>14</sup> Administrative and jurisdictional electoral authorities handled multiple procedures brought against public officials—including the head of the Executive Branch—over actions taken and declarations made during the electoral process. The OAS/MFV confirmed that, in the exercise of their competencies, the administrative and jurisdictional authorities issued numerous orders, resolutions, and standards regarding this issue, denying or granting injunctions and, as necessary, determining whether or not a violation had been committed.

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<sup>9</sup> Available at: <https://centraleeleitoral.ine.mx/2021/03/19/el-ine-emite-reglas-para-evitar-la-sobrerrepresentacion-partidista-en-la-camara-de-diputadas-y-diputados/>

<sup>10</sup> Article 54 of the Constitution of the United Mexican States.

<sup>11</sup> SUP-RAP-68/2021 and joined. Available at: <https://www.te.gob.mx/media/pdf/14f44458449bce7.pdf>

<sup>12</sup> Available at: <https://www.te.gob.mx/front3/bulletins/detail/4116/0>

<sup>13</sup> Articles 41 and 134 of the Constitution of the United Mexican States.

<sup>14</sup> Contentious Electoral Technical Unit (UTCE) of the National Electoral Institute (INE). Statistics. Federal Electoral Process 2020-2021. Complaints and Suits. Updated through June 3, 2021.

## - ***Tone of the campaign and attacks on electoral authorities***

During the pre-electoral stage, the Mission took note of a climate of political tension and confrontational and polarizing rhetoric, including efforts to call electoral institutions into question. In particular, the OAS/MFV observed with concern instances in which National Electoral Institute officials were singled out directly with allegations of electoral fraud by senior public officials and party figures. The Mission stresses the essential importance of guaranteeing the autonomy and independence of the electoral authorities (both administrative and jurisdictional) and reiterates that the democratic process must be conducted in an environment free from direct or indirect pressure on those who exercise the electoral function. Regardless of political preferences, Mexican society as a whole benefits from having independent and robust electoral institutions that generate trust among citizens and are continuously strengthened.

## - ***Electoral violence and the security of the process***

The Mission expresses its deepest concern at the extreme violence impacting Mexican politics. The central threat to the electoral process has been the high rate of violence, including the murders of candidates, pre-candidates, public officials, campaign staff, and the relatives of these individuals. The Mission energetically rejects all forms of physical or psychological violence that took place in the framework of the elections and that was intended to tarnish or inhibit the citizen exercise of political participation in any of the country's Federal entities. Although the violence was concentrated in certain areas, the Mission expresses deep dismay at the brutality of the incidents and their impact on society.

According to information published by the Department of Security and Citizen Protection (SSPC),<sup>15</sup> between March 4 and May 21, there were 398 cases of candidates who were the victims of violence (226 men and 172 women). This figure includes 13 homicides,<sup>16</sup> 101 victims of assault, and 187 victims of threats.<sup>17</sup> Other sources of information and monitoring prepared by private consultants documented the occurrence of at least 35 murders of aspiring candidates between September 2020 and the end of May 2021. According to the sources consulted, these murders were directed against 22 pre-candidates and 13 individuals formally registered as candidates.<sup>18</sup> Lastly, the murders of 14 candidate relatives were reported,<sup>19</sup> along with the murders of between 51 and 59 politicians—including public officials and former public officials—party leaders, and campaign staff.<sup>20</sup> The figures reported by the SSPC and other sources agree that the candidates for municipal offices accounted for the majority of the victims of threats and murders.

With regard to geographical distribution, on May 21, the SSPC reported that 53.76% of the reports of incidents of violence were concentrated in seven Federal entities: Oaxaca, San Luis Potosí, Jalisco, State of

<sup>15</sup> Official figures published by Rosa Icela Rodríguez, Secretary of Security and Citizen Protection during the morning press conference of the President of the Republic of May 21, 2021. Available at: <https://www.youtube.com/watch?v=GV3l8tUP8pl>

<sup>16</sup> The figures reported by the SSPC do not break down the homicides by gender.

<sup>17</sup> The data compile information from March 4 to May 21. The SSPC also reports that there were 44 cases of “no confirmation of a risk or the request was withdrawn,” 11 temporary deprivations of liberty, and 42 cases were classified as “other.”

<sup>18</sup> According to data published by Etellekt, available at <https://www.etelekt.com/informe-de-violencia-politica-en-mexico-2021-M30-etelekt.html> and Integralia in its “Reporte Electoral. Escenarios y Riesgos del 6 de junio.”

<sup>19</sup> According to DataInt. Available at: <https://twitter.com/DataIntMx/status/1400455760933388294>

<sup>20</sup> According to data from Etellekt and Integralia.

Mexico, Veracruz, Tamaulipas, and Guerrero.<sup>21</sup> Although there is divergence between the official data and the data reported by consultants, there is general agreement in that the state of Veracruz is where the large part of violent incidents take place. According to private monitoring, 97 municipalities and 22 states had documented cases of electoral violence during the months prior to the elections.<sup>22</sup>

The violence touched all political parties, although the parties most affected were MORENA, the Partido Revolucionario Institucional (PRI), the Partido Acción Nacional (PAN), and the Partido de la Revolución Democrática (PRD), respectively.<sup>23</sup> The Mission received expressions of concern from all political parties at the context of political-electoral violence in which the election was taking place, particularly due to the role of organized crime.

The manifestations of violence, however, are not limited to physical attacks. Data from civil society<sup>24</sup> indicate that during the pre-electoral phase, "more than 85 reports of sexist, violent, and exclusionary communication" were reported, along with "gender-based political threats and violence against women in multiple entities [...] from the media, candidates, parties, and legislators against women."<sup>25</sup>

The Mission also received information on aggressions against members of the media, including murders, physical attacks, threats, stigmatization, and disparaging of journalists and media outlets. According to information collected by civil society organizations,<sup>26</sup> as of June 5, 32 cases of aggressions against journalists had been documented during the electoral period.<sup>27</sup> The most common incidents included acts of intimidation and harassment, physical attacks, and threats, with Guanajuato, Puebla, Coahuila, and Jalisco, respectively, being the states where the most aggressions were documented.

The OAS/MFV reiterates that there is no place for violence in a democracy. It therefore underscores how important it is for acts of electoral violence of any kind to be analyzed and investigated by the competent authorities and that they not remain in impunity.

Lastly, cases were documented in which the violence also affected the safety of electoral personnel. The Mission specifically condemns the murder on June 5 of an INE official in Tlaxcala while he was transporting electoral material.<sup>28</sup> Likewise, during the pre-electoral phase, the Mission learned of the theft of 19,000 ballots from the offices of the Institute on Elections and Citizen Participation (IEPC) in Chiapas, in the municipality of Siltepec, and of the decision by the IEPC to re-print the stolen ballots. In the municipality of Aguililla, in Michoacan, the arrival of electoral material for setting up the polling stations was blocked, and therefore the elections could not take place.

<sup>21</sup> Department of Security and Citizen Protection, Government of Mexico (April 30, 2021). Report by Secretary Rosa Icela Rodríguez following up on the Strategy for Protection in the Context of Elections. Available at: <https://www.gob.mx/sspc/prensa/informe-de-la-secretaria-rosa-icela-rodriguez-sobre-el-seguimiento-a-la-estrategia-de-proteccion-en-contexto-electoral>

<sup>22</sup> According to data published by Lantia Intelligence. Political-Electoral Violence. May 2021.

<sup>23</sup> According to data published by Etelekt, Integralia, and DataInt.

<sup>24</sup> Organization called *La Observatoria Ciudadana Todas Mx*.

<sup>25</sup> La Observatoria Ciudadana Todas Mx. (June 1, 2021). Press conference. Available at: [https://www.facebook.com/watch/live/?v=230833185132427&ref=watch\\_permalink](https://www.facebook.com/watch/live/?v=230833185132427&ref=watch_permalink)

<sup>26</sup> Red "Rompe el Miedo." Available at: <https://articulo19.org/tag/red-rompe-el-miedo/>

<sup>27</sup> Red "Rompe el Miedo." June, 2021. *Garantizar y respetar derechos humanos durante la jornada electoral es indispensable para la democracia*. Published in Animal Político. Available at: <https://www.animalpolitico.com/altoparlante/garantizar-y-respetar-derechos-humanos-durante-la-jornada-electoral-es-indispensable-para-la-democracia/>

<sup>28</sup> Available at: [https://twitter.com/PGJE\\_Tlaxcala/status/1401016958410178561?s=20](https://twitter.com/PGJE_Tlaxcala/status/1401016958410178561?s=20)

Regarding the measures to combat electoral violence, starting in March, the SSPC began implementing an initiative called the “Strategy for Protection in the Context of Elections.” According to official sources, this is the first election in which the federal government has a protection strategy for candidates. However, according to several actors consulted by this Mission, in view of the gravity of the situation, the violence prevention plan should have been launched earlier. According to private sources,<sup>29</sup> as of the launch of the government's strategy—on March 4—205 political-electoral aggressions had already taken place, including the murder of 14 pre-candidates and candidates, 41 politicians, and 71 officials without political affiliation or aspirations.<sup>30</sup>

In view of the importance of elections for sustaining and strengthening democracy, it is essential that once this current electoral process is completed, the government, political parties, and civil society immediately launch a dialogue toward putting an end to political violence.

#### - *Preparations for the election*

The OAS/MFV recognizes the effort made by the INE and the local public bodies (LPBs) to organize the largest electoral process in the history of the country, in the context of a pandemic and budget cuts. As part of this effort, the INE issued a series of protocols and biosafety orders<sup>31</sup> and set up a health advisory group for making decisions based on the criteria of experts in epidemiology. The measures adopted included performing PCR and antigen tests on service providers and INE staff,<sup>32</sup> as well as making changes to voting centers including distancing measures, biosafety kits, requiring masks, and giving voters the option of using their own pens.

The Mission welcomes the fact that the process to organize the vote benefited from local experience during 2020 and from the international good practices and recommendations contained in the “Guide to Organizing Elections in Times of Pandemic,” issued by the OAS. Along with this, the Mission celebrates the high rate of acceptance among citizens to serve as polling station officials. In spite of the pandemic, the INE was able to contact and train almost 1.5 million citizens in the run-up to election day.<sup>33</sup>

On Sunday, May 30, the OAS/MFV observed the third and final test run, confirming that as of 5:30 p.m., the INE had been able to process 151,879 tally sheets, close to 93% of the national total. The Mission also assisted in testing the Preliminary Electoral Results Program (PREP) system on June 1, 2, 3, and 4. During the tests, the Mission was able to observe the processes of digitalizing the tally sheets and consolidating, tabulating, and publishing the preliminary electoral results.

<sup>29</sup> Data provided by consultant Etellekt.

<sup>30</sup> Since September 7, 2020, the start date of the electoral process.

<sup>31</sup> The documents adopted include, for example, the “General protocol on sanitary attention and health protection for holding the sessions of the Local Councils of the National Electoral Institute for the 2020-2021 Concurrent Electoral Process in light of the COVID-19 pandemic;” the “Specific protocol for electoral supervisors, trainers, and electoral assistants in the activities involved in forming polling station tables and providing electoral training during the electoral period 2019-2020, in the framework of the health emergency caused by COVID-19 (the coronavirus);” the Electoral Campaign Health and Safety Protocol;” and Order INE/CG324/2021.

<sup>32</sup> Available at: <https://repositoriodocumental.ine.mx/xmlui/handle/123456789/118035>

<sup>33</sup> Data provided to the Mission by the National Electoral Institute (INE).

Lastly, OAS observers witnessed the act of the destruction of 600 unused ballots that had been prepared for the vote by Mexicans living abroad, as well as of 42 vote-by-mail packages that had been sent abroad but could not be delivered. The Mission confirmed that this act was witnessed by political party representatives.

## ELECTION DAY

On election day, the OAS observers were present in 18 Federal entities from the setting up and opening of the polling stations to the vote count and transmission of the results.

At the start of election day, the Mission was able to confirm delays in opening and setting up the polling stations, causing lines to form outside voting centers. However, people waited patiently to be able to exercise their right to vote. The OAS/MFV observed that, in general, late opening was caused by delays in setting up the polling stations and by the absence of the officials and their alternates. Nevertheless, note was taken of the official announcement<sup>34</sup> by the INE Council President, Lorenzo Córdova, who reported at midday that 81.3% of the country's planned polling stations were open.<sup>35</sup> At the conclusion of the election, the INE announced that a total of 99.73% of the country's polling stations had succeeded in opening.<sup>36</sup>

At the centers it visited, the Mission was able to observe a significant presence of party representatives and assistant electoral trainers from the INE and local organizations. The OAS/MFV takes this opportunity to congratulate Mexicans on the civil and democratic commitment they showed by serving as electoral officials that made it possible to hold these elections during the pandemic. The Mission also highlights the high rate of participation by political party representatives<sup>37</sup> and extensive presence of national observers and foreign visitors.<sup>38</sup>

All the voting centers visited by the Mission had the materials necessary to hold the election. Additionally, as confirmed by the OAS/MFV during its 2018 deployment, it was observed that the polling station officials encountered difficulties when they had to detach the ballots from the booklets along the stippled line, having to use scissors or a ruler to cut the ballots out to prevent them from tearing. In some cases, voters were erroneously given ballots with the numbered part of the booklet.

The observers also reported that the spaces were occasionally not large enough, causing crowding, especially in voting centers with many polling stations, where it was also found that there was some confusion among voters as to the location of their polling place.

<sup>34</sup> Available at: [https://www.youtube.com/watch?v=EVS\\_1Nxv43Q](https://www.youtube.com/watch?v=EVS_1Nxv43Q)

<sup>35</sup> Available at: <https://twitter.com/inemexico/status/1401593538937344008?s=12>

<sup>36</sup> Available at: <https://www.youtube.com/watch?v=yfcu8FQqvLY>

<sup>37</sup> According to the INE, 2,887,443 political party representatives were registered. Available at:

<https://centralelectoral.ine.mx/2021/05/26/termina-el-plazo-para-registro-de-representantes-de-casilla-de-partidos-politicos-y-candidaturas-independientes/>

<sup>38</sup> According to the INE, for this election, more than 19,000 national observers were registered, along with 559 foreign visitors from 45 countries. Available at: <https://centralelectoral.ine.mx/2021/06/03/pronunciamiento-del-consejo-general-en-vispera-de-la-jornada-electoral/>

As regards measures for preventing the transmission of COVID-19, the Mission observed with satisfaction the execution of the biosafety protocol<sup>39</sup> by the INE and the implementation of sanitary measures at the polling stations on election day. Aside from several isolated cases—like outside the special polling stations—the MFV observed that citizens complied with social distancing, the use of facemasks, and hand sanitizing when entering the facilities, as well as when exiting. All the voting centers visited were found to have the sanitary supplies necessary to guarantee the safety of polling station members and of voters.

The Mission also welcomes the accessibility measures adopted to facilitate voting by persons with disabilities. At the facilities where they were present, the OAS observers reported ballot boxes offering Braille, as well as ramps to provide accessibility to voters with disabilities. The Mission noted, however, that preferential treatment was not always given to older adults, pregnant women, or people with a disability. Additionally, the *canceles*<sup>40</sup> for persons with disabilities were placed on high tables, which was uncomfortable for people using wheelchairs. Likewise, in some cases, the location of these *canceles* did not fully guarantee the secrecy of the vote.

Aside from some isolated incidents, some of them extremely serious,<sup>41</sup> election day proceeded with relative calm in the majority of the Federal entities observed. The Mission was able to learn of the incidents that took place during election day from the information generated by the INE's Election Day Information System.<sup>42</sup>

Although the events documented did not put the election day in jeopardy, the Office of the Electoral Prosecutor reported that it had received 76 complaints—most of them in the State of Mexico, Oaxaca, Puebla, and Mexico City—of conduct including destruction of electoral materials, vote buying, illegal collection of voter credentials, and other conduct.<sup>43</sup>

The Mission also took note of difficulties at the special polling stations due to the large number of voters who went to vote at those locations. This produced long lines, crowding, and dissatisfaction among voters. However, the OAS/MFV noted that in 2020, the INE General Council decided to increase the supply of ballots at these polling stations, from 750 to 1,000, so materials would not run out on election day,<sup>44</sup> as the OAS had observed during the 2018 elections.

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<sup>39</sup> Available at: <https://www.ine.mx/protocolo-de-seguridad-sanitaria.html>

<sup>40</sup> Space where citizens cast their votes. Used as a synonym for partition or divider.

<sup>41</sup> The Mission took note of serious incidents of violence in the state of Chiapas, which prevented the installation of 163 polling stations. Additionally, the OAS/MFV learned of a terrible incident of violence in the city of Tijuana. Available at: <https://bit.ly/350tFBb> and <https://bit.ly/2ShdAUT>.

<sup>42</sup> Report of the General Secretary of the INE on developments during election, documenting 39 incidents in Chiapas, Mexico, Michoacán, Oaxaca, Sinaloa, Tlaxcala, and Veracruz involving violence at polling stations; 70 incidents in the states of Baja California, Chiapas, Oaxaca, Mexico, San Luis Potosí, and Sinaloa involving the destruction of electoral documentation; an incident in Chiapas resulting from adverse weather conditions; and five incidents in Chiapas and Sinaloa of citizens who want to vote without credentials. Available at: <https://centralectoral.ine.mx/2021/06/06/intervencion-de-edmundo-jacobo-molina-en-el-punto5-de-la-sesion-extraordinaria-permanente-relativo-al-informe-sobre-la-percepcion-de-la-votacion-y-el-desarrollo-de-la-jornada-electoral/>

<sup>43</sup> Available at: <https://www.youtube.com/watch?v=5eqCtSfthOA>

<sup>44</sup> Available at: <https://centralectoral.ine.mx/2020/12/15/aumenta-ine-de-750-a-1000-las-boletas-que-podran-ser-utilizadas-en-casillas-especiales/>



The OAS observers reported that the centers where they were present closed at 6:00 p.m., were supported by the local and INE assistant electoral trainers, and that for the most part, no one in line to vote was left stranded. Despite this, in some cases, confusion was observed as to how and in what order to begin the steps to close and conduct the tally.

According to the INE, publication of the results began at 8:00 p.m. Sunday through the Preliminary Electoral Results Program (PREP), a tool that was made available for 24 hours. As of around midnight, 49.9% of the country's tally sheets had been processed. The Mission observed that the site where the results were published was regularly updated and easy for citizens to access.

Finally, at 11:00 p.m. on Sunday, the Mission observed the publication of the quick count results<sup>45</sup> on the official website of the electoral authority and in the media. The quick count results presented an estimate for citizen participation (51.7%-52.5%) based on sampling, as well as results for federal deputy seats and the percentage per political party. In this context, the President of the INE reported on the start of the official count in the district councils, beginning June 9.<sup>46</sup>

## FINDINGS AND RECOMMENDATIONS

Since 2009, the OAS has been observing electoral processes in Mexico, with the most recent being in 2018. Over the course of these 12 years, the Organization has witnessed the serious and professional work performed by electoral authorities and the effort they make to continue improving elections in the country.

For the 2020-2021 federal and local electoral process, the OAS Mission of Foreign Visitors conducted a detailed analysis of the electoral process based on current legislation and collected information and viewpoints from the different institutional, political, and social actors from more than 100 meetings. In the same spirit as previous years, the OAS reaffirms its mandate to contribute to strengthening Mexican democracy. In this context, the Mission presents its preliminary findings and recommendations as follows:

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<sup>45</sup> The law provides for the performance of the quick count (Chapter X of the LGIPE) as a system that coexists with the Preliminary Electoral Results Program (PREP). It is a sampling procedure based on the total number of polling stations that makes it possible to estimate statistically significant results on election day using the tally sheets and count for the election of deputies (federal elections) selected for the sampling exercise. The main objective of the quick count is to provide information rapidly to show how the vote is trending.

<sup>46</sup> Under the law, official election results are issued from the district counts (Chapter IV of the General Electoral Institutions and Procedures Act).

## Electoral organization

### - *Training*

As established in electoral law,<sup>47</sup> the assistant electoral trainers are in charge of training days. Starting in March 2021, a total of 41,088 assistant electoral trainers<sup>48</sup> conducted in-person training sessions in the homes of the citizens who would be running the polling stations.

The Mission had the opportunity to observe one of these training days, where it was able to confirm that the training of polling station officials was conducted using a didactic method and supported through the use of materials found in the elections package. In addition to the in-person training, during this electoral process, the INE introduced a virtual training modality through an online platform that was available 24 hours. At the end of the training sessions, regardless of the modality selected, all polling station officials had to participate in person in practice or simulation sessions<sup>49</sup> so they could put to use the knowledge they had acquired.

Of the 1,462,672 individuals appointed, the INE trained 1,461,537 citizens, including 846,741 women and 614,796 men, or 99.92% of the total number of polling station officials. Of these individuals, 91.16% opted for in-person training, while 3.61% chose the virtual version and 5.21% a hybrid modality, with in-person training reinforced online.<sup>50</sup> The mobility of such a large number of electoral training assistance and the percentage of polling station officials trained are evidence of the logistical efforts made by the electoral authority in preparation for these elections and the success achieved despite the complex health context.

### - *Electoral materials*

The Mission had an opportunity to visit the electoral storage facilities of the INE and the Electoral Institute of Mexico City (IECM) and witness the deployment and delivery of electoral materials to the assistant electoral trainers in charge of getting the packages to the polling station presidents in their homes. In that context, it observed sensitive materials—ballots, tally sheets, and nominal lists—in the boxes and verified they were packed in accordance with the security protocols established by the electoral authority.<sup>51</sup>

Regarding the delivery of the material, the Mission was informed that the INE had issued general guidance to the effect that the elections packages for the federal and local elections must be delivered to the polling station president at the same time. However, the Mission learned that because of logistical delays, in some cases, the federal electoral package and the local electoral package were delivered at different times. This did not put the distribution of the packages in jeopardy, and they were received on time by the presidents.

<sup>47</sup> Resolution INE/CG189/2020. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/114315/CGex202008-07-ap-3.pdf?sequence=1&isAllowed=y>

<sup>48</sup> National Electoral Institute (INE). *2020-2021 Electoral Processes by the Numbers*. Updated through June 4, 2021. Available at:

[https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/118602/numeralia\\_22.pdf?sequence=3&isAllowed=y](https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/118602/numeralia_22.pdf?sequence=3&isAllowed=y)

<sup>49</sup> Available at: <https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/117571/ccoe-se16112020-p1-2-Inf.pdf?sequence=4&isAllowed=y>

<sup>50</sup> Information provided to the Mission by the Electoral Training and Civic Education Office of the National Electoral Institute (INE).

<sup>51</sup> Resolution INE/CG561/2020. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/115153/CGex202011-06-ap-5.pdf>

As indicated, on election day, OAS observers confirmed that the polling station officials had difficulties removing the ballots from the booklets without tearing them. Reiterating the recommendation from the OAS/MFV deployed in 2018, it is suggested to:

- Evaluate the material and the stippling of the valid booklets and consider using a mechanism that makes them easier to separate, thus facilitating the process of handing ballots to voters when it is time to vote.

## Technology and IT security

The Mission was able to observe changes and progress made on IT infrastructure, along with the introduction of new voting technologies.

For this election, the INE processed the preliminary electoral results using a cloud services provider. The institution was thus able to handle its storage, computing resources, applications, databases, and other services in a totally virtual environment. This strategy enabled the Institute to reduce the cost of maintaining and updating its IT infrastructure while improving flexibility and capacity to process and publish electoral data on election day.

This is the first time the INE has implemented its Electronic Voting over the Internet System (SIVEI),<sup>52</sup> one of the two options offered to persons living abroad who were registered to vote for 11 governors offices<sup>53</sup> and for the election of the migrant deputy of Mexico City and the Proportional Representation Deputy in Jalisco. Likewise, pilot plans were implemented for electronic voting using 50 electronic voting machines in Jalisco and 50 in Coahuila. The electronic voting machines accounted for approximately 0.06% of all the polling station capacity in the country.

With the objective of providing security to the SIVEI environments under its control, the INE established technical specifications and requirements for designing and developing this system that used secure coding principles. The Mission observed that the platform was stable and operated without interruption.

The OAS/MFV recognizes that the INE conducted a number of activities with the purpose of auditing the security of the technologies used both for the electronic ballot boxes and for electronic voting over the Internet. It did so in view of the fact that by adding voting devices—like electronic voting machines or, in the case of voting over the Internet, a computer—risks are added, which implies the need to maximize the precautions and controls.

Based on the analysis of the OAS technicians of the electronic voting machine used in Jalisco, the Mission views it as worthwhile to comprehensively update the equipment's technology prior to expanding this pilot program in order to reduce the risks deriving from obsolescence.

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<sup>52</sup> The Electoral Institute of the City of Mexico has introduced voting over the internet in local elections before.

<sup>53</sup> Baja California Sur, Chihuahua, Colima, Guerrero, Michoacán, Nayarit, Querétaro, San Luis Potosí, and Zacatecas.

As regards the Electronic Voting over the Internet System (SIVEI), the OAS technicians confirmed that although the system had encrypted communications that met the technical requirements set by the INE, there were more up-to-date and robust versions that could have been used that would also have covered the organization's attack surface.

The Mission also observed that the INE had implemented a blockchain for the SIVEI. That is, a blockchain IT architecture was set up in which the data, organized in sections or blocks, was individually secured using cryptographic technology. The blocks were then added to an existing and transparent chain. Although the aim of this technology is to generate trust in the security of the data, the OAS technicians found that all the nodes were concentrated on INE devices and servers.

The Mission therefore recommends the following:

- Modernize the design, components, operating system, and applications on the Jalisco voting machine.
- Revise the software requirements and technical specifications with a focus on IT security for the voting machines.
- Assess the security risks inherent to the use of remote voting environments, including the devices used by voters, over which electoral authorities have no control.
- Analyze the pertinence of using browsers that offer anonymity and techniques for hiding and changing identities for SIVEI users.
- Educate citizens on *smishing*<sup>54</sup> techniques due to risk of impersonation of the communications company and *vishing*,<sup>55</sup> attack methods in which the attackers pretend to offer the victim technical support over the phone, to voters who may be seeking help with voting via their devices.
- Consider implementing protocols for more robust encrypted communication channels for all services.
- If use of the blockchain is continued, the recommendation is to establish distribution of the nodes such that not all of them are housed on INE devices and servers, the objective being to foster trust regarding information security.

## Political Participation of Women

### - **Gender parity**

Mexico has one of the most advanced legal frameworks in the world on the political rights of women and gender equality. In 2014 gender parity for federal and local legislative candidates was added to the Constitution. The new legal framework led to a structural change that, accompanied by the actions of

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<sup>54</sup> Smishing: Composite term of "SMS" and "phishing" (given its similarity to a phishing attack). Smishing is a social engineering attack using SMS text messages or messages from other instant messaging apps.

<sup>55</sup> Vishing: This is a type of social engineering where the attacker contacts the victim by telephone.

electoral institutions, resulted in a historic increase in the political representation of women for the 2018 elections.<sup>56</sup>

Additionally, for the first time in the country's history, parity also applied to the gubernatorial candidates of the 15 Federal entities who were seeking reelection. This followed a reform of the Political Constitution Implemented in June 2019 that, for the first time in the region's history, established gender parity for all state agencies and branches of government. A total of 138,830 candidates sought office in the federal and local elections, of which more than 71,000 were women.<sup>57</sup>

The Mission wishes to explicitly recognize the coordinating work of Mexican women who, from Congress, federal and local electoral institutions, the National Institute of Women (INMUJERES), the gender agencies in federal entities, women's networks, and active civil society feminist organizations throughout the country, among others, have taken decisive steps forward in the gender parity agenda and toward the eradication of gender-based political violence against women, as well as on developing permanent efforts for effective implementation.

Nevertheless, as already indicated in 2018, Mexico's political organizations continue to face significant challenges to democratizing their internal functioning. A number of interlocutors reiterated to the OAS/MFV that leadership remains under the control of men, who make decisions on how to distribute resources and assign candidacies based primarily on criteria of political loyalty amongst each other. The mission therefore recommends the following:

- Strengthen the mechanisms of democracy within parties and, once the election is over, evaluate compliance with the measure and establish a clear sanctions framework to illuminate the internal power dynamics that inhibit women's participation at different levels of the electoral process.
- ***Gender-based political violence against women***

The electoral process in Mexico took place in the context of gender-based violence that also affects politics and that has created a hostile and unsafe environment for many women. Data from the Observatoria Ciudadana Todas Mx, comprised of more than 150 civil society organizations, indicate that this election has been one of the most violent for women in the country's history.<sup>58</sup>

The Mission emphatically condemns the multiple cases of violent and sexist attacks against women politicians that took place during the electoral process. It also recalls that the Model Law on the Prevention, Punishment and Eradication of Violence against Women, published in 2017, has established that violence is a leading threat to democracy and its eradication is necessary to achieve gender parity.<sup>59</sup>

<sup>56</sup> Available at: <http://scm.oas.org/pdfs/2018/CP40034SINFORMEFINAL.pdf>

<sup>57</sup> Twitter account of INE council member Carla Humphrey (June 5, 2021). Available at: [https://twitter.com/C\\_Humphrey\\_J/status/1401205854309949440?s=20](https://twitter.com/C_Humphrey_J/status/1401205854309949440?s=20)

<sup>58</sup> Observatoria Ciudadana Todas Mx. Communication of June 1, 2021: "Proceso electoral 2021, el más violento hacia mujeres, 21 candidatas asesinadas."

<sup>59</sup> Inter-American Model Law on the Prevention, Punishment and Eradication of Violence against Women. Available at: <https://www.oas.org/en/mesecvi/docs/LeyModeloViolenciaPolitica-EN.pdf>

In that framework, in April 2020, Congress approved the legislative reform on gender-based political violence against women,<sup>60</sup> a measure that the OAS/MFV had recommended in 2018. The passage of the legal reform is a key step forward toward punishing and eradicating this violence. The Mission welcomed the initiative, which is a victory long sought by the women's movement, and recognizes that Mexico has become one of the few countries of the region with legislation in this area.

In contrast, the Mission has been informed that, in different institutions and Federal entities, different criteria are used to determine whether or not gender-based political violence has taken place, meaning that similar acts of violence can be punished differently. This disparity of criteria and punishments can pose a problem in terms of legal certainty, and therefore, the Mission recommends as follows:

- Move forward in defining standards for identifying, preventing, addressing, punishing, and providing redress for gender-based political violence, and strengthen the institutional capacity of LPBs in this area, for which the Mexican State can request support from the Inter-American Commission of Women.
- Launch, as soon as possible, the process to harmonize legislation on gender parity and gender-based political violence against women across all Federal entities.
- Evaluate applying the political violence reform at the federal and local levels once the electoral process has concluded.

The Mission also received information on political violence within political parties, particularly during the period when candidates are selected. However, the political costs of reporting members of one's own political party, on one hand, and the lack of trust that intraparty justice bodies will resolve and punish such violence—a competence established by law<sup>61</sup>—make it difficult to address this problem properly. Therefore, the OAS/MFV recommends as follows:

- Take measures to establish how gender-based political violence against women overlaps with other violence taking place during the electoral process and determine women's specific needs for protection.

The Mission wishes to explicitly recognize the important role played by organized women, such as by the Observatoria Ciudadana Todas Mx, Auna, the Red de Candidatas Electorales, and other organizations, that have supported and advised women candidates who face political violence. In its interlocution with some of them, the Mission has learned of the deficits that persist when it comes to ensuring that women politicians have effective access to justice, and it therefore recommends the following:

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<sup>60</sup> Available at: [https://dof.gob.mx/nota\\_detalle.php?codigo=5591565&fecha=13/04/2020](https://dof.gob.mx/nota_detalle.php?codigo=5591565&fecha=13/04/2020)

<sup>61</sup> Guidelines for national and, where applicable, local political parties to prevent, address, punish, redress, and eradicate gender-based political violence against women, article 8: "political parties must hear, investigate, punish, redress, and eradicate conduct constituting gender-based political violence against women when such conduct has to do with their private lives in observance of the grounds set forth in these guidelines."

- Implement legal training, advisory, and legal consultancy programs so women have the necessary resources to obtain justice.

In addition to the aforementioned legislation, the Mission wishes to underscore that Mexico has adopted innovative instruments in this area. For one thing, in 2021, a novel legislative reform against digital sexual harassment was adopted, known as the “Olimpia Act.”<sup>62</sup> For another, after a judgment handed down by the TEPJF, the INE set up a National Registry of Persons Punished for Gender-Based Political Violence against Women,<sup>63</sup> which consists of a public list of every individual who has been punished for committing such violence. The registry currently lists 58 punished individuals, of which 45 are men and 13 are women. The OAS/MFV also highlights “3 de 3 contra la violencia” [3 for 3 against violence],<sup>64</sup> a civil society initiative adopted by the INE that seeks to prevent people who have abused women or failed to pay alimony from running for office.

The Mission recognizes the work of the INE and other State entities in developing guidelines and instruments on gender-based political violence. It also recognizes civil society organizations and women's networks for their work to disseminate the content of the new laws and, in particular, facilitate the filing of complaints. In view of the importance of these measures and the challenges that have arisen with initial application of them,<sup>65</sup> the OAS/MFV recommends as follows:

- Identify a mechanism that would permit effective application of the “3 de 3 contra la violencia” initiative to prevent people who abuse women and family rights from accessing popularly elected offices.

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<sup>62</sup> Recognizes digital violence and punishes crimes that use digital media to violate the sexual privacy of persons. Available at: [https://dof.gob.mx/nota\\_detalle.php?codigo=5619905&fecha=01/06/2021](https://dof.gob.mx/nota_detalle.php?codigo=5619905&fecha=01/06/2021)

<sup>63</sup> Available at: <https://portal.ine.mx/actores-politicos/registro-nacional-de-personas-sancionadas/>

<sup>64</sup> Available at: <https://centralectoral.ine.mx/2021/03/31/verificara-ine-que-candidaturas-no-se-encuentren-en-los-supuestos-de-la-3-de-3-contra-la-violencia/>

<sup>65</sup> Available at: <https://centralectoral.ine.mx/2021/06/04/resolucion-del-tepjf-de-reponer-candidaturas-de-personas-que-cometieron-violencia-de-genero-es-un-retroceso/> <https://centralectoral.ine.mx/2021/05/26/cancela-ine-registro-a-candidaturas-a-diputaciones-federales-por-incurrir-en-falsedad-de-declaraciones-en-el-formato-3-de-3-contra-la-violencia/> and <https://centralectoral.ine.mx/2021/06/04/resolucion-del-tepjf-de-reponer-candidaturas-de-personas-que-cometieron-violencia-de-genero-es-un-retroceso/>

## - *Financing for women candidates*

Regarding campaign financing, the INE has also made important changes to this process.<sup>66</sup> The new rules apply to federal and local processes and establish that parties are required to allocate a minimum of 40% of direct and indirect public campaign financing to women candidates.<sup>67</sup>

The OAS/MFV welcomes this measure, which aims to mitigate inequality in the distribution of funds that, in turn, impacts the visibility of women candidates. It likewise highlights that this action is in line with what the OAS Mission deployed in 2018 had recommended.<sup>68</sup> It notes, however, that the consequences of the implementation of the order cannot yet be measured, as the INE has until July 22 to review the reports submitted by political organizations. It also notes that the regulation does not establish clear sanctions for failure to comply with the measure. The Mission therefore suggests the following:

- Establish a framework of concrete sanctions to discourage failure to follow the regulation establishing equitable distribution of resources within parties.

## **Political Participation of Indigenous Peoples and Persons of African Descent**

There are 68 indigenous peoples in Mexico. According to the National Institute on Statistics and Geography (INEGI), 21.5% of the country's population self-identify as indigenous (25.7 million people), with 51.3% being women and 48.7% being men. Additionally, 6.5% of the country's population is registered as speaking an indigenous language (7.4 million persons).<sup>69</sup> Also, 2% of the total population (2,576,213 persons)<sup>70</sup> self-identify as Afro-Mexican or Afro descendants.<sup>71</sup>

The Political Constitution of the United Mexican States establishes that everyone shall enjoy the human rights recognized in the Constitution and in the international treaties to which the Mexican State is party.<sup>72</sup> It also recognizes that the nation is a pluricultural one based originally on the indigenous peoples. Additionally, in 2019, Afro-Mexican peoples and communities were also recognized.<sup>73</sup> The Constitution recognizes and

<sup>66</sup> National Electoral Institute (INE). Guidelines for national and, where applicable, local political parties to prevent, address, punish, redress, and eradicate gender-based political violence against women:

XIV (...) In the case of financing, women can be allocated no less than 40% of the public financing granted to each party or coalition for campaign activities. The same percentage applies to access to radio and television airtime during the electoral period. For elections to council seats and mayoralties, as well as local or federal deputy seats, for candidates with equal expenditure limits, the public financing allocated to women candidates cannot be less than 40% of the total resources expended by such equivalent candidates."

<sup>67</sup> Order INE/CG517/2020, article 14 and section XIV. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/115101/CGor202010-28-ap-9-Gaceta.pdf?sequence=3&isAllowed=y>

<sup>68</sup> OAS/MFV 2018, Final Report. Page 87. Available at: <http://scm.oas.org/pdfs/2018/CP40034SINFORMEFINAL.pdf>

<sup>69</sup> Available at: <https://www.inegi.org.mx/programas/intercensal/2015/?ps=microdatos>

<sup>70</sup> Available at: [https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2021/EstSociodemo/ResultCenso2020\\_Nal.pdf](https://www.inegi.org.mx/contenidos/saladeprensa/boletines/2021/EstSociodemo/ResultCenso2020_Nal.pdf)

<sup>71</sup> Available at: [https://www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc\\_2017\\_030.pdf](https://www.cndh.org.mx/sites/all/doc/OtrosDocumentos/Doc_2017_030.pdf)

<sup>72</sup> Mexico ratified the UN's International Convention on the Elimination of All Forms of Racial Discrimination in 1975 and the Convention 169 of the International Labour Organization in 1990; and approved the UN Declaration on the Rights of Indigenous Peoples in 2007 and the OAS American Declaration on the Rights of Indigenous Peoples in 2016.

<sup>73</sup> Reformed by Decree published in the *Diario Oficial de la Federación* on August 9, 2019.

guarantees the right of indigenous peoples and communities to free determination and autonomy to decide on their internal forms of coexistence and social, economic, political, and cultural organization. It also enshrines their right to choose—in accordance with their traditional norms, procedures, and practices—their authorities or representatives to exercise their own forms of internal governance. For municipalities with indigenous populations, it also recognizes the right to choose representatives to the municipal councils, observing the principle of gender parity pursuant to relevant norms. According to the Constitution, all these standards also apply to Afro-Mexican peoples and communities.<sup>74</sup>

Under domestic Mexican law, the political-electoral rights of indigenous and Afro Mexican peoples and communities are exercised on two fronts: in federal and state elections, through the political parties system; and in municipal and community elections, through their internal legal systems, if they have been recognized by state legislation or have secured recognition, or, where not, by the political parties system.

For the 2021 electoral process, the affirmative action implemented in 2018 for the indigenous population in the election of relative majority federal deputy seats was expanded, from 13 districts to 21. Additionally, at least 11 of these candidacies had to be reserved for indigenous women.<sup>75</sup> As far as the Afro-descendent population, an affirmative action was implemented for the first time under which political parties were to put forward three Afro-Mexican candidates in any of the 300 electoral districts and one Afro-Mexican candidate under the principle of proportional representation in any of the five precincts. They were also required to place them in the top 10 slots on the list and respect gender parity.<sup>76</sup>

The Mission appreciates the efforts of the electoral authorities to increase the political participation of indigenous peoples in Federal deputy seats. However, it should be noted that the State has a duty to consult indigenous and tribal peoples with regard to legislative or administrative measures that affect them in order to obtain their free, prior, and informed consent. Through the interviews and research conducted, the Mission was able to observe the existence of differences between the logic of the party system underlying the affirmative-action and the historical demand of indigenous peoples for recognition of their free self-determination and the opportunity to elect authorities through their uses and customs, as provided for under domestic law.

The Mission also notes that the affirmative actions are still below the proportion of the indigenous and Afro-Mexican populations nationally. The recommendations are as follows:

- Increase efforts to consult indigenous communities on designing the measures impacting them, in view of their collective rights.

<sup>74</sup> Reformed by Decree published in the *Diario Oficial de la Federación* on June 6, 2019.

<sup>75</sup> INE/CG160/2021 - Compliance EXP. SUP-RAP-21/2021 and joined. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/118027/CGex202103-04-ap-1.pdf>

It should be noted that in 28 districts, the indigenous population accounts for more than 40% of the total, located in 9 of the 32 Federal entities comprising the country. Therefore, the parties had a margin of discretion in complying with the affirmative action, as they had to put forward indigenous candidates in 21 of these 28 districts.

<sup>76</sup> Available at: <https://centralectoral.ine.mx/2021/01/15/establece-ine-acciones-afirmativas-para-la-participacion-de-grupos-vulnerables-en-elecciones-2021/>

- Move forward in adopting measures that proportionally reflect the indigenous and Afro-Mexican population in all the offices up for election.
- Pursuant to the Constitution’s recognition of the right to free determination, adopt legal reforms to ensure that indigenous peoples and communities wishing to do so can participate directly, through their own legal systems, without restricting their participation through political parties.

As indicated, the deadline between adoption of the affirmative action measures and the submission of the respective candidates was extremely tight. This meant that the communities and peoples were not properly informed as to their scope and meant that political parties had to rush to pick candidates.

Regarding local elections, the Mission takes note of the direct exercise of political rights by a significant number of indigenous communities in the states of Oaxaca and Chiapas. Additionally, some communities in Michoacán have adopted or are in the process of adopting free determination mechanisms. In this electoral process, the Mission observed the tension this produced at different levels of the election—federal, state, and local—in the indigenous communities, and in particular the demand for recognition of their own mechanisms for selecting authorities at the local level. This situation resulted in actions to block setting up polling stations on the territories of some communities, a phenomenon that has been observed during previous elections.

The Mission again noted that the reported data on incidents of political violence does not include the ethnicity of victims. It therefore reiterates the recommendation made in 2018:

- Disaggregate the data on political violence by ethnicity, in view of the need to understand the impact violence has on indigenous and Afro-Mexican candidates and its effect on the exercise of their political rights.

Likewise, it again confirmed that the nominal list of voters does not include information on their ethnic origin, making it impossible to know whether indigenous populations and persons of African descent are under-registered and their participation rates. Thus, the Mission reiterates the recommendation from its 2018 report:

- Add information on ethnic origin to the nominal list of voters with the aim of designing and executing policies and actions that recognize cultural identity in order to encourage voter registration and participation.

## **Penitentiary vote**

The Mission recognizes and celebrates the execution of the first piloting of the exercise of the vote by persons held in pretrial detention, as it constitutes a step forward in the expansion of the guarantee of rights, especially rights of vulnerable persons. The OAS/MFV recalls that the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, adopted by the IACHR, hold that “Every person deprived of liberty shall be equal before the law and be entitled to equal protection of the law and the tribunals. They shall also have the right to maintain their guarantees and exercise their fundamental rights,

except for those rights which exercise is temporarily limited or restricted by law and for reasons inherent to their condition as persons deprived of liberty.”<sup>77</sup>

In this regard, Mexico has moved forward on the IACHR’s recommendation to “Adopt the legislative, regulatory and administrative measures necessary to ensure the persons in pretrial detention the exercise of the political rights compatible with their legal situation, particularly the right to vote.”<sup>78</sup> The Mission therefore recommends the following:

- Conduct additional pilot projects on penitentiary voting, progressively expanding the number of participants and type of penitentiary, looking toward the 2024 elections.
- Allow the presence and accompaniment of national and international observers during the execution of these pilots.
- Make efforts to guarantee the exercise of an informed vote, providing voters deprived of liberty with timely access to candidate platforms.
- Prior to building a nominal list of voters for persons held in pretrial detention, conduct campaigns to provide credentials to the prison population.

## Voting Abroad and Migrant Deputy Seats

### - *Exercising the vote from abroad*

At the federal level, current legislation empowers Mexicans living abroad to vote for the president and for the Senate of the Republic.<sup>79</sup> Therefore, in this electoral process, residents abroad were authorized to vote at the state level in the Federal entities whose constitutions allow them to do so: Baja California Sur, Chihuahua, Mexico City, Colima, Guerrero, Jalisco, Michoacán, Nayarit, Querétaro, San Luis Potosí, and Zacatecas. In nine of these Federal entities, residents abroad can vote for governor. In Jalisco, those from the state who live abroad voted for a proportional representation deputy, while those from Mexico City had the opportunity for the first time to elect a migrant deputy.<sup>80</sup>

One of the innovations of this electoral process was the incorporation of voting over the Internet, which was added as an option in addition to the vote-by-mail modality. For this election, the nominal list of voters living abroad contained 32,303 voters.<sup>81</sup> Of all the voters registered to vote, 66.82% opted for the vote over the

<sup>77</sup> Resolution 1/08. Available at: <http://www.cidh.oas.org/pdf%20files/RESOLUCION%201-08%20ESP%20FINAL.pdf>

<sup>78</sup> IACHR, “Report on the Use of Pretrial Detention in the Americas.” OEA/Ser.L/V/II. Doc. 46/13. December 30, 2013, pg. 129.

<sup>79</sup> Article 329, 1, of the General Electoral Institutions and Procedures Act.

<sup>80</sup> Decree INE/CG375/2021. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/119278/CGex202104-16-ap-13-Gaceta.pdf>

<sup>81</sup> National Electoral Institute (INE). Numbers on the electoral process (updated through May 4, 2021). Available at:

<https://portal.ine.mx/numeralia-proceso-electoral-2021/>

Internet modality.<sup>82</sup> According to INE data on voting abroad, 5,624 persons voted by mail and 12,456 persons voted over the Internet.<sup>83</sup>

Since 2014, Mexican law has provided for the possibility of requesting and updating voter credentials from abroad. In this regard, the Mission was informed that the guidelines<sup>84</sup> establish that representations abroad can only process requests for credentials from migrants within their jurisdiction. Although this is logical as a mechanism for organizing and allocating responsibilities, in practice, it has not been ideal for migrants, who sometimes have to travel long distances (several hours) to access the representation corresponding to them, even though another one is closer.<sup>85</sup>

The Mission confirmed that the voting abroad website (<https://votoextranjero.ine.mx/>) provided information on the deadlines for voting over the Internet;<sup>86</sup> the candidates running in each of the entities with voting abroad; the steps to secure a credential in the case of not having one or it needing to be updated; online voting simulations; and other useful information. Additionally, the website hosted the Vote Abroad Registration System (SRVE), the exclusive mechanism<sup>87</sup> through which citizens living abroad could request registration on the nominal list of voters living abroad between September 1, 2020, and March 10, 2021.

Regarding the registration procedure, the SRVE enabled citizens who had previously secured credentials prior to the start of the electoral period to submit all the necessary information through the website, including: 1) the request for registration on the nominal list of voters living abroad; 2) confirmation or change of domicile, as well as confirmation of the decision to vote; 3) updated contact information; 4) voting modality (by mail or over the Internet), and other information.<sup>88</sup> For their part, those individuals who conducted the procedure to obtain their credential during the electoral period also had the opportunity to register for the nominal list over the phone.

According to the Subdirector on Voter Registration for Mexicans Living Abroad of the National Electoral Institute, for this election, campaigns were carried out to encourage citizen registration using personalized messages sent to individuals living abroad who had already obtained their credentials and were registered to vote. In addition to e-mail messages and phone calls, this was the first time that the INE used text messages.

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<sup>82</sup> National Electoral Institute (INE). Numbers on the electoral process (updated through May 4, 2021). Available at: <https://portal.ine.mx/numeralia-proceso-electoral-2021/>

<sup>83</sup> National Electoral Institute (INE). Report presented by the Executive Secretary of the General Council of the National Electoral Institute on the number of votes cast by Mexican citizens living abroad, classified by voter country of residence, type of office up for election, modality of casting vote, and votes received past the legal deadline, pursuant to article 345, part 3 of the General Electoral Institutions and Procedures Act.

<sup>84</sup> The INE signed an agreement with the Ministry of Foreign Relations establishing the mechanisms and basis for collaboration so Mexicans living abroad can request, through Mexico's representations abroad, registration or update of their registration on the Electoral Role in order to obtain their Credential for Voting from Abroad (CPVE)

<sup>85</sup> For example, in the cases in which the citizen lives in a city bordering another state and the distance to the consulate in the neighboring state is shorter.

<sup>86</sup> From May 22 to June 6 at 6:00 p.m., Central Time in Mexico.

<sup>87</sup> In 2018, this could also be done in person. For this electoral process, registration was completely online.

<sup>88</sup> Available at: [https://votoextranjero.ine.mx/srve\\_ciudadano/app/ciudadano/inicio?execution=e1s1#](https://votoextranjero.ine.mx/srve_ciudadano/app/ciudadano/inicio?execution=e1s1#)

The OAS/MFV held meetings with Mexicans living abroad, electoral authorities, and the Ministry of Foreign Affairs, as well as representatives from civil society and academia. The majority of the individuals interviewed agreed that the procedures necessary to access the right to vote abroad were a significant burden for citizens. They also expressed disagreement with having to do this procedure for each election despite maintaining the same domicile. At the same time, they indicated that in spite of the INE's efforts, communication had been insufficient with regard to the deadlines and the multiple steps needed to register.

The Mission therefore recommends the following:

- Evaluate the communications campaigns conducted for the 2020-2021 process that sought to encourage the credentialing and registration on the nominal list in order to determine the impact of the strategies used and identify opportunities for improvement.
- Enhance the information campaigns used to communicate the dates and procedures for voter registration abroad.
- Allow voters residing abroad the option to go to the consular office closest to their domicile to request their credential for voting abroad, in order to facilitate this population's access to its right to vote.
- Evaluate alternatives that would allow Mexicans living abroad who already have a vote from abroad credential to not have to register for the nominal list for each election.
- ***Affirmative action for migrants***

On March 4, 2021, the INE passed a resolution<sup>89</sup> to implement affirmative actions for the migrant community. This resolution was passed in compliance with a judgment<sup>90</sup> of the TEPJF of February 21, 2021. Specifically, it was determined that in order for the community of Mexicans living abroad to be represented in the Chamber of Deputies of the Congress of the Union, the political parties had to put forward Mexican migrant candidates in each of the five electoral precincts and within the top 10 spots on the list. Of the five individuals put forward, three had to be gender diverse.

The Mission recognizes the efforts of the electoral authorities to guarantee the inclusion of migrants in the country's political life. However, some political party representatives indicated that although they support these affirmative-action measures, they were introduced after the electoral period had begun and very close to the candidate registration stage (March 22-29).

The Mission also wishes to underscore that, although the affirmative-action guarantees a seat for the migrant population in the Chamber of Deputies, migrants were not able to exercise the right to vote to elect their

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<sup>89</sup> INE/CG160/2021 - Compliance EXP. SUP-RAP-21/2021 and joined. Available at: <https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/118027/CGex202103-04-ap-1.pdf>

<sup>90</sup> SUP-RAP-0021-2021. Available at: [https://www.te.gob.mx/Informacion\\_juridiccional/sesion\\_publica/ejecutoria/sentencias/SUP-RAP-0021-2021.pdf](https://www.te.gob.mx/Informacion_juridiccional/sesion_publica/ejecutoria/sentencias/SUP-RAP-0021-2021.pdf)

representatives, posing a discrepancy between the active and passive right to suffrage of Mexicans living abroad.

The recommendation is as follows:

- Evaluate the possibility of extending the vote of residents living abroad to include the Chamber of Deputies of the Congress of the Union.

## Electoral Justice

### - *Resolving electoral disputes*

In Mexico, electoral justice functions fall to the Electoral Court of the Federal Judiciary (TEPJF), which forms part of the structure of the Judicial Branch and is broken down into local courts, regional chambers, the Regional Specialized Chamber, and the Upper Chamber. Additionally, as the administrative electoral body, the INE also takes on some of the functions of resolving electoral disputes administratively and issues injunctions in the framework of sanction proceedings.

Mexico's electoral bodies have strengthened their role in recent years, and the electoral courts have significantly developed and consolidated in terms of the resolution of electoral disputes, along with a plurality of resources and fora for appealing the majority of electoral process decisions. According to the information provided by the TEPJF, from the start of 2021 through June 6, the Upper Chamber of the TEPJF resolved 2,791 matters, compared to 11,544 in 2020, 3,234 in 2019, and 4,635 in 2018.<sup>91</sup> During the current electoral process, from September 2020 June 5, 80,035 challenges were received, and 7,878 matters were resolved. In the specific case of the Upper Chamber, it received 2,779 matters and resolved 2,767 cases.<sup>92</sup>

A review of electoral legislation and the information received by the Mission finds that almost all the acts of electoral bodies can be reviewed and challenged (including the guidelines or rules issued) at all stages of the electoral process (prior, during, or after the election). Additionally, the Electoral Tribunal also handles resolution of conflicts within political parties.

The Mission recognizes the TEPJF's institutional capacity to handle the workload assigned to it by law. However, once again the need was clear, as recognized by the 2015 and 2018 missions, to review the legislation to ensure it does not incentivize excessive litigiousness, in view of the number of rulings that Mexico's electoral justice system must issue in comparison to others on the American continent.

In advance of future electoral processes, the OAS reiterates the recommendation of previous missions:

- Evaluate the mechanisms defining the areas that can be subjected to rulings by electoral courts in order to prevent the politicization of legal-electoral conflicts, without leaving any individual or political organization defenseless or impacting the protection of the right to effective judicial

<sup>91</sup> Available at: <https://www.te.gob.mx/estadisticas/EstadisticaBOE/Estadistica/G4-Portal%20SGA.pdf>

<sup>92</sup> Available at: <https://www.te.gob.mx/front3/bulletins/detail/4145/0>

supervision. This may include providing alternative mechanisms of conflict resolution, especially for intraparty conflicts, as well as discouraging complaints the sole purpose of which is the delay or that run contrary to law.

## - ***Candidate eligibility***

Among the most controversial issues in the current electoral process were the cancellation of candidacies on dates that were close to election day for reasons that included failure to submit the pre-campaign income and expenditures report—for which candidacies for governor were cancelled<sup>93</sup>—and for incidents of gender-based political violence.

Current law establishes that the internal party body must submit the campaign income and expenditures report no later than seven days after primary elections or the holding of the party assembly. It also holds that should the party fail to submit this report, the candidate cannot legally register despite having been selected in a primary or in the corresponding assembly.<sup>94</sup> Application of this law thus makes it impossible to register or cancel a candidacy if this report is not provided. In this case, the cancellation of these pre-candidacies was the result of a ruling by the administrative authority, later upheld by the jurisdictional authority. The law does not explicitly establish any gradual application of this sanction, nor does it grant a period for fixing this omission.

In the days prior to the election, the INE also reported the cancellation of three candidacies<sup>95</sup> when a sample review<sup>96</sup> found they contained false information on the “3 for 3 against gender violence” form.<sup>97</sup> The electoral authority based its decision on the grounds that the candidates did not meet the “honest lifestyle” requirement that the Mexican Constitution establishes as a requirement for acquiring citizenship.<sup>98</sup> This decision was later reversed by the Upper Chamber of the TEPJF, which found that the administrative electoral authority did not have competence to determine a loss of the presumption of “honest lifestyle,” something that falls to the jurisdictional authority upon issuing a judgment convicting a person of gender-based political violence, which had not happened in the cases in question.<sup>99</sup>

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<sup>93</sup> Available at: <https://www.te.gob.mx/front3/bulletins/detail/4115/0>

<sup>94</sup> Article 229 of the General Electoral Institutions and Procedures Act.

<sup>95</sup> Available at:

<https://centralectoral.ine.mx/2021/05/26/cancela-ine-registro-a-candidaturas-a-diputaciones-federales-por-incurrir-en-falsedad-de-declaraciones-en-el-formato-3-de-3-contra-la-violencia/>

<sup>96</sup> As described later on, in order to register a candidacy, persons are required to not have been convicted or punished in a final judgment for family and/or domestic violence or any private or public gender-related aggression, for sex crimes, crimes against sexual freedom or corporeal privacy and/or alimony debtors or delinquents, except when it can be proven that the payments are up-to-date or that they fully repaid the debt and are not currently on any lists of this nature.

Available at: <https://centralectoral.ine.mx/2021/04/04/revisara-ine-que-aspirantes-a-diputaciones-federales-cumplan-la-3-de-3-contra-la-violencia/>

<sup>97</sup> Available at: <https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/116222/CGex202012-21-ap-7-a.pdf>

<sup>98</sup> Article 34 of the Constitution of the United Mexican States.

<sup>99</sup> SUP-RAP-138/2021 and joined. Available at:

[https://www.te.gob.mx/Informacion\\_juridiccional/sesion\\_publica/ejecutoria/sentencias/SUP-RAP-0138-2021.pdf](https://www.te.gob.mx/Informacion_juridiccional/sesion_publica/ejecutoria/sentencias/SUP-RAP-0138-2021.pdf)

The Mission therefore recommends the following:

- Evaluate the possibility of including proportionality in the graduation of sanctions for failing to submit pre-campaign income and expenditures reports that sets forth the different sanctions and describes in detail those applicable to the most serious cases.
- Establish very clearly by law the infractions or requirements resulting in the cancellation of candidacies and that the enforcement of compliance is applied to all candidates, not through sampling, in order to avoid any potential unequal application of the law.
- Finalize the candidacies as soon as possible before election day, including the challenges phase, so as to establish certainty among political organizations and citizens as to the persons who will stand for election.

## Political and Electoral Financing

Mexico has a mixed political financing system that combines public resources in the form of direct funding and free access to radio and television airtime administered by the electoral authority, with private financing through monetary contributions from party members and supporters, as well as self-financing and financial reporting.<sup>100</sup> For the 2021 electoral process, public funding amounted to 1,575,285,628 pesos<sup>101</sup> (nearly US\$79 million), distributed among 10 national political parties.

Regarding the distribution of these resources, the law establishes that 70% of the funds allocated for ordinary party activities are to be distributed according to performance in the previous elections<sup>102</sup> and 30% is to be distributed equally among all political organizations. For its part, financing for campaigns is equivalent to 50% of all the resources each party has available.<sup>103</sup>

The 2014 electoral reform placed the function of inspecting the income and expenditures of all federal and local elections campaigns with the INE's Technical Oversight Unit. For these purposes, the INE has made an IT tool available called the Integrated Oversight Tool, through which financial transactions can be recorded and reports generated for subsequent review. In addition to oversight by the electoral authority, the system has an online transparency website that publishes the data and allows citizens to review it.

Inspection of the campaign accounts is a monumental challenge, not only because of the number of federal and local candidates participating in the election but because the deadlines established for the Technical Oversight Unit by the General Political Parties Act give political parties only 10 days to submit the reports.<sup>104</sup>

<sup>100</sup> Articles 53 through 56 of the General Political Parties Act.

<sup>101</sup> Resolution INE/CG190/2020. Available at:

<https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/114309/CGex202008-07-ap-4.pdf>

<sup>102</sup> 5,250,952,127 pesos (US\$262,547,606) in 2021.

<sup>103</sup> Article 41, II, of the Political Constitution of the United Mexican States.

<sup>104</sup> Article 80, d, II of the General Political Parties Act.

Despite the robust regulatory framework, the Mission received concerns from a variety of political actors, members of civil society, and members of academia on underreporting of income and expenditures due to the difficulties with detecting illegal sources of financing, particularly when the transactions are handled in cash and/or in areas where there is limited capacity for verification. With the aim of providing transparency and promoting equity in the campaign, the Mission reiterates the recommendations issued in 2018, as follows:

- Strategically strengthen the oversight work, in coordination with other State entities, especially those entities with mandates and competence to conduct financial investigations, so as to facilitate detection of illegal campaign funding.
- Evaluate extending deadlines for reviewing the campaign reports submitted by obligated subjects to give the INE's Oversight Unit more time to analyze the information submitted by the campaigns.
- Analyze the possibility of delegating the responsibility of overseeing local candidates to the LPBs, and if doing so, ensure they have the proper technical and operational capacity to perform this work.

The Mission also learned of a number of complaints regarding the distribution of campaign resources within parties. The actors agreed as to the existence of discretionary practices in the distribution of resources to candidates, a situation that may impact the equity of the campaign and would also be difficult for the electoral authority to detect. The Mission reiterates the recommendation issued in the section on the political participation of women to move forward with establishing mechanisms to eliminate pernicious power dynamics within parties that may impact party members who have not gained the favor of leadership.

## **Freedom of Expression, Media, and Social Networks**

This electoral process made clear the delicate balance of values and principles that coexist in the political communication model in any modern democratic process, beyond specific cases, review and resolution of which fall to the respective authorities. The Political Constitution of the United Mexican States recognizes the fundamental right to freedom of expression, the right to information, and the duty of accountability<sup>105</sup> that bonds all public servants. These principles receive robust protection in the international and inter-American human rights systems. At the same time, the Constitution establishes limits on the behavior of public servants during campaigns in view of their capacity to influence them, derived from the symbolic and material power of their offices and the communications platform to which senior public officials have access.

In this regard, the Office of the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), referring specifically to the Mexican context and to the regulations set forth in Article 41 of the Constitution, has expressed that the legitimate interest of the State in promoting free, accessible, and equitable elections can justify the imposition of rules on the dissemination of political advertising during election periods, while also recalling that “the proper development of democracy requires the greatest possible circulation of information, opinions and ideas on matters of public interest, and that expressions about public officials or candidates for public office should enjoy an especially strong margin of

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<sup>105</sup> In particular, Articles 6, 26, 73, 79, 116, 122, and 134 of the Constitution of the United Mexican States.

openness. Both the design of the norms and their application or implementation should take into account the delicate balance that should exist between the principles of equity and electoral transparency on the one hand, and the right to freedom of expression on the other.”<sup>106</sup>

During this process, the electoral authority received 190 complaints of violations of the constitutional provision on the impartiality of the use of public resources, equity in the campaign, and limits on government advertising.<sup>107</sup> Beyond the specific cases, the Mission emphasizes the obligation that all persons adhere to and act within the legal framework established for electoral processes. This obligation is even more important for figures with more power in the State hierarchy.

At the same time, the OAS/MFV received complaints from different political and social actors alleging that senior public officials enjoyed media coverage that, in their view, was disproportionately broad and that the content of government communications occasionally violated Articles 41 and 134 of the Political Constitution. In this regard, the Mission echoes the Joint Declaration on Freedom of Expression and Elections in the Digital Age<sup>108</sup> from the special rapporteurs on freedom of expression of the United Nations, the OSCE, and the OAS, which notes the risk that a sitting administration receive disproportionate coverage from the media.

Part of the legal debate that took place during this process argued that the article of the Constitution regulating these issues should be more precise as to the scope of the limits and restrictions. This would give greater certainty and clarity regarding the conduct of public officials that would be permitted or prohibited.

Additionally, regarding the regulation of journalism content itself, a number of actors also told the Mission that the current political communications model is extremely rigid and could have a chilling effect on the coverage of political activity, leading to self-censorship and limits on the free circulation of political ideas and information given the risk of engaging in prohibited conduct. As the case law of the inter-American human rights system has established on numerous occasions, freedom of expression is a right with two dimensions: an individual dimension, consisting of the right of each person to express their own thoughts, ideas, and information; and a collective or social dimension, consisting of society's right to procure and receive any information; to hear outside thoughts, ideas, and information; and to be well informed.<sup>109</sup>

In view of this, the Mission underscores that the protection and guarantee of the right to freedom of expression are, pursuant to the terms of the Inter-American Democratic Charter, "essential components of

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<sup>106</sup> IACHR Office of the Special Rapporteur for Freedom of Expression, "Special Report on Freedom of Expression in Mexico." 2010, para. 272.

<sup>107</sup> Contentious Electoral Technical Unit (UTCE) of the National Electoral Institute (INE). Statistics. Federal Electoral Process 2020-2021. Complaints and Suits. Updated through June 3, 2021.

<sup>108</sup> Cfr. RELE of the IACHR, the United Nations Special Rapporteur on Freedom of Opinion and Expression, and the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, "Joint Declaration on Freedom of Expression and Elections in the Digital Age." 2020.

<sup>109</sup> For example, see Inter-American Court, *Case of Kimel v. Argentina. Merits, Reparations and Costs*. Judgment of May 2, 2008, Series C No. 177, para. 53; Inter-American Court, *Case of Claude Reyes et al.* Judgment of September 19, 2006. Series C No. 151, para. 75; Inter-American Court, *Case of López Álvarez v. Honduras*. Judgment of February 1, 2006. Series C No. 141, para. 163; Inter-American Court, *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 13 and 29 American Convention on Human Rights)*. Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, para. 30.

the exercise of democracy.”<sup>110</sup> They constitute an essential space for debate during the electoral process, strengthen the political competition between the different candidates and parties, and become authentic instruments for analyzing the political platforms put forward, enabling greater transparency and supervision of current and future authorities and their administrations.<sup>111</sup>

While recognizing that the political communications model serves a democratic interest of guaranteeing equity in the campaign, the Mission recommends the following:

- Orient the communications model for the free circulation of ideas and information so as to stimulate debate, introduce plurality to the public opinion, and give content to the right to issue an informed vote. All restrictions on freedom of expression applied during election periods must comply with the international law three-part test requirements of legality, legitimacy of aim, and necessity.<sup>112</sup>
- **Violence against journalists**

The Mission received with concern information on aggressions against members of the media, including murders, physical attacks, threats, stigmatization, and disparagement of journalists and media outlets.<sup>113</sup> According to information collected by the Rompe el Miedo Network,<sup>114</sup> as of June 5, 32 cases of aggressions against journalists had been documented during the electoral period.<sup>115</sup> The most common incidents were acts of intimidation and harassment, physical attacks, and threats. The Mission signs on to the Inter-American Court of Human Rights’ affirmation that “journalism can only be exercised freely when those who carry out this work are not victims of threats or physical, mental or moral attacks or other acts of harassment.”<sup>116</sup>

In interviews with journalists and media outlets, the Mission received information on stigmatizing conduct and efforts to single out journalists and media outlets for criticism. This matches with the information from the Office of the Special Rapporteur, which has also documented dozens of these types of statements against

<sup>110</sup> Article 4 of the Inter-American Democratic Charter.

<sup>111</sup> Cfr. Inter-American Court. *Case of Ricardo Canese v. Paraguay. Merits, Reparations and Costs*. Judgment dated August 31, 2004. Series C No. 111. paras. 88 and 90.

<sup>112</sup> Cfr. RELE of the IACHR, the United Nations Special Rapporteur on Freedom of Opinion and Expression, and the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, “Joint Declaration on Freedom of Expression and Elections in the Digital Age.” 2020.

<sup>113</sup> The term “journalists” in this report must be understood functionally: journalists are individuals who observe, describe, document, and analyze events, statements, policies, and any other proposal that may affect society with the purpose of processing this information and putting together facts, analysis, and opinions to inform certain segments of society or society as a whole. Such a definition includes those working in media outlets and their support staff, as well as those working in community media outlets, “citizen journalists,” and other individuals who may be using new media as a means of reaching the public, as well as other opinion makers who become targets due to their exercise of the right to freedom of expression. See United Nations. General Assembly. Report of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue. A/HRC/20/17. June 4, 2012, para. 4.

<sup>114</sup> Network comprised of the following organizations: Article 19, Datacívica, R3D, CDH Fray Bartolomé de las Casas, Cencos, Centro de Defensoría Técnica en Derechos Humanos de Baja California A.C, Centro de Derechos Humanos Zeferino Ladrillero, CEPAD, Consorcio para el Diálogo Parlamentario y la Equidad Oaxaca, Colectivo por la Libertad de Expresión de Guanajuato, Centro Diocesano para los Derechos Humanos Fran Juan de Larios, Iniciativa Sinaloa, SocialTic, SURCO, Tlachinollan, and YoCiudadano.

<sup>115</sup> Available at: <https://twitter.com/RompeMiedo/status/1401361662670688259?s=20>

<sup>116</sup> Inter-American Court. *Case of Vélez Restrepo and relatives v. Colombia. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 3, 2012, Series C No. 248, para. 209.

journalists and members of the media made by government authorities in different Mexican states.<sup>117</sup> It should be noted that stigmatization issued from a public platform frequently incites personal attacks from part of a segment of the population, in turn contributing to the deepening of political polarization. The OAS/MFV notes that in its 2019 Annual Report, the IACHR Office of the Special Rapporteur on Freedom of Expression reminded the Mexican State that “public officials have the duty to ensure that their pronouncements do not cause harm to the rights of those who contribute to public deliberation by expressing and disseminating their thought, such as journalists, media outlets, and human rights organizations, and should heed the context in which they express themselves to ensure that their expressions do not amount to, in the words of the Court, “a form of interference with or pressure impairing the rights of those who intend to contribute to public deliberation by means of expression and dissemination of its thought.”<sup>118</sup>

The mission recommends the following:

- Intensify measures to prevent violence against journalists, including early warning initiatives and adapting responses to specific contexts, such as electoral periods.<sup>119</sup> This should be carried out in adherence to international standards and take into account the specific nature of the risks facing journalists and media outlets.

#### - **Disinformation**

One of the new challenges that the Mexican electoral system must address, the same as in any other democracy in the world, is the growing impact of disinformation and the spread of false content,<sup>120</sup> which poses a particular risk in the electoral context.<sup>121</sup> The Mission was informed that several specific cases of disinformation and the spreading of false content, but more common was edited or misleading information that aimed to trick the public with partially true information. In the context of stigmatization against journalists and political polarization, these approaches appeal to the emotions of people in information bubbles with content that agrees with their own preferences or ideological positions.<sup>122</sup> Once an attack is

<sup>117</sup> Cfr. RELE of the IACHR, “Annual Report 2019.” OEA/Ser.L/V/II Doc. 5, February 24, 2020, para. 887.

<sup>118</sup> RELE of the IACHR, “Annual Report 2019.” OEA/Ser.L/V/II Doc. 5, February 24, 2020, para. 878.

<sup>119</sup> Cfr. RELE of the IACHR, “Special Report on the Situation of Freedom of Expression in Mexico.” June 2018, para. 41.

<sup>120</sup> According to the definition adopted by the Office of the Special Rapporteur, “Disinformation consists of the mass dissemination of false information (a) with the intent to deceive the public and (b) with the knowledge of its falsehood.”

RELE of the IACHR, “Guide to Guarantee Freedom of Expression Regarding Deliberate Disinformation in Electoral Contexts.” 2019, pg. 13.

However, it underscores that the concept of “false information” refers exclusively to “facts that can be verified as true or false, or at least subjected to a contrast test. It does not refer to opinions or approximations of editorial tone, which can be shocking or misleading or that, because they are opinions, are not susceptible to a judgment of finding or truthfulness. Certain practices of malicious editing of true content could enter, in this sense, within this definition if that definition seeks to deceive the general public and falsifies the original content.”

RELE of the IACHR, “Guide to Guarantee Freedom of Expression Regarding Deliberate Disinformation in Electoral Contexts.” 2019, footnote, page 5.

<sup>121</sup> Cfr. RELE of the IACHR, “Guide to Guarantee Freedom of Expression Regarding Deliberate Disinformation in Electoral Contexts.” 2019, pg. 13.

<sup>122</sup> Cfr. RELE of the IACHR, “Guide to Guarantee Freedom of Expression Regarding Deliberate Disinformation in Electoral Contexts.” 2019, pg. 14.

launched, in many cases, the social media dynamics have a snowball effect, and in the end, many communicators prefer to self censor or at least feel uncomfortable with publishing material because of potential repercussions.

In this regard, the OAS/MFV viewed positively the efforts made by the INE over social media to factcheck false information.

## Violence and Election Security

The federal and local elections in 2021 in Mexico were held in the context of criminal and political violence that exists outside the electoral process but that clearly has an impact on it. These grave incidents undermine the foundations of democracy and inhibit citizens' free and full exercise of their rights.

For the purposes of this Mission, electoral violence is defined as any form of intimidation or physical violence directed against those with an interest in the electoral process, its interruption, or causing harm to materials in order to affect the free and transparent undertaking of the electoral process or influence its outcome. This type of violence cannot be separated from the broader context of political and criminal violence in Mexico.

As indicated, in this electoral process, there were at least 13<sup>123</sup> and up to 35<sup>124</sup> murders of individuals aspiring to hold public office, depending on the classification criteria of official sources and other monitors of political violence (mainly private consultants). Likewise, the murders of 14 relatives of candidates were reported,<sup>125</sup> along with the murders of at least 51 politicians—including public officials and former public officials—party leaders, and campaign staff.<sup>126</sup>

The Mission observed that a number of actors had a tendency to normalize political-electoral violence through excessive simplification of the phenomenon or by only attributing such incidents to organized crime. The OAS/MFV underscores the importance of avoiding the normalization of electoral violence, which has a chilling effect on the quality of democracy and erodes the right of persons to elect and to be elected.

The figures reported, however, cannot capture one of the most pernicious effects of electoral violence: discouragement of participation, in the form of both candidates withdrawing in response to threats of violence and citizens declining to vote or attend political events due to fear. The media from different Federal

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<sup>123</sup> The figures reported by the SSPC do not break down the homicides by gender.

<sup>124</sup> According to data published by Etellekt, available at <https://www.etelekt.com/informe-de-violencia-politica-en-mexico-2021-M30-etelekt.html> and Integralia in its "Reporte Electoral. Escenarios y Riesgos del 6 de junio."

<sup>125</sup> According to DataInt, available at: <https://twitter.com/DataIntMx/status/1400455760933388294>

<sup>126</sup> It should be noted that part of the differences between the official figures on electoral violence and other sources of information is because the SSPC places an emphasis on the protection offered by the State in the period after the month of March, while the monitoring period of the consultant companies starts with the beginning of the electoral process, in September 2020. It is likewise important to emphasize that the private consultants use different methodologies and information categories, so their figures can also vary amongst each other. The Mission observed that the main source of these consultants is media monitoring, so there is the possibility of underreporting because of the quality or guarantees for the exercise of journalism work covering electoral violence.

entities have documented multiple candidates dropping out,<sup>127</sup> a phenomenon that the OAS Mission had also observed in 2018, when the media reported that more than 5,700 candidates had stepped down for this reason.<sup>128</sup> Along with this loss of options due to violence, some candidates decide to refrain from campaigning because of the violence, even to the point of withdrawing their names from the election, impacting citizens' right to access to information and an informed vote. The Mission expresses its deep concern at the chilling effect of political-electoral violence in Mexico.

In addition to this, and according to academic research, since the middle of the 2000s, the number of attacks on public servants, candidates, and political party activists has increased,<sup>129</sup> and even worse, the peaks of the violence at the subnational level coincide with the local electoral calendar. With federal and local elections now taking place at the same time, as established by the 2014 electoral reform, this phenomenon has led to spikes in violence nationally, as documented in the 2018 and 2021 elections.

The Mission views with concern the information on the low clearance rate for homicides. According to a 2020 study entitled "Escalas de Impunidad en el Mundo" [The Scale of Impunity in Mexico], "Mexico maintains an extremely high level of impunity," and impunity in the country "is structural in institutional terms."<sup>130</sup>

In this context, it is worth highlighting the incipient but novel "Protection Strategy in the Context of Elections," which was implemented starting in March 2021 by the Department of Security and Citizen Protection (SSPC). Although the OAS specialists were not able to access specific information on how it functions or on the coordination committees for building peace in the context of elections, it is the Mission's view that the initiative is moving in the right direction by seeking to coordinate governments at the federal, state, and municipal levels on a policy of prevention of, protection from, and judicial investigation of political violence.

However, according to several actors consulted by this Mission, in view of the gravity of the situation, the violence prevention plan should have been launched earlier. Likewise, the political party representatives told the Mission they had not been properly included in the security strategy and/or they did not know about the procedure for accessing the protection the government was offering to its candidates. Additionally, they alleged that incidents of electoral violence often go unsolved.

As regards the organization of the election itself—that is, the logistics for the elections—it is the Mission's view that security is generally adequate. OAS observers were present for the distribution of electoral material

<sup>127</sup> Available at: <https://municipiospuebla.mx/nota/2021-05-18/naci%C3%B3n/m%C3%A1s-de-100-candidatos-renuncian-en-m%C3%A9xico-por-violencia>, <https://www.jornada.com.mx/notas/2021/05/17/estados/han-renunciado-660-candidatos-en-zacatecas-persiste-intimidacion/>, <https://www.forbes.com.mx/morena-solo-jilotlan-jalisco-candidatos-renuncian-por-amenazas/>, <https://www.informador.mx/jalisco/Por-inseguridad-se-bajan-cuatro-candidatos-a-alcaldes-20210528-0028.html>,

<sup>128</sup> Available at: <https://www.elcomercio.com/actualidad/mexico-candidatos-renuncia-elecciones-asesinados.html>

<sup>129</sup> Trejo, Guillermo, & Ley, Sandra. (2016). Federalism, drugs, and violence: Why intergovernmental partisan conflict stimulated inter-cartel violence in Mexico. *Política y gobierno*, 23(1), 11-56. Available at: [http://www.scielo.org.mx/scielo.php?script=sci\\_arttext&pid=S1665-20372016000100011&lng=es&tng=en](http://www.scielo.org.mx/scielo.php?script=sci_arttext&pid=S1665-20372016000100011&lng=es&tng=en).

Trejo, Guillermo, & Ley, Sandra. (2021). High-Profile Criminal Violence: Why Drug Cartels Murder Government Officials and Party Candidates in Mexico. *British Journal of Political Science*, 51(1), 203–229. <http://doi.org/10.1017/S0007123418000637>

<sup>130</sup> Scale of global impunity. Global Impunity Index 2020 (IGI-2020).

Available at: <https://www.udlap.mx/cesij/files/indices-globales/0-IGI-2020-UDLAP.pdf>

by the INE and confirmed that it was carried out with support from the military. Generally speaking, custody of the materials until delivery to polling station officials went smoothly.

The Mission therefore recommends as follows:

- Establish a legal framework with protocols for addressing different types of political and electoral violence, in line with what the OAS recommended in 2018.
- Activate mechanisms like the Protection Strategy in the Context of Elections at the start of the electoral period.
- Communicate information on the situation of electoral violence and solving of any incidents on a timely basis.
- Adopt a system for protecting candidates and political leaders based on objective criteria on risk evaluation and protective mechanism assignation that is also sensitive in terms of differential approaches to gender and ethnicity.
- Implement a political violence early alert system to constantly collect information and analyze risks in order to prevent this type of violence.
- Establish interagency spaces for evaluating early alerts, the risk of political-electoral violence, and protective measures. This space should guarantee the involvement of public prosecutors (federal or state), the National Human Rights Commission, political parties, journalists, and civil society.

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