



Sandra Perdomo/Cuartoscuro

Government and electoral officials discussing Mexican voting abroad.

Absentee Voting in Mexico Perspectives and Challenges for 2006

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INTRODUCTION

In past months there has been a resurgence of the debate regarding the right of Mexican citizens to vote abroad in presidential elections starting in 2006. Currently, Congress is discussing a bill that would allow absentee voting in the next federal elections.¹ However, this discussion is neither new nor straightforward. The evolution of the nation-state in the last century has led to a transformation of longstanding concepts such as citizenship, nationality and residence. Realities like increased migration, globalization and multi-citizenship have blurred the view of states as rigid geographic and population units. Accordingly, the concept of polity has been transformed to include persons who do not reside in a certain state, but do have a cultural, political and economic influence in it. Additionally, democratic transformations in the latter part of the last century have resulted in the recognition of citizens' rights, including the right to suffrage abroad.

In Mexico, the debate on this issue emerged in 1996, in light of the constitutional amendment that eliminated the territorial restriction impeding the possible right to absentee voting.² However, there was still an unfinished debate regarding the established concept of polity, including whether it should encompass Mexican nationals who live abroad and, therefore, do not have to deal with

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the consequences of the election result directly, or if it could include the concept of dual citizenship. Regarding the latter, there seems to be a consensus about the feasibility of dual nationality, due to increasing migration. However, the concept of dual citizenship sparks a broad debate because the rights, obligations and consequences of citizenship are often contradictory between different polities.

Apart from this issue, which has yet to be seriously debated in Mexico, there are other aspects—both legal and practical—that need further analysis in order to concretize the right to absentee balloting. Three fundamental questions must be addressed:

- Is it feasible?
- If so, who could vote?
- And, how would they vote?

THE FEASIBILITY OF MEXICANS' VOTING ABROAD

We should take into consideration that in more than 80 countries throughout the world, it is common for nationals living abroad to be able to vote, although using different systems.

Equally, the Commission of Specialists created in 1998 by the Federal Electoral Institute to study the different forms in which Mexicans could vote abroad concluded categorically that it was technically viable to set up a system to do it, as long as it complied with certain prerequisites to ensure that

the confidence in the organization and results of the elections, which have taken decades to build in Mexico, would not be brought into question.³

This is undoubtedly the center of the debate: how can we concretize the universal right to suffrage without infringing on the principles of legal certainty, impartiality and objectivity in electoral matters expressed in Article 41 of the Mexican Constitution? The question is extremely complex since the two sets of values are not necessarily complementary and, if care is not taken, what is an advance for one may represent a step backward for the other. It is important to take this into account when deciding who will vote abroad and how they will do it.

THE UNIVERSE OF VOTERS

First of all, the magnitude of the task should be put in perspective. As everyone knows, the United States' geographic proximity to Mexico has led to one of the largest and most continuous migratory flows on the planet, so now millions of Mexicans live there.

According to the study "Aspectos cuantitativos de los ciudadanos mexicanos en el extranjero durante la jornada electoral del año 2006" (Quantitative Aspects of Mexican Citizens Abroad on Election Day 2006) done by El Colegio de la Frontera Norte (The Northern Border College) on request of the Federal Electoral Institute, around 9.8 million Mexicans were living in the United

States in 2000,⁴ concentrated mainly in four states: California, Texas, Illinois and Arizona. Another 108,000 were spread out over 27 countries, among them Canada, Paraguay, Bolivia, Germany and Spain.

The first thing that has to be resolved, then, is whether voting abroad will be extended to the whole world or will be concentrated in the country where 99 percent of Mexican emigrants live. The first option, obviously, would make for serious logistical and budgetary difficulties, whereas the second option would exclude some citizens from the possibility of exercising their right to vote.

Then, we would have to decide if—like inside Mexico itself—only those citizens who had registered to vote and had received their voter cards would be allowed to cast ballots, if they would be able to vote without fulfilling these prerequisites or if some intermediate requirements could be established.⁵ In any of these cases, once again, we would have to weigh the right to suffrage against the elections' certainty and legality, taking into account the fact that the many controls and security mechanisms for issuing voter cards and compiling the voters' rolls have been essential for creating public confidence in electoral institutions.

ORGANIZING THE ELECTIONS

Mexico's electoral norms and procedures are stipulated in the Federal Electoral Institutions and Procedures Law, which exhaustively details practically all aspects of electoral competition and organization. It would be hard to find another piece of legislation as detailed and rigorous anywhere else in the world.

This makes for serious difficulties of different kinds for replicating the manner of organizing elections and regulating political parties' activities abroad. We would have to deal with logistical and administrative questions and have sufficient resources.⁶ And, as if that were not enough, we would have to carefully review current legislation to avoid possible conflicts with laws in other countries.

Just as an example, suffice it to say that in matters of organization of the elections and voting, Mexico is divided into three basic geographical units: the state, the district and the section. To make this division, authorities must have detailed geographical and demographic information culled from very intensive fieldwork. Coming up with detailed maps of the location of possible voters would not only be extremely expensive, but could even constitute a violation of the internal security of the countries in which the work would be done. Without this data, we would not have the same certainty as inside Mexico itself about the location of polling places and the distribution of possible voters.

Different options could be tried abroad, including voting at a distance (by mail, telephone or Internet), but while that would facilitate the exercise of their right for Mexican emigrants, it could also presuppose differentiated and possibly discriminatory treatment that would put voters inside Mexico at a disadvantage. The possibility of voting in a different way from the one used inside the country would only be appropriate if it were extended to all Mexicans, to guarantee equal rights.

In addition, the right to suffrage is not limited to merely going to vote: to be fully realized, it requires conditions

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that allow citizens to exercise that right in a reasoned and informed manner. This presupposes, above all, the possibility of familiarizing themselves with political parties' platforms and candidates' proposals, which means we would have to discuss allowing campaigns to be waged abroad.

This touches on one of the pillars of the electoral system: monitoring of political parties' resources. It should be pointed out here that, in contrast with most countries, in Mexico, political parties are preponderantly financed by public funds and are mandated to report all their income and expenditures. However, outside Mexico's borders, electoral officials would not have the tools they need to carry out this monitoring. This could affect the principle of electoral certainty and could infringe on the equity of competition.

THE POWER OF THE VOTE ABROAD

In the preceding pages we have tried to sketch —though not exhaustively— some issues that would have to be analyzed before making the decision to implement mechanisms so Mexicans could vote abroad. In addition, it would be necessary to go back to the initial reflection: Is it valid or legitimate that citizens residing abroad participate in decisions in their country of origin, above all if, due to their number, they could alter election results?

With regard to this, it should be taken into account that some estimates

say that votes cast for one party or another would not be substantially different from the numbers in Mexico.⁷ Despite the common sense idea that when forced to leave the country for mainly economic reasons, emigrants have voted with their feet (to use the Leninist term) and therefore would be inclined to punish the party in office at the polls, everything seems to indicate that their vote is more decided by the degree of socialization migrants have with their communities of origin. That is, it is common that voters decide how to cast their ballots based on conversations, traditions or the guidance of members of their communities. In the case of voting abroad, it would seem that Mexicans interested in voting would do it largely because they have close ties to Mexico. In that sense, these Mexican citizens would probably be in close contact with their families and communities, which means that their voting patterns could to a certain degree replicate those of their places of origin.

Equally, the weight of the votes of residents abroad depends on the proportion of them who are willing, first, to register to vote and then to actually go to the polls. In this sense, both international experience and estimates for Mexico show that only a very small percentage of emigrants effectively exercise their right to vote.

In 2004, about one million Dominicans resided outside their country, but only 35,000 voted in that year's Dominican Republic elections. In the

case of Brazil, with 1.6 million nationals living abroad, only 0.5 percent voted in the 2002 elections. For Mexico, Cornelius and Marcelli estimate that the number would be about 3 percent in the best of cases.⁸

This eliminates the fear, therefore, that the elections would be decided from abroad.

FINAL CONSIDERATIONS

In our opinion, the implementation of any mechanism for voting abroad must ensure that the certainty won for elections inside Mexico not be brought into question. Mexican electoral legislation has gradually been amended (among other times in 1989, 1990-91, 1994 and 1996) to deal with different issues on the electoral agenda. These reforms have achieved an electoral system that has generated certainty and objectivity in the organization of the process. For that reason, it is absolutely necessary that legislation for Mexicans' voting abroad maintain the levels of confi-

dence achieved for legislation for balloting inside Mexico. Not ensuring this would have negative consequences that would far surpass the benefits of broadening out the rights of our compatriots abroad.

The answer to this apparently insoluble problem could lie in taking a gradual approach. Like with the rest of electoral legislation, voting abroad could be improved gradually based on experience. This is one of the most important lessons in the development of Mexico's electoral system: given the impossibility of solving all the issues in a single try, the different actors accepted and supported gradual reforms that increasingly strengthened Mexican democracy.

This seems to be a good lesson for voting abroad. If we accept gradually developing legislation, improvements could be made based on practice that would be much more helpful than the studies made until now founded on "soft" premises, or hypotheses, since there is no similar precedent for this in Mexico or anywhere in the world. **VM**

NOTES

- ¹ On February 22, the Chamber of Deputies approved a bill currently being discussed by the Senate. Mexican legislation stipulates that a bill must be passed by both chambers of Congress to become law.
- ² The amendment to Article 36 of the Constitution eliminated the obligation of Mexican citizens to vote in the electoral district corresponding to their place of residence.
- ³ The final report of the Commission of Specialists can be consulted on the Federal Electoral Institute's web site at: <www.ife.org.mx>
- ⁴ The study estimates that on election day 2006, there will be 9.966 million Mexican citizens in the United States.
- ⁵ The Federal Electoral Institute's Voter Registry Office estimates that there are approximately four million Mexicans abroad who already have their voter cards, issued in Mexico.
- ⁶ According to Federal Electoral Institute (IFE) estimates, implementing Mexicans' balloting abroad in the 2006 presidential elections following the stipulations established in the Chamber of Deputies February 22, 2005 decision would cost about U.S.\$300 million. See the document "Consideraciones acerca de la Minuta con Proyecto de Decreto que reforma y adiciona el Cofipe en materia de voto de los mexicanos en el extranjero" (Considerations about the Accord and Draft Decree that Reforms and Amends the Cofipe with Regard to Mexicans' Voting Abroad) on the IFE's web site.
- ⁷ See for example, Wayne Cornelius and Enrico Marcelli, "¿Y si los migrantes votaran en el 2006?" *Reforma* (Mexico City), September 14, 2003.
- ⁸ Ibid.





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