
UNIORE NEWSLETTER

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Fourteenth Conference of the Association of Central American and Caribbean Electoral Bodies (*Tikal Protocol*)

Fifth Conference of the Inter-American Union of Electoral Bodies

Extraordinary Meeting of the Association of South American Electoral Bodies (*Quito Protocol*)

On November 20, 21 and 22, the Fourteenth Conference of the Association of Central American and Caribbean Electoral Bodies (*Tikal Protocol*), the Fifth Conference of the Inter-American Union of Electoral Bodies and an Extraordinary Meeting of the Association of South American Electoral Bodies (*Quito Protocol*) took place consecutively in the city of Antigua, in Guatemala.

These Conferences were organized jointly by **IIHR/CAPEL**, in its capacity as Technical Secretariat, and by the **Supreme Electoral Tribunal of Guatemala**, as the host of the event, in accordance with Resolution no. 21 of the 23rd Conference of the Tikal Protocol and the decision taken during the Extraordinary Meeting of UNIORE on July 1st, in Mexico City.

The Conferences were attended by the majority of the region's Electoral Bodies, save those engaged in electoral processes, such as Antigua and Barbuda, Canada, Nicaragua, the United States and Venezuela. The participants included delegates from the Electoral Bodies of Costa Rica, Guatemala, El Salvador, Honduras, Jamaica, Panama, the Dominican Republic and St. Lucia, as members of the *Tikal Protocol and Uniore*; also present were Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru and Uruguay, as members of the *Quito Protocol and Uniore*.



Uniore members in Antigua, Guatemala

Finally, the *Uniore Conference* was attended by members of the Electoral Bodies of Mexico and Puerto Rico.

The sessions began with an inaugural lecture by the Former President of Costa Rica, Rodrigo Carazo Odio, who discussed the “challenges and prospects for democracy in the 21st century”. The Argentinean lawyer, Daniel Sabsay, introduced the subject of *electoral reform*, which was subsequently analyzed in greater depth, by country. The case of Mexico was discussed by the President of the Federal Electoral Institute, Jose Woldenberg; Guatemala, by Magistrate Mario Roberto Guerra; Panama, by Magistrate Eduardo Valdés, President of the Electoral Tribunal of Panama; and the case of Uruguay was analyzed by Magistrate Cesar Conde.

The subject of “political parties as “mediators between popular demands and State power” was introduced by Line Bareiro, the Paraguayan lawyer and political scientist. The case of Guatemala was analyzed by Magistrate Cesar Conde; the Dominican Republic by Manuel Morel, President of the Central Electoral Board; Colombia by Magistrate Orlando Solano and Bolivia by Alfredo Bocángel, Vice-president of the National Electoral Court.

Merry Christmas and a Happy New Year!



1 CAPEL



Participating members of the different associations expressed their satisfaction with the new work guidelines issued by CAPEL, which will serve to guide their actions in their dual function as a Specialized Program of the Inter-American Institute of Human Rights and as Technical Secretariat.

Main Resolutions

Below is a summary of the main resolutions adopted at each Conference.

Fourteenth Conference of the Tikal Protocol

Members unanimously expressed their satisfaction at the communiqué issued by Technical Secretariat in relation to the entry into effect of the modifications to the Charter of the Association of Central American and Caribbean Electoral Bodies.

Similarly, they declared their unwavering commitment to preserve and progressively strengthen their countries' electoral institutions, and particularly to respect and extend the financial and operational autonomy of the region's Electoral Bodies.

The members of the Association also agreed to issue a declaration on the issue of financial and operational independence of the Electoral Bodies, in the context of the upcoming Central American and Caribbean Presidential Summit.

Furthermore, delegates instructed the Technical Secretariat to issue a similar pronouncement in the context of the forthcoming meeting of the OAS General Assembly, to be held in San Jose, Costa Rica in the year 2001.

Specifically, with respect to the independence of Electoral Bodies, the Conference pledged its full backing to the Supreme Electoral Tribunal of Guatemala in its efforts to maintain and strengthen its independence.

With regard to Electoral Observation Missions, the Conference agreed to facilitate the dispatch of joint technical observation missions with member organizations of the Protocol and the Technical Secretariat. Members reaffirmed their conviction that these observation missions constitute a valuable instrument that enhances horizontal cooperation among the different Electoral Bodies.

Extraordinary Meeting of the Quito Protocol

The Extraordinary Meeting of the Quito Protocol was convened as a preparatory meeting to this Association's Ninth Conference, which will take place in Quito, Ecuador, during the first semester of the year 2001.

In view of this objective, the delegates present called on the Technical Secretariat to design a civic electoral training program, to provide a guide to the work of the Electoral Bodies.

In addition, delegates defined "Institutional Strengthening" as the central theme of the Ninth Conference of the South American Association of Electoral Bodies, which will take place in Ecuador. In this context, it was suggested that the Technical Secretariat and the host country should jointly coordinate the conference agenda to include issues such as the electoral register, the influence of geography on voting and the phenomenon of political trials (impeachment) by citizens, among others.



Closing Session of the Conference

Fifth Conference of UNIORE

After the Tikal Conference and the Extraordinary Meeting of the Quito Protocol, delegates representing the Electoral Bodies of UNIORE met and exchanged views regarding the Technical Secretariat's role in the Union, and the different projects that could be promoted through the Secretariat and for the benefit of their political-electoral systems.

In this regard, delegates reaffirmed the Secretariat's central role in education in and for democracy, and in future plans for the consolidation of the continent's electoral systems.

They also called on the Technical Secretariat, with the support of the Electoral Bodies, to promote analysis of the following themes and issues in their studies, research and academic events:

- Political participation by minorities.
- Systems of representation and the image of public institutions.
- Citizen control over State power
- Geography, territory and electoral participation
- The work of the Legislatures and their image in the media, with a particular focus on the loss of prestige experienced by legislative bodies.
- Guidelines and lessons learnt on the subject of electoral reform.

The delegates also agreed to use the technical resources of the Inter-American Integrated Information System (SIII in Spanish Acronym) to create specialized modules on the subject of electoral justice, taking advantage of the experience and contributions made by members of the Union, in fulfilling their jurisdictional functions in the electoral sphere.

Also approved was a proposal by Mexico's federal electoral authorities to promote participation of the continent's Electoral Bodies in the coordination of technical working groups. In this respect, they assigned the following aspects to the working groups:

- Electoral Training, coordinated by the Electoral Tribunal of Panama.
- Electoral Data, coordinated by the Supreme Electoral Tribunal of El Salvador
- Mixed Electoral Systems, coordinated by the Federal Electoral Institute of Mexico
- Electoral Justice, coordinated by the Electoral Tribunal of the Judicial Power of the Mexican Federation.

The purpose of these working groups is to update the Electoral Bodies on the latest knowledge and information in each thematic area, in order to provide follow-up and evaluation of the subject under their coordination, convene regional meetings and use the systems contemplated by the SIII for this purpose.

In addition, members of UNIORE agreed to instruct the Technical Secretariat to accompany the new electoral authorities in Peru in the different stages of the electoral process that is scheduled to take place in 2001.

Finally, delegates welcomed the increased number of sources and growing volume of specialized information on electoral matters that member organizations of Uniore and the Technical Secretariat have generated in the past semester, particularly through the SIII and in the circulation of the UNIORE Newsletters.

Expo Uniore 2000

An exhibition of electoral technology and materials was organized during the Fourteenth Conference of the Tikal Protocol, of the Extraordinary Meeting of the Quito Protocol and of the Fifth Conference of UNIORE, held in Antigua, Guatemala on November 20-22, 2000. The purpose of this exhibit was to provide delegates of the various Electoral Bodies with comprehensive information on the latest technological advances in the areas of voter identification, taking of fingerprints, electoral scrutiny and software, among others.

The exhibition generated great interest among delegates of the Electoral Bodies, and provided them with an opportunity to exchange and discuss their experiences and concerns with representatives of the participating companies.

Electoral Processes



General Elections in Puerto Rico 7 November 2000

As Technical Secretariat of the Inter-American Union of Electoral Bodies, UNIORE, IIHR/CAPEL was present at the general elections held in Puerto Rico on November 7, 2000.

The IIHR/CAPEL was represented by Rafael Villegas, former President of the Supreme Electoral Tribunal of Costa Rica and by Program Officer Ileana Aguilar, who accompanied the Mission organized by the State Commission for Elections of Puerto Rico throughout its exhaustive work agenda. This included meetings with the Governor of Puerto Rico, with the main candidates to the governorship, with academic groups, with the President of the State Commission for Elections. Mr. Juan Melecio, and other commissioners of that electoral body.



**Municipal Elections in Venezuela
December 3, 2000**

The ballot held on December 3 to elect members of the Municipal Councils and representatives to the Parish Boards, was the second phase of an electoral process to renew all public authorities, as contemplated under the new constitution that came into force this year. With the exception of the Office of the City Mayor, whose councilors were elected on July 30, all the municipalities of the metropolitan area held popular ballots that were characterized by a high abstention rate. In addition, two referendums were held: the first in the town of Chacao, on whether to allow bingo halls and casinos to operate in the municipality, and the second on proposed changes in the country's trade union leadership. The latter triggered an internal debate on the supposed challenge to the freedom of trade unions.

In the observation of these elections, IIHR/CAPEL was represented by Rafael Villegas, former President of the Supreme Electoral Tribunal of Costa Rica and Program Officer Maria Lourdes González, who joined the Observation Mission organized by the National Electoral Council, with broad representation of UNIORE members.

Technical Mission to Peru

In line with the decision taken by UNIORE, at its Fifth Conference on November 20-22 of 2000, in Antigua, Guatemala, to accompany the new authorities of Peru's Electoral Bodies in the various stages of the country's electoral process, scheduled for April 8, 2001, IIHR/CAPEL sent a technical mission to Peru on December 10-13 of this year.

The Mission included Mariano Fiallos, a member of IIHR's Board of Directors Magistrate Eduardo Valdés, President of the Electoral Tribunal of Panama, José Thompson, Delegate of the Executive Directorate of CAPEL and Orlando Tapia, a Consultant at CAPEL.

The Mission's agenda included interviews with the President of the Republic, the plenary of the National Board of Elections, the new Director of the National Office of Electoral Processes, the Director of the National Registry of Identity and Civil Status and meetings with some sectors of the international cooperation community and non-governmental organizations involved in electoral matters, such as TRANSPARENCY.

During its visit, the Mission encountered a favorable climate for the consolidation of a democratic regime and an awareness of the great expectations generated by the coming electoral process. CAPEL reiterated its offer to provide accompaniment to the Peruvian authorities in the great challenges posed by this momentous electoral process, which is scheduled to take place within a short period.

OBSERVING THE OBSERVERS

The elections in the United States of America

By Eduardo Valdés Escoffery

Although the United States of America is organized as a federal republic, there is no such thing as "federal elections". The *Federal Elections Commission (FEC)*, which is a federal authority, has the sole responsibility and task of administering the subsidy allocated by the Federal Government to candidates and political parties. Therefore, there is no federal electoral body responsible for organizing the election of federal authorities, nor are there applicable federal laws.

The laws that govern elections in each of the fifty States of the Union are issued by the State Legislatures, generating a multiplicity of electoral systems to elect both federal and state authorities. And although all States elect a Governor and a State Legislature, there are major variations when it comes to other State or local authorities that are elected by popular vote. In fact, States delegate to the County electoral authorities the responsibility of organizing elections and adopting their own voting systems. This is why we find electronic or mechanical voting machines in some parts of the country, and voting cards that must be marked or perforated manually in others.

It is little known that in Oregon, for example, voters now send their ballots by mail - and may begin to do so 30 days before the elections - for which reason there are no polling stations. In the rest of the States, voters have the option of voting by mail if they are not going to be at home on election day, provided they notify the electoral authorities in advance, so that their ballots can be mailed to them. Military personnel enjoy the same right.

On November 7, voters were not only electing the President, part of the Senate and the whole of the House of Representatives. Also at stake were 10,000 public posts around the country, to which some 500,000 candidates aspired. Despite this, American voters are not interested in exercising their right to vote, and therefore a minority is imposing its candidates on the majority.

The President and Vice-President are elected by a simple majority of the 538 members of the Electoral College, a body that guarantees representation to each of the fifty States. Thus, 270 of its members are the ones who decide the presidential election. Each State is represented in the Electoral College by a number of electors that is equivalent to the number of Senators and Members of the House of Representatives that it has in Congress. This representation ranges from 3 to 54 delegates, with California having the most delegates.

Along with its presidential nominee, each political party submits a list of candidates to the Electoral College for each State. The party that wins by a simple majority of votes in each State (half plus one) has the right to represent the entire State in the Electoral College, with the list of candidates submitted for this purpose.

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There are only three States whose representation in the Electoral College is distributed among the parties, in proportion to the votes received from the electorate.

The Electoral College is convened on the second Tuesday in December of the year in which elections are held (these in turn are held on the first Tuesday in November, every four years). Only three States have laws requiring their Electors to vote for the nominee of the same party that nominated them to the Electoral College. The rest of the Electors could vote for an adversarial nominee, something that has happened in a few isolated cases in the past, though in these cases they did not change the decision of the majority of members of the Electoral College. However, in the November 7 elections, a few votes could change the majority in the Electoral College.

Before a party wins the right to represent a State in the Electoral College, it is first necessary to count all the ballots cast on election day and those sent in by mail (absentee ballots). A 10-day period is allowed so that these absentee ballots can be received by the state office responsible for tallying the results of the ballot in each county, provided that these have been mailed on election day at the latest. These absentee ballots are the ones that could end up deciding the outcome of the November 7 elections. However, there is a legal problem with these ballots because Florida State Law requires that the envelopes containing these ballots be postmarked with the date on which they were delivered to the postal service, which cannot be after Election Day. Meanwhile, there is also a Federal Law that guarantees military personnel a special mail service, but the problem here is that the envelopes are not stamped with a date showing when the sender posted them.

Given the close election polls, it is surprising that the media did not bother to obtain, in advance, data on the number of voters who registered to vote by absentee ballot in each State. These figures were crucial to the television networks, given their tradition of trying to predict the winning party in each State, in order to be able to predict which candidate would obtain the magic figure of 270 Electoral College votes, and would therefore be the next President.

Displaying great political logic and acumen, at least one State governor and the new Senator Hillary Clinton, have spearheaded a proposal to review and change the Electoral College system¹, which is based on an indirect form of democracy, given that the people do not vote directly for the presidential candidate. This system also contains another paradox: a candidate may win the popular vote, but lose in the Electoral College.

In Panama, the Electoral College system was used in the presidential elections of 1904, 1908, 1912 and 1916. Something similar occurred in the presidential elections of 1972 and 1978, when the National Assembly of District Representatives elected the President and Vice-President of the Republic.

I am well aware that no electoral system is perfect and that each country has the sovereign right to democratically adopt whichever system is best suited to its culture and moment in history. Nevertheless, democracies have an obligation to make use of each electoral experience, learn from the imperfections detected and correct these before the next elections. We in Panama have learnt this. Hopefully, the historical observers of our democracies will learn that electoral law is dynamic and should be frequently updated, based on experience.

Magistrate Eduardo Valdés is the President of the Electoral Tribunal of Panama. This article was published in The daily La Prensa, on December 1, 2000.

1. A constitutional change in the Union requires the approval of two-thirds of the Congress and must then be similarly ratified by the State Legislatures in three-quarters of the States. This explains why there have been so few constitutional amends in the Union.

MERRY CHRISTMAS



and best wishes for 2001

SUGGESTION BOX

Please send your comments and suggestions to capel@iidh.ed.cr or fax them to 234-0955, attention of "UNIORE NEWSLETTER"

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