

In this issue

- I. Opinion Forum.....Pages 1 - 2
- II. Electoral Processes.....Page 2
- III. Projects and Activities... ..Pages. 3 - 4

I. Opinion Forum

Why electoral tribunals need to be independent

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President of the Electoral Tribunal of Panama



The President of the Electoral Tribunal of Panama wishes to share his thoughts on this subject with the other members of UNIORE, given the fact that many electoral bodies are faced with the problem of maintaining their financial and administrative independence from the government. He hopes that his comments strike a chord with colleagues facing similar situations and that they may feel inspired to write articles of their own on the subject.



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Introduction

The Electoral Tribunal is assigned a number of responsibilities under Panama's Political Constitution and other legislation. These include:

1. Administering the Civil Registry and recording all births, deaths, marriages, divorces, naturalizations, adoptions, etc.
2. Issuing identity cards to all Panamanian citizens and foreigners who are legally resident in the country.
3. Maintaining a permanent electoral roll or voter lists.
4. Keeping a record of the members of political parties.
5. Administering the government subsidy for political parties.
6. Administering electoral criminal justice, once the Office of the Electoral Prosecutor has completed its investigations and issued an opinion about a given matter.
7. Holding the exams required under the Political Constitution for individuals who wish to obtain Panamanian nationality.
8. Organizing elections and referendums.

Seven of the eight responsibilities listed above involve services that the Electoral Tribunal is required to provide to the general public on a daily basis, not only when there are elections. To keep this article brief, let us focus on certain aspects of two of these responsibilities:

1. As the custodian of documents related to the nationality and identity of all Panamanians and foreigners who are legally resident in the country, it is the responsibility of the Tribunal not only to protect its archives, which are a very important national resource, but also to provide an efficient service, on a daily basis, to Panamanians who require certifications of different kinds or need to register new information. All this calls for investment in technology.

It should also be remembered that more than one million Panamanians live in rural areas, many of them in remote places. These people need the Civil Registry to make regular visits every year to their communities, so that they can register their vital statistics. To matriculate our children in the school system, we must present a birth certificate.

Due to the international and national trafficking in nationalities, the Electoral Tribunal invests heavily in security, in order to combat corruption and the resourcefulness of criminals involved in this activity, which has existed for a long time in Panama.

2. Since we are responsible for issuing every citizen and legal residents with an identity card, which is required by law, we must invest in the technology needed to issue a document that not only cannot be forged or altered, but that is also durable. Unfortunately, like many Latin Americans, Panamanians often lose their identity card and regularly request duplicates, thus increasing the workload of the identity card service.

Continued on page 2

A new digital technology for issuing identity cards has been introduced. As a result, we must issue 1.8 million new cards. We hope to do so prior to the 2004 elections, provided that the necessary resources are made available. Panama is not the only country to invest in a new identity card system that uses digital technology. Nicaragua was the first to do so, followed by Honduras, Costa Rica, the Dominican Republic and, most recently, Colombia. Chile is in the process of doing so and Guatemala and Mexico are looking to do the same.

What kind of independence does the Electoral Tribunal want?

1. To no longer have to depend on the good will of the government for an annual budget that reflect its growing needs, given the public service that it must provide every day, not only when there are elections.
2. To no longer have to depend on the good will of the government to be able to use the funds allocated to it in the budget as and when required, and to make the budgetary transfers permitted by law.
3. To no longer have to depend on the government to make changes in the Tribunal’s personnel structure.
4. To no longer have to depend on the government to obtain special loans when the Tribunal itself generates the additional resources needed to finance such loans.
5. To no longer have to depend on the government to allocate the budgetary resources needed for the Tribunal to continue to guarantee transparent elections.

An independent Electoral Tribunal was created under the Political Constitution, with legal status, its own resources and powers to draw up its own rules and regulations. The objective was to guarantee the freedom, integrity and validity of elections and to enable the Tribunal to carry out all the responsibilities described above. Therefore, the members of the Tribunal believe that their aspirations for the institution are legitimate and can only strengthen our democracy and nation.

Author’s note:

It should be noted that the bill passed by the Legislative Assembly in June, intended to bolster the independence of the Electoral Tribunal, was vetoed by the Executive Branch on the grounds that it was unconstitutional. A constitutional amendment will therefore be required to implement the rules established in the new legislation enacted by the Panamanian parliament.

II. Electoral Processes

Referendum in Sarapiquí, Costa Rica

The Municipality of Sarapiquí, in the province of Heredia, held a referendum on September 24, with advisory assistance from the Supreme Elections Tribunal of Costa Rica, in order to allow local residents to decide whether they wished to declare the watershed of the Sarapiquí River a *Natural Historical Heritage Site*.

At the invitation of the local mayor, the IIHR/CAPEL sent a delegation of officials to observe the process, which was conducted in a peaceful and orderly fashion, although the turnout was low.



Students of several schools in the municipality of Sarapiquí used their imagination to make known their positions regarding whether the river should be declared a natural heritage site.

NEW ELECTORAL LAW IN CANADA

Following on from the article published in the July issue of the UNIORE newsletter, the Chief Electoral Officer of Canada, Jean Pierre Kingsley, sent us a copy of his country’s new federal electoral legislation. The *Canada Elections Act* came into force on September 1, after it was published in the *Gazette of Canada*.

The new act can be accessed in PDF format on the Elections Canada web site: www.elections.ca

III. Projects and Activities

Visit to the IIHR by the President-elect of Mexico, Vicente Fox Quesada

The President-elect of Mexico visited IIHR headquarters on September 12, during his first visit to Costa Rica. He proposed that his country and Central America enter into a "great alliance" for development, in order "to be successful and triumph" in the twenty-first century.

During his visit, the President-elect spoke of the importance of the Institute's pioneering efforts in the field of human rights education and promotion in the region. He also referred to the IIHR/CAPEL's work in Latin America, and especially in Mexico, aimed at the advancement of civil and political rights.



The Director of the IIHR presented the President-elect of Mexico with several Institute publications, including the new edition of the Electoral Dictionary.

Visit to the IIHR by the former Director of CAPEL, Jorge Mario García Laguardia

The former Director of CAPEL and current Ambassador of Guatemala to Costa Rica, Jorge Mario García Laguardia, visited the IIHR on September 20.

Ambassador García Laguardia was invited by the Executive Director, Roberto Cuéllar, to initiate a round of conversations with the directors of the IIHR and CAPEL officials, concerning his experiences while director of CAPEL and the current political-electoral context in the region.

The meeting was extremely useful, as Ambassador García Laguardia traced the creation of groundbreaking programs that are now completely consolidated, such as the Electoral Dictionary project, the system of election observation missions, and the establishment of the Association of Electoral Bodies of Central America in Tikal, known as the Tikal Protocol, a project that was completed successfully thanks to the conviction and efforts of the President of the Supreme Electoral Tribunal of Guatemala at the time, Arturo Herbruger.

Visit to the Supreme Electoral Tribunal of El Salvador

On Monday, September 25, Roberto Cuéllar and José Thompson met with the President of the Supreme Electoral Tribunal (TSE) of El Salvador, José Sergio Mena Méndez, in San Salvador. They discussed the current needs of political systems, such as electoral reforms to modernize electoral legislation and procedures. The TSE decided that it would send a technical mission to visit CAPEL with a view to exploring ways and areas in which the two institutions could collaborate, and in order to learn more about CAPEL's projects and activities in the region.



Talk on the Electoral Process in the United States of America

On September 28, Andrew M. Raucci, an expert in electoral law and Chief Justice of the Court of Claims of the State of Illinois, gave a talk at IIHR headquarters on the electoral process in the United States. Mr. Raucci was invited by the US Embassy to speak to a sizeable group of Costa Rican academics and the judges and staff of the Supreme Elections Tribunal of Costa Rica, about his view of the presidential election campaign in the United States. Al Gore and George W. Bush are the two leading candidates (of the Democrat and Republican parties, respectively). Mr. Raucci spoke about issues such as the tactics and strategies used in the campaign, political financing, and the role played by polls.

Visit by an official of the National Electoral Council of Colombia

María Magdalena Forero, an official of the National Electoral Council of Colombia, visited IIHR headquarters from September 28-29. The purpose of her visit was to reach agreement on the implementation of a technical assistance project related to civic/citizen education, called for under the cooperation agreement signed by the Council, the National Registry and the IIHR/CAPEL, in March of this year.

The arrangements were also finalized for a joint observation mission involving the Colombian electoral body and CAPEL to the local and regional elections scheduled for October 29.

Requests for copies of the new edition of the Electoral Dictionary

In recent weeks we have received requests from different electoral bodies for copies of the new edition of the Electoral Dictionary. Copies will be presented to the representatives of all the electoral bodies at the Tikal and UNIORE conferences from November 20-22, in Antigua, Guatemala.

Should you require extra copies, please visit our web page: www.iidh.ed.cr There, under "publications," you can contact the IIHR's Editorial Unit and order additional copies. We appreciate the enormous interest in our publications!

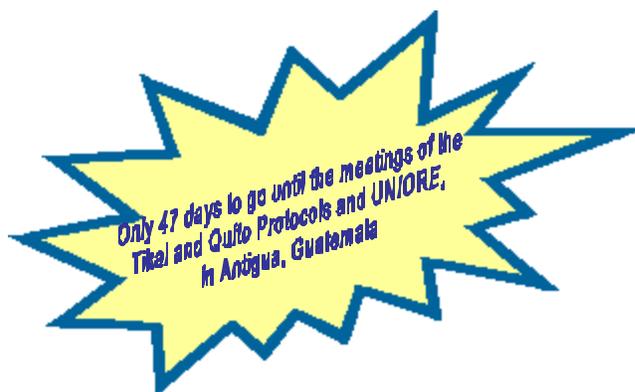
Organization of the Fourteenth Conference of the Tikal Protocol, the Fifth Conference of UNIORE and the Special Meeting of the Quito Protocol

As part of the preparations for the Fifth Conference of UNIORE, the Fourteenth Conference of the Tikal Protocol and the Special Meeting of the Quito Protocol, CAPEL officials Sofía Vincenzi and Ileana Aguilar held a series of meetings in Antigua and Guatemala City with members of the Supreme Electoral Tribunal (TSE) and the officials responsible for organizing this important event.

Due to the scale of these activities, the staff of CAPEL has been coordinating its efforts with its counterparts at the TSE on a daily basis, dealing with logistical, administrative and academic matters. This close coordination has proven very effective and will ensure the success of the event.

We would like to express our appreciation to the member organizations that have confirmed their attendance at the conferences and the names of their delegates. We would ask that those who have not yet confirmed they will be attending do so as soon as possible.

We shall be distributing the respective program and working agenda shortly.



SUGGESTION BOX

Please send your comments and suggestions to: capel@iidh.ed.cr or, by fax, to: 234 09 55, for the attention of "UNIORE NEWSLETTER" Inter-American Institute of Human Rights Apartado 10081-1000, San Jose, Costa Rica Phone: (506) 234-0404

Other issues of this newsletter can be accessed on our web site, under **Novedades**: