

Presidential Elections in El Salvador Expectations for Change and the Challenges Ahead

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- El Salvador's election season comes to a close with the presidential elections on Sunday, March 15, in what many expect to be a close race, increasing tensions in the country and the possibility of conflict.
- Long-term changes are needed to improve the election process in El Salvador. The Supreme Election Tribunal (TSE) continues to be politicized and weak, heightening concerns that several of the incidents and problems reported during the January legislative and municipal elections may be repeated for the presidential vote.
- The next president of El Salvador will face a daunting economic situation and a continued security crisis. The polarized political climate in the country may present challenges to reaching consensus in order to pass essential legislation.
- Recent statements by members of the US Congress can be perceived as intervention in El Salvador's internal affairs. The State Department should publicly repeat the US government's position that it will work with whomever Salvadorans freely and fairly elect.

The heated election season in El Salvador ends this Sunday as Salvadorans go to the voting booths to elect their next president. Several recent polls show a virtual tie between the National Republic Alliance (*Alianza Republicana Nacionalista*, ARENA) candidate, Rodrigo Ávila and the Farabundo Marti National Liberation Front (*Frente de Liberación Nacional Farabundo Martí*, FMLN) candidate Mauricio Funes, while it is also widely recognized that for the first time since becoming a political party in 1992, the FMLN has a real chance of winning the presidency. In contrast to past presidential elections, there will be no second round in this race as the smaller National Conciliation Party (*Partido de Conciliación Nacional*, PCN) and the Christian Democratic Party (*Partido Demócrata Cristiana*, PDC) withdrew their candidates following the legislative and municipal elections on January 18.

The recent weeks have been marked by increased reports of violent acts committed by party activists, intense campaigning and negative propaganda, heightening the polarization between followers of the FMLN and ARENA and the potential for

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confrontations on election day.² Although the January elections were held in relative calm and the process was considered “good” and “acceptable” by election observers, it was also marked by a series of irregularities in the voting process which threaten to repeat themselves on March 15.

Political panorama

The results of the legislative and municipal elections held on January 18 were a forerunner for the period leading up to the presidential elections. While in the National Assembly the FMLN won a total of 35 out of 84 seats, receiving almost 90,000 more votes than ARENA, and it increased the number of municipalities it governs to 75³, up from 60 in 2006, these achievements were overshadowed by their loss of San Salvador- a party stronghold for 12 years- to ARENA. In WOLA meetings with political analysts and members of Salvadoran civil society in February, many individuals affirmed that this loss was a big blow to FMLN morale, while it significantly energized ARENA followers. ARENA continues to govern more municipalities than any other party (122), while it lost two seats in the National Assembly.

In this pre-electoral period, new political alliances have also been announced. The leadership of the PCN and PDC is supporting Ávila, suggesting a potentially strong conservative block that could swing the votes in his favor. However, in a split with the PCN⁴, the former party presidential candidate and evangelical leader, Tomás Chévez, and vice presidential candidate Rafael González Garciaguirre announced on March 5 their support for Mauricio Funes.⁵ The Democratic Change (*Cambio Democrático*, CD) leadership is also backing Funes.

The presidential race has tightened significantly in the past month. Both parties have intensified their campaigns, while it is clear that ARENA as the ruling party has the political machinery in place to blanket the country and media outlets with campaign propaganda. Although there has been some discussion on policy proposals by the two candidates, most publicity continues to be marked with negative or “dirty” propaganda, particularly by ARENA and its supporters. There have also been several accusations of voter coercion, mainly by employers who suggest that jobs may be at risk with a FMLN victory.

The media has played an important role in informing voters of the positions of the political parties, yet election coverage by some outlets has been biased to benefit or in detriment to the presidential and vice presidential candidates and the parties themselves. Media monitoring done by the European Union’s Election Observation Mission prior to

² The National Police reported that from January 19 to February 28 they had registred 115 violent incidents committed by party members. Mebreno, Tania, “PNC: 115 incidentes electorales en 2009,” *La Prensa Grafica*, March 3, 2009.

³ Plus 21 additional municipalities that the FMLN governs in coalition with other parties.

⁴ The PCN leadership had ordered Chévez to withdraw from the presidential race and he refused. As a result, the PCN leadership voted to expel Chévez from the party, and petitioned the TSE to annul his candidacy, which they did in a 3-2 vote.

⁵ Castellon, Gabriela, “Chévez y Garciaguirre se unen a Funes,” *El Faro*, March 5, 2009.

the January election concluded that in general ARENA was the party most favored by media coverage, while the FMLN was the most damaged.⁶ The Social Initiative for Democracy's (*Iniciativa Social para la Democracia*, ISD) monitoring of the media before the January elections found that the FMLN received 54.7% of the negative commentary in the press, while ARENA received 40.7%.⁷

Calculations of campaign spending based on monitoring paid TV, radio, newspaper and billboard ads being undertaken by the National Foundation for Development (*Fundación Nacional para el Desarrollo*, FUNDE) also show a vast disparity between campaign expenditures for the different parties, with the ruling party's campaign accounting for 65.7 % of the total money spent by all the parties during the period up to the January 2009 elections, along with the 7.3% spent by the organization which supports ARENA, *Fuerza Solidaria*. For its part, the FMLN along with the organization the "Friends of Mauricio" spent 19.4% of the total expenditure on campaign publicity.⁸

Political Platforms and Public Perceptions

ARENA presented its party platform, "A More Just Country" on January 27 of this year, while the FMLN released its platform, "Change in El Salvador to Live Better" in August 2008. Although there are marked differences between the two platforms, both are more centrist than their traditional party positions and emphasize economic reforms and social investment.⁹ On international policy, an analysis by the Sociology and Political Science Department of the Central American University (UCA) states that both parties touch on the same international issues, often with similar approaches. One area where there are marked differences is regarding security. ARENA prioritizes fighting against drug trafficking and organized crime on a regional level with US assistance, while the FMLN believes that these issues should be addressed through the participation of multilateral bodies like the OAS and the UN, linking them to peacekeeping and the defense of democracy. On human rights, ARENA's approach proposes to revise security policies in the country in regards to human rights without providing any details, while the FMLN's platform includes some specific actions to implement in this area such as strengthening the government's human rights bodies, particularly the Human Rights Ombudsman Office (*Procuraduría para la Defensa de los Derechos Humanos*, PDDH) and promoting the cancellation of laws and state practices that violate or do not recognize human rights.¹⁰ To the disappointment of some human rights observers, the FMLN has opted to not repeal the Amnesty Law passed by the ARENA controlled Legislative Assembly in 1993 that prevents the prosecution of those responsible for the most heinous crimes

⁶ EU Election Observation Mission, Preliminary Statement, January 20, 2009.

⁷ Iniciativa Social para la Democracia, "Principales hallazgos de la cobertura mediática Elecciones 2009" Monitoring from November 14, 2008 to January 13, 2009.

⁸ Escobar, Ivan, "Partidos sobrepasan \$15 millones en propaganda electoral, dice FUNDE," *Diario Co Latino*, February 18, 2009. <http://www.diariocolatino.com/es/20090218/portada/63910/?tpl=69>

⁹ O'Bray, Leslie and Claudia Rodriguez-Alas, "El Salvador 2009 Presidential Election: Party Platforms," SHARE Foundation, February 2009.

¹⁰ Departamento de Sociología y Ciencias Políticas de la UCA, "El Salvador 2009... en la mira," Edition No. 21, February 11, 2009.

committed during the civil war such as the assassination of Archbishop Oscar Romero in 1980 or the Jesuit priests killed during the offensive of November 1989.

While several polls continue to place Mauricio Funes as the victor in this Sunday's vote, other results have indicated that Rodrigo Ávila has a slight lead. There is fairly stable part of the population who will always vote for either ARENA or the FMLN so it would appear that this presidential election will be decided by the independent and until of late undecided voter. In the most recent survey from the University Institute on Public Opinion (*Instituto Universitario de Opinión Pública, IUDOP*) from February 2009, 20.7% of those surveyed said that they made their decision for the January elections a month or days before the election itself, perhaps in part explaining why the FMLN lost San Salvador in spite of the fact that the polls taken the month earlier had their candidate in a firm lead. The study further found that 24.2% of those surveyed stated that their vote preference could still change. The critical economic situation and general perception that things have gotten worse in the country during the Saca administration continues to be a setback for ARENA, with 60.5% of the population believing that the party should no longer govern the country. The candidacy of Mauricio Funes continues to be marked by perceived differences between Funes and the FMLN and the belief, by 36.5% of those surveyed, that the party is not prepared to govern the country.¹¹

Given what appears to be a close race, it is clear that the next president will not have a strong mandate, meaning that consensus amongst the parties must be reached for key legislation. If it so wishes, the losing party will have the possibility to become a constructive opposition but there is also a risk that political polarization will continue and intensify. The capacity to cross party lines and enact necessary legislation will be particularly urgent in light of the worsening of the economic crisis and ongoing problem of insecurity in El Salvador.

Voting process

El Salvador has strong political parties in place and sufficient technical capacity to carry out an effective election process. **Nonetheless, it is plagued with a series of problems that affect citizen confidence and gaps in electoral legislation that “fall short of international electoral standards.”**¹² Although the January 18 elections were held in relative calm and were considered fair and acceptable by national and international observers, there were problems.

Some of the main concerns expressed after the January elections include: the inability of the TSE to sanction important violations of the election code, positioning of voting booths that do not guarantee the secrecy of the vote, poor training of voting booth officials (*Juntas Receptores de Votos, JRVs*) who were often unfamiliar with election-day administration procedures, the late opening of polling stations, problems in voting with the citizen ID document (*documento único de identidad, DUI*), intimidation from

¹¹ Instituto Universitario de Opinión Pública, “Los salvadoreños y salvadoranas frente a las elecciones presidenciales de 2009,” Press Release, No. 1, 2009.

¹² ¹² EUEOM, Preliminary Statement, January 20, 2009

political party militants disseminating propaganda outside voting centers, vote buying, and accusations of Central American foreigners voting.¹³ Some national observers such as representatives from the Human Rights Ombudsman Office and the IUDOP also reported harassment and obstacles in exercising their observation activities, particularly during the vote tallying process. Of the IUDOP's 2,000 observers, one third reported that the final vote counting was done behind closed doors in the JRV they were observing.¹⁴ Observers characterized the problems facing the election process with language that went from "irregularities" to "legalized fraud." With insufficient actions by the TSE, there are concerns that several of the reported incidents, shortcomings and problems may be repeated for the presidential elections.

The recommendations made to the Salvadoran government and the TSE by the different election observation missions after the January elections focused on both the short and long term changes that are needed to improve the election process in El Salvador. While many of the short-term recommendations, such as better training, could be easily implemented by the TSE, others require legislative changes and the political will to push them forward. It is noteworthy that many of the recommendations such as residential voting and more controls over campaign financing and media advertising were originally made in 1994, the first elections held after the Peace Accords were signed in 1992.¹⁵

In spite of international support, including cooperation from USAID and European donors to push election reforms forward, there has been little progress in implementing these reforms. While there is no time to implement reforms before Sunday's presidential election, we present the following issues to be addressed by the next administration and legislative assembly:

- **Expand the residential vote program.** The implementation of the residential vote pilot program throughout the Cuscatlán Department greatly facilitated the voting process for 196,733 voters during January's elections. The program reduces the distance between the voter and the polling place resulting in increased political participation, and lessens crowds and confusion at voting centers leading to shorter waiting times. Because voters would not be obliged to travel long distances to cast their ballots, the need for long distance transportation is eliminated as is the possibility of political parties' offering transportation for voters which may lead to voter manipulation.
- **Expand access to vote for Salvadorans who live abroad.** The Constitution of El Salvador recognizes the right to vote for all citizens. However, over 2.3 million Salvadorans live abroad, mostly in the United States, and there is no law that establishes and regulates absentee voting. Electoral reform to effectively address

¹³ See for example IUDOP, "Informe de resultados sobre la observación de las elecciones de diputados y alcaldes, 18 de enero de 2009," February 2009 and Informe Verbal del Jefe de Mision, Dr. Gustavo Fernandez Saavedra, OAS Election Observation Mission, February 18, 2009.

¹⁴ IUDOP, "Informe de resultados sobre la observación de las elecciones de diputados y alcaldes, 18 de enero de 2009

¹⁵ See for example: Spence, Jace, David Dye and George Vickers, et. al "El Salvador: Elections of the Century," Hemisphere Initiatives, July 1994.

absentee voting would allow for greater political inclusion. On February 11, the Legislative Assembly passed a transitory decree to allow Salvadorans who live outside of the country and who have their DUIs to come to San Salvador and vote in special voting stations. The FMLN voted against the decree because they believe it is discriminatory as not all Salvadorans who live outside of the country have the economic capacity to travel to El Salvador to vote.

- **Establish a new political party law that would address issues such as campaign financing and internal democracy within the parties.** The government provides money to El Salvador's six political parties to help fund the municipal, legislative, and presidential elections; the amount given is calculated based upon the number of votes each party received in the previous election.¹⁶ After that amount, there is no Salvadoran legal framework limiting the amount of money each party may spend, nor delineating any duties to report private funds received and spent and whether these funds come from domestic or foreign sources. This void in legislation is considered a serious deviation from international best practices.

Implementation of laws that mandate disclosure of private financing for political parties and their campaign activities will ensure greater transparency. Information related to the amounts, origins and destinations for elections payments should be public information. A cap should be placed on private campaign financing, including a limit per donor, and a cap on total private financing a party may spend in addition to the amount received by the Salvadoran government for campaigning purposes.

Other recommendations for election reform include the need for the TSE to continue efforts to update and purge voter registry and ensure that all political parties have full access to the registry; the need to enact reforms to depoliticize the composition of the TSE and to reform the TSE so that there are separate bodies in charge of administrative election functions and resolving election disputes.

Election observation

There are several national and international organizations and missions organizing election observation for the presidential race. Given what may be a close election and the polarized climate in the country, independent national and international observation of the process will be important to establish the credibility of the election process and to record any possible irregularities that may occur. Reports of harassment of election observers and of impediments for observers to be present at the vote count are troubling. **The TSE should ensure that mechanisms are in place to guarantee the security of election observers and their ability to observe all stages of the voting process. This should include enabling observers to be present in the resolution of any electoral challenges.**

¹⁶ European Union Election Observation Mission El Salvador, "El Salvador: Legislative, Municipal, and Parleccen Elections" January, 20 2009.

The role of the United States

Apart from isolated statements, the US government under the Bush Administration and now under President Obama has maintained a neutral stance regarding the elections in El Salvador. This position is particularly important given past US intervention in the election process in El Salvador and the region, and tactics adopted by ARENA to present a FMLN victory as a threat to the United States.

The US also provides financial support for the election process in El Salvador. It contributes to financing the OAS Election Observation Mission and USAID provided approximately \$2.5 million in support through the International Republican Institute (IRI) and the National Democratic Institute (NDI) for Salvadoran organizations to train newly elected deputies, carry out election observation and a quick count of election results, monitor campaign expenditures on publicity and to monitor media coverage of the parties and their candidates.

Prior to the January elections, fifty members of the US House of Representatives, lead by Congressman Jim McGovern issued a letter to Secretary Rice in which they called on the State Department to work with the Salvadoran government to ensure that the election process is free, fair and transparent. On March 5, Congressman Raul Grijalva and 29 other members of Congress and a US Senator issued a letter to President Obama also calling for US neutrality and non-intervention in the Salvadoran elections. In contrast, Congressman Lincoln Diaz-Balart and 45 other members of Congress sent a letter to Secretary Clinton on March 4 expressing their concern about the FMLN's "unfounded" affirmations about the possibility of election fraud, which they say put at risk the legitimacy of the election process and may lead to political violence that could result in "instability and social agitation like what happened in Nicaragua." The letter states that Funes attempts to present himself as a moderate but that "actions and declarations confirm the FMLN extremism." It further asks Secretary Clinton to monitor the elections given the "potential threats to our security interests" and that she encourage the FMLN to avoid all acts which could result in risks for US security. Finally, the letter expresses the members' serious concerns that a FMLN victory could mean alliances between El Salvador with the regimes of Venezuela, Iran, Cuba and other states that promote terrorism, as well as other non-democratic regimes and with terrorist organizations.¹⁷

Comments like this which can be understood as veiled threats regarding US-El Salvador relations in the event of a FMLN victory represent an intervention in Salvadoran internal affairs that undermines democracy and undercuts the US government's stance of neutrality. **In the days leading up to the elections, the State Department should publicly repeat that the United States government does not seek to interfere in the El Salvador elections and that it will work with whomever Salvadorans freely and fairly elect.**

¹⁷ Congresistas de EE.UU. repudian actitud de Funes, *El Diario de Hoy*, http://www.elsalvador.com/mwedh/nota/nota_completa.asp?idCat=6351&idArt=3426239 and Marenco, Julio, "Política salvadoreña llega a Congreso EUA," *La Prensa Grafica*, March 10, 2009.