

**ELECTORAL OBSERVATION MISSION
GENERAL ELECTIONS IN PANAMA 2014
VERBAL REPORT**

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Distinguished Permanent Representatives of the Member and Observer States to the OAS,

Ladies and Gentlemen,

On April 5, 2013 the Secretary General of the OAS received a formal invitation from the Government of Panama to send an Electoral Observation Mission to cover the May 4, 2014 General Elections. The Secretary General accepted the invitation, appointing Ms. Lourdes Flores Nano as Chief of the Electoral Observation Mission and myself as Deputy Chief.

The OAS has been supporting the growth of democracy in Panama since 1978, through the deployment of electoral observation missions. The OAS has observed a total of seven electoral processes in Panama, among them: the general elections of 2004; the October 22, 2006 referendum on expansion of the Panama Canal; and, most recently, the general elections of 2009.

In the May 4 elections, 1,754 public officials were elected, including the President, Vice President, deputies and alternates of the Central American Parliament (PARLACEN), legislators, mayors, council members, and municipal representatives.

Pre-Electoral Period

The OAS Electoral Observation Mission (OAS/EOM) began its work in September 2013 with a preliminary visit by the Chief of Mission, who held meetings with electoral and government officials, political leaders, civil society organizations, and representatives of the international community resident in Panama.

The OAS/EOM comprised 53 observers in all, from 19 countries. The team included a core group of specialists who conducted a substantive and in-depth analysis of the process, from the standpoint of election organization, technology, policy analysis, campaign financing, media, gender, voting abroad, security and election crimes, election dispute-resolution, as well as the participation of people of African descent and indigenous people. The group of international coordinators and observers were deployed in nine provinces in all, plus two indigenous regions of the country. They observed the process firsthand, focusing on such areas as delivery of materials, training of polling station staff. Observers were also present throughout Election Day itself from opening to closing, concentrating on issues such as electronic voting, voting abroad, and the vote-counting process at polling stations.

One important aspect worth noting was that the election was conducted under an amended electoral code. For these elections, a number of changes to the electoral system were approved by majority. Unfortunately, the consensus that has dominated Panamanian politics since 1994 was not achieved. The National Electoral Reform Commission and the Electoral Tribunal, both of which are usually involved, did not take part in the reform effort.

The main reforms to the Panamanian electoral system included: elimination of the *en bloc* vote, and change in the powers of the Electoral Prosecutor's Office and the Electoral Tribunal to regulate negative campaigning. The prosecutor's office lacks the funds and the capacity needed to carry out its work, and this caused some issues during the campaign.

Another issue of note was political financing. Although Panama has laws on public financing for political parties, the Electoral Code sets no limit on campaign spending or on the duration of election campaigns. The absence of limits could create unfairness within a given electoral race. The system could benefit from greater transparency in terms of the amount and the source of income for political parties. Likewise, greater control over public funding and government advertising could level the playing field in electoral races.

In the month before the election, the Mission received concerns from opposition candidates, about campaign spending and the use of public funds, executive branch interference in election campaigns, and political patronage that reached unprecedented levels.

Election Day

A total of 1,886,308 Panamanians went to the polls on May 4. Voter turnout on Election Day was high, as 76.8% of the electorate cast their ballots peacefully and with great civic pride.

Election Day put to rest many doubts that had been expressed in the pre-electoral period about how the performance of electoral institutions. The EOM observed that the distribution of materials was efficient, as 100% of the polling stations observed had all the material needed for voting.. Some 92% of the voting spaces and polling stations observed by the OAS were in proper order. It was also confirmed that 97% of the polling stations that were observed had their full complement of staff and that members of the major parties were present at virtually all polling stations around the country.

The Mission would like to commend the Panamanian authorities for their efforts to promote inclusiveness in the elections. The OAS/EOM observed the voting at the La Joya Prison Center, where balloting was completely normal. In addition, a total of 5,408 voters were able to vote from abroad – 3,928 of them new voters who were added to the register. Voters cast their ballots by one of three means: Internet, mail, and in-person voting at the a polling station equipped for the purpose in Panama City. Internet voting drew a large number of Panamanians into the electoral process and proved to be an efficient and secure tool, and marked a milestone – the first time that this tool was being used.

Organization of election and data

In terms of organizing for the election, the OAS/EOM observed compliance with the deadlines set out in the electoral calendar and received no specific complaints on the subject.

The Mission acknowledges the move to professionalize information technology services by implementing the ISO 9001:2008 quality management system and applying cutting edge technology tools to mitigate information security risks. The scenario in Panama is of highly automated electoral processes, some already at an advanced stage, including the Unofficial Data Transmission system and others at the prototype stage, such as the Voting Abroad System and the Electronic Voting System.

The Unofficial Data Transmission System enabled the results of the presidential race to be released in a timely fashion. At 7:40 p.m., just three hours and 40 minutes after the polls closed, the Tribunal was able to detect an irreversible trend and declared candidate Juan Carlos Varela the winner.

Observation of the Media

The OAS/EOM conducted a media analysis, with the aim of evaluating equity in terms of levels of coverage among the political forces as well as compliance with existing legislation on access to the media.

In the process of observation, the moratorium on political propaganda, which began on May 1 was complied with. The political parties as well as the media avoided broadcasting messages about the election race or the candidates' proposals and/or aspirations.

However, OAS/EOM noted a Panamanian political system distorted by big spending by candidates in the elections. It is unfair competition in which political presence, in terms of levels of advertising, is related to a candidate's ability to pay. Thus, more than 95% of media coverage was concentrated on three candidates. A basic problem in the elections was the absence of caps on advertising spending, which rendered candidates who are less able to fund their campaigns less competitive, and virtually shut out the chances of candidates other than front-runners.

Political Participation of Women

Regarding the participation of women in politics, the Mission notes the introduction of Law No. 54 of 2012 – to ensure men and women can participate on an equal footing – which states that the gender quota must be increased in internal elections (from 30% to 50%). The law does have a serious gap, however, as it provides no mechanism for effective compliance or for sanctions. Until 2009, this exception in the law provided a “loophole” for parties to avoid compliance.

In terms of percentage, women candidates (lead and alternate) in the 2014 elections were still underrepresented in the various positions up for election. On average, women comprised about 21.6% of the total number of candidates, compared to the 50% expected under existing laws. By contrast, 69% of the staff at the polling stations observed were women; and 51% of these polling stations were headed by women, with 49% by men. The latter figures are noteworthy as they show that, despite the high level of participation of women in various fields, the key positions are occupied by men.

Despite the observed underrepresentation, the election results were a pleasant surprise in terms of female representation, showing a substantial increase in the percentage of women elected. Panama's newly-elected parliament comprises 18% women – who were elected as deputies – compared to 8% in the 2009 elections. This provides evidence of a direct relationship between choice of candidates and women parliamentarians elected.

Post-Election Period

The OAS/EOM was on hand for the post-election period, to observe the final vote count process. As required, the proclamation of the President-elect and the Vice President-

elect was published in the Bulletin of the Electoral Tribunal on May 8, 2014. Juan Carlos Varela was declared the winner of the Office of President of the Republic with 39% of votes for the *Partido Panameñista*.

With regard to challenges, three working days after the deadline to file objections (on May 13, 2014), no challenge to the election and proclamation of the President and Vice President had been lodged.

Importantly, the Panamanian system for challenging election results has a historical peculiarity, which is that ballots that are already counted are burned – after the counting is completed – at polling stations. Destroying the ballots prevents the voting results from being reviewed on appeal. That is precisely why a vote recount cannot be done either, should that come up for discussion.

Conclusions and Recommendations

As a result of the OAS/EOM observation exercise, and in a bid to help strengthen the electoral process, we would like to offer the following recommendations:

- To regulate political campaign financing, including the use of public and private funds as well as interference by the executive branch. Current rules set no limits or controls on private donations and/or election spending. This lack of regulation has led to expensive campaigns with little transparency in terms of the source of funds. Money in politics needs to be regulated as a matter of urgency, in order to furnish the democratic system with more fairness and integrity.
- To strengthen the role of the office of the electoral prosecutor.. The OAS/EOM received some complaints about the performance of the prosecutor's office in handling complaints. The Mission underscores the need to strengthen the institution's powers, human resources, and materials. It is also crucial for the Electoral Prosecutor's Office and the Electoral Tribunal to develop ongoing and smooth institutional linkages to harmoniously fulfil their rightful role at the various stages of the electoral process.
- To reconstitute the National Electoral Reform Commission – a special dialogue body and the main source of major improvements in the democratic process – with electoral institutions, political parties, and the National Assembly, over several election cycles. The EOM urges the newly-elected National Assembly to seriously consider incorporating the

recommendations arising from this process of dialogue, with a view to continued strengthening of the Panamanian electoral system.

- In the interest of fairer access to the media, it is recommended that free slots for elections be expanded in two ways: a) to two hours a day (including weekends) distributed across programming and to include a fair distribution of candidates at different times; b) to include private Radio and TV stations.
- To review current laws on gender equality and explore possible amendments to the Electoral Code, in the view of latest election results. It is recommended that legal measures be established in the Electoral Code to increase the percentage of women on election ballots and in party hierarchy. These measures should be accompanied by mechanisms (such as alternation or position mandates) to ensure women are put in positions in which they have a reasonable opportunity to win election as well as firm, compulsory sanctions for breaches related to non-registration of electoral lists.
- To refer to the National Electoral Reform Commission for consideration the matter of whether it would be useful to keep the system of burning ballots or introduce a mechanism to facilitate ballot recount. Destroying ballots prevents vote standings from being reviewed at a second stage and renders a recount impossible should that come up for discussion. Burning ballots has benefits in terms of speed and security, but in terms of any potential process of challenges, it could sacrifice a degree of certainty, against the express will of voters, since the primary evidence would be missing.

Acknowledgement

The OAS Electoral Observation Mission would like to thank the Government of Panama and the Electoral Tribunal for their invitation and collaboration, and for the facilities provided for the members of this Mission to perform their functions while they were in that country.

The Mission would also like to thank the following OAS member and observer states: Bolivia, Chile, Korea, United States, and Peru. Their financial support enabled this Mission to carry out its work.

And finally, the Mission wishes to once again commend the Electoral Tribunal, the political parties, and especially the Panamanian people, for the civic-mindedness they displayed throughout this electoral process.