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**ORGANIZATION OF AMERICAN STATES  
ELECTORAL OBSERVATION MISSION  
GENERAL ELECTIONS  
HONDURAS  
NOVEMBER 26, 2017  
  
FINAL REPORT**

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## 1. EXECUTIVE SUMMARY

General elections were held in Honduras on November 26, 2017 to elect officials for 3,016 positions nationwide: 1 President and 3 Vice Presidents, 20 regular members and 20 substitute members of the Central American Parliament, 128 regular and 128 substitute members of the National Congress, 298 mayors and 298 deputy mayors of municipalities, and 2,120 councilors.

In a communication addressed to the Secretary General of the Organization of American States, dated August 22, 2016, the Government of the Republic of Honduras requested the presence of an OAS Electoral Observation Mission (OAS/EOM) to cover the Primary and General Elections held, respectively, on March 12 and November 26, 2017. The Secretary General, Luis Almagro, appointed Jorge Tuto Quiroga, former president of the Plurinational State of Bolivia, to head the mission. In the weeks prior to the election, the OAS/EOM deployed a team of 82 specialists and international observers, which made it possible to conduct a comprehensive analysis of the process.

Following is a discussion of the main reasons why the EOM Honduras has ongoing doubts regarding the electoral process. Familiarity with the abundance of irregularities and errors described not just in these few pages but in the report as a whole is vital to be able to grasp the sequence of events and the different objective assessments made by the EOM.

Even before the elections were convened, the legitimacy of the electoral process for the General Elections of November 26, 2017 was questioned by various segments of the population opposed to presidential re-election. A lengthy section in this report is devoted to that topic. It concludes that the manner in which re-election was authorized -- by a judicial ruling -- constitutes a bad practice found in other countries of the region, as well.

The OAS Mission ascertained that the judges reflected the political party bias in the Supreme Electoral Tribunal (TSE). That jeopardizes the impartiality and neutrality with which an electoral body should act.

On Election Day, the Mission visited 1,257 Polling Stations (*Mesas Electorales Receptoras* -MER) in 451 voting centers in 17 departments. The observers reported a few instances of voters being urged to vote publicly. Under Honduran law, the vote is supposed to be secret. The Mission also noted that representatives of political parties approached voters to keep track of voting intentions. Massive movements of voters were observed in different parts of the country and in three departments observers reported the buying of votes.

Toward the end of Election Day, it was not clear what time polling stations were supposed to close. While the law states that they must close at 4 p.m., there was confusion as to the possibility of extending the voting to offset some of the delays in the morning, as had been the case in previous elections. The OAS observers reported that, on average, polling stations closed at 4:35 p.m. and that in 8% of them some citizens were still in line and unable to vote. On the night of the election, the results were announced in the early hours of the morning, when the processing of election tally sheets (some 16,000) was way below target.

On Monday, November 27, the TSE began to receive the electoral cases (containing the election materials) coming from various parts of the country in the collection center (INFOP), where the OAS/EOM had been present throughout the process. The observers noted that no pre-established protocols were followed for the reception and unloading of materials. Furthermore, they noticed that some trucks transporting the cases arrived at INFOP unaccompanied by guards and that, in order to open them, TSE personnel sometimes had to break the locks due to the absence of the military personnel responsible.

The observers also ascertained that the order in which the cases were processed and unloaded changed: first it was in order of arrival; then other undisclosed criteria were used. As for the electoral material, the observers reported that some cases arrived at INFOP opened and incomplete, whereby in some cases the minutes of the tally were missing, and in others the sheet listing incidents that had occurred at the polling station and/or the notebooks containing the polling station's registry of electors who voted were missing. Some cases arrived without any security devices.

The Mission filed a written request with the TSE for the inventory of cases processed in which the final voting record (*acta de cierre*) or other sensitive material was missing and for the report on minutes scanned at INFOP, as well as all the images of the minutes being scanned during reception of the cases in INFOP and the plan for unloading the trucks and delivering the cases. Unfortunately, the Mission did not receive that information from the Tribunal. The uncertainty, lack of transparency, and information deficit experienced that week were preventable and could have been addressed.

Logistical coordination issues, plus high levels of improvisation in resolving situations, delayed the scanning of the election material. In addition, there were flaws in the processing of the tally sheets on Wednesday, November 29, between 9:47 a.m. and 11:30 p.m., with no information available for 8.5 of those hours, which triggered even more uncertainty. The TSE reported that this was due to a technical problem with one of its servers, which reached its maximum capacity and had to be replaced. The Mission was unable to ascertain the origin of the problem, but it did note that the system began working at around 11:30 p.m.

The Mission noted with concern that in 4.7% of the special vote count boards votes were regarded as valid even though they lacked the marks that indicate handling by the voters and by members of the polling station when counting them. In some cases, they were still attached to the stub showing the polling station data: i.e. the voting slip had not been separated from the block. Those voting slips looked new, with no signs of even having been folded. The TSE explained to the OAS that when they are put back into the electoral cases, the tally sheets are rolled up, which could explain why they looked so smooth when unrolled again for the special vote count. The fact that those vote slips were counted is highly relevant given the narrow margin of difference between the two candidacies.

Several political parties shared their concerns with the Mission about the larger parties allegedly purchasing credentials from parties lacking the capacity to name representatives to all polling stations. Although the Mission was not able to corroborate that practice, it was striking that in some stations where there were representatives of small political parties, those parties did not obtain a single vote. VAMOS was the only party to return credentials it could not use to the TSE (18,000 of them).

In connection with its post-electoral observation, the EOM analyzed a large number of election tally sheets corresponding to the Integrated Electoral Vote Counting and Dissemination System (SIEDE) and special vote counts, as well as the contending political parties (Partido Nacional, Partido Liberal, Alianza de Oposición contra la Dictadura, and Partido Liberal). Based on that review, the EOM is able to conclude that almost all the official tally sheets match those received by the parties. However, there are some cases of inexplicable differences between the election tally sheets of the three parties and those of the TSE. It is important to note that there are no safeguards to prevent the alteration or falsification of the copies of the tally sheets in the possession of the parties.

The Mission considers that the copies of the tally sheets handed out to the political parties do not constitute a foolproof security measure. The reason for this is that the parties do not have all of them; some were filled in by hand, have no security measures, and differ from one another.

According to information provided by the TSE, there were breakdowns in the SIEDE on Wednesday, November 29, between 9:47 a.m. and 11:30 p.m., with no information available for 8.5 of those hours. When the server began breaking down, it became apparent that it had reached its storage capacity. Nevertheless, to this day the real reason why one of the servers crashed is unknown because the flaw continued even after the storage capacity was increased. None of the technical reports submitted to the Mission provides a technical explanation of either the real cause of the problem or the impact of the server crashing.

Nor was the Mission told why one of the servers was "piggybacked" (*se "pisó"*) or why another one already in the system or a new one was not used. The audit firm hired by the TSE claimed that neither the integrity, availability, or confidentiality of the information were impaired; even though the TSE reported that the system was out of service until it was rebooted, i.e., availability could have been impaired in the meantime.

The Mission was also able to document remote desktop access to the servers from the offices of the company in charge of scanning and transcription. That access, without TSE oversight (without the presence of witnesses during access) and with administrator privileges, posed a very high security risk. It was shown to be one way through which the company provides technical support, but it is a violation of sound I.T. security practices during an election process.

In addition to the above, the Mission detected images of 464 tally sheets encrypted using JSON methodology on the desktop of a server to which personnel of the service provider had access. The records show that those tally sheets had been incorporated through a special vote count via scanning, when in reality the last act recorded was a change to the format of those archives, which were incorporated using a flow not stipulated as one of those used. This situation is considered critical from both a security and data integrity point of view.

Alteration of the evidence surrounding the incident on November 29, 2017 in the primary database server<sup>1</sup> (SQL1) prevented this limited and non-invasive audit from eliciting essential data from it. The

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1. The primary server concept is taken verbatim from the report delivered by the TSE.

way the incident was handled failed to observe universally accepted best practices in dealing with I.T. incidents.

In short, the limited audit produced worrisome findings: I) In the attempt to fix flaws and resolve the system crash, the primary server was ditched without preserving the information needed to ascertain the reasons for the crash; II) 464 election tally sheets were entered into the system inappropriately and nobody appears to know who did it; III) The Mission does not know whether there were other tally sheets in the same conditions; no evidence was left; IV) the logs are out of sync but the reason for that is unknown.

The audit did not identify specific actions aimed at fraudulently altering the results of the vote count or publication of the results. However, it concludes that the system, as handled, was not robust enough to stop either of them from occurring.

The Mission requested an analysis showing how the results of the presidential election evolved during the processing of the election tallies. That analysis found a jump in average electoral participation in the department of La Paz during the counting of the last third of the polling stations, from 68% to 73%. That significant surge in participation coincided with an increase in the average percentage of votes obtained by Partido Nacional, from 44% to 56%, and a decline in the percentage of votes for Alianza de Oposición Contra la Dictadura from 32% to 16%. Such a development is atypical and statistically improbable.

Mistrust in the process unleashed sometimes violent protests, with dozens of people reportedly killed thus far. The Mission profoundly laments the loss of human lives and calls for those responsible to be brought to trial. It also urges the security forces to proceed with the utmost caution, respecting people's right to demonstrate and the principle of proportionality, especially during curfew hours, and to always follow human rights protocols.

The Mission considers the personal attacks and insults against members of the EOM, designed to intimidate them, unacceptable. All the findings contained in this report were confirmed and are the result of professional observation rooted in OAS principles and standards. As with all missions deployed by the Organization, the work it did was objective, impartial, and transparent, with the technical capacity needed for the task.

Given the doubts raised during the various phases of this process, the Electoral Observation Mission of the Organization of American States conducted all the studies it deemed appropriate for addressing and if possible dispelling them. Unfortunately, those doubts could not be dispelled. This report ratifies the findings, observations, and recommendations contained in the preliminary report presented in the country.

Based on the analysis contained in this report and the observations included in the two preliminary reports, the EOM considers that it observed a low-quality electoral process. The abundance of irregularities and deficiencies is such as to preclude full certainty regarding the outcome.

## **2. BACKGROUND**

According to the Political Constitution of the Republic of Honduras, the national territory is divided into 18 departments. General elections were held on November 26, 2017 to elect officials for 3,016 positions nationwide: 1 President and 3 Vice Presidents, 20 regular members and 20 substitute members of the Central American Parliament, 128 regular and 128 substitute members of the National Congress, 298 mayors and 298 deputy mayors of municipalities, and 2,120 councilors.

In a communication addressed to the OAS Secretary General, dated August 22, 2016, the Government of the Republic of Honduras requested the presence of an OAS Electoral Observation Mission to cover the Primary and General Elections held, respectively, on March 12 and November 26, 2017. On September 15, 2016, the GS/OAS accepted the invitation and instructed the Department of Electoral Cooperation and Observation of the Secretariat for the Strengthening of Democracy to deploy a Mission to the Central American country. The Secretary General, Luis Almagro, appointed Jorge Tuto Quiroga, former president of the Plurinational State of Bolivia, to head the Mission.

On February 3, 2017, the General Secretariat of the Organization of American States (GS/OAS) and the Government of the Republic of Honduras signed the agreement on privileges and immunities that constitutes the regulatory framework governing the activities of an Electoral Observation Mission in the host country. On February 7, 2017, the Head of the EOM, Jorge Tuto Quiroga, and the then President of the Supreme Electoral Tribunal, Erick Mauricio Rodríguez Gavarrete, signed the agreement on observation procedures.

Ten political parties took part in these elections, two of which formed an Alliance, along with 46 independent candidacies for municipal corporations. Altogether 27,188 candidates were registered to fill the positions available.

The electoral roll comprised 6,046,873 citizens eligible to vote and 18,103 boards for receiving votes were set up in 5,688 polling centers all over the country. The Supreme Electoral Tribunal (TSE) prepared an electoral timetable, which was approved on May 25, 2017. It listed the dates and activities envisaged in the Electoral Law for setting up and organizing the elections.

### **COMPOSITION OF THE EOM**

On February 6, the OAS Electoral Observation Mission arrived in Honduras to conduct an initial three-day visit, during which it signed the procedures agreement. The Mission also met with the President of the Republic, Juan Orlando Hernández, the members of the Supreme Electoral Tribunal, candidates from the various political factions, and members of the international community accredited in Honduras.

The Mission began by dispatching an advance technical team to the country on October 30 to observe the preparation of the electoral cases (containing election materials), the training being given to members of the polling stations and the delivery of their credentials, along with other aspects relating to the transmission and dissemination of results. On November 6 that team was joined by

the mobile group of four observers, who traveled to the different departments in the country to observe in situ the progress being made with preparations for the elections and to meet the various players involved in that process.

The Mission completed its deployment of 82 experts and observers with the arrival, in the week prior to the elections, of the specialists, regional coordinators, and international observers, together with the Head of Mission, Jorge Tuto Quiroga, and the Special Advisor to the EOM, former President of Guatemala Álvaro Colom.

In the post-election phase, the Mission maintained a team of experts and international observers to observe the special vote counts. It also added I.T. experts to conduct a detailed analysis of the system for transmitting and processing the election tally sheets. Statistical studies were also conducted with a view to achieving greater insight into electoral participation.

### **PRESIDENTIAL RE-ELECTION**

On April 22, 2015, the Constitutional Division of the Supreme Court of Justice resolved two constitutional challenge suits, permitting indefinite presidential re-election in Honduras. In that judgment, the Court ruled on an action filed by 15 congressmen, almost all of them members of Partido Nacional, against the second paragraph of Article 239 and Article 42.5 (both) of the Constitution of the Republic and against Article 330 of the Criminal Code, and on an action brought by former President Rafael Callejas to have Article 239 of the Constitution<sup>2</sup> declared inapplicable.

The judgment declared the unconstitutionality of Article 330 of the Criminal Code, which orders the imprisonment of anyone seeking to amend the articles of the Constitution that prevent presidential re-election. The Court considered that said article unlawfully restricted freedom of expression and contradicted principles established in the Constitution and in the American Convention on Human Rights.

At the same time, it declared Article 42.5, on promoting the re-election of the President, and Article 239, on the disqualification or dismissal of anyone proposing re-election, to be inapplicable. By extension, it established the inapplicability of the last paragraph of Article 4, which established that said offense constitutes treason. Nevertheless, the Court upheld the preceding paragraph, which makes alternation in the exercise of the Presidency mandatory. Finally, the Court's judgment declares the inapplicability of Article 374 on the impossibility of amending certain hard and fast articles of the Constitution.

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2. Judgments 1342-2014 and 243-2015, joined, on actions brought by Deputies José Oswaldo Ramos Soto, Oscar Arturo Álvarez Guerrero, David Guillermo Chávez Madison, Antonio Cesar Rivera Callejas, José Tomás Zambrano Molina, José Celin Discua Elvir, Miguel Edgardo Martínez Pineda, Rodolfo Irias Navas, Mario Alonso Pérez López, Milton Jesús Puerto Oseguera, Román Villeda Aguilar, Juan Carlos Valenzuela Morlina, Welsy Linea Vásquez, José Francisco Rivera Hernández, and Edwin Roberto Pavón León, as well as former President Rafael Leonardo Callejas Romero.



The judgment handed down by the Constitutional Division of the Supreme Court of Justice is a sovereign decision by the highest judicial organ in the country. The Mission respects that determination while pointing out that never before in Honduras has an article of the Constitution been declared inapplicable on the grounds of unconstitutionality or inconsistency with international treaties.

Based on its analysis of the inter-American legal framework and of various precedents set by the Inter-American Court of Human Rights, the Mission's view is that political rights are not absolute. In that context, it points out that they may be subject to restrictions so long as they are already provided for in law, are not arbitrary, do not constitute misuse of authority, and meet the requirements of suitability, necessity, and proportionality.<sup>3</sup>

The Mission stresses that making it a requirement of eligibility for elective office that the candidate has not occupied or is not occupying that same post at the time of his or her candidacy does not curtail the political rights of the citizen because he or she is free to stand for other office, vote, and enjoy freedom of association and affiliation. In fact, several countries in the region restrict or prohibit re-election without thereby violating international treaties.

As regards the legal instrument used to authorize re-election, the Mission wishes to underscore the fact that various international bodies have recognized the constitutional ban on presidential re-election. In that sense, the Report of the Truth and Reconciliation Commission of 2011, installed after the events of 2008, considered that the Honduran Constitution included a set of hard and fast rules that may not be changed via partial amendments of the Constitution, including an amendment to the ban on presidential re-election. The Inter-American Court of Human Rights adopted the same stance in the López Lone case.

For their part, the final comments of the United Nations Human Rights Committee on the second periodic report established the importance of respecting the eligibility criterion established in the Constitution, particularly as regards the limiting of the presidential mandate. This was in reference to measures that needed to be taken on participation in public affairs and the right to vote in the Honduran State in light of General Comment No. 25.

With respect to the foregoing analysis, the Mission wishes to underscore the fact that in Honduras neither the judicial nor the electoral authorities claimed that re-election was a restriction on the right to be voted that is lacking suitability, necessity, or proportionality. Rather, they opted to extend the already declared inapplicability of a legal precept that curtailed freedom of expression with respect to suggesting amendments relating to re-election.

The judgment handed down by the Constitutional Division of the Supreme Court of Justice gave rise to an irregular state of affairs in the legal system, because constitutional provisions in effect have been rendered inapplicable by the highest judicial authority without a constitutional amendment

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3. See the following cases: *Artavia Murillo et al v. Costa Rica*, *Herrera Ulloa v. Costa Rica*, *Mémolli v. Argentina*, *Yatama v. Nicaragua*, *Castañeda Gutman v. México*, *López Mendoza v. Venezuela*, and *López Lone et al v. Honduras*.

having been enacted. Moreover, a law regulating presidential re-election has not been passed either, even though the Executive is backing such an initiative. Therefore, as things stand, the possibility is being left open of a President perpetuating himself in office, indefinitely.

The manner in which re-election was authorized, i.e., by a judicial judgment, is a bad practice that has been found in other countries in the region as well. It is essential that the Constitution of Honduras reflect political realities in the country, because currently the Constitution contemplates articles that are not applied. That results in a lack of legal certainty because currently there are no limits to re-election, which could trigger aspirations to perpetuate hold on power at variance with the Declaration of Santiago adopted at the Fifth Meeting of Ministers of Foreign Affairs in August 1959, the third declarative paragraph of which states that "perpetuation in power, or the exercise of power without a fixed term and with the manifest intent of perpetuation is incompatible with the effective exercise of democracy."

Despite this analysis, the Mission, which met with the President of the Supreme Court of Justice, took note that of the nine candidates who registered to compete in the presidential elections and chose to participate under these conditions, only one was standing for re-election.

### **PRIMARY ELECTIONS**

Article 113 of the Electoral Law of Honduras requires political parties to hold primaries to choose their candidates for elective office whenever there is more than one internal faction per party. Some parties that do not have internal factions may register their candidates without having to hold primary elections. On March 12, 2017, the OAS/EOM sent a team of specialists to analyze the primary elections process conducted by Partido Nacional (three factions), Partido Libertad y Refundación (nine factions), and Partido Liberal (two factions).

The Law establishes that the political party primaries must be directed, monitored, and supervised by the Supreme Electoral Tribunal with support from the parties and that their purpose is to elect candidates for elective office. The OAS/EOM observed a lack of clarity as to which responsibilities corresponded to the TSE and which to the parties, a flaw that led to disorder and confusion during the voting.

On March 12, 2017, the OAS/EOM observed the primaries process conducted by Partido Nacional (three factions), Partido Libertad y Refundación (nine factions), and Partido Liberal (two factions). The following presidential formulas emerged as a result of that process: Juan Orlando Hernández, presidential candidate and Ricardo Alvarez Arias, Olga Alvarado Rodriguez, and Maria Rivera as presidential appointees (*designados presidenciales*); Xiomara Castro, presidential candidate and Rodolfo de Maria Campos, Belinda Carias Martinez, and Edwin Araque Bonilla as presidential appointees; and Luis Zelaya, presidential candidate and Yadira Bendaña Flores, José Fernández Flores, and Maria Villela Meza, as presidential appointees, respectively.

However, once "Alianza opositora contra la dictadura" had been formed from the Innovación y Unidad (Pinu-SD) and Libre parties, the presidential candidate elect for Partido Libre was relegated to

the vice-presidency so that Salvador Nasralla could be appointed a candidate, as someone who was not a representative of any of the factions in any of the parties making up the Alianza.

On this matter, the OAS/EOM considers it appropriate to point out that the possibility of forming alliances after general elections have been convened and of appointing a candidate other than the one elected in the primaries undermines the legal certainty of those primaries and the political (electoral) rights of the citizens taking part in them.

### **3. PRE-ELECTORAL PHASE**

During this phase, the OAS Mission took note of the accusations of partisanship levelled at the TSE. It also received a complaint from one of the contending political factions that was trying to gain representation at the highest level of the Tribunal.

The EOM's mobile group observed that the temporary bodies formed at the departmental and municipal levels lacked professionalism in the performance of their technical functions and as regards coordination with other actors in the process. That translated into improvisation in several aspects of the process.

The Mission also took note of the criticisms of the electoral census conducted after the primaries had taken place. Thanks to the questions raised, the death certificate registers were updated so as to reduce the number of people who should no longer appear on electoral rolls. Despite the review of the registers, the EOM continued to receive complaints about the census.

Several political parties expressed their concern to the Mission regarding the alleged purchase by larger parties of polling station member (MER) credentials from smaller parties that lacked the capacity to appoint representatives to all the MER. This situation, similar to previous elections, added to citizen distrust of the transparency of the process.

The political parties were responsible for training the members of the MER, which meant that the quality of the training they received depended on each party's infrastructural capacity, not on TSE officials. According to information provided by the TSE, 1,624 political party instructors received training, and it was they who were responsible for training the members of the MER. The parties did not share their training records with the TSE, so there is no way of knowing how many polling station members actually received proper training.

As regards the implementation of the results transmission, processing, and dissemination system, the OAS/EOM noted that the originally hired firm was replaced. With respect to the system for transmitting, processing, and disseminating results, the OAS/EOM noted that the originally hired company was replaced. While the TSE made that change in response to requests from the opposition parties, who considered Mapa Soluciones too close to the government party, the change of contractor 30 days before the election left little time to develop the new system, carry out tests, and make any necessary adjustments.

The Mission observed the test run on November 12 when some functions and contingencies of the Integrated Electoral Vote Counting and Dissemination System (SIEDE) were tested nationwide. Basic functions of the system's components were tested, along with their synchronization, and some tweaks made, but the proximity of the elections left no time for further tests, so that the test-run was limited in scope. Moreover, the regulations for implementing the system were approved on the Thursday before the voting.

#### **4. ELECTION DAY**

On Election Day, the Mission visited 1,257 polling stations (*Mesas Electorales Receptoras* -MER) in 451 voting centers in 17 departments. The OAS observers reported delays in the opening of some of the observed polling stations, due mainly to the lack of some essential voting materials, such as the "ratified" stamp used to mark the back of the voting slips (ballots) and confirm that the slip filled in by the voter is the same as the one that was given to him/her. Although the Supreme Electoral Tribunal (Tribunal Superior Electoral - TSE) issued instructions to the effect that in those polling stations without a stamp, polling station members could sign the slips instead, many did not open until the stamp arrived. In others, polling station members signed the slips. The delays in opening the stations triggered long lines of voters and confusion among the electorate.

The Mission ascertained that most of the polling stations observed were manned by members of Partido Nacional, Alianza de Oposición en Contra de la Dictadura, and Partido Liberal, who were there the entire day, signed the minutes of the vote count, and received a copy of the tally before it was transmitted. The Mission likewise was pleased to note that more than half the polling station members and substitutes were women.

The observers reported a few instances of voters being urged to vote publicly. Under Honduran law, the vote is supposed to be secret. Accordingly, the Mission recommends that in future electoral processes an effort be made to protect that principle and ensure observance of it. It is important that both candidates and the media set an example by protecting the secrecy of the vote.

The Mission also noted that representatives of political parties approached voters to keep track of voting intentions and accompanied voters to their polling stations. Massive movements of voters were observed in different parts of the country and in three departments observers reported the buying of votes.

Toward the end of Election Day, it was not clear what time polling stations were supposed to close. While the law states that they must close at 4 p.m., there was confusion as to the possibility of extending the deadline to offset some of the delays in the morning, as had been the case in previous elections. The OAS observers reported that, on average, polling stations closed at 4:35 p.m. and that in eight of them some citizens were still in line and unable to vote.

Generally speaking, Election Day was orderly and the atmosphere respectful and calm. The OAS observers noted the presence of the security forces at the voting centers and the observers were able to go about their work without incident. The Mission congratulates Honduras on its peaceful Election

Day and appeals to all the actors involved to show the same sense of responsibility in the post-electoral phase.

The Mission did note with concern that, starting in the morning and throughout the day, announcements were made of the outcomes of voter surveys conducted outside the polling stations (exit polls), even though the law prohibits their publication until two hours after the stations close. The OAS/EOM was made aware of some 10 surveys, showing a variety of trends. In that context, the Mission could see how they were used more as propaganda tools than as information. Considering that surveys and public opinion polls can be used to sway voters, the OAS/EOM urges compliance with the regulations in that regard, which clearly prohibit such practices during the voting.

On election night citizens received no official information from the TSE on the votes tallied until 1:30 a.m. on the morning of Monday, November 27. Because of that, the media was full of news about the exit polls, generating a battle over outcomes in which two candidates proclaimed themselves the winners. The Mission recommended to the TSE that it publish the results thus far and at a press conference TSE President Matamoros announced the votes obtained by each candidate with 57.18% of the votes counted. At that point in time, the Partido Nacional candidate, Juan Orlando Hernández had 761,872 votes (40.21%) while the candidate for Alianza de Oposición Contra la Dictadura had 855,847 votes (45.17%).

## **5. POST-ELECTORAL PHASE**

Following this announcement, and despite the fact that 42.8% of the votes still had to be counted, both candidates continued to claim they had won, thereby generating tension and uncertainty among citizens, who began to take to the streets to celebrate victory.

After the TSE had released the first batch of partial results, the on-line results available to the public were not updated until well into Monday, November 27. When publication resumed, the Mission observed how the gap between the two candidates was narrowing.

In that context, the Mission heard from the presidential candidate for Alianza de Oposición Contra la Dictadura that he was concerned that a winner could be proclaimed without 100% of the votes having been tallied. It also heard from the Partido Nacional candidate that he was worried about the Opposition Alliance's call for street protests. That being so, the Mission facilitated the signing of an agreement, the "Declaration for Honduran Democracy", in which both candidates committed to calling upon their sympathizers to wait peacefully and calmly for the final vote count by the TSE, when all votes in each and every polling station records for the presidential elections had been added up, including the very last of the votes that required processing due to inconsistencies and/or a special tally. The Declaration also called on the TSE to act diligently and impartially.

Just hours after signing the Declaration, the candidate for Alianza de Oposición Contra la Dictadura, Salvador Nasralla, notified the Mission that he had changed his mind and withdrew his commitment. The Mission observed with concern the inability of various political leaders to reach an agreement

and how, instead, some had irresponsibly urged their supporters to take to the streets to defend victory at any cost.

On Monday, November 27, the TSE began to receive the electoral cases (containing election materials) coming from various parts of the country in the collection center (INFOP), where the Mission had been present throughout the process. The observers noted that there were no pre-established protocols for the reception and unloading of materials. Furthermore, they noticed that some trucks transporting the cases arrived at INFOP unaccompanied by guards and that, in order to open them, TSE personnel sometimes had to break the locks due to the absence of the military personnel responsible. The observers also ascertained that the order in which the cases were processed and unloaded changed: first it was in order of arrival, then other undisclosed criteria were used. As for the electoral material, the observers reported that some cases arrived at INFOP opened and incomplete, whereby in some cases the minutes of the tally were missing, and in others the sheet listing incidents that had occurred at the polling station and/or the notebooks containing the polling station's registry of electors who voted were missing. Some arrived without any security devices.

The Mission filed a written request with the TSE for the inventory of cases processed in which the final voting record (*acta de cierre*) or other sensitive material was missing and for the report on minutes scanned at INFOP, as well as all the images of the minutes being scanned during reception of the cases in INFOP and the plan for unloading the trucks and delivering the cases. Unfortunately, the Mission has not received that information from the Tribunal. The uncertainty, lack of transparency, and information deficit experienced this week is preventable and can be addressed.

Logistical coordination issues, plus high levels of improvisation in resolving situations, delayed the scanning of the election material. In addition, the processing of the voting records practically came to a 10-hour standstill on that Wednesday, triggering even more uncertainty. The TSE reported that this was due to a technical problem with one of its servers, which reached its maximum capacity and had to be replaced. The Mission was unable to ascertain the origin of the problem, but it did note that the system began working at around midnight the next day.

On the night of November 29, there were demonstrations outside INFOP which prompted the security forces to use tear gas to disperse the crowds. The Mission had to conduct an emergency evacuation of the observers who were there at the time. At 11.10 p.m., those incidents interrupted the unloading of the material and checking of the electoral cases, as well as the scanning of the records. The center was evacuated. The Mission roundly condemned these incidents, as well as those that ensued in subsequent days, and it regretted the loss of human life. Violence is no way to resolve differences.

Given the uncertainty as to whether the TSE would declare the winner after only the regular vote count, as has happened in previous elections, without waiting for the special tally, on November 30 the OAS Mission issued a call for no candidate to be declared President until the last vote was counted. The TSE announced that it would wait to complete the special tally before making the announcement.

That night, the President of the TSE declared that the regular vote count in the presidential election had been finalized and announced that on Friday the special count of votes would begin at the 1,006 polling stations with records showing numerical inconsistencies.

The special tally was postponed several times given the refusal of Alianza de Oposición contra la Dictadura to participate. On December 2, that alliance met with technical staff at the TSE to put forward their demands. The TSE addressed most of those concerns, but was unable to confirm the participation of the Alliance in the special tally. To resolve the impasse and so that the process would not be left solely in the hands of the parties, the OAS proposed in a statement to the press that the special tally be conducted in the presence of national observers from a variety of sectors (church authorities, workers, employers, academics, and civil society).

The narrow difference in votes obtained by two of the candidates, combined with the irregularities, errors, and systemic problems surrounding this election meant that the Mission was never able to be certain who won the presidential election. That being so, in its Preliminary Report, delivered on December 4, the OAS/EOM recommended six activities aimed at dispelling doubts about the process.

The presidential candidate for Partido Nacional, Juan Orlando Hernández Alvarado, accepted the conclusions and recommendations of the OAS/EOM report and expressed his commitment to submitting the results of the elections to technical scrutiny, in the presence of national observers and representatives of Honduran civil society. Unfortunately, despite the technical substantiation and scientific bases for the Mission's recommendations, the presidential candidate for Alianza de Oposición Contra la Dictadura, Salvador Nasralla, did not sign the agreement.

With a view to observing implementation of the recommendations made and to continue accompanying the Honduran people through to closure of the electoral process, the Mission stayed on in the country with a sizable team of specialists and electoral observers. During that time, the members of the OAS/EOM attended the special vote counts and performed a limited audit of the Integrated Electoral Vote Counting and Dissemination System (SIEDE).

On December 17, the Mission presented a report on compliance with each of the recommendations. It thanked the Supreme Electoral Tribunal (TSE) for having taken its recommendations into account. It also acknowledged the effort the TSE had made to deliver its report on compliance, which the OAS/EOM took into account in preparing its report.

- 1. The comparison of the 1,006 electoral tally sheets submitted for special counting with the originals received, to see whether they pertain to those transmitted online or form part of those that were processed once they had arrived at the National Electoral Reception Center located inside the INFOP facilities.**

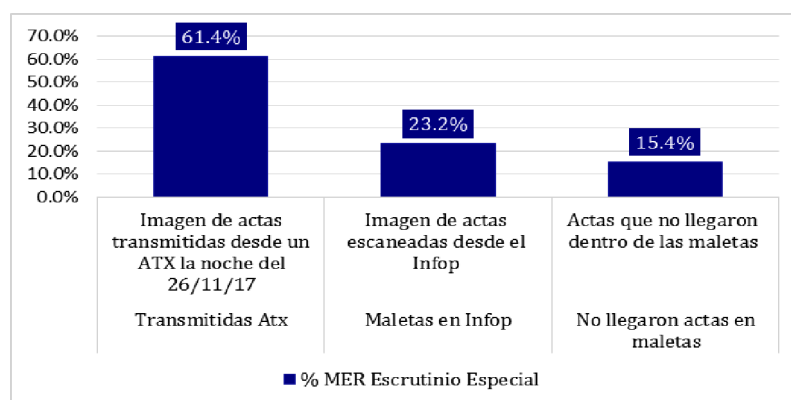
The EOM observed the special count of the 1,001 tally sheets from the MER for the presidential election. It is to be noted that the number of tally sheets differs from that proposed by the OAS/EOM because originally the TSE had said that there were five more. The special count was conducted pursuant to Article 19 of the Rules of Procedure for Processing Actions for Annulment and Conducting

Special Counts of the 2017 General Election MER (Agreement N19--2017), which was adopted five days prior to the elections.<sup>4</sup>

These tally sheets are examined at this stage in the process because they had issues of one kind or another, including: lack of the minimum number of signatures (four) required for validity; inconsistency between the transcribed and the scanned sheets; discrepancies between the total votes (valid, blank, and invalid) and the number of voting slips used, or between the number of voters assigned to the MER and the number of people who voted.

It transpired that 61.4% of these 1,001 tally sheets reviewed in the special count had been transmitted on Election Day, that is to say, they were scanned and the image was transmitted from the voting center. Only 23.2% were scanned upon arrival at the INFOP. The remaining 15.4% of tally sheets (corresponding to 155 MER) did not reach the INFOP inside the electoral cases. It should be noted that this last figure is equivalent to 0.85% of all presidential election tally sheets.

Percentage of Tally Sheets by Origin



[Tr: Key to the captions: Image of tally sheets transmitted from an ATX on the night of 11/26/17. Transmitted from ATX. Image of tally sheets scanned at INFOP. Electoral cases in INFOP. Tally sheets that did not arrive in the cases. Tally sheets not in cases. % MER Special Count]

Source: Prepared by the author using TSE information

In the presence of civil society representatives and international observers, the TSE conducted the special count of the 1,001 tally sheets with inconsistencies/issues. In two full days of work, witnessed in their entirety by the OAS Mission, officials recounted the voting slips in each of the electoral packages and drew up the tally sheets. This procedure managed to recover the missing tally sheets and to confirm the validity of the votes in the cases. However, the procedure used did not elucidate the specific reasons why each of the cases was examined at this stage in the process.

4. The Rules of Procedure for Processing Actions for Annulment and Conducting Special Counts of the 2017 General Election MER (Agreement N19--2017) (Agreement N19--2017) was adopted on November 21, 2017.



Regarding the procedures used during this phase, the Mission observed that there is no authorized set of step-by-step instructions and responsibilities for special counts. Nevertheless, the Mission underscores the decision by the TSE to conduct a complete recount of this group of voting slips.

**2. Verification of the 5,174 tally sheets of the Supreme Electoral Tribunal (TSE) that were not transmitted on election night, through a recount of the votes with issues/inconsistencies**

This second special count process began on December 8 and was also witnessed by both Honduran and international observers. Originally, the number of tally sheets to be reviewed in this second special count was 5,174. However, the TSE explained that there were 5,161 and said that 383 of those tally sheets had already been included in the first special count and that another 25 were tally sheets of votes registered abroad. As a result, the number of documents to be reviewed fell to 4,753.

Although the procedure recommended by the OAS/EOM had been to compare the TSE tally sheets with those of Alianza de Oposición, given that that party failed to deliver its tally sheets, the TSE decided to review and recount all (100%) of the tally sheets from those MER, a decision by the electoral authority that the Mission welcomed as it went beyond the recommendation.

Sixty-three<sup>5</sup> boards were formed for the special count, mostly comprised of the Tribunal's trainers. According to the TSE, merit-based criteria were used to select the training team.

The OAS/EOM was present 24 hours a day for all five days in which the electoral packages for 4,753 MER were reviewed in the INFOP, in four shifts per day each witnessed by a team of two observers. Those working teams conducted detailed observation of all reviews of packages from 166 MER,

The Mission noted that, in the boards it attended, the electoral cases delivered to the special count groups arrived sealed. Likewise, a high percentage of bags containing votes also arrived sealed with tape. A few were closed or tied with a knot.

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5. The Tribunal's report states that 70 boards were formed for the special scrutiny.



The Mission observed that different procedures were used to count the votes. In just over half the boards, the total number of valid, blank, and invalid votes was arrived at and the valid votes were then assigned to each of the political parties. The other boards proceeded directly to count each party's votes. The Mission also noted that only rarely did members of the board use the opening tally sheet in the case to ascertain the number of voting slips received by the MER.

As regards verification of signatures of members of the MER on the voting slips, the MOE observed such verification in a high percentage of the boards it witnessed. In many cases, officials checked the similarities of the signatures on different slips. They also verified that the stamp on the voting slips matched the type of vote.

The Mission noted with concern that in a few boards votes were considered valid that came on slips that showed no signs of having been handled by the voters and by the members of the polling station counting them. In some cases, the slips were still attached to the stub showing the polling station data; in other words, the slip had never been separated from the block. Those slips looked completely new and did not even have fold marks. The TSE's explanation to the OAS was that when they were put back into the electoral cases, tally sheets were rolled up, which could explain why they looked so smooth when they were unrolled for the special count.



When the vote count had been completed and the ballots returned to their respective bags and electoral containers, in nearly all the boards observed, these were sealed. In addition, the Mission noted that, in nearly all of the boards observed, the tally sheets of the special vote count were sealed and protected with the transparent sticker.

The special vote count process officially closed at 2:20 a.m. on Sunday, December 10. Following the review of this group of boards, the results of the first two political parties were modified as follows: the total number of votes for the National Party candidate declined from 1,412,055 votes to 1,410,877, i.e., 1,178 fewer votes. The total number of votes for the Opposition Alliance against the Dictatorship candidate rose from 1,359,578 to 1,360,407, i.e., an 829 vote gain. This

difference is due to the fact that in some cases void and blank votes were validated, and in others the original intent of the vote was corrected.

**3. Review of the voter turnout in the departments of Lempira, Intibucá, and La Paz, based on 100% of the polling stations (MERs) in each department**

The Mission took note of the concern expressed by the Opposition Alliance against the Dictatorship, whose representatives said the voter turnout was suspiciously high in the Departments of Lempira, Intibucá, and La Paz. Taking into account that concern, the OAS/EOM reviewed information on the history of voter turnout in these departments available on the Internet and that provided by the TSE, which yielded the following data:

Voter Turnout in Lempira, La Paz, and Intibucá

Dept/Year	2001			2005			2009			2013			2017		
	Registered voters	Voters	%	Registered voters	Voters	%	Registered voters	Voters	%	Registered voters	Voters	%	Registered voters	Voters	%
Lempira	116505	89118	76.493	133109	93727	70.41	152082	92416	60.77	181130	138870	76.67	210869	161347	76.52
La Paz	76157	57891	76.015	88292	57904	65.58	101315	56611	55.88	119651	84505	70.63	137234	96196	70.1
Intibucá	84237	63012	74.803	96544	64593	66.91	111128	61907	55.71	134040	95752	71.44	155684	107267	68.9

Source: Prepared with data from the TSE

As is evident from the table above, since 2001 the level of participation (approximately 70%) has remained relatively constant over time in the three departments. In 2009, participation declined, leaving the Lempira and Intibucá at less than 60%. In the 2017 election, participation in Intibucá declined over that in the prior election (2013).

However, the results of an analysis assigned by the Mission to Georgetown University (Washington, D.C.) Professor Irfan Nooruddin to see how the results in the presidential election were evolving as the records were tabulated showed that in the Department of La Paz there was an increase in voter turnout when counting the last third of the MERs, going from an average of 68% to 73%. This significant increase in participation coincided with an increase in the average percentage of votes obtained from the National Party, from 44% to 56%, and a decrease in the percentage of votes for the Opposition Alliance against the Dictatorship from 32% to 16%. That is atypical and statistically improbable.

**4. The establishment of a reasonable deadline for challenging findings. Due to the delays in both the regular and special tallies, the Mission urges the Supreme Electoral Tribunal to be flexible about receiving these challenges and in resolving them with all due procedural guarantees, one by one, after careful and duly substantiated analysis.**

The Elections and Political Organizations Law has different mechanisms for presenting challenges in the post-electoral period. It also establishes deadlines for filing them and resolving them.

Given the delay in the start of the special vote count, the OAS/EOM recommended that a reasonable deadline be set for the presentation of these appeals. Accepting this suggestion, the TSE decided to extend the deadline, which was to end on December 6, until midnight, December 8 (Agreement 21-2017). In that time, according to information provided by the TSE, the authority received 128 challenges related to the general elections. Most of them did not have due grounds and/or did not have the necessary evidence to support their claims. The period for resolving them is 10 days from the date on which the electoral authority received them.

The OAS/EOM observed 30 cases where, based on a challenge, it was necessary to open the sealed electoral containers to verify the result. It found that some party representatives were not given sufficient time to participate in the opening of the sealed containers in keeping with the timetable established. This led to delays, and it was necessary to wait until the representatives arrived or leave the resolution of the challenge pending.

The declaration of the election results may still be challenged. For that purpose, a period of five days is available from the date of its publication in the *Gaceta*.

**5. The publication of the lists of the members of the polling stations in the departments of Atlántida, Colón, Cortés, Francisco Morazán, and Yoro**

On December 14, the TSE gave the OAS/EOM the list of the 81,710 members of the polling stations in Atlántida, Colón, Cortés, Francisco Morazán, and Yoro Departments. The Mission expressed appreciation for this information and noted that it would be important for the TSE to have this data prior to election day. This situation would be made possible with the modification of the procedure for selecting and identifying the MER members in accordance with the earlier recommendations of OAS missions.

**6. Verification of the soundness/integrity of the Integrated Electoral Vote Counting and Dissemination System (SIEDE) and its components.**

On Wednesday, November 29, the Integrated Electoral Vote Counting and Dissemination System (SIEDE) had problems for 13 hours, during which time it was unavailable for six hours. The Mission took note of this situation and, mindful of the concern of the political stakeholders and the citizenry, considered it important to analyze these events in greater depth. Although the TSE fulfilled its promise to provide the EOM with a report on the interruption of the results tabulation, the Mission considered it necessary to obtain its own information based on the work of the experts contacted by the OAS especially for this purpose.

The main aim of the audit was to verify the system's behavior, limiting its scope to the technical and administrative measures directly related to the information technology used during the process. Owing to the short time available, it was decided to conduct a limited audit. It was clearly defined that this would not be a comprehensive audit of the system nor a forensic action.

Information on the observations and conclusions on this point is available in the section on electoral technology.

### Other activities carried out by the Mission

In order to compare the election reports obtained by the political parties with those released by the TSE, the Mission did a statistical study based on a representative sample at the national level of 361 election tally sheets. These tally sheets were selected based on the pattern and the electoral map, taking into account rural and urban polling places.

For this exercise, the Mission used the results given to the OAS/EOM by the National Party, the Opposition Alliance against the Dictatorship, and the Liberal Party, as well as those provided by the TSE. It should be noted that the parties did not get all the copies of the voting records.

#### Results based on a statistical sampling of 361 election tally sheets provided by the parties and the TSE

Number of tally sheets		Correlation of 361 provided by the parties for the same MERs			
Source		TSE	LIBERAL	ALIANZA	NATIONAL
NATIONAL PARTY OF HONDURAS		41.37%	41.26%	41.42%	41.36%
ALIANZA LIBRE ---PINU		41.04%	41.01%	41.03%	41.13%
LIBERAL PARTY OF HONDURAS		16.81%	16.76%	16.77%	16.73%
ANTICORRUPTION PARTY		0.20%	0.33%	0.21%	0.20%
HONDURAN PATRIOTIC ALLIANCE PARTY		0.19%	0.22%	0.19%	0.19%
CHRISTIAN DEMOCRATIC PARTY OF HONDURAS	21	0.14%	0.15%	0.14%	0.14%
DEMOCRATIC UNIFICATION PARTY		0.09%	0.09%	0.09%	0.09%
VAMOS SOCIAL CHRISTIAN CENTER PARTY		0.08%	0.08%	0.08%	0.08%
BROAD FRONT PARTY		0.07%	0.10%	0.07%	0.07%

Source: Elaborated by the Mission based on information from the TSE and information provided by the political parties.

The previous table shows that there were minimal variations in the percentage of votes obtained by each party according to the official tally sheets of the TSE and those of the three parties. However, it is clear that the difference in the percentage of votes obtained by the two leading contenders is extremely narrow, and is within the margin of error of the sample.

The Mission considers that giving copies of the tally sheets to the political parties is not an infallible control. This is the case because the parties do not have all of them, some were filled out by hand, do not have security measures, and have discrepancies among them.

In addition to that study, and in view of the many questions about the possibility of a change in the outcome with only 30% of the ballots remaining to be tallied, the OAS requested Dr. Irfan Nooruddin of Georgetown University (in Washington D.C.), to conduct an independent study on how the presidential election results were unfolding as the official returns were being counted.

According to the results of this study, there was a change in the pattern of voter preferences when counting the final 30% of official returns. During the processing of the first 68% of the votes, the voter preferences at the national level were stable. When adding the final 32% of the votes, voter preferences changed significantly, favoring the National Party. Election participation also varied considerably when computing the final 30% of the votes. With 68% of the votes counted, the average turnout was 56%. This increased to 63% when the final 30% of the votes were counted. It should be clarified that the final returns did not come from a single department, but from MERs of different departments of the country, from both urban and rural areas.

### **Electoral violence**

The lack of trust in the process triggered sometimes violent protests, and dozens of deaths were reported. The Mission profoundly regrets the loss of human lives and repeats its call for those responsible to be brought to trial.

On several occasions the Mission reiterated its appeal to all protagonists in the electoral process and to the general public to demonstrate peacefully, without committing acts of vandalism or putting their bodily integrity at risk. It resolutely condemned any statements by political leaders inciting, encouraging, suggesting, or calling for acts of violence.

It also urged the security forces to proceed with the utmost caution, respecting people's right to demonstrate and the principle of proportionality, especially during curfew hours, and following human rights protocols.

The Mission shares the call to respect human rights made by the Inter-American Commission on Human Rights (IACHR) and the Office of the UN High Commissioner for Human Rights (OACHR) in the post-electoral context in Honduras. It also shares in the condemnation of the looting and damage to private property, businesses, and blocking of highways in recent days in Tegucigalpa, San Pedro Sula, and other cities, which are clearly incompatible with the right of peaceful protest and democratic principles.

On several occasions the OAS/EOM reiterated the need for dialogue and for peaceful exercise of rights through established institutions.

## **6. OBSERVATIONS AND RECOMMENDATIONS BY TOPIC**

The Electoral Observation Mission of the OAS in Honduras has made a comprehensive analysis of the process. To contribute to the continual improvement of the Honduran electoral system, the Mission presents several observations and recommendations.

### **COMPOSITION OF THE ELECTORAL AUTHORITY**

The Supreme Electoral Tribunal (TSE) comprises three justices and one substitute appointed by Congress. The Presidency is exercised for a one-year term and rotates among the members of the Tribunal. Within the TSE structure, registered political parties together make up the Electoral Advisory Council (CCE). From that forum, they issue recommendations either informally or at the behest of the electoral body.<sup>6</sup>

The Mission heard complaints from various political factions questioning the independence of the members of the TSE and pointing to the political parties represented in it, which the Mission confirmed. Trust in institutions is vital in all electoral processes. With that in mind, the Mission considers that the members of the electoral authority should be chosen in such a way as to ensure that they are answerable to the institution they head, over and above any party affiliation.

For their part, the members of the Departmental Electoral Tribunals (TED) and Municipal Electoral Tribunals (TEM) are designated by the political parties and appointed by the TSE. The roles played in each of these temporary authorities are distributed equally among all the political factions.<sup>7</sup> Likewise, the polling stations (MERs) are composed of titular and/or alternate representatives of each of the political parties, coalitions, and independent candidates.<sup>8</sup>

This institutional set-up dilutes the oversight and responsibility that the TSE should exercise over all phases of the electoral process. In light of the above, the Mission recommends implementing a hybrid system in which the polling stations are manned by citizens appointed by the TSE and representatives of the political parties.

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6. Articles 41 and 42 of the Electoral and Political Organizations Act.

7. Articles 19 and 23 of the Electoral and Political Organizations Act.

8. Article 24 of the Electoral and Political Organizations Act.



## **ELECTORAL ORGANIZATION**

### **Accreditation of members of the MERs**

With a view to accrediting members of the polling stations, the Supreme Electoral Tribunal handed out 36,206 credentials for the 10 political parties registered for these elections. Each party received two credentials per polling station, one for the titular member and another for an alternate member. In addition, independent candidates at the municipal level received 9,618 credentials for category VIII polling station members and 4,256 credentials for category IX polling station members.

These credentials were handed over without the name of the political delegate, except in the case of the National Party, 25 days prior to Election Day. It is worth mentioning that positions within the polling stations, such as chair, secretary, teller, and other polling station members were allocated randomly or by lot.

Several political parties shared their concerns with the Mission about the larger parties allegedly purchasing credentials from parties lacking the capacity to name representatives to all polling stations. Although the Mission was not able to corroborate that practice, it was striking that in some stations where there were representatives of small political parties, those parties did not obtain a single vote. VAMOS was the only party to return credentials that it could not use to the TSE (18,000 of them).

On Election Day, the Mission observed that the three main parties were able to cover practically all the polling stations. However, the parties with fewer followers had big gaps in coverage.

The delivery of credentials not bearing the name of the person occupying that position creates uncertainty and mistrust about the possible uses that could be made of those documents. For that reason, the OAS/EOM reiterates its 2013 recommendation that polling station member credentials delivered to the political parties should bear the name of the person who will be performing that function on Election Day. To that end, the parties should hand over a list of potential polling station members so that the electoral authority can accredit them and a simple mechanism should be established to allow some members to be replaced by others if necessary.

### **Training**

The training of polling station members was left up to the political parties, which meant that the quality of the training depended on the infrastructure available to those political organizations and not on TSE officials. According to information provided by the TSE, 1,624 political party instructors were trained so that they in turn could train the people manning the polling stations. The parties do not share their training records with the TSE, so that there is no way of knowing how many polling station members were actually trained.

The Mission noted that this training system did not meet its goals, given that on Election Day OAS observers saw that members of the polling stations were unfamiliar with some of the polling station procedures. The OAS/EOM considers that more effort is needed to ensure that the members of the polling stations from the various different parties receive the effective and timely training they need

to be able to perform their functions on Election Day. The OAS/EOM further recommends reverting to the arrangements whereby the TSE directly trains polling station members from all the parties in the election.

### **Voter lists**

The electoral roll is a key part of the electoral process because it lists the people entitled to vote. This tool was challenged by some political parties after the primary elections. As a result of the questions raised at the time, records of persons who had died were updated in order to reduce the number of those who should not appear on electoral rolls. Despite those efforts, the OAS/EOM observed that the problem continues. The discrepancies found in the voter lists are due to people who fail to record relatives' deaths with the National Registrar's Office and to people being buried without a death certificate. Moreover, it was observed that the National Registrar's Office does not receive data from the institutions issuing death certificates. Adding to the problem are the number of Hondurans emigrating and failing to register abroad, so that they remain on the electoral list.

Accordingly, the OAS/EOM considers it important that Honduras conduct a comprehensive audit of the electoral register, with a view to updating it and getting rid of anomalies. Honduras should also have permanent screening and updating procedures for registry maintenance.

### **Electoral Custodians**

For these elections, the TSE issued regulations governing the functions of three types of electoral custodians: National Custodian, Voting Center Custodian/Coordinator, and Electoral Custodian/Technical Operator. The first two coordinate with the Armed Forces for the delivery and return of the electoral materials cases, while the last set of custodians is responsible for transmitting the voting records from the voting centers. The Voting Center Custodian/Coordinator idea did not materialize and the Mission observed that on Election Day there were no TSE representatives coordinating and resolving specific issues at the polling stations, or answering queries as to procedures if the members of the station could not come to an agreement.

The electoral custodians were selected with the help of public and private universities without taking into consideration the voting center where they themselves would be voting. In other words, in many cases they were unfamiliar with the area in which they would be serving and had to move outside their own municipality, making it impossible for them to vote on Election Day.

The Mission recommends better planning in the hiring of Electoral Custodians/Technical Operators; increasing the number of them; and optimizing their appointment and accreditation procedures. It also suggests implementing the mechanism whereby the TSE coordinates the work of the voting centers, while strengthening and expediting the work done by MER members.

### **Electoral technology**

With respect to implementation of the Integrated Electoral Vote Counting and Dissemination System (SIEDE), the OAS/EOM observed the simulation, tests, and transmission, and then did a limited audit

of the system to try to clarify the doubts that arose because of the system's breakdown on November 29. The audit was conducted between Sunday, December 10, and Friday, December 15, 2017, covering the period from November 26 to the end of the provisional count.

It is important to note that since the process was still underway when attempting to clarify what happened on November 29, a non-invasive audit was conducted, which did not run tools and/or scripts on the systems and equipment being used by the TSE.

In this context, on December 9 the Mission requested the information needed to carry out the audit, including the technical reports on the incident and the corresponding technical documentation, which included the database and test records. On December 14, concerned that the TSE had not delivered the database as supplementary technical information on the incident, the EOM asked the TSE in a formal note to give it a complete backup of the database.

As soon as it was received, EOM experts analyzed it. The technician also carried out tasks of identification, preliminary analysis, and collection of logs used in the field on different servers.

The EOM technician was urged to comment on the integrity of the database, which he could not do because of the technological ecosystem found, the areas in the sizing of the necessary storage, and the fact that the incident was not yet formally closed. In order to formally close it, the real causes of the failures and the impact had to be discovered.

It is necessary to note that during the activities of this audit, some of the system services were shut down, so the conclusions apply only to the current status of the system, with evaluation of previous events from the stored logs and other available evidence.

There having been no possibility of carrying out testing processes, the conclusions set forth are the result of the analysis of the system's components based on the compilation and validation of information related to the system's functionalities and technological infrastructure. There were limitations to this audit, since the TSE responded only partially to the information requests made by the audit team.

The Mission submitted a detailed technical document as an annex to its second preliminary report, and received a response from the TSE. Below are the principal findings based on the information gathered at various times during the electoral process, taking into account the information provided by the TSE before and after the presentation of the Mission's report.

The Mission noted that the originally hired company was replaced. While the TSE made that change in response to requests from the opposition parties, who considered Mapa Soluciones too close to the government party, the change of contractor 30 days before the election left little time to develop the new system, carry out tests, and make any necessary adjustments.

According to information provided by the Supreme Electoral Tribunal, TSE personnel did not use the source code and therefore did not know how the system's programs worked. In other words, the

programs used for transmitting and consolidating tally sheets were not thoroughly reviewed. They just performed basic operational tests known technically as “black box”.

During the process of setting up infrastructure for the transcription service, the provider assigned a storage space of only 600 GB, a small space equivalent to 60% of that of an average personal computer. This was based on the requirements requested by the transcription software provider for the storage of the transcription base and the logs of the database manager. Moreover, the backup and contingency service provided in another location (called CRX2), also had small assigned storage space.

The Mission observed the test run on November 12 when some functions and contingencies of the SIEDE were tested nationwide. Basic functions of the system's components were tested on a limited number of voting records, along with their synchronization, and some tweaks made, but it was not possible to make further tests. The test run was limited in scope, and did not correctly measure the problems that might arise. Moreover, the regulations for implementing the system were approved on the Thursday before the voting.

On Sunday night, the Mission ascertained that only 64% of the voting records that were supposed to be scanned and transmitted from the Transmission Areas (ATX) located in the voting centers had in fact been received in the computing center. Although the Mission requested technical documentation to explain the cause of this situation, it did not get it.

According to information provided by the TSE, on Wednesday November 29 the SIEDE had glitches from 9:47 a.m. to 11:30 p.m. and for 8.50 hours it was down. When the server began to fail it was noted that the storage was filled to capacity. However, to this day the Mission does not know the real causes of the loss of service of one of the servers, because even when the storage size was increased the problem persisted. None of the reports to the Mission explain the actual technical cause of the problem and the impact that caused the server to fail.

In order to increase the amount of space assigned, and not to restrict access to the storage, technicians of the TSE, the company in charge of the transmission and consolidation of tally sheets, and the provider of the equipment worked on the damaged server to increase the storage space. The company that finally increased the storage capacity (from 600 GB to 1.8TB) was the hardware provider.

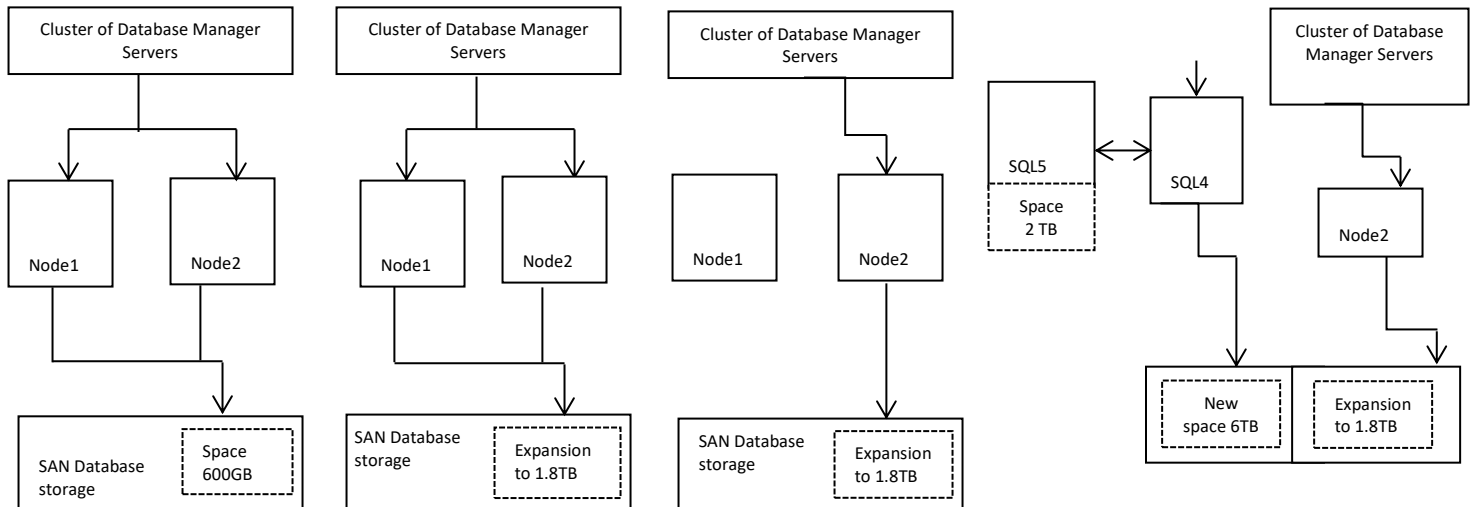
Despite these efforts, the problems continued. Therefore, server SQL1 was deactivated, and the server SQL2 was the only one functioning (which did not solve the problem). Given this situation, it was decided to reinstall the software of server SQL1 and configure the server called SQL4, “piggybacking” on SQL1. It should be noted that at that time they did not save it with a forensic format or the event logs, or the configuration of SQL1, or other data that could later help explain the reason for the outages.

Next, a backup of the SQL2 server was done to start the process with the SQL4. As of that time, the SQL2 server had crashed 73 times. They then launched a new server called SQL5 for the motor database services in order to have a mirror of the database.

## LOGISTICAL DIAGRAM OF THE TRANSCRIPTION SYSTEM INFRASTRUCTURE

### Segment corresponding to the Database Manager Servers

#### Status changes during the incident of November 29, 2017



#### Diagrams taken from the report delivered by the TSE to the EOM (available)

When the Mission looked at the infrastructure, the SQL1 server was no longer in existence, it had been trampled when installing the SQL4, the diagram of the configuration of the system had been changed and there was a completely different version. The database on SQL2 crashed 640 times. The Mission observed an access from the offices of the SQL2 service provider also involved in the incident.

On Saturday, December 9, the Mission requested a report on the system's problems and crashes. This report was received by the Mission on December 13. Although the documentation provided by the TSE was undated, analysis of the file shows that it was created on December 13. The TSE also gave the EOM reports by the service provider and an auditor hired by the electoral authority.

None of the reports explains the real causes of the serious incident that knocked out the SQL1 server and the problems of the SQL2 that caused a total change in the computer infrastructure. Nor was the Mission told the reason why one server was "piggybacked" instead of using another server in the inventory or a new one. The auditing firm hired by the TSE asserted that the integrity, availability, and confidentiality of the information were not affected. This, despite the fact that the TSE reported that the system experienced crashes so it was out of service until restarted, which could have had an impact on availability during those intervals.

Digital evidence of the episodes during the incident is vital for its subsequent analysis. The universally accepted characteristics of digital evidence are: volatility, anonymity, duplicability, alterability, and modifiability. Therefore, if digital evidence is not preserved in a forensic format at each critical point

of an incident (e.g., before reinstalling a server) that would permit later verification that it has not been altered, it is impossible to do a sustainable analysis with a non-invasive audit; a forensic analysis is necessary.

The Mission could also document access to the servers from a remote location from the offices of the company responsible for scanning and transcription. That access not controlled by the TSE (without witnesses to the log on) with administrator privileges is a serious security breach. We found that this is one of the ways the company provides technical support, but it is a violation of good computer security practices during an election process.

In addition, the Mission found images of 464 voting records stored with the JSON methodology in the desk of a server that could be remotely accessed by personnel of the service provider. The logs indicate that these tally sheets were added in the special vote count by scanning, when in reality the last event was the updating of the format of those files, which were added by flow not contemplated in the protocols. This situation is considered critical from both the security standpoint and the integrity of data standpoint.

In general terms, and under the technical operating conditions observed, some components of the system have not been configured for the expected workload given the number of voting tally sheets to be processed. As a result of the gap between the load tests in the simulations and the amount of information that the system had to process on Election Day, the capacity problem that finally occurred was predictable.

The alteration of evidence of the incident of November 29, 2017, in the primary database server<sup>9</sup> (SQL1) prevented this limited and non-invasive audit from obtaining essential data on the incident. The incident was not dealt with in accordance with internationally accepted practices on the management of computer incidents.

The actions to reestablish the technological infrastructure were improper (reinstallation of the system as SQL4 on the primary server<sup>9</sup> SQL1, thus altering the evidence), and evidence was not preserved nor was access restricted to another affected server (SQL2), leaving remote access from the offices of the provider enabled up to the date of preparation of the limited audit report.

There was insufficient documentation of the project, as well as a lack of planning, testing, objective auditing, and rigorous testing of the acceptance of the technology. That resulted in hardware with the inability to transmit from voting centers, making it necessary to transfer voting tally sheets, inadequate testing of vital system components, the incorporation of tally sheets without following protocols, and other aspects described in the findings in this document. The incorporation of voting tally sheets with mechanisms not established in the procedures creates a security gap that should be explained, and third parties could question the transparency because there is no control system for the stakeholders in the process as there should be in a voting center when results are transmitted.

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9. The concept of primary server is taken verbatim from the report delivered by the TSE.

Finally, the Mission confirmed that there is no contingency plan for critical events that could jeopardize the integrity, availability, and continuity of the service. The Mission has the TSE's Security Policy directive, which shows that there are no contingency plans for this type of incident.

Given the changing nature of the infrastructure diagram on the day of the incident, the alteration of evidence by reinstalling software "piggybacking" on SQL1, the lack of reports that reveal the real cause and impact of the incident, the failure to preserve forensic evidence, the characteristics of digital evidence (volatility, anonymity, alterability, and eliminability), and remote access by the service provider to servers that hold the evidence, the technicians concluded that it was necessary to do a forensic analysis to determine with certainty what happened on November 29.

The audit work did not identify specific fraudulent actions to alter the results of the election or the publication of the results, but it concluded that the system as it was constituted was not sufficiently strong to prevent it.

### **Political and campaign finance**

Honduras has a mixed financing system for full-time party activities and electoral campaigns. The 2017 electoral process was governed by a new Political Parties and Candidates Financing, Transparency, and Oversight Act,<sup>10</sup> known as the Clean Politics Act, a law that previous OAS missions had recommended passing. Under that Act, the State made public funds available to the political parties through political debt<sup>11</sup> for campaigns, permanent party activities, and primaries.<sup>12</sup> The law does not provide for indirect public financing.

The Mission welcomes the implementation of the Clean Politics Act and of the Unit set up to supervise implementation of and compliance with the Act.<sup>13</sup> Although implementation has been hampered by delays in its entry into force and the installation of the Clean Politics Unit, the Act is a step toward ensuring that contributions to parties and candidates are subject to limits and to audits. The Act also introduces an accountability obligation, which has meant that, for the first time in the country's history, candidates have begun to calculate their income and expenditure and to prepare for audits.

Although its implementation is very recent and still partial, the Mission ascertained that just the perception of the existence of regulations had a dissuasive and preventive effect that led to a decline in political campaign expenditure, reflected in fewer radio and television spots, and fewer billboards and posters.

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10. [https://www.tse.hn/WEB/UPL/Ley\\_transparencia\\_fisc\\_Partidos\\_politicos.pdf](https://www.tse.hn/WEB/UPL/Ley_transparencia_fisc_Partidos_politicos.pdf)

11. These funds are delivered in two quotas: one comprised of 60%, 15 days after elections have been convened, and the other 40%, based on the final results of the elections, in the first quarter of the year following the election.

12. These funds are deposited in the Financing Fund and are administered by the Financing, Transparency, and Oversight Unit. For this election, it was decided to pay 39.39 lempiras to each party per vote obtained, plus a percentage to cover transportation. The total came to 123 million lempiras.

13. Conducting audits, verifying the financial statements and reports of those required to report, conducting special investigations into the origin and use of funds, and requisitioning bank, tax, and fiduciary information for those investigations, etc.

The Mission recommends strengthening the organizational structure of the Clean Politics Unit, so as to endow it with the sufficient budgetary, human, and IT resources needed for it to conduct thorough, detailed, and prompt studies of the financial reports submitted by candidates, carry out special investigations, and monitor the use made of the funds in political campaigns.

The Mission received complaints from some of the stakeholders in the electoral process regarding the use of public funds during the campaign. A novel factor, due to the possibility of re-election, was that it was sometimes difficult to separate the candidate from the President and the party from the Government.

### **Political participation of women**

The Honduran Electoral and Political Organizations Act contains provisions aimed at increasing the political participation of women. In 2012, parity was established between women and men<sup>14</sup> in lists for the 2017 primaries.

In 2016, the Supreme Electoral Tribunal issued the enabling regulations for the parity principle and the alternation mechanism establishing vertical alternation from the third position for the department lists with three or more deputies and vertical alternation for municipality lists. The law does not establish specific penalties in the event that political parties fail to abide by the legal provisions.

The OAS/EOM noted that the parties electing their candidates through primaries had fewer women on their lists for the general elections. In the case of candidates for Congress, the share of women in the lists of the parties with primaries was 37.24%; in the others, it was 48.09%. For mayors, in the parties holding primaries women accounted for 11.81% of the candidacies, versus 30.56% in parties that did not have primaries.

These figures indicate that the current regulatory framework does not guarantee equal exercise of political rights for men and women in politics. Accordingly, the Mission recommends analyzing the possibility of amending current rules to include 1 on 1 alternation (one man followed by one woman, or vice-versa) in lists containing several names and establishing horizontal parity in single name and local candidacies, in order to guarantee compliance with parity.

In addition, the Mission recommends extending mandatory application of parity in candidacies to be registered with the electoral authority for all political parties, and not excluding from that obligation the parties that already applied parity in their internal processes. It is very important to establish penalties for cases of noncompliance with the laws in force.

### **Voting abroad**

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14. By means of an amendment to Article 105 of the Electoral and Political Organizations Act and the introduction of Article 105-A.



Honduran citizens may vote in seven cities in the United States designated by the TSE (Atlanta, Houston, Los Angeles, Miami, New Orleans, New York, and Washington). To exercise that right they must have an ID showing that they live in that country. That document is issued in consulates during the very few days in the year in which the National Registrar's Office has officials available to process them. For these latest elections, a mobile consulate was used which spent two days visiting districts on the outskirts of each of the designated cities.

It is worth mentioning that although the estimated number of Hondurans living abroad ranges between 695,000 and 1.1 million,<sup>15</sup> the number of citizens registered in electoral lists abroad is only 51,000. Although the number of those registered has increased over the years, very few vote (3,096 in 2013). From the start of the voting abroad program in 2001, the number of those actually voting has barely changed.

Thus, the OAS/EOM recommends implementing a full-time program for issuing IDs abroad, free of charge. It also considers it important to expand the number of cities in which migrants can vote.

## **7. CONCLUSIONS**

BEFORE November 26: accusations of partisanship of the electoral organ; the delivery of party credentials without the name of the delegate to parties with minimum actual voting; the change of the provider of the transmission and processing system just prior to the election, and a belated and limited test-run of the SIEDE; and the use of a bad practice, a judicial ruling to validate the reelection of the president, which revived the polarization generated by the coup and the political crisis of 2009.

DURING the election: the use of exit polls more as propaganda tools than as information; the confusion regarding the time of closing of the polls, which although legal was unusual and left people in voter lines; the lack of transmission of official results until 1:30 a.m. of the next day; and the transmission of only 64% of the election tally sheets by ATX.

AFTER Election Day: the interruption in the transmission of online polling place returns on Monday, November 27; the handling of election tally sheets in INFOP without protocols, with election containers that were without custodians, open, or incomplete; the altering of the order of loading and sending election tally sheets that was not random; and the crash of the server for several hours on Wednesday, November 29.

Because of all these problems, and the narrowness of the difference in election results, the OAS/EOM stated it was uncertain about the outcome and it recommended the six detailed steps described in the second preliminary report.

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15. According to IOM data, 7.43% of Honduras live abroad (IOM 2017). Other estimates (the 2010 US census) suggest that around 695,761 people born in Honduras are currently living in the United States of America.

The Mission expresses its appreciation for the report delivered by the TSE with information on the implementation of the activities recommended by the OAS/EOM. It is also important to note that during the last two weeks experts of the Mission directly observed the procedures taking place.

With respect to the review and checking of the election tally sheets, the OAS/EOM welcomed the decision of the TSE to count all the ballots.

In the context of the post-electoral observation, the EOM analyzed a significant number of the election tally sheets pertaining to the SIEDE and special vote counts, as well as the political parties in contention (National Party, Liberal Party, and Opposition Alliance against the Dictatorship). From this review, the EOM could conclude that in almost all cases the official results match those obtained by the parties. However, there were some cases of inexplicable discrepancies between the election tally sheets of the three parties and those of the TSE. It is important to note that copies of the returns in possession of the parties do not have security measures to prevent their alteration or falsification.

On the review of voter turnout in the Departments of Lempira, Intibucá, and La Paz, the EOM observed that the level is consistent with historical data. In addition, it should be noted that the TSE provided the OAS/EOM a list with the names of the citizens who were members of the MERs in the Departments of Atlántida, Colón, Cortés, Francisco Morazán, and Yoro.

Based on the technical analysis completed, the Mission cannot confirm that the SIEDE has been manipulated with fraud. However, it can affirm that the SIEDE lacked strong security measures needed to guarantee its integrity.

Based on the analysis presented in this report, and the sum of observations in the first preliminary report, the EOM considers that it has observed a low-quality election and therefore cannot assert that its doubts about it have been clarified.

## **8. ACKNOWLEDGEMENTS**

The OAS/EOM would like to thank the authorities and personnel of the Supreme Electoral Tribunal for their openness and cooperation, as well as the stakeholders involved in the electoral process, the security forces, and the Honduran people for facilitating the Mission's work.

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