



## XIII INTER-AMERICAN MEETING OF ELECTORAL MANAGEMENT BODIES CONCEPT NOTE

The Inter-American Meetings of Electoral Management Bodies (RAE as per its Spanish acronym) promote the exchange of knowledge, experiences and successful practices in electoral administration within the region. These meetings facilitate horizontal cooperation in order to continuously strengthen the institutional capacities of electoral bodies and further improve the way elections are conducted in the Americas. The XIII RAE, the only forum that brings together all the authorities of the hemisphere, seeks to provide an established space in which those authorities can identify and discuss the challenges they face.

To date, twelve Inter-American Meetings of Electoral Management Bodies have been held, the most recent of which took place in Colombia in 2017. The thirtieth meeting offers, once again, an opportunity for the representatives of electoral management bodies to share and evaluate various experiences related to the following topics:

1. ***"Beyond the glass ceiling: Challenges for the effective political participation of women"***
2. ***"Regulating the Media: Models for Equal Access"***
3. ***"To regulate or not to regulate? Challenges in establishing electoral campaign spending limits"***
4. ***"Opinion polls in electoral processes: a picture of the present or a picture of the future?"***

Four panels and a conversation about "Social Networks: How to guarantee data privacy and freedom of expression while tackling misinformation?" will allow participants to discuss achievements, trends and concerns in the above topics. Each panel will be preceded by an expert presentation that will promote authorities to share their knowledge and challenges in each topic, encouraging a substantive discussion among the delegates.

Below are the topics that will be addressed during the plenary sessions:

### **Plenary I: "Beyond the glass ceiling: Challenges for the effective political participation of women"**

Political participation is a fundamental right that guarantees citizens can participate in the decision-making process in their countries. In the region, electoral laws and regulations ensure that women have equal access to the polls. However, women still face a variety of obstacles in achieving full political participation, including structural, physical, psychological, social and cultural challenges.

Since the 1990s, most countries have adopted affirmative actions (quotas and/or parity laws) that support women's access to the legislative branch. In the Americas today, the lower chambers contain an average of 29.5% elected female representatives (IPU, 2018) and it is the second region in the world



with more women parliamentarians after the Nordic countries<sup>1</sup>. In this regard, countries such as Bolivia<sup>1</sup>, Costa Rica<sup>2</sup>, Mexico<sup>3</sup> and Nicaragua<sup>4</sup> stand out as their current legislative bodies are very close to parity.

When looking at the participation of women in the legislative branch at a sub-regional level, only 19.5% (on average) of the seats in the Caribbean are held by women<sup>5</sup>. An important exception is Grenada, which achieved 46.7% of female representation in the parliament in 2018. This unequal level of access for men and women in the Caribbean is already being addressed by several countries, such as the Dominican Republic, which recently passed a Law<sup>6</sup> requiring candidate lists to contain at least 40% of one of the sexes. Since 2000 in Guyana, the Electoral Law<sup>7</sup> has included gender quotas specifying that for a party to participate in the electoral process, its list must include 33% women candidates.

If we analyze the posts occupied by women as Heads of State and/or Government, the sub-regional trend is reversed. While these leadership positions are held by women in at least four Caribbean countries (Grenada, The Bahamas, Barbados and Trinidad and Tobago), in Latin America no woman currently occupies the position of Head of State.

### Challenges for effective political participation

All of this suggests that women have made important progress in penetrating the political domain. However, despite their successes in acquiring formal access to elected positions, the reality is that multiple challenges remain in the democracies of Latin America and the Caribbean in achieving true equality between men and women in this regard. Economic, social, institutional and cultural barriers persist, which severely limit women's political participation, particularly in government positions, including:

– The **stereotypes** which place women in **traditional gender roles**. That is, women are still culturally expected to occupy the private/domestic sphere, caring for children and the household, and not in positions of political leadership. Likewise, when women do enter the political field they are expected to juggle their work and family life efficiently - something that is not expected from men. These gender stereotypes are also promoted by the **media**, which tends to treat women candidates differently to men, focusing on their private relationships, physical appearance, attitude and behavior, instead of their political proposals or their achievements.

– Access to **political finance**, which traditionally disproportionately favors male candidates, as well as inadequate funding and leadership training programs for women. Historically, women and girls have also suffered from persistent economic inequality, receiving less economic resources, a lower level of

<sup>1</sup> 53.1% in the Chamber of Deputies and 47.2% in the Senate.

<sup>2</sup> 45.6% in the Legislative Assembly (one chamber).

<sup>3</sup> 48.2% in the Chamber of Deputies and 49.22% in the Senate.

<sup>4</sup> 45.7% in the Legislative Assembly (one chamber).

<sup>5</sup> <https://oig.cepal.org/es/indicadores/poder-legislativo-porcentaje-mujeres-organo-legislativo-nacional-camara-baja-o-unica>

<sup>6</sup> <https://reformaspoliticas.org/wp-content/uploads/2018/08/LEY-PARTIDOS.pdf>

<sup>7</sup> [http://www.gecom.org.gy/assets/docs/laws/Local\\_Authorities\\_Elections\\_ACT\\_NO\\_15\\_OF\\_2000.pdf](http://www.gecom.org.gy/assets/docs/laws/Local_Authorities_Elections_ACT_NO_15_OF_2000.pdf)



education, less access to executive positions, and lower wages even when they have the same qualifications as their male counterparts.

– As more women have entered the political arena, there has also been a worrying increase in **discrimination and violence against women**. The use of sexual violence against women candidates, the burning of women’s electoral campaign materials, pressure to resign positions, or threats to women in public office through social media, constitute some of the violent acts against women that have been seen in recent years.

In short, there is still a gap between the formal recognition of women's political rights and their actual ability to exercise these rights; the situation is even worse for women who belong to groups traditionally excluded from politics.

**What measures can we use to eliminate current inequities, empower women and prevent gender-based political violence?**

Electoral authorities have a fundamental role to play in the application of affirmative action measures and other norms that help to include women in the political arena. Also, **public financing must be allocated** specifically for training women leaders within political parties during non-electoral periods and to encourage the **creation and use of support networks** that propel women forward. These measures can help women to exchange knowledge, establish strategic alliances, build confidence and become empowered. When these networks include powerful, sympathetic male allies, they can add an additional impetus for women seeking leadership positions.

Electoral authorities also have an important role to play in the prevention and punishment of gender-based political violence. Some key actions include monitoring and reporting cases of violence against women in elections; analyzing voter and candidate registration procedures to ensure there are no barriers to women's participation; guaranteeing the security of women in registration centers and at polling stations; compiling information on violence against women in politics and elections and mitigation measures in training programs for electoral administrators; and ensuring early warning systems for the evaluation of electoral violence and electoral security address forms of gender-based violence. Political parties should also be encouraged to adopt internal regulations, codes of conduct and zero tolerance policies regarding those who engage in any form of violence against women in politics and elections.

Finally, during political campaigns all stakeholders can promote public awareness and measures to mitigate gender-based stereotypes and violence against women in politics.

**Final considerations**

Our countries are still working to resolve inequities in order to empower female leaders. Although countries have employed different tools to increase levels of women participation in management positions, these measures have not been implemented in all Member States. All countries must strengthen cross-cutting public gender policies that not only allow women to truly participate in politics,



but also protect their rights so that their involvement in this area is effective. Also, it is necessary to promote firm strategies within all sectors of society to empower women, highlight their valuable contributions from the positions they occupy.

As mentioned above, electoral authorities play an important role in promoting and implementing measures to encourage women's political participation in order to reduce and eliminate the gap between their presence and that of men. The OAS, through its Electoral Observation and Technical Cooperation Missions, also has an important role to play in promoting measures that allow women to fully access and participate in politics, make decisions, and be an active part of the society in which they choose to act.

Finally, it should be stressed that a full democracy will only be achieved when both genders are represented with voice and vote in the different areas of our public life, political parties, and private spheres. Further, there will only be effective equity in the political arena when quotas and special legislation are not required to allow women to easily move beyond glass ceilings.

**Questions to consider in the discussion:**

- Beyond quotas and parity, what innovative measures can countries, including electoral authorities, take to increase the presence of women at all levels of government?
- How can equity in leadership be promoted within political parties?
- Is a cross-cutting gender perspective included when proposing political programs and actions?
- Is there a complaints system and action protocol so that women candidates can report gender-related abuse during the electoral contest?
- What kind of sanctions or corrective measures exist in the region for political violence against women?
- How has social media affected the political participation of women?

## PLENARY II: “Regulating the Media: Models for Equal Access”

There is a broad consensus on the important role played by the media in political campaigns during an electoral process, since candidates mainly use them to transmit their proposals to the public. Access to the media by political parties is linked to two basic democratic principles: equity and the right to information<sup>8</sup>. Therefore, the free flow of ideas is a basic requirement for the promotion of democratic spaces.

This panel will address the models of media access available to political parties and candidates through indirect public financing.

The electoral authorities of the region must ensure electoral equity, that is to say, guarantee "conditions of impartiality and freedom in the pre-election stage, on the day of the election and in the post-electoral stage, allowing the candidates to participate in relative equality of conditions for a public position"<sup>9</sup>. In this context, the institutions that administer the elections of the region are constantly searching for models that promote equity in access to the media.

On the one hand, the electoral campaigns constitute a fundamental space for the positioning of the candidates based on their personal image and the transmission of simplified political messages with the purpose of establishing a link with the citizens. On the other hand, and taking into account that according to the Latinobarómetro 2016, citizens are informed about political events mainly through television (76%), radio (37%) and newspapers and magazines (27.7%)<sup>10</sup>, the plural, open and balanced access to these media provides citizens with the opportunity to adequately inform themselves about electoral proposals<sup>11</sup>.

This abundant investment is due to the high penetration of the media in all countries of Latin America<sup>12</sup>. Most of the spending (between 60% and 80%) of political parties in the electoral campaign is directed towards advertising in the media<sup>13</sup>. When analyzing these data, it is clear that access by candidates and parties to massive media, both public and private, constitutes an essential support for political campaigns<sup>14</sup>.

<sup>8</sup> Cáceres, Karina “MEDIOS DE COMUNICACIÓN Y PARTIDOS POLÍTICOS Access to the media in electoral times in Latin America” International Seminar: The Political Reforms to Representation in Latin America.

<sup>9</sup> Organization of American States. *Methodology for Media Observation during Elections: A Manual for OAS Electoral Observation Missions*. Washington, DC, 2011

<sup>10</sup> “Answers from the interviewed group in Latin America to the question “How do you inform yourself about political issues?” Published in the Online Database of the Latinobarometer 2016, available at <http://www.latinobarometro.org/latOnline.jsp>

<sup>11</sup> Griner, Steve and Zovatto, Daniel From laws to good practices: the challenge of political financing in Latin America. Washington: IDEA Internacional and Organization of American States, 2004.

<sup>12</sup> Martín, D’Alessandro. (2018). Media and Electoral Campaigns: Political Reforms in Latin America. Available in: <https://reformaspoliticas.org/reformas/medios-y-campanas-electorales/>

<sup>13</sup> Griner, Steven and Arias, César. Media and political parties in Latin America: an approach beyond the obsession to control electoral spending. Mexico D.F.: Friedrich Ebert Foundation, 2007.

<sup>14</sup> Mieres Pablo, “Tendencias en la comunicación política y campañas electorales en América Latina” More Local Power, Spain, n° 14, 2013, p. 42-50.



Strengthening normative frameworks to balance political competition represents an important beginning that promotes equal opportunities for all aspiring people who want to achieve political representation through the popular vote. In this sense, it should be noted that the majority of the Member States of the Organization of American States have implemented some type of regulation in this area.

Efforts to guarantee equity in access to the media have been transformed into concrete regulatory models, which can be divided into two blocks: those where there is an absolute prohibition in the direct contracting of propaganda and those that have more relative prohibitions<sup>15</sup>, such as the establishment of limits for acquiring advertising space. Additionally, it should be noted that regardless of the type of regulation, some electoral organisms incorporate the monitoring and control of media among their functions.

In the region, different mechanisms are used to promote equity in access to media, such as: the "*franjas electorales*"<sup>16</sup>, that is to say, free radio and television spaces dedicated to electoral propaganda. Likewise, the temporary limitation of the campaign has given rise to a stabilizing role in the electoral race, reducing the inequality in political competition and avoiding the long-term saturation of the media<sup>17</sup>. Another trend in the region has been to implement a specific limit on the purchase of advertising or a global limit on campaign spending.

The criterion for the distribution of time in the media for alliances, movements and parties varies from country to country. Some countries grant spaces in the public and/or private media in an egalitarian manner, others apply a mixed model: egalitarian for the presidential election and for other positions a period of time proportional to the votes obtained in the last general election.

The modifications made in terms of access to media and indirect financing of electoral campaigns in the region, have led to a concurrence of models: **a)** Argentina, Brazil, Guatemala, Ecuador and Mexico grant access to the radio and television as part of indirect public financing while and establishing prohibitions in the contracting of additional spaces; **b)** El Salvador, Colombia, Chile, Canada, Haiti<sup>18</sup>, Honduras, Jamaica, Saint Lucia, Suriname, Trinidad and Tobago, and Uruguay have a mixed system where access to media (public and/or private) is granted free of charge, but purchasing is allowed in private media; finally, there are those countries that do not grant free access to media, but the purchase of spaces with certain restrictions and/or limits is permitted, for example during the campaign period, without exceeding a percentage of expenses, etc.

Advances in the region with respect to these regulations have been positive in most countries. Although the set of regulations in each country is adapted to their own social, political and economic contexts, in practice it is observed that some measures have a greater capacity to generate a positive impact than

<sup>15</sup> Martín, D'Alessandro. (2018). Media and Electoral Campaigns: Political Reforms in Latin America. Available in: <https://reformaspoliticas.org/reformas/medios-y-campanas-electorales/>

<sup>16</sup> Griner, Steven and Arias, César. Media and political parties in Latin America: an approach beyond the obsession to control electoral spending. Mexico D.F.: Friedrich Ebert Foundation, 2007.

<sup>17</sup> Cáceres, Karina "MEDIOS DE COMUNICACIÓN Y PARTIDOS POLÍTICOS Access to the media in electoral times in Latin America" International Seminar: The Political Reforms to Representation in Latin America.

<sup>18</sup> In the case of Haiti, the law stipulates free access to state radio.



others. Despite these efforts, there are still situations in the region in which the media success of a competing candidate is subject to their economic capacity to contract these spaces.

OAS Electoral Observation Missions have observed that there are still some challenges that can be improved by strengthening existing regulatory frameworks. Among them, the legal gaps that exist in state advertising and the use of state resources during the electoral period. In some countries, the state apparatus has been used to promote candidacies or political organizations in the institutions, works or projects under their responsibility, distorting the conditions of political competition. Having access to government resources within the framework of an electoral campaign allows greater coverage and accessibility for the pro-government candidates. Undoubtedly this can be a determining disparity among the candidates for public office. In a regional context in which many countries allow immediate re-election, regulation of the use of official propaganda during the electoral period becomes more important.

Another aspect that is relevant is the duration of advertising spots. In this regard, the OAS has found that those models that grant candidates very short spaces result in a more personalized campaign, which does not focus on an exchange of ideas, plans or concrete political proposals.

Apart from the advertising spaces, it is pertinent to mention the debates, which also present a challenge for both the media and the electoral authorities. In many cases, the participation of those candidates favored in the surveys is privileged, even though these tools do not necessarily always reflect the intention of the vote correctly.

The challenge is to provide the opportunity for the largest number of contestants to present their proposals without impacting the quality and time available for each one. In countries where there are more than a dozen presidential candidates, for example: **How can the electoral authorities and the media provide sufficient space to allow the public an in-depth understanding of the different electoral proposals without restricting the opportunities of any candidate?**

Since debates are fundamental for candidates' discussions and an effective mechanism for providing information on the proposals of political organizations, it would be useful for electoral authorities to discuss the measures that can be taken to guarantee access to these spaces by the different political options.

During electoral periods, the relationship between the media and politics becomes more relevant, establishing itself as a point of inflection and connection between citizens and candidates. It is essential that the electoral campaign be carried out in a context where freedom of the press is respected and, therefore, there is a media system that allows an equitable and plural representation of ideas.

In this respect it is pertinent to analyze:

- How do electoral authorities consider their relationship with the media?
- Is the access to the media that is granted through indirect public financing equitable and, above all, sufficient to encourage a plural and competitive party system?



- Do current models allow the 21st century citizen to go to the polls with complete information, including the campaign proposals for each of the existing candidacies?
- How can electoral authorities manage mass media and the influence that media groups can have on the electoral process?
- In cases where specific or global limits are established in the purchase of advertising space are campaigns able to comply with the rules, in practice?
- Do the electoral authorities have sufficient tools to monitor and guarantee a fair and balanced contest in the media?
- How can the electoral authorities and the media provide citizens with a space to understand electoral proposals in depth, without restricting the access of any candidate?

**PLENARY III: “To regulate or not to regulate? Challenges in establishing electoral campaign spending limits”**

More than three decades after the beginning of the third wave of democratization, elections have been consolidated as a way of accessing power in the member states of the Organization of American States. However, some segments of the electoral process still experience significant challenges. One very sensitive aspect of the regional political reality is the relationship between politics and money.

Political parties need resources to maintain their organizational structure, to train their active members and supporters, to wage electoral campaigns and to conduct research and education<sup>19</sup>. Within the framework of the electoral campaign, it is also important that the competing parties have enough money to promote their programs and their political-electoral proposals. Campaigns have become more and more expensive, partly as the result of new strategies and a greater operational complexity that requires more personnel, access to expensive but critical information (voter data and opinion polls, for example) as well as the technological tools needed for the effective use of digital platforms. This need for a more sophisticated infrastructure leads political parties to engage in substantial private fundraising in order to complement public funds.

Financing models have different components, including the timing of the delivery of funds, access to the media, party accountability processes, government control mechanisms and sanctions for those who fail to comply with the norms. Electoral authorities must consider each of these components closely when

<sup>19</sup> Casas, Kevin and Zovatto, Daniel. (2015) El Costo de la Democracia. Ensayos sobre el financiamiento político en América Latina.





building, reforming, or improving financing systems in order to guarantee transparency<sup>20</sup> and equity<sup>21</sup> in the electoral process.

In the region, there are several different models of political party financing: some countries use public financing, others private financing and still others have opted for a mixed system, where both sources are combined. While public financing promotes equity by establishing a common source of funds that is (ideally) insulated from powerful interest groups, a financing system that depends entirely on the public treasury discourages political actors from establishing links with the citizens they intend to represent. Private financing, then, offers representative parties an opportunity to connect with their communities through small but numerous citizen donations.

In this context, electoral authorities have found new challenges, such as the influence of economic groups and illicit money in campaigns<sup>22</sup>. In order to eradicate or diminish these influences, most Latin American countries regulate private contributions in some way. Another mechanism that has been incorporated into current regulations is the prohibition against receiving contributions from governments or foreign individuals, state contractors and anonymous donors.

Even when there is public financing, some countries have considered that strong inequalities can be created in the absence of expenditures limits. As a result, about a third of the countries in the region have established some type of regulation for campaign expenses, in order to prevent the richest parties from using their resources in a disproportionate manner and undermining the equity of the process. Ultimately, these measures also seek to reduce the influence of various interest groups in electoral processes.

However, there are challenges when regulating expenses in the campaign. First, there are the practical obstacles to effectively implementing and regulating spending limits in general – including the impossibility of authorities monitoring 100% of party expenditures<sup>23</sup>. When deciding to limit campaign expenses, the first question that arises is: **what do you want to regulate?** The experience of the region shows that countries have focused their restrictions on the items that represent the highest costs in the campaigns, primarily the purchase of advertising spaces in the media and private contributions during the campaign period.

The next question is: **what is the ideal formula?** There are several ways to calculate this, such as multiplying the cost of voting in the previous election by the number of citizens on the electoral roll.

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<sup>20</sup> According to the OAS Manual “Observing Political-Electoral Financing Systems: A Manual for OAS Electoral “A transparent political financing system is a system that guarantees the necessary conditions for exercising the right to information on the flow of economic resources for party campaigns”

<sup>21</sup> “A system of equitable political financing is one that seeks to guarantee equal conditions for the exercise of the rights to elect and be elected by regulating campaign resources”

<sup>22</sup> Tratado de Derecho Electoral Comparado en América Latina. (2007). Zovatto, Daniel en: *Financiamiento Electoral. Subvenciones y Gastos* (pages 744-796).

<sup>23</sup> Casas, Kevin and Zovatto, Daniel. (2015) El Costo de la Democracia. Ensayos sobre el financiamiento político en América Latina.



Another option is to set the limit of private financing as a percentage of the total amount of public financing. Regardless of which formula is chosen, the goal is to establish an amount that realistically reflects the cost of the campaign.

In countries with federal systems there are additional challenges: **Should the spending cap be stipulated by the authority of each state or by a central authority? Is a similar or standardized formula established for each State?**

Whenever the decision is taken to regulate campaign spending, the challenge for the electoral authority is how to define precisely what constitutes campaign expenditure and what qualifies as an ordinary party expense.

That said, creating regulations does not guarantee that they will be respected. There is a great disparity in the region between what the rules dictate and what political actors do. Experience shows that the reports presented by parties do always reflect their true income and expenditure. Further, groups that are prohibited from contributing to the parties, generally opt for alternative mechanisms to make those contributions “invisible” and to avoid being tracked by the electoral authority.

The regulatory authority also requires a **system of sanctions** that establishes penalties for exceeding the campaign limits. Among them are pecuniary sanctions for those who are tardy in reporting on their financial activities - a common measure in the region. In this regard, OAS has recently observed that some parties are not reporting on their income and expenditure in a timely manner, despite the existence of this type of sanction<sup>24</sup>. This suggests that if the imposed penalty represents a very small fraction of the total resources managed by the campaigns, and is not a sufficient deterrent, parties are willing to pay the price to gain power<sup>25</sup>.

On the other hand, there are more severe sanctions such as the nullification of the election due to a party's exceeding the expenses limit. Several sectors have expressed concern that sanctions that lead to nullification are contrary to their original purpose. That is, they encourage the creation of mechanisms that hide the addition of private resources, in order to avoid exceeding the established ceiling and consequently be sanctioned with nullification.

Instead, some countries in the region contemplate the possibility of imposing electoral sanctions, such as the annulment of the election of the offending candidates or the dissolution of parties that exceed expense limits. These mechanisms are however rarely implemented because of the political consequences that may result<sup>26</sup>. The challenge then is to establish sanctions that act as strong deterrents, while being realistic enough that the authorities are not afraid to use them.

<sup>24</sup> Organization of American States. Preliminary Report of the Electoral Observation Mission in Mexico 2018.

<sup>25</sup> Casar, Maria Amparo y Ugalde, Luis Carlos. (2018). Dinero bajo la Mesa. Financiamiento y gasto ilegal de las campañas políticas en México (página 81).

<sup>26</sup> Gutierrez, Pablo and Zovatto, Daniel. (2011). “Financiamiento de los Partidos Políticos en América Latina”.



Finally, electoral authorities must establish effective **control mechanisms**. A variety of tactics are used to detect unreported expenditures, such as field monitoring to identify undeclared advertising and rallies or the exchange of information with other state entities, particularly those with greater research tools and financial intelligence. The foregoing illustrates the importance of providing electoral authorities with the appropriate legal capacities and the necessary human and financial resources. In this regard, when setting campaign spending caps it is worth asking: **Does the electoral authority have the tools and capacity to verify the financial information reported by the parties?**

The origin of money in politics is an issue that has generated discussion in the context of electoral campaigns in the region. Although the establishment of limits and/or restrictions on private financing is the most logical approach to addressing this subject, electoral authorities nowadays must go further. This means ongoing efforts to respond effectively to attempts at parallel financing or financing parties/candidates "under the table" in order to conceal resources coming from powerful groups intent on protecting their own interests by influencing the electoral process.

#### **Questions for discussion:**

- Does the establishment of spending limits increase/encourage the flow of parallel resources or resources "under the table"?
- Are we at the point where we must choose between transparency and equity? How can both principles be protected?
- What are the mechanisms and tools required by the electoral authorities to ensure effective compliance with spending limits?
- What kind of sanctions are the most effective in dissuading parties from exceeding the campaign limit?
- In countries that have campaign limits norms: How have they faced the challenge that social networks brings to this area?



#### **PLENARY IV: “Opinion polls in electoral processes: a picture of the present or a picture of the future?”**

Opinion polls have played an important role in elections and the conduct of electoral campaigns for many years. Electoral opinion polls constitute one of the key mechanisms by which leaders and candidates seek to know the concerns of voters, understand their chances of being elected and position themselves for political and electoral success.

The first known electoral opinion poll was a presidential straw poll conducted in 1824 by a newspaper in the USA, *The Harrisburg Pennsylvanian*. The accuracy of that poll’s results and the realization that it was possible to predict the outcome of an election launched the popularization of election polls, with increasing numbers of newspapers and magazines entering the field with their own election forecasts. Today, a plethora of public and private polling organizations employ a range of methodologies to track voter behavior, predict election outcomes and guide the definition of campaign issues and strategies. Polling is conducted by live interviewers (in-person or by telephone), automated telephone calls and, increasingly, through internet-based surveys. The frequency of electoral opinion polling has intensified exponentially, occurring not only at elections, but increasingly at multiple points throughout the electoral cycle, feeding not only the desire of political parties, candidates and other election stakeholders for insight into voter ideas and intentions, but also the appetite of the media for content to sustain their news cycles.

Despite their popularity however, there remains substantial skepticism about electoral opinion polls, particularly their accuracy, their methodologies and their ability to correctly predict voter behavior and electoral outcomes. One key concern is that the sample taken by pollsters might not truly represent the electorate. Polling organizations are finding that people nowadays are generally less willing to participate in polls than in the past. If less people are participating in polls, the question becomes whether **the results are still truly representative of the population?** Harvard University’s Professor of American History Jill Lepore wrote in 2015 that as election samples are only a small percentage of the voting population, *“the promise of this work is that the sample is exquisitely representative. But the lower the response rate the harder and more expensive it becomes to realize that promise...”*<sup>27</sup>

Another major challenge with public opinion polling derives from what David Moore, a former Senior Editor of the Gallup Poll calls *“the myth of an all-knowing, rational, and fully engaged public”*<sup>28</sup>. A basic assumption (or expectation) in opinion polling, is that the persons who respond are informed on the issues on which they are pronouncing and have taken the time to consider their responses. On the contrary says Moore, the reality is *“...that on most policy issues, large proportions of the public know or care little about the specifics, and thus have developed no meaningful opinion about them.”* Still, he believes that if people are compelled to provide an opinion, most will do so, leading to inaccurate or potentially distorted representations of public opinion.

<sup>27</sup> Lepore, J. (2015). Are Polls Ruining Democracy?. [online] The New Yorker. Available at:

<https://www.newyorker.com/magazine/2015/11/16/politics-and-the-new-machine> [Accessed 30 Aug. 2018].

<sup>28</sup> Moore, David W. (2008). *The opinionmakers: an insider exposes the truth behind the polls*. Boston: Beacon Press.



Even when people participating in a poll are informed on the issues on which they are pronouncing, there are multiple reasons why their responses might not lead to an accurate result. Questions may not be well-defined, response options may not allow for nuanced answers, participants may be unwilling to admit their support for an unpopular candidate or policy, or they might simply be afraid of voicing their political position. In Grenada, for example, prior to the March 2018 General Elections, the opposition National Democratic Congress (NDC) encouraged such fears when it issued a notice titled *“Polling On! Exercise Extreme Caution”*, in which it warned the general public that an electoral poll being conducted by well-known Caribbean Pollster, Peter Wickham of the polling firm CADRES, was an attempt *“to frighten, intimidate, and even victimize people based on the party they are perceived to be supporting.”*<sup>29</sup>

Nevertheless, opinion polls continue to play an important role in electoral processes. They allow the average voter to express his/her views on a Government’s policies and on political issues – perspectives that are not always present in politics and in coverage of elections and electoral campaigns. They help voters and other election stakeholders understand the range of issues in an election campaign - clarifying details and outlining candidate proposals and their ramifications. They can also call attention to the suitability or popularity of a candidate.<sup>30</sup> According to *“The Election Handbook for Caribbean Journalists”*, the late Prime Minister of Trinidad and Tobago, Patrick Manning, commissioned a poll in 2007 to evaluate the performance of his party’s sitting Members of Parliament (MPs). Based on the results of the poll, some veteran members of the party found themselves replaced by new candidates in the next General Elections.<sup>31</sup>

Notwithstanding, the original aim of electoral opinion polls continues to be one of the principal uses of the tool, and they remain an important mechanism for political parties, campaigns, interest groups and the media to track the progress of candidates, craft and tweak campaign strategies and determine possible victors in the election contest.

On the negative side, electoral opinion polls can be manipulated to suggest a reality that does not exist, in the interest of either those who commission them or those whom they are intended to benefit. In fact Gallup insider David Moore admitted in 2008 that polls do not actually tell the truth, rather they *“... give us distorted readings of the electoral climate, manufacture a false public consensus on policy issues, and in the process undermine ... democracy.”*<sup>32</sup> Polls may also lead citizens to expect a certain electoral outcome, and may adversely influence their behavior when the actual results do not reflect the polling expectation.

<sup>29</sup> National Democratic Congress (NDC) of Grenada. (2018). *Polling On! Exercise Extreme Caution*. [online] Available at: <http://www.ndcgrenada.org/polling-exercise-extreme-caution> [Accessed 4 Sep. 2018].

<sup>30</sup> Pew Research Center. (2015). *Election polling*. [online] Available at: <http://www.pewresearch.org/methodology/u-s-survey-research/election-polling/> [Accessed 27 Aug. 2018].

<sup>31</sup> Association of Caribbean Media Workers (2009). *An Election Handbook for Caribbean Journalists*. Trinidad and Tobago: Association of Caribbean Media Workers

<sup>32</sup> Moore, David W. (2008). *The opinionmakers: an insider exposes the truth behind the polls*. Boston: Beacon Press.



In Ecuador's 2017 General Elections for example, contradictory exit polls released on the night of the presidential runoff led both candidates to declare themselves the winners. When the official results were published by the National Electoral Council, political tensions boiled over into street demonstrations and confrontations. In its report, the Organization of American States' Electoral Observation Mission expressed its concern that *"the political use of exit polls and unofficial quick counts creates uncertainty about the results and generates mistrust on the part of the contenders."* Another example that can be taken from OAS/EOM observations is the case of Paraguay, where projections based on exit polls are released while the voting is taking place. This practice in Paraguay is repeated every year, despite being prohibited by law. On that matter, the EOM stated that "their release during election day is a manipulative and misleading mechanism".

Electoral opinion polls may also, in some circumstances, restrict the rights or access of political parties or candidates. In some countries, such as the United States a candidate's standing in the opinion polls determines whether they are allowed to participate in national election debates. In others, such as in Costa Rica party's access to financing is dependent on their performance in the polls.

In an effort to limit the potentially negative influences of election polling, some countries have sought to regulate the framework within which they are produced and published – especially during electoral periods. Most countries in Latin America have enacted some form of legislation to this end, with the spectrum running from those countries that have enacted specific and detailed legislation or regulations governing all aspects of electoral polling, to those which have very little or no regulation. Mexico<sup>33</sup> for instance, possesses a comprehensive law on electoral polling, which requires, among other measures, that polls observe scientific principles and that a copy of the study backing up the published results be submitted to the appropriate electoral authority. No polling or reporting of poll results is permitted in the three days prior to the election or on Election Day itself. In Uruguay<sup>34</sup> on the other hand, the electoral law simply specifies that the results of opinion polls conducted on Election Day can only be disseminated after voting has ended.

In some cases though, the strictness of the regulations governing electoral opinion polls risks infringing on the rights of pollsters themselves. In Ecuador, prior to the 2018 Referendum an amendment to the existing law required that all registered polling organizations observe a statistical margin of error of no more than +/- 3%.<sup>35</sup> Organizations exceeding the margin would be subject to administrative or legal penalties. Uncertainty about these new rules resulted in several pollsters deciding not to publish opinion polls or to conduct exit polls, raising concerns that the regulations had harmed the pollsters' freedom of expression.

Opinion polling has come a long way since the Harrisburg Pennsylvanian. It is now considered a key tool in social science research and when applied correctly, is subject to rigorous rules intended to ensure

<sup>33</sup> Ley General de Instituciones y Procedimientos Electorales.

<sup>34</sup> Ley N° 17045, Regulación de la Publicidad Electoral.

<sup>35</sup> Política, R. (2018). CNE emite reglamento para revisar encuestas. [online] El Telégrafo. Available at: <https://www.eltelegrafo.com.ec/noticias/politica/3/cne-emite-reglamento-para-revisar-encuestas> [Accessed 1 Oct. 2018].



that, as far as possible, the results accurately reflect the views of the voting population. The field is filled with polling organizations and methodologies that do not adhere to these rules. However, even when reputable polling organizations apply well-structured, scientific methodologies to define properly representative samples and then collect and determine the opinions of the electorate, the results can still be very wrong. The shock losses of the Hillary Clinton presidential campaign in the USA and the Brexit Remain campaign in the UK, both in 2016, demonstrated clearly just how wrong the polls can sometimes be.

Opinion polls are, after all, only a reflection of the views of their participants at the time they are polled and those views can change as campaigns develop and as new information comes to light. Sometimes they change very quickly. Nevertheless, the appetite for polls continues unabated. Despite the challenges and in the absence of alternative mechanisms, it is likely that they will remain a cornerstone of electoral processes for the foreseeable future.

Taking the foregoing into account, participants in the XIII Inter-American Meeting of Electoral Management Bodies may wish to consider:

- What are the experiences, successes and challenges that Electoral Management Bodies have encountered with electoral opinion polls?
- Does the regulation of electoral opinion polls help or harm electoral processes and democracy?
- Considering the enduring debate over the accuracy and reliability of electoral opinion polls, should they be used as a basis for critical decisions in electoral processes, such as party financing?
- In the interest of transparency, should citizens be informed when a poll is prepared at the request of a political party or candidate?
- Is it reasonable to regulate the publication of opinion poll results in the traditional media, when these regulations are difficult or impossible to apply with non-traditional forms of communication on the internet and over social media?