

Minorities in the Mexican Electoral System

Salvador O. Nava Gomar
Manuel González Oropeza

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Justices of the Supreme Federal Electoral Court of Mexico

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Thank you Mr. Secretary. It is with great pleasure that I speak here today, humbly hoping to open a window into the path that electoral institutions in Mexico have taken to ensure the rights of minorities to strengthen our democracy.

I. BACKGROUND INFORMATION

- Mexico is one of the most culturally diverse countries in the world. There are 12.7 million people from indigenous communities, which represent 13% of our national population.
- These communities are spread out through Mexico and possess close to a fifth of the territory.
- The states with the highest concentration of indigenous communities are: Yucatán (59%), Oaxaca (48%), Quintana Roo (39%), Chiapas (28%), Campeche (27%), Hidalgo (24%), Puebla (19%), Guerrero (17%) and San Luis Potosí y Veracruz (15%, each).
- 62 native languages are spoken in Mexico and over 10 million people speak at least one indigenous tongue.
- In 2005 the Federal Electoral Institute, in charge of organizing federal elections, divided the Mexican territory in 300 electoral districts. Indigenous peoples were taken into consideration during the territorial division, and as a result, 28 districts were considered indigenous electoral districts, with at least 40% of indigenous population.

II. INDIGENOUS PEOPLES RIGHTS AND THE MEXICAN CONSTITUTION

- The collective rights of indigenous peoples and communities are specified in article 2 of Mexico's constitution. These are rights that can be invoked by individuals because they belong to indigenous communities. They include:
 - The right to be recognized as an indigenous people or community.
 - The right to self-identification.
 - The right to autonomy.
 - The right to self-determination.
 - The right to use their own laws and institutions within their communities.
 - The right to be consulted and to participate in the public affairs of the state.
 - The right to due process and complete access to judicial protection.

THE RIGHT TO BE RECOGNIZED AS AN INDIGENOUS PEOPLE OR COMMUNITY

- This right ensures that indigenous communities and peoples are

legally recognized as such, by obligating federal and local laws to acknowledge their legal character as collective beings.

THE RIGHT TO SELF-IDENTIFICATION

- Self-identification means that whoever considers themselves as a part of an indigenous community or group must be considered as such, and their cultural heritage and differences must be respected. This, in accordance to Convention 169 of the International Labor Organization (ILO).

THE RIGHT TO AUTONOMY

- Can be summarized as the right of indigenous peoples to make and live under their own laws, and choose their own authorities.

SELF-DETERMINATION

- A broader concept than autonomy, this right ensures that indigenous peoples decide

their social, economic, political and cultural organization. Self determination is only limited by the respect of fundamental rights of individuals.

- As for the right to participate in the public affairs of the state, apart from electing their own authorities, indigenous persons can also participate in municipal government.

THE RIGHT TO USE THEIR OWN LAWS AND INSTITUTIONS WITHIN THEIR COMMUNITIES

- Derived from the right to autonomy, this right allows indigenous communities the ability to settle internal disputes. The mechanism to solve these disputes should be integrated into formal legal documents and should be respected, and in some cases applied, by judges and courts.

THE RIGHT TO DUE PROCESS AND COMPLETE ACCESS TO JUDICIAL PROTECTION

- Although members of indigenous communities have the right to settle their disputes through their own laws and procedures, they also have the choice to appeal to the ordinary jurisdiction. This grants them complete equality under the law.

THE RIGHT TO BE CONSULTED AND TO PARTICIPATE IN THE PUBLIC AFFAIRS OF THE STATE

- The right to be consulted suggests that both federal and local governments should consult indigenous communities when drafting and implementing development policies. However, the results of these consultations are not binding.

III. THE ELECTORAL COURT

- The distribution of competences regarding electoral matters works on two levels: First, both the federation and the thirty-two federal entities have their own electoral regulations, institutions and procedures. Second, administrative (preparation, organization and conduction of elections) and judicial authority (dispute

resolutions and application of electoral justice) are clearly differentiated and are conferred to different bodies of each government level.

- At a federal level the Federal Electoral Institute (IFE) is provided with the administrative responsibility and organizes the elections. The Electoral Court is the specialized body of the Federal Judiciary invested with legal jurisdiction in electoral matters. The Federal Electoral Court, as opposed to the IFE, is entitled to adopt resolutions in certain cases and to give final rulings on federal and local electoral controversies.
- The jurisdictional powers granted to the Electoral Court, are to resolve, in a definitive way, the following electoral disputes:
 - Challenges to the federal elections of Congress and the President of Mexico through the Suit of Nonconformity.
 - The challenges against the acts and resolutions of the Federal Electoral Institute through Appeal.
 - The challenges against acts

and resolutions of local authorities through Constitutional Review.

- The acts and resolutions of federal and local authorities that violate the political/ electoral rights of citizens: to vote, to be candidates of the political parties, run for office, right of association, and to freely and individually affiliate themselves to political parties, through the Suit for the Protection of the Citizen's Political-Electoral Rights.
- For the High Chamber, the revision of the resolutions of the Regional Chambers through the Petition for Reconsideration.
- The labor disputes and differences between the Federal Electoral Institute and its officers.

IV. THE PROTECTION OF MINORITIES BY THE MEXICAN FEDERAL ELECTORAL COURT

- The protection of fundamental political rights by the Superior Chamber of the Federal Electoral Court has primarily focused on defending minorities that can

suffer discrimination because of their ethnic origin, public opinions (party minorities), or place of residence (migrants), but has also protected minorities in labor unions.

ETHNIC MINORITIES

- The court has said that any member of an indigenous community has judicial standing to promote a complaint against irregular electoral processes that takes place under a system based on indigenous customs or traditions.
- Furthermore, the court has considered that procedural norms, specially those that impose additional legal burdens, should be interpreted in the most favorable way when indigenous communities are involved.
- This consideration includes the Court's power to correct any type of flaw or insufficiency in the initial complaint.¹

¹ Case SUP-JDC-11/2007, June 6th, 2007: «COMUNIDADES INDÍGENAS. SUPLENCIA DE LA

- However, it is important to say, that even though the Constitution recognizes indigenous peoples rights' to hold elections based on their customs and traditions, this does not mean that if these traditions can contravene fundamental rights.

RIGHTS OF MINORITIES WITHIN POLITICAL PARTIES

- To ensure that majorities within political parties do not abuse their power, the Federal Electoral Court has recognized several rights for minority groups within political parties. These rights include:
 - The freedom to create and organize different ideological movements within a political party as long as they do not contravene the basic ideas on which the party was founded.
 - Freedom of speech, as a way of inspiring an open debate of official party positions without worrying about being unjustly punished by the majority.

QUEJA TOTAL EN LOS JUICIOS ELECTORALES PROMOVIDOS POR SUS INTEGRANTES».

- This right is protected not only in statements made within the party, but also those made in public. As long as the statements made by the minority do not jeopardize the stability of the party, this right is guaranteed.
- The right to summon the main body of the political party is usually reserved for the majority; however, the Electoral Court has granted party minorities this right to discuss important issues.
- The right of emigrants to participate in the internal life of political parties. No matter where in the world Mexican citizens reside, they have a right to participate in political parties, as long as they are affiliated members, and the party statute grants them that right.
- The right to dissent from the majority in legislative votes. Party members have the right to vote against the party line in the legislative branch without being sanctioned.
- The right to information. Minorities have the right to be informed of the decisions

taken by party majorities. This guarantees a more democratic and transparent internal life of political parties.

RIGHTS OF MINORITIES IN LABOR UNIONS

- To avoid the less than democratic union between political parties and labor unions, the Electoral Court has expressed that it is against all types of coercion from labor leaders to force their workers to vote for a particular political party.

I would like to conclude by saying that Mexico's democracy has come a long way in the past few decades, and one of the major changes has to do with respecting minorities. Ethnic minorities no longer are expected to change and adapt to western ways of thinking and living. Our institutions are now designed to live with diversity and respect the authenticity of indigenous cultures. There is no such thing as a perfect democracy but surely by respecting minorities it is a little more just.

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Carlota Armero 5000, Colonia CTM Culhuacán, México,
D.F., C.P. 04480