

THE DEBATE AROUND VOTING RIGHTS FOR MEXICANS LIVING ABROAD



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Introduction In 1996, Mexico changed its constitution to grant Mexicans living abroad the right to vote. However, no law has ever been passed to create a procedure for absentee voting. In February, the lower house of the Mexican Congress approved a bill to allow Mexicans abroad to vote in the 2006 federal elections. The bill is currently under debate in the Senate, where it faces an uncertain prospect for passage.

The issue of Mexicans voting abroad is particularly relevant for U.S.-Mexico relations, for a number of reasons. 98 percent of all Mexicans who live abroad reside in the United States, a total of over eleven million people. As a result, implementing the proposed legislation would clearly present logistical issues in both countries. At the same time, studies have indicated that immigrants' civic participation in their native country may, over time, also increase their civic participation in their country of residence.

In this issue of the *U.S.-Mexico Policy Bulletin*, two distinguished Mexican scholars with practical experience in electoral matters, debate the merits and difficulties of a reform establishing voting rights for Mexicans abroad. *Jacqueline Peschard* served as a citizen counselor of Mexico's Federal Electoral Institute for seven years before returning to an academic career at the National Autonomous University of Mexico. She is currently a Public Policy Scholar at the Woodrow Wilson Center in a joint program with the Mexican Council on Foreign Relations. *Jesús Martínez Saldaña*, a professor at California State University, Fresno, was recently elected to the state congress in Michoacán, Mexico as a member of the PRD. He is the first Mexican resident in the United States to serve as a state legislator in Mexico.

—Andrew Selee and Heidy Servin-Baez

The Absentee Vote in Mexico: Prospects and Challenges *Jacqueline Peschard*

Although a 1996 constitutional reform made it possible for Mexicans to vote outside their electoral districts, Congress has not yet created the regulations to put this into practice despite ten different electoral code initiatives presented to date.

There are a number of technical, legal and financial problems involved in putting the right to vote absentee into practice. These problems largely arise from two central factors:

- The difficulty in adapting Mexico's electoral legislation, which was built to combat the protracted lack of credibility in elections, to absentee voting. Current electoral law includes an enormous amount of security measures in order to guarantee free and fair elections. The regulation of the absentee vote in Mexico has to fulfill the same characteristics of oversight and efficacy that the organization of federal elections in Mexico has achieved.
- The size of the Mexican population that has migrated (estimated at 11 million) and the fact that 98% of this population is concentrated in the United States.

THE STATE OF THE DEBATE

There is a wide consensus in Mexico around the idea that the right to vote should be extended to



those living abroad. That is why on February 22, the Chamber of Deputies passed a reform of the electoral code to regulate such a right with a wide majority of support (391 votes out of 418 legislators present). This legislation is now being discussed in the Senate.

This bill would simply reproduce in the United States (and other countries where Mexicans reside) the steps and procedures that are followed in Mexico to organize a federal election. It would, therefore, require the establishment of permanent and temporary delegations of the Federal Electoral Institute (IFE) in every state and city where there will be voting booths on election day, which would mean hiring about 10,000 new employees. The bill would also

allow political parties to campaign through Mexican radio and television networks, but without specifying how those spots will be monitored. Additionally, there would be some activities that are prohibited in Mexico, but could not be in the United States, such as buying radio or television time on behalf of a party candidate.

According to IFE's estimate, the cost of the new infrastructure would amount to \$350 million dollars; however, the 2005 federal budget only gives the IFE \$20 million extra to do this. What seems more problematic is the fact that the electoral reform allows the IFE, which is an administrative authority, to determine who will be entitled to vote by deciding in

"Suffrage for Mexican Migrants: It Ain't Over Until ..."

Jesús Martínez-Saldaña

Thanks to the historic package of electoral reforms approved by the Mexican Congress in 1996, there are no longer constitutional barriers impeding Mexicans abroad from participating in national elections. However, not much has been done since then to make the suffrage for Mexican migrants possible, thereby revealing a disturbing continuation of Mexico's long tradition of neglect of the rights and interests of a social group that, according to a 1998 study commissioned by the Federal Electoral Institute (IFE), totaled 10.787 million people, representing close to 15% of the national electorate.

Many migrants and migrant rights advocates believed that this legacy was finally being put to rest on February 22nd, when the Chamber of Deputies approved a PRI-sponsored bill that established the mechanisms and procedures for holding elections abroad. Even before the enthusiasm among migrants for this far from perfect reform had reached its climax, critics of the bill and opponents of the mere notion of granting citizens residing abroad the right to vote in future presidential elections intensified their attacks. This launched a new offensive that may still succeed in derailing, for another six years, a social demand that has been articulated by organized migrants since the dawn of the twentieth century. In veiled and not so veiled commentaries, influential senators, the president of the Federal Electoral Institute

(IFE), the Minister of Foreign Affairs, and an assortment of journalists and opinion-makers have portrayed the migrant vote as a threat to Mexican national sovereignty and the electoral democracy that has been created in recent years.

Considering the fact that all electoral reforms must be approved at least a year before the elections are held, the Mexican Congress has until July to ratify or amend the February 22 reform in order to allow Mexicans abroad the right to participate in the 2006 presidential election. That is more than sufficient time if there is political willingness to allow migrants to exercise their most fundamental democratic right. The existence of such a will is questionable, at best.

While time keeps ticking away, migrant activists scramble to exert last minute pressure to have at least a modest reform approved by July, thereby opening the doors to a gradual expansion of political rights to citizens abroad. If questioned, they will admit that their minds are also considering thoughts about how to reward or punish political parties, leading candidates for public office, and authorities who have played a role in the success or failure of this transnational civil rights campaign. With or without the vote, migrants are a part of Mexico's national reality and they will likely continue to try to transform the political system to include their needs, interests, and rights.

which states and cities voting booths will be set up on election day. This is a key decision, which should be stated precisely in the legislation, in order to avoid any conflict during the electoral process. Additionally, the IFE will have to sign the necessary agreements with the foreign countries where the IFE will be registering new Mexican voters, setting up its operational structure, and installing voting booths on election day. This is a task which generally falls under the responsibility of the Ministry of Foreign Affairs, so leaving this in the hands of the IFE may create another source of conflict. To add to the complications, the 2006 electoral process is due to start in the first week of October 2005, so there is little time to implement such an ambitious new structure or secure the necessary agreements.

Why was such a reform passed in the Lower Chamber, if it is not feasible in terms of either logistics or time? Since the PRI, which holds 45% of the seats in the Chamber of Deputies, has traditionally objected to the reform, the moment they decided to support an initiative, the other two main parties (PAN and PRD), who have systematically backed it, had to support the bill, regardless of its contents. No one wanted to pay the political cost of being the ones to block a bill granting the vote to Mexicans abroad, so they left it for the Senators to decide the issue. On the PRI side, this might have been strategic as well,

because the leader of the PRI in the Senate is a candidate for the PRI's presidential nomination and a vote of that parliamentary group is essential to pass any reform in the Upper Chamber.

THE POSSIBLE SCENARIOS

If the Senate simply votes in favor of the reform bill in its present terms, the credibility and efficacy of the electoral organization will be seriously undermined. It is simply impossible to organize the election abroad in the way the lower house of congress has approved it. If, on the other hand, the Senators do not agree on the changes that have to be introduced in the initiative, the absentee vote for Mexicans will be postponed one more time and they will be the ones who take the blame.

As of now, the only reasonable way out would be to pass a gradual reform bill, one built on a series of subsequent steps, that would open the possibility for a limited absentee vote in the 2006 federal elections. This might include those who already have their electoral card and might involve voting electronically in the Mexican consulates and embassies abroad. Political parties would only be allowed to reach their constituents abroad through posted messages, not through media spots, and, therefore, their expense ceilings would not be raised this time. However, even such a limited reform would have logistical challenges.

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