



**Preliminary Report of the National Democratic Institute
International Election Assessment Mission to the Honduran
General Elections of November 29, 2009**

Tegucigalpa, December 1, 2009

This preliminary report is offered by the National Democratic Institute's (NDI) assessment mission to the November 29, 2009, Honduran general elections.

I. Introduction

These elections were convoked by the Supreme Electoral Tribunal (*Tribunal Supremo Electoral*, TSE), and all the candidates were selected before President Manuel Zelaya was deposed on June 28. Since Zelaya's ouster, the already existing polarization and the political crisis in the country intensified and the holding of the elections themselves was challenged both inside and outside the country. In July, Honduras was suspended from active membership in the Organization of American States (OAS) for violating the OAS Democratic Charter through a coup d'état.

Since June, Honduras has experienced two distinct campaigns: one between those supporting the removal of President Zelaya and those opposing his ouster; the other between the parties and candidates contesting the November elections. The broader conflict relating to Zelaya's ouster had an impact on Honduran society and the country's international standing. Its precise impact on the electoral campaign, however, is difficult to measure as different sectors of society express conflicting assessments and impartial, verifiable information is difficult to obtain.

Some have argued that holding these elections under current conditions would legitimize a coup d'état and establish a precedent that could be used to unseat elected governments elsewhere. Others have asserted that the Honduran voters' will, as expressed through the ballot box, should be sufficient to overcome the crisis and repair the country's breach with the international community. Still others have argued that credible elections leading to a new, democratically elected government could represent an important step forward if they lead to a genuine national reconciliation process.

The purpose of NDI's election mission was not to take a position on these larger political issues nor should its presence in Honduras be viewed as such. Rather, the mission sought to provide an impartial assessment of the conduct of the electoral process. The conduct of these elections will inevitably affect conditions for overcoming the political divisions in the country; and the findings of international elections experts can help to provide an impartial source of information that Hondurans may draw on to help reach their own assessment of the elections process and to undertake, after the elections, the steps necessary to implement meaningful measures that can advance national reconciliation and democratic governance.

The decision to send this mission to Honduras was taken shortly after the signing of the Tegucigalpa/San José Agreement, which set out a process for resolving the country's political

stalemate. However, given severe time constraints, NDI was unable to send a formal international election observation mission in accordance with standards set forth in the widely recognized Declaration of Principles for International Election Observation, which is endorsed by 35 leading intergovernmental and nongovernmental organizations. The Declaration has also been formally acknowledged with appreciation by a vote of the United Nations General Assembly. Deploying an observer mission consistent with the Declaration would have required the dispatch of long-term observers and pre-election missions to assess thoroughly the campaign period, as well as the deployment of large numbers of observers throughout the country on election day. Instead, NDI decided to send a more limited, specialized assessment mission to provide an impartial, objective source of information regarding this process. According to the Declaration, such missions do not draw broad conclusions about the overall process.

The delegation hopes that its findings and recommendations will contribute to concerted efforts by Hondurans to move forward after the elections with concrete steps toward national reconciliation in a way that overcomes the ongoing political crisis, advances democratic institutions and restores the international standing of the country.

II. Election Day

On November 29, Honduran citizens elected a new president and three presidential designates, 20 deputies to the Central American Parliament, 128 deputies to the National Congress (*Congreso Nacional*, CN) and the leaders of 298 municipalities. In total, 14,500 candidates – some chosen in primaries held in November 2008 – sought 2,896 elected positions countrywide.

Election day was generally peaceful and orderly. No systematic problems in the process were reported by Honduran domestic election monitors or political contestants. There was, however, an incident in San Pedro Sula, where a protest march against the unfolding elections was forcibly dispersed by police. A number of protesters were reportedly injured and detained.

Voting at most polling stations began within an hour of the scheduled opening and materials were distributed without serious problems. The timeliness in opening the polls compared favorably with other recent polls in the region. Despite minor or isolated problems, polling station officials generally conducted their duties during the voting process in a professional manner.

The TSE employed new measures to improve the counting and tabulation processes, which traditionally have been marred by a lack of transparency and allegations of fraud. The Tribunal allowed public viewing of the count at polling stations and permitted observers and party representatives to monitor central tabulation centers. Initial confusion occurred in some stations where members of the public, and some observers, were removed from watching counting procedures. The TSE, however, immediately broadcast announcements reinforcing its earlier order to allow open viewing of the count, triggering polling stations to reopen their doors. This effort to increase transparency in the counting process was a marked improvement over past practices.

To counter past problems of a nontransparent and sometimes incomplete tabulation of results, as was the case during the 2005 elections, the Tribunal took steps to improve the transport of results from polling sites to the central tabulation center in Tegucigalpa. Additionally, the TSE increased outside checks on the tabulation of ballots, contributing to greater transparency in the process. The Tribunal's effort, however, to announce comprehensive preliminary results of the presidential election within hours of the end of voting was unsuccessful.

While many aspects of the process took place without widespread or serious flaws, some problems, which were reported by domestic monitors and witnessed by this delegation, did occur. Misuse of party-allocated credentials for polling station officials appeared to allow the overrepresentation of the two largest parties at the polling stations. This practice contributes to the perception that the two dominant parties are inflating their presence at polling tables by acquiring or purchasing credentials intended for smaller parties. Certain difficulties were also observed surrounding the counting process, especially the tally of the legislative races.

In previous elections, out-of-country voting was held in Honduran consulates in the United States, where 18,000 Honduran citizens are registered. These consulates remained under the authority of representatives of the deposed president at the time of the November elections. As a result, the TSE organized alternative voting locations where representatives of the parties participating in the elections organized and oversaw these ad hoc voting stations.

Political Parties and Candidates

Many parties were active on election day, hosting information tents where they assisted voters in finding their polling station and encouraged support for their candidates. While this practice seemed well received by many voters, some of these booths were within 50 meters of the polling center, in violation of the law. Further, campaign material was found inside some polling centers, triggering complaints by voters and party representatives.

On election day, major parties and candidates were actively monitoring the process at the national level, especially regarding preparations around and analysis of the results transmission. When the Tribunal announced partial returns on election day, losing presidential candidates conceded. The release of an independent vote count (as described below) helped increase confidence in the preliminary transmission of the presidential election results.

Election Observers

Domestic election observers made an important contribution to the transparency of the election process. The civic coalition, Election Watch (*Mirador Electoral*), monitored aspects of the pre-election period, including media, campaign finance and compliance with election law. The group will continue to monitor the post-election period and release a report of its findings in the coming weeks. NDI's civic partner, Making Democracy (*Hagamos Democracia, HD*)¹, a coalition of

¹ The Hagamos Democracia coalition includes: Pastoral Social Cáritas de Honduras, Confraternidad Evangélica de Honduras, Federación de Organizaciones No Gubernamentales para el Desarrollo de Honduras (FOPRIDEH) and Universidad Metropolitana de Honduras (UHM).

diverse Honduran civic groups, organized a Parallel Vote Tabulation (PVT) or “Quick Count”² of qualitative and quantitative aspects of the presidential election, covering more than 1,000 polling stations. Despite isolated problems experienced by HD observers in gaining access to the counting process, the group successfully completed a PVT, projecting results that tracked the partial returns announced by the Tribunal on election night. However, discrepancies existed between HD’s projection of voter turnout and initial information provided by the Tribunal. Hopefully, this discrepancy will be clarified once the TSE’s final, detailed results are announced. In a positive development, the TSE facilitated the work of domestic election monitors throughout the election process. In fact, the Tribunal officially presented HD’s findings at its election night press conference.

The European Union, OAS and The Carter Center decided not to send observers to the November 29 elections in the absence of Zelaya’s return to office and following the breakdown in the implementation of the Tegucigalpa/San José Agreement. The TSE extended invitations to multiple organizations and prominent individuals to observe the elections and announced that hundreds of observers had been accredited. Most election magistrates from the region declined the invitation.

Regrettably, the TSE offered funding for transportation, lodging and meals, and a number of observers accepted this offer. The Declaration of Principles for International Election Observation states that international election observers should not accept funding or logistical support from the government whose elections are being observed, as it may raise a significant conflict of interest.

Citizen Participation

The period leading up to the elections witnessed calls both for participation in, and boycott of, the elections. Pronounced calls for participation in the process came from parties and other sectors, such as the Catholic and Evangelical churches. Calls for boycotting the elections came from several different groups throughout the country.

Efforts to boycott were not coordinated at a national level, since many pro-Zelaya factions were divided on how to react to the crisis. The level of citizen support for abstention was also difficult to measure. Isolated threats of violence, including planted bombs and vandalism, were noted in the weeks before the polls. In response to threats of boycott and other unrest surrounding the elections, the TSE announced an enhanced nationwide military presence and a special police operation to guarantee public order on election day. Some civil society representatives expressed the fear that threats of violence, as well as increased security measures – including military roadblocks and heightened police presence – would discourage turnout among some voters.

The Role of Security Forces

As legally established and traditionally practiced in Honduras, the military plays a role in the electoral process beyond security, providing logistical support such as transporting polling

² A PVT uses election returns from a statistically significant number of randomly selected polling sites to project election results.

materials, including results data. In recent years, the military's role in elections was placed directly under the control of the TSE – a decision that was reemphasized in the Tegucigalpa/San José Agreement. However, following the military's role in deposing President Zelaya, concerns were raised about the impartiality of the members of the armed forces. In response to these concerns, the TSE planned to provide a sufficient number of so-called civilian “custodians” to be present at each voting center when sealed election materials were transported by the armed forces. Despite these efforts, the Tribunal was ultimately unable to meet full recruitment goals for these custodians. To date, the delegation is not aware of any problems of delivery of election materials during the results transmission process.

The military and police had a visible presence on election day. However, this presence did not appear to interfere with the process and only a few incidences of abuse of power were noted.

NDI recognizes that the credibility of an electoral process extends beyond election day and that all aspects of the process must be considered. Among other factors, these include: the conditions set up by the legal framework for the elections; the ability of citizens to seek and receive sufficient and accurate information about their political choices; the ability of political competitors to organize and reach out to citizens to win their support; the freedom that citizens and political competitors have to engage in the political and electoral process without fear of intimidation, violence or retribution; the conduct of voting, counting, tabulation and announcement of results; the investigation and resolution of complaints; and the conditions surrounding the formation of a new government. Due to the limits of this assessment mission, NDI was unable to independently conduct a thorough evaluation of the pre-election period. This assessment is based on information gathered from diverse representatives of Honduran society.

III. Pre-Election Process

Election Administration and Preparation

Legal Framework

The legal framework in place for the electoral process generally provides for democratic elections, but the law, in some areas, was inconsistently applied. The 2009 general elections were governed by the Constitution of Honduras, the Law on Elections and Political Organizations (*Ley Electoral y de las Organizaciones Políticas*, LEOP) and other electoral and political regulations. The Honduran Constitution stipulates that all activities and procedures related to elections are the responsibility of the Supreme Election Tribunal. Since the democratic transition in 1982, Honduras has undertaken a number of reforms including: separating the National Civil Registrar (*Registro Nacional de las Personas*, RNP) from the electoral authorities; regulating political campaigns and the public financing of parties; establishing quotas for women candidates; and instituting measures designed to insulate the TSE from partisan influence.

Despite these important changes to the laws governing elections, reforms were not always realized or applied consistently. Laws establishing a 30 percent quota for women candidates have not been enforced; campaign spending has not been regulated as the law directs; and the TSE remains party based. Further, a pending court case challenges the legal standing of three of

the four electoral magistrates. They were selected even though they held elected office, an alleged violation of constitutional provisions.

A portion of the technical assistance provided to the TSE by the international community was suspended when Zelaya was not reinstated as president. At the time, some experts expressed concern that the sudden removal of support could have an adverse effect on the more technical procedures implemented by the Tribunal, such as the program for rapid transmission of results.

Voter Registry

The present voter registry, which is based on the civil registry maintained by the National Civil Registrar, consists of approximately 4.6 million citizens out of a population of almost 7.9 million people. Between 2001 and 2009, the number of Honduran citizens increased by 20 percent, while the number of registered voters increased by 33 percent. Between 2001 and 2005, however, the actual number of votes cast dropped by 4 percent, as the abstention rate increased by nearly 34 percent. Some analysts believe that the increasing abstention rate is partially due to an inflated voter registry that has absorbed new citizens, but has not been purged of the estimated one million people who have migrated or died. The voter registry has been an area of concern among some Hondurans and problems with the registry have been flagged by monitors of past elections. Despite repeated concerns regarding the accuracy of the list, no independent audit of the voter registry has been conducted. Due to a lack of funding, a planned replacement of identity cards that would have resulted in a revamped electoral registry in 2006 did not occur, leaving the TSE with no alternative but to use a voter registry that many consider bloated and outdated.

The Campaign Period

Pre-election Environment and Restrictions on Media and Civil Liberties

In the wake of the events of June 28, restrictions were placed on journalists and media outlets. Following the return of the ousted president to the country, a “state of siege” (*estado de sitio*) was decreed on September 27 and extended three weeks into the official campaign period. The decree suspended constitutional guarantees, which included freedom of speech and assembly, and protection against arrest without warrant. Under this suspension of civil rights, security forces closed two opposition media outlets and reportedly damaged broadcast equipment. The Inter-American Commission on Human Rights and other international and national human rights groups raised concerns about these and other developments, citing: closures of, and threats against, certain media outlets; arbitrary detentions; violations of freedom of expression; and excessive use of public force against demonstrations.

Broadly accepted international standards for democratic elections demand that a number of fundamental rights be respected, including, among others: the right to express a political opinion; the right to seek and impart information through media; the right to move freely in the country to conduct or participate in a campaign; and the right to protection and equality before the law. Government-imposed restrictions on civil liberties, including limits on expression, assembly and protest, had the potential to infringe on some of these key rights. The delegation found that

different sectors of Honduran society perceived these restrictions, and ultimately their impact on the process, in very different ways.

Political Parties and Candidates

Five parties participated in the presidential and legislative elections, with additional parties and independent candidates participating in the municipal elections. Some candidates, including the independent presidential candidate, Carlos H. Reyes, dropped out of the race in protest over the failure to reinstate Zelaya. The delegation heard conflicting anecdotal information on the exact number of candidates who had officially or unofficially withdrawn in apparent protest, with estimates varying from 70 to 250.

Those parties and candidates that continued contesting the elections expressed different views on how the political crisis had affected their ability to campaign. Some contended that the campaign was conducted fairly and even pointed to improvements, such as increased media access for smaller parties, which participated in 32 widely broadcast policy forums. Nonetheless, many noted that restrictions on civil liberties and tensions in some regions made traditional forms of campaigning, including holding rallies and posting campaign materials across the country, more difficult. Some parties said that internal divisions regarding the political crisis left their parties weakened in the face of the upcoming elections.

IV. Recommendations

In the spirit of international cooperation, the delegation offers the following recommendations to help overcome divisions in Honduran society, strengthen electoral processes and advance democratic institutions.

- The Truth Commission envisioned under the Tegucigalpa/San José Agreement should be established as soon as possible. The purpose of the Commission is to clarify what happened before and after the June 28 ouster of President Zelaya. It should also specifically examine human rights violations that preceded the November 29 elections.
- The Supreme Electoral Tribunal should expeditiously make public official election results by polling stations for all races conducted on November 29 and publish this information on its website in an electronically accessible format that enables independent analysis.
- A new or updated voter registry should be created as a means to build confidence in the electoral process and to provide an accurate basis for voter eligibility. As a first step, an independent audit of the current list should be undertaken to inform the design of the new or updated list.
- Honduran election law should be applied in a way that meets both the spirit and the letter of provisions establishing independent electoral authorities.

- The TSE should cease the practice of distributing blank credentials to parties for the purpose of accrediting polling place officials. The legislature and Tribunal should consider reform measures to ensure that voting and counting processes are not susceptible to undue partisan influence.
- The Tribunal should reduce its reliance on military forces to provide logistical support for the administration of elections.
- The Tribunal should increase training for election officials at the polling station level, especially regarding the counting process.

The delegation heard repeatedly that the crisis began before June 28 and will continue after these elections unless a genuine reconciliation process begins. Regardless of the controversy over the holding of these elections under current circumstances, the newly elected leaders of Honduras have the opportunity and responsibility to do everything possible to overcome the divisions in the country. This is the best way to respond to the hopes and aspirations of the Honduran people.

The delegation expresses its gratitude to the Hondurans across the political divide who generously shared their time and views with the assessment mission. Their observations and insights enabled the delegation to carry out its mission.

V. The Assessment Mission and its Work

The mission included: Horacio Boneo, former Director, United Nations Electoral Assistance Division, Argentina; Luis Alberto Cordero, former Executive Director, Center for Electoral Promotion and Assistance (CAPEL), Costa Rica; Matt Dippell, Deputy Director for Latin America and the Caribbean, NDI, United States; Sam Gejdenson, former Member of Congress and Ranking Member of the House Foreign Affairs Committee, United States; Michele Manatt, international relations consultant, United States; Eduardo Nuñez, NDI Representative for Honduras and Guatemala, Costa Rica; Marek Peda, elections expert, Poland; Philip Robbins, Chairman of the Board of Directors, National Law Center for Inter-American Trade, United States; Salvador Romero, former President-Magistrate, National Electoral Court, Bolivia; Jim Swigert, Regional Director for Latin America and the Caribbean, NDI, United States; Maureen Taft-Morales, Specialist in Latin American Affairs, Congressional Research Service, United States; Félix Ulloa, former Magistrate, Supreme Electoral Tribunal, El Salvador; and Kenneth Wollack, President, NDI, United States.

These delegates were joined by NDI staff members Sara Barker, Keila González, Laura Grace, Sandra Guzmán, Guido Iñigo, Alex Kerchner, Mario Mitre, Anna Prow, Wendy Ramirez, Dan Reilly and Rob Runyan.

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The mission deployed three teams to Tegucigalpa and its surroundings, and five teams to other locations in the country. These included Comayagua, Danlí, Juticalpa, La Ceiba and San Pedro

Sula. Team members met with local election authorities, observer groups, party representatives and public security officials, and observed the voting and counting process on election day. After the elections, the group reconvened in Tegucigalpa to share their respective findings and prepare this report.

The mission offers the above assessment based on information gathered from a broad range of Hondurans including: presidential, legislative, and municipal candidates across the political spectrum; leaders of the National Resistance Front Against the Coup d'Etat; appointees to the Tegucigalpa/San José Verification Commission; representatives of human rights groups, the religious community, the business sector, labor unions, media and the international community; domestic election monitors; security personnel; election officials at the national, departmental and municipal levels; and academics. The mission was also informed by its direct observation of balloting on election day and through exchanges with NDI's Honduran election observation partner, HD. In witnessing the 2009 Honduran elections, NDI does not presume to supervise or render a final judgment of the election process. The Institute recognizes that the citizens of Honduras will ultimately determine the credibility of the process.

VI. Contact Information

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