

## ELECTORAL GOVERNANCE: MORE THAN JUST ELECTORAL ADMINISTRATION

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*ABSTRACT. The meaning of “electoral governance” is often equated with “electoral administration”. The process, however, can be divided into three distinct stages: 1) formation of regulatory bodies and norms; 2) implementation of these norms; and 3) dispute resolution. Given these three parts, electoral governance amounts to much more than just administration. In this article we explain why many academic studies of electoral governance have neglected the role of conflict resolution, focusing instead on the first two elements. In this way, electoral governance is mistakenly conceived as merely a mechanism for establishing regulatory bodies and rules. Our second goal is to show readers that electoral governance is a process that starts with the enactment of legislation, continues with administrative enforcement and judicial response, and concludes when the process returns to the beginning, either through judicial interpretation or recommendation by a legislative body. Our preliminary conclusion is that a proper understanding of electoral governance must take into account the role of conflict resolution, especially for disputed elections. Lastly, consideration must be given to a final phase which incorporates a cyclical conception explaining the returning process to the legislative dimension.*

**KEY WORDS:** *elections, electoral governance, electoral bodies, political actors, electoral process.*

**RESUMEN.** *La gobernanza electoral ha sido considerada como la administración de elecciones. Sin embargo, el concepto integral está compuesto por tres dimensiones: 1) el diseño constitucional y legal de los órganos reguladores y de los estándares; 2) la aplicación de reglas y 3) la resolución de disputas, considerando estos tres niveles la gobernanza electoral es más que la administración de elecciones. En este artículo mostramos como los estudios sobre la gobernanza*

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*electoral han olvidado la dimensión de la resolución de conflictos y se han centrado en las otras dos dimensiones, lo que ha propiciado que la gobernanza sea revisada solamente como un mecanismo para el diseño de órganos y reglas. Esto nos lleva al segundo propósito del trabajo: explicar cómo la gobernanza electoral es un proceso que inicia con la creación de leyes, continúa con la aplicación administrativa y con la resolución judicial, para terminar cuando el proceso reinicia el ciclo, ya sea mediante una interpretación jurisprudencial o por medio de una recomendación al órgano legislativo. Nuestra conclusión preliminar es que una noción integral de la gobernanza electoral debe considerar tanto elementos teóricos como empíricos: primero, el énfasis en la dimensión de resolución de conflictos, especialmente en contextos de elecciones disputadas; segundo, la consideración de una fase final que incorpora una perspectiva cíclica que regresa el proceso a la dimensión legislativa.*

PALABRAS CLAVE: *Elecciones, gobernanza electoral, órganos electorales, actores políticos, proceso electoral.*

#### TABLE OF CONTENTS

I. INTRODUCTION .....	34
II. CONFLICTING APPROACHES.....	35
1. Electoral Bodies as Institutions of Governance .....	35
2. Rules and Standards of Electoral Governance.....	37
III. ELECTORAL PROCESS: NORMS, ACTORS AND BODIES .....	40
IV. MODELING ELECTORAL GOVERNANCE: DIMENSIONS, CATEGORY ANALYSIS AND CASE COMPARISON .....	42
V. DISCUSSION AND REFLECTION.....	45
Notes on Mexico .....	45

#### I. INTRODUCTION

The integral connection between electoral administration and the democratization process has been noted since studies first appeared on electoral governance.<sup>1</sup> In effect, these studies emphasized the role played by the electoral authorities,<sup>2</sup> as well as their respective duties to ensure success.

<sup>1</sup> Robert A. Pastor, *The role of Electoral Administration in Democratic Transitions: Implications for Policy and Research*, 6 JOURNAL OF DEMOCRATIZATION 4 (1999).

<sup>2</sup> RAFAEL LÓPEZ-PINTOR, ELECTORAL MANAGEMENT BODIES AS INSTITUTIONS OF GOVERNANCE (UNDP-ONU ed., 2000).

In a second phase, interest spread to additional levels of electoral governance, considering for the first time activities performed by electoral bodies as well as the multiple stages of elections.<sup>3</sup> In the third phase of this process, various scholars started to analyze both the stages and functions of electoral bodies, paying particular attention to the division between administrative and judicial roles during the electoral process.<sup>4</sup> Thanks to recent studies, we can now take a more comprehensive approach.<sup>5</sup>

As this article attempts to explain, electoral governance involves an ongoing cycle of stakeholders acting at different stages of the electoral process. The three distinct areas set forth above serve as reference points to analyze the multiple stages of elections, and show why democracy implies much more than voting booths and vote tallies. In sum, electoral governance is a complex process involving a wide range of actors, norms and authorities.

## II. CONFLICTING APPROACHES

The study of electoral governance can generally be divided into two distinct approaches: first, emphasis on electoral bodies as institutions of governance; second, emphasis on the multiple stages of elections and the relation between the distinct bodies that comprise the electoral system, including both administrative and judicial elements. We analyze both approaches below.

### 1. *Electoral Bodies as Institutions of Governance*

The prominent role played by electoral bodies in analyzing electoral governance can be seen in studies realized by Pastor<sup>6</sup> and López-Pintor.<sup>7</sup> These studies, especially the first and last, tend to emphasize the role of electoral administration in the democratization process.<sup>8</sup>

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<sup>3</sup> Andreas Schedler, *Distrust Breeds Bureaucracy: Democratization and the Formal Regulation of Electoral Governance in México*, 3 PUBLIC INTEGRITY 2 (2001); Shaheen Mozaffar and Andreas Schedler, *The Comparative Study of Electoral Governance, Introduction*, 23 INTERNATIONAL POLITICAL SCIENCE REVIEW 5 (2002).

<sup>4</sup> TODD A. EISENSTADT, *CORTEJANDO LA DEMOCRACIA EN MÉXICO. ESTRATEGIAS E INSTITUCIONES PARTIDARIAS* (COLMEX ed., 2004); Vitor Marchetti, *Electoral Governance in Brazil*, 6 BRAZILIAN POLITICAL SCIENCE REVIEW at 1, (2012); Diego Brenes Villalobos, *El rol político del juez electoral. El Tribunal Supremo de Elecciones de la República de Costa Rica* (Oct. 2011) (unpublished Ph. D. dissertation, University of Salamanca).

<sup>5</sup> Pippa Norris Et Al. *Advancing Electoral Integrity* (Oxford University Press, 2014).

<sup>6</sup> Pastor, *supra* note 1.

<sup>7</sup> López-Pintor, *supra* note 2; RAFAEL LÓPEZ-PINTOR, *ADMINISTRACIÓN ELECTORAL Y CONSOLIDACIÓN DEMOCRÁTICA* (IDEA-Civil Transparency Association, 2004).

<sup>8</sup> Hugo Picado León, *Diseño y transformaciones de la gobernanza electoral en Costa Rica*, 51

Pastor establishes that “...elections are a prerequisite of democracy...”,<sup>9</sup> hence the critical role played by electoral administration in ensuring proper elections, especially in democratic transitions. Although in developed countries electoral administration is usually not in dispute,<sup>10</sup> governments in developing nations often attempt to manipulate elections.

He proposes five ways to classify electoral bodies: (a) an electoral office with government supervision; (b) an electoral office supervised by a judicial body; (c) an electoral office accountable to parliament; (d) a multiparty electoral office; and (e) an independent electoral office.<sup>11</sup>

With the aim of safeguarding internal governance, countries in democratic transition often establish independent bodies to oversee proper electoral conduct.<sup>12</sup> These bodies are responsible for ensuring the integrity of the electoral process during three major stages: pre-Election Day, Election Day and post-election day. These three stages are then divided into 22 specific activities such as partitioning electoral districts; elaborating and distributing materials; monitoring polls; issuing announcements; emitting rulings; and certifying the final results.

As explained above, Pastor’s work distinguishes between the electoral bodies themselves and the multiple stages of the electoral process. By focusing on the administrative bodies, the activities realized are reduced to a second level of relevance, and something similar occurs with the other author located on this interpretative line.

Studies realized by López-Pintor,<sup>13</sup> on the other hand, emphasize the importance of electoral bodies as a structuring element of governance. The second, “Electoral administration and democratic consolidation”, clearly stresses the importance of proper organization and administration for successful democracy (e.g., “...the evolution of electoral bodies cannot be separated from the democratization process...”).<sup>14</sup> López-Pintor’s central finding is that “the independent electoral commission or tribunal of the executive branch is the dominating model of organization and electoral management”.<sup>15</sup>

As a result, he finds that permanent electoral administrative bodies (“EAB”) are both less costly than temporary administrations<sup>16</sup> and more professional. “...The EAB must ensure the participation of all political parties, promote transparency at all stages of the electoral process, be accountable to the leg-

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AMÉRICA LATINA HOY 97 (2009); Jonathan Hartlyn et al., *La importancia de la gobernanza electoral y la calidad de las elecciones en la América Latina Contemporánea*, 51 AMÉRICA LATINA HOY, 17-8 (2009).

<sup>9</sup> Pastor, *supra* note 1, at 5.

<sup>10</sup> *Id.*, at 6-7.

<sup>11</sup> *Id.*, at 12-13.

<sup>12</sup> *Id.*, at 8-9.

<sup>13</sup> López-Pintor, *supra* note 7.

<sup>14</sup> *Id.*, at 16.

<sup>15</sup> *Id.*, at 13.

<sup>16</sup> Picado, *supra* note 8, at 97.

islature and the public, promote the dissemination of information and civic education for voters and implement cost reducing measures...”.<sup>17</sup>

Although the above recommendations are helpful (in many nations, necessary) they also inevitably lead to excessive activities realized by electoral bodies, which must not only organize elections but also provide education, promote its activities and seek cost-saving measures. As such, electoral bodies are tasked with wide-ranging functions, involving not only organization but also management:

Establishing a permanent and independent EAB represents a big step forward towards institutional progress, as it can strengthen a nation’s electoral system. Just like an independent tribunal or a professional politically-neutral police force, citizens and politicians often take their functions for granted. And like them, their absence or failure can open the doors to chaos and dictatorship.<sup>18</sup>

The above illustrates how electoral bodies evolved from primarily ensuring democratic transition to becoming arbiters and guardians of democratic consolidation. As such, it assumes a critical role with ever increasing duties. The conceptual weakness to this approach is that it neglects the distinct stages of the electoral process.

## 2. *Rules and Standards of Electoral Governance*

Partly in response to this excessive focus on electoral bodies and also as differentiating element, the second approach is based on a series of theoretical, historical and comparative perspectives that facilitate a wider understanding of electoral governance.<sup>19</sup>

A classic example of this approach is the 2002 volume of the International Political Science Association, which includes articles by several authors who address electoral governance from the introductory studies realized by Mozaffar and Schedler.

These authors views electoral governance as a set of interrelated activities that involve (a) the enactment of rules; (b) the application of these rules; and (c) dispute resolution.<sup>20</sup> Rule-making is legislative; implementation is administrative; and dispute resolution is judicial. There is also a preliminary stage in which decisions are made regarding who has the authority to determine the rules, goals and constitutional dimension.<sup>21</sup>

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<sup>17</sup> López-Pintor, *supra* note 7, at 16.

<sup>18</sup> *Id.*, at 43.

<sup>19</sup> Picado, *supra* note 8, at 99.

<sup>20</sup> Mozaffar and Schedler, *supra* note 3, at 5.

<sup>21</sup> *Id.*, at 7.

The difficulty of this approach is illustrated in the first chart, which shows three distinct phases of electoral governance with the elements that pertain to each phase.<sup>22</sup> For the purpose of this analysis, the authors propose that the initial phase—at which time the basic rules are established—be divided into two sublevels: the rules governing competition where the electoral formula appears, the partitioning of electoral districts and the size of the congress, which are the variables of the electoral system; and the electoral organization rules, where the voter registry is located, the nomination and registration of candidates, financing, taxation, the electoral observation, all which are organizational elements that in the chart appear as electoral governance.

The problem with this approach is that it disconnects two types of rules when both the definitions of the electoral system and those corresponding to the organization of the elections originated in the rule design process. In other words, at a constitutional level, what differentiating two related areas implies: organizational rules often influence how elections are determined. This is because both rules, those of competition and those of organization, allow us to understand the electoral process as a whole. Moreover, when proposing to separate them, the position of governance is unclear: should it be in the organizational sublevel of the rule design or in the three levels, with the sublevels and its elements as suggested by the chart.

The above situation becomes complicated when the text emphasizes the formulation and application of rules, but barely mentions dispute resolution, which we consider a notorious failure since it is precisely that level which enables the relationship between administration, organization and electoral management. When electoral candidates dispute election outcomes, there must be a proper mechanism for adjudication. As the authors suggest, the integrity of the electoral process depends on “...the impartial and expeditious resolution of disputes, which represents a cornerstone of the procedural legitimacy of democratic elections.”<sup>23</sup>

The same publication includes an article about the subnational bodies responsible for dispute resolution in Mexico. The author indicates that although electoral disputes often occur, minimal attention has been given to the bodies responsible for resolution.<sup>24</sup>

Using Mexico as an example, we find several types of subnational electoral courts while classifying them according to the role they play in the local courts as ghost tribunals, lyricists, cleaners, employees and workers.<sup>25</sup> The first four are deficient tribunals either because they are ignored or because they may be amended by congress or by the government; the only acceptable court is the working court; Eisenstadt in his previous studies has insisted on this idea:

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<sup>22</sup> *Id.*, at 8.

<sup>23</sup> Mozaffar and Schedler, *supra* note 3, at 11.

<sup>24</sup> Todd A. Eisenstadt, *Measuring Electoral Court Failure in Democratizing Mexico*, 23 INTERNATIONAL POLITICAL SCIENCE REVIEW 5, 48 (2002).

<sup>25</sup> *Id.*, at 56.

As opposed to the typically ideal autonomous courts which are static, the tension inherent in the construction of electoral courts during the transition lies on which will be favored, whether the short term interests of stakeholders or the broader and long term interests of the judicial autonomy.<sup>26</sup>

Thus we can see that acknowledgment for distinguishing the administration of the elections from the administration of justice in the context of the electoral process is already in place, even though it is still viewed from the body and not so much from the function that it must fulfill.

In order to illustrate the importance of the activities realized by electoral bodies, Medina,<sup>27</sup> Picado,<sup>28</sup> Fleischer and Barreto,<sup>29</sup> Brenes,<sup>30</sup> Marchetti<sup>31</sup> and Ramírez<sup>32</sup> take a broader view of the electoral process by examining election rulings from the perspective of the tribunals.

In both approaches, there was a series of contributions but also of shortcomings. Regarding the progress, the first approach highlights the importance of institutions in administering proper elections, to end the transition processes, specifically in the states of the third democratizing wave.<sup>33</sup> This approach made a hindrance of the centrality of the electoral process and emphasized electoral bodies rather than actors or norms, which was clearly deficient.

Given the inadequacy of this approach, the second method emphasizes the formulation of rules and their application. In this way it highlights the importance of generally-accepted rules and the centrality of the result became the objective to achieve. This methodology is best summarized by the expression: certain procedure, uncertain results. This line has faced the obstacle of recognizing that in addition to the design and implementation of the rules a necessity for a closing mechanism of the electoral process exists and it can be found in the adjudication of disputes carried out by the electoral tribunals, this has been its main deficiency. Therefore, the second interpretative line centered on the electoral justice bodies as the closing operators of the electoral process.

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<sup>26</sup> Eisenstadt, *supra* note 4, at 161.

<sup>27</sup> Luis Eduardo Medina Torres, *La justicia electoral mexicana y la anulación de comicios*, 1 REVISTA DE JUSTICIA ELECTORAL 1 (2007).

<sup>28</sup> Picado, *supra* note 8.

<sup>29</sup> David Fleischer and Leonardo Barreto, *El impacto de la justicia electoral sobre el sistema político brasileño*, 51 AMÉRICA LATINA HOY (2009).

<sup>30</sup> Brenes, *supra* note 4.

<sup>31</sup> Marchetti, *supra* note 4.

<sup>32</sup> Edwin Cuitláhuac Ramírez Díaz, *Gobernanza electoral en Centroamérica* (27 November 2013) (unpublished Ph. D. dissertation, Autonomous Metropolitan University of Iztapalapa).

<sup>33</sup> SAMUEL HUNTINGTON, *LA TERCERA OLA* (Paidós, 1994).

### III. ELECTORAL PROCESS: NORMS, ACTORS AND BODIES

In this section we reconstruct the object of study to revise the dimensions of electoral governance from the same electoral process with the participation of the actors and authorities responsible for implementing free and democratic elections.

The electoral process is a complex series of events that take place in several phases. The most highly-visible phase involves political campaigns such as the primaries; candidate nominations; nominations of parties; election propaganda; ballot elections; and the declaration of election results and winners. Governance-related activities take place between elections: voter registration; party registration and funding; auditing; and the eventual cancellation of adherent records, administrative actions subject to review by electoral authorities.

In this way, the electoral process is governed by rules that govern how elections are conducted and the respective duties of the authorities. In the enactment of norms, the legislature must first determine issues involving constitutionality. Judicial bodies (e.g., tribunals, courts and constitutional rooms) are responsible for dispute resolution.

The formulation and enactment of rules is largely extraneous, as this activity is realized by legislators, at times with the aid of the government and subject to revision by the judicial authorities. It should be noted that during electoral crisis, it is often necessary for politicians to reformulate and re-adjust the rules, including those that regulate the institutions that oversee elections. Hence, with the rule design dimension the governance circuit may restart.

Two actors involved in the formulation and enactment of electoral rules—legislators and judges—must often intervene to enact new rules.

Once electoral rules have been enacted, electoral bodies with both administrative and judicial functions must be established to oversee their implementation. Election administrators are directly responsible for electoral organization, while electoral judges rule on legal matters.

Political parties and candidates also participate in rule implementation, as their direct and continued participation make them key actors in election outcomes. Although winners are decided on Election Day, they must be confirmed by the appropriate judicial authorities.

The application of rules involves the participation of administrative bodies, political parties and citizens. No less important, the electoral courts are responsible for dispute resolution.

The actors involved in dispute resolution include political parties as well as candidates who challenge administrative decisions. It is worth noting that electoral judges have the authority not only to review elections but also invalidate election results. The role played by electoral judges are critical despite



a dearth of academic literature regarding their duties, as scholars often consider this to be outside their area of expertise.<sup>34</sup>

In many electoral regimes, especially in Latin America, there is a fourth phase of electoral governance that involves the review of human rights protection by regional authorities.

This review has two goals: first, to protect the aggrieved parties; and second, to issue a ruling that binds the state's electoral bodies. Hitters<sup>35</sup> has also proposed that these rulings become binding for member-states not involved in the specific controversy.

At the regional review stage, the actors include political candidates who seek protection of the regional system, the bodies responsible for the national state and, eventually, the public powers of the respondent state. This review is a final mechanism external to the electoral bodies of the national state and a different possibility of governance circuit closure.

Once the entire electoral process has been realized, including the enactment of rules, declaration of winners, and certification of results, we discover a link between each of the four phases of electoral governance to the following norms and actors:

- Enactment of rules: Legal and constitutional norms enacted by legislators with the collaboration of the government and review by constitutional control judges. Responsible body: legislature.
- Rules application: based on constitutional, legal and regulatory norms; administrative decisions involving parties, candidates, citizens and possible internal review by electoral judges. Responsible body: administrative agencies.
- Dispute resolution: based on constitutional and legal norms; decisions of a jurisdictional nature with the participation of parties, candidates and citizens with the internal revision of electoral judges. Responsible body: judicial authorities.
- Review of decisions: based on norms of the system of regional protection; administrative and judicial decisions subject to review by regional judges. Responsible bodies: commissions and human rights courts.

By linking each stage of the electoral process with decision-making authorities, we find that it is a circuit that begins with rules design and that various

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<sup>34</sup> Edwin Ramírez & Fernando Colmenero, *Votos particulares y disenso interpretativo* in ENTRE LA LIBERTAD DE EXPRESIÓN Y EL DERECHO A LA INFORMACIÓN: LAS ELECCIONES DE 2012 EN MÉXICO (Citlali V. Robles & Luis E. Medina ed., 2013); Luis Medina & Ivette Córdoba, *Libertad de expresión en las sentencias del Tribunal Electoral con referencias al estándar de la jurisprudencia interamericana*, in ENTRE LA LIBERTAD DE EXPRESIÓN Y EL DERECHO A LA INFORMACIÓN: LAS ELECCIONES DE 2012 EN MÉXICO (Citlali Villafranco Robles and Luis Eduardo Medina Torres coord., 2013).

<sup>35</sup> Juan Carlos Hitters, *Un avance en el control de convencionalidad. El efecto erga omnes de las sentencias de la corte interamericana*, 11 ESTUDIOS CONSTITUCIONALES 2 (2013).

actions are executed by the administrative body and revised by the jurisdictional. In this framework, political parties, candidates and citizens become indispensable actors whose active participation in the electoral process are as crucial as the role played by the authorities.

It is a circuit which is constantly activated and can be restarted once the electoral court emits its final sentence. For this reason, it is necessary to factor in differences between each electoral authority and understand that the courts are necessary both to resolve electoral challenges and maintain the governance circuit active.

Thus, the electoral governance dimensions obtain their own characteristics through the rules, the bodies and the respective actors, assuming that the electoral process by being a cycle at some point will be likely to return to a previews phase or by the end, review the whole process or, moreover, once the whole process is finished, revise the design and the electoral institutions.

The previous explanations propose the need to link the rules with the actors and the procedures which involve electoral governance as a whole and not just a part of the rules which are related to Election Day but with the complete organization of the electoral process. Electoral governance is thus characterized by the relation between the rules, the actors and the procedures that are performed during the electoral process for its organization as well as for the resolution of disputes. This conceptual framework sheds light on each stage of governance; the differences between electoral bodies; and the importance of participation by political actors.

In the next section, we discuss the integral model of governance.

#### IV. MODELING ELECTORAL GOVERNANCE: DIMENSIONS, CATEGORY ANALYSIS AND CASE COMPARISON

Aguilar has proposed that electoral governance be broken into distinct modules in order to facilitate analysis. He also noted that the concept contains a teleological dimension as well as a causal one, making governance "...an institutionally structured process and technically in its activities of defining a sense of direction and the embodiment of sense, which joins the institutions with the political practices and the technical procedures of analysis and management...".<sup>36</sup> We consider it appropriate to carry out a similar procedure of segmentation into categories of analysis for the concept of electoral governance in order to design an integral proposal and to shape various cases.

Electoral governance is a cycle rooted in legislative design, passing through administration and internal electoral justice, with the possibility that it will conclude in the regional system of human right revision. As a model, we use categories based on the quantity and nature of electoral rules, government orders, electoral bodies and political actors.

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<sup>36</sup> LUIS F. AGUILAR VILLANUEVA, GOBERNANZA Y GESTIÓN PÚBLICA 92 (FCE 2013).

System of rules: regional, national or subnational.

Levels of government: national or subnational.

Electoral bodies: administrative, judicial and review.

Political actors: citizens, candidates and parties.

By system of rules we refer to the number and types of laws applicable to each election.

The state may only apply its own regulations; or perhaps the regional regulations; or even both the domestic and the regional regulations are considered a whole (legal monism).

In the case of norms, the first variation is between one or more systems of rules, in case of more than one system the variables maybe regional, national or subnational.<sup>37</sup> If a subordinate relation exists the sequence is reversed: subnational, national and regional.

The second line of analysis refers to the government entity responsible for implementing the norms. in the levels of government the first variation is also between one or more levels, the variables are subnational and national, the relation between levels depends on the constitutional definition of each state.<sup>38</sup>

The third line of analysis refers to electoral bodies, both electoral administration and judicial branches. In the electoral bodies, the variants are between one and more than one and the variables are between administrative and jurisdictional bodies. Something similar occurs with the regional revision authorities; here we also find a variation between one or more authorities.

The fourth category refers to political actors. The variables are (a) verification that the election involves at least two candidates; and (b) whether candidates are chosen by political parties or nominated directly by citizens.

With the relations between the rule design, their application by the electoral administration, the adjudications of disputes by the electoral court, the regional revision system with the internal normative systems, the levels of government and the political actors we obtain and integral cycle of the electoral processes.

To observe the relationship between the dimensions with the categories of the second variable, we analyze two emblematic cases, Brazil and Mexico. Both are federalisms of the region and have been subject to electoral governance studies.

In Brazil, norms are formulated and enacted by two legislative bodies: a federal congress and state legislatures. These two sets of norms are linked to the decisions of the Inter-American Human Rights System (IAHRS). Brazil

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<sup>37</sup> JOSÉ MARÍA SERNA DE LA GARZA, *EL SISTEMA FEDERAL MEXICANO. UN ANÁLISIS JURÍDICO* 9-13 (UNAM, 2008).

<sup>38</sup> *Id.*, at 21.

has two levels of government: a national one for federal elections and a sub-national one for local elections

Regardless of the government order in Brazil, electoral administration and justice is overseen by the electoral tribunal (whether federal or state), which oversees the implementation of electoral rules and the adjudication of disputes. In addition, all rulings by the Brazilian authorities are subject to review by the commission or the IAHRs.

In Brazil, citizens are not permitted to directly nominate candidates, who may be appointed only by political parties. Even so, the political rights of all candidates are subject to internal jurisdiction and the IAHRs.

In contrast, the Mexican federal congress retains exclusive authority to enact electoral rules. allows discretion for the local legislatures. Mexico has a normative system which incorporates de decisions made by de IAHRs and establishes two levels of government: a national one for federal elections and a subnational one for local elections.

The electoral and administrative justices are differentiated by the government levels as well as the corresponding authorities. First, whether they are administrative or judicial entities the first are responsible for the application of rules the latter for the resolution of disputes; second, whether they involve national or subnational authorities. Rulings made by the various electoral bodies are subject to review by IAHRs regional headquarters.

In Mexico, candidates may be subject to nomination either by political parties or citizens; in the latter case, however, restrictions normally apply. Those nominated either by citizens directly or a political party may resort to electoral courts to adjudicate disputes. Only candidates and citizens can turn to the IAHRs.

As can be seen, despite both Brazil and Mexico being federal states each nation defines electoral governance differently. Each country has assigned to different authorities the enactment of electoral rules and oversight for their implementation. They also differ with regard to the nomination of candidates. This said, both are similar with regard to government levels, systems of rules and dispute resolution. Each nation may also request review under the IAHRs.

It is worth mentioning that rulings by either nation are subject to review by the regional human right authorities. Note also that the results of any election in dispute are considered valid only after a ruling by an electoral court or a regional review committee.

The above illustrates how the four elements that make up electoral governance can be linked to the specific variables of each category, which allows for various types of comparisons both synchronic and diachronic. This is due to the fact that governance is a complex concept that links its dimensions and categories with the political actors, which generates a political definition by the end of the electoral process, this involves more than the administering of elections.

## V. DISCUSSION AND REFLECTION

There have been several approaches to the issue of governance which have emphasized various points, first the authorities, then the rules, and levels; a recent proposal concerns electoral integrity. We consider that a comprehensive approach linking the dimensions with the categories and the actors in the various stages of the electoral process is necessary.

The above proposal is justified by the need to understand that elections are a cycle which begins with the convocation to electoral process and ends with the declaration of results, while governance is a process that can be observed in a circuit; the specific circuit is designed by each national state and to analyze it the dimensions and categories are pertinent.

From this perspective the analytical elements are necessary for a general approach, to denote the characteristics of each case, to highlight the similarities and differences between cases, whether they are close in space and time, also to obtain a series of observations that in a reasonable lapse of time allow comparisons between cases and of a single case with its many variants.

Ultimately the approach we propose is conceptual and methodological which serves for various cases without losing the richness of each specific design and generating points of contrast with others, whether similar or dissimilar. The focus on the definition of electoral governance is to achieve a better understanding of the elections, administration and electoral justice.

### *Notes on Mexico*

In this short epilogue we will carry out a diachronic comparison of the Mexican case from 1996, when the electoral bodies turned autonomous until the most recent electoral reform of 2013-2014, which implies having three models, since a reform was also implemented in 2007-2008.

These three reforms had different purposes: the 1996 reform sought to establish the autonomy of the electoral bodies.<sup>39</sup> In 2007-2008, reforms were implemented to create conditions of equality in electoral processes.<sup>40</sup> The 2013-2014 reform aims to professionalize the electoral authority. Let us examine the terms of the reforms.

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<sup>39</sup> JOSÉ WOLDENBERG ET AL., *LA REFORMA ELECTORAL DE 1996: UNA DESCRIPCIÓN GENERAL* (FCE, 1997).

<sup>40</sup> Carlos González, *Motivos, contenidos y alcances de la reforma electoral federal mexicana del 2007-2008. Lectura de implicaciones para una nueva reforma*, in MÉXICO DESPUÉS. LAS REFORMAS POSTELECTORALES (Marco A. Cortés Guardado & Víctor A. Espinosa eds., 2009); Leonardo Valdés, *La aplicación de la reforma constitucional en materia electoral de 2007*, in MÉXICO DESPUÉS. LAS REFORMAS POSTELECTORALES (Marco A. Cortés Guardado & Víctor A. Espinosa eds., 2009); for opposing view Giles Serra, *Una lectura crítica de la reforma electoral en México a raíz de la elección en 2006*, XVI POLÍTICA Y GOBIERNO 2 (2009).

In 1996, both federal congress and state legislatures enacted two sets of electoral rules, national and subnational, which were also replicated in the government levels: one for federal elections and one for local elections.

Since 1996, the administrations and the electoral justice are differentiated by the government levels as well as the responsible authorities. First, electoral bodies either have administrative or judicial authority. Second, electoral rules can apply at either national or subnational levels. At the time, IAHRs review was still at an early stage.

According to rules at that time, candidates could only be nominated by political parties. Even though citizens could turn to internal jurisdictions, their chances were limited.

Candidates and citizens, however, were entitled to protection under the regional protection system. One case in particular was critical: Castañeda Gutman vs. Mexico. In this ruling, the claimant, who was not registered by the administrative authorities, turned to the IAHRs for relief. The jurisdiction dismissed his claim. The regional human rights courts partially agreed with him and recommended that the Mexican state amend requirements for non-party candidates.

The 2007-2008 reform did not radically modify the dimensions or categories of electoral governance procedures, except for rules applying to radio and television propaganda, in which case it determined that the national administrative body would solely define these guidelines. With regard to dispute resolution, it allowed citizens to go directly to electoral justice, as well as review by the IAHRs.

In the Mexican case of 2013-2014, the federal congress retained sole authority for electoral decisions, although local legislatures were given a modicum of influence. Mexico has a normative system which incorporates IAHRs decisions and establishes two government levels: national for federal elections and subnational for local ones.

The administration and electoral justice remain differentiated by the government levels as well as the responsible bodies with the exception that the local administrative authorities are linked directly to the national bodies. The decisions made by the various electoral bodies can be revised at regional headquarters or by the IAHRs.

In Mexico both parties and citizens can nominate candidates, although there are restrictions for the citizens. Both candidates and citizens maybe turn to internal jurisdiction for dispute resolution, although only candidates and citizens maybe turn to the IAHRs.

As we can see, between the reforms of 1996 and 2007-2008 there were no major changes. The 2013-2014 reform, however, has modified Mexican electoral governance: there is a great designer: the federal congress, the subnational bodies depend on the national body and both must apply federal rules, citizens can be nominated individually and turn directly to jurisdiction, and along with the candidates, they can turn to the IAHRs. It is quite a change for the architecture of Mexican electoral governance.