

## TBI BORDER BRIEF

### Assessing the Mexican Vote Abroad

By D. Scott Martinez

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#### Overview

In April 2005, President Fox sent a bill to the Mexican Senate to allow Mexicans living abroad to use mail-in absentee ballots in the 2006 presidential election. The bill, signed into law in July 2005, originally allocated the equivalent of \$130 million U.S. dollars to implement the absentee ballot program. Eligible Mexicans wishing to participate in the upcoming election had to remit a form to election officials between Oct. 1, 2005 and Jan. 15, 2006.

The Mexican government estimates that roughly 11,000 Mexicans living in the United States have registered to vote-by-mail. The registration figures are much lower than expected, sparking a debate on the necessity and practicality of absentee voting by mail. This brief details the Mexican vote-by-mail process and lays out arguments in the ongoing debate on whether Mexicans should have absentee voting rights and why current vote-by-mail registration is so low.

#### Standard Mexican Voting Procedures

The Mexican Constitution allows only citizens of Mexico to vote in its federal elections, held every six years for president and senators and every three years for lower house representatives. Federal elections are regulated by Mexican election law as prescribed in the Federal Code of Electoral Institutions and Procedures (COFIPE), which sets standards for the conduct of political candidates, parties, contributors.

The entity charged with administering elections in Mexico is the Federal Electoral Institute (IFE). IFE is a public, autonomous and independent agency established as a result of a series of constitutional reforms approved in 1989. IFE is organized under a decentralized national framework that allows it to implement federal elections throughout the country. This system stands in contrast to elections in the United States where each state is charged with the organization and execution of elections. In the United States the mechanisms for voting can vary widely

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from state-to-state, while the polls in Mexico are uniform nationwide under the IFE.

Since 1992, Mexican citizens have been required to obtain a voter-registration card from the IFE as a prerequisite to vote in any federal election. The IFE distributes voter-registration cards to Mexican citizens 18 years of age or older. Registrants are required to provide a signature and have their photograph taken, both of which will appear on the registration card for security purposes. Normally, the IFE takes twenty days to process the registration and issue the voter-registration card. The applicant must physically return to pick up the registration card at that time.

#### Vote-by-Mail Ballot Procedures

Under the new regulations, eligible Mexican citizens wishing to vote by absentee ballot needed to first register and obtain a voter registration card, which (as outlined above) required absentee voters to physically travel to an IFE office. Properly registered voters could then request an absentee voter application from the IFE via the internet, Mexican consular offices, or by mail.

Along with the absentee voter registration application, applicants were required to submit a copy of both sides of their voter-registration card, proof of address in the country of residence, and the applicant's signature between Oct. 1, 2005 and Jan. 15, 2006. Electoral officials will send absentee ballots to the addresses of applicants with confirmed eligibility via mail sometime in April or May of 2006. Voters must then complete, sign, and return the ballots via mail to the electoral officials before June 30, 2006. The approximate cost of returning the ballots is estimated at \$8.00 U.S. dollars.

- ✓ Must be a Mexican citizen of voting age with valid voter-registration card
- ✓ Obtain absentee ballot request form via internet, consulate, or mail
- ✓ Return completed absentee ballot request to officials by Jan. 15, 2006
- ✓ Ballots mailed between April and May 2006
- ✓ Return completed and signed ballot to election officials before June 30, 2006
- ✓ Mexican Election Day is July 2, 2006

## Why Low Absentee Registration?

In the summer of 2005, Enrique Marcelli of Harvard and Professor Wayne Cornelius of the University of California-San Diego predicted the turnout of expatriate voters in the 2006 election would likely be between 125,000 to 360,000, a turnout of roughly 1.5% to 4.2% of the estimated number of eligible Mexicans residing in the United States.

However, the IFE estimates that only 18,600 Mexican citizens worldwide—including 11,000 in the United States—actually submitted applications for absentee ballots. That makes the actual percentage of Mexicans that registered for absentee ballots in the United States .002% of the total estimated 4.5 million Mexican citizens with voter-registration cards in the United States (a total of 11 million Mexicans are believed to be living in the United States).

The reasons for low vote-by-mail registration are uncertain and controversial. Possible reasons may include barriers to voter-registration, limited access to candidates and issue information, distrust of the Mexican Postal Service, fears of deportation, and assimilation into the U.S. political system.

**Registration Difficulties:** Critics of the Mexican absentee ballot process claim that there were too many hurdles for would-be voters living abroad to obtain a voter registration card. There was some tension from the outset because the Mexican government had to balance access to suffrage against the threat of voter fraud. Yet the fact that many eligible, but unregistered Mexicans living in the United States would have had to physically return to Mexico in order to obtain a voter-registration card imposed significant costs on would-be voters.

The IFE took two steps to overcome the arduous process of registering to vote. The launch of twelve new IFE offices in Mexican towns bordering the United States was part of a pioneering effort to make

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voter-registration easier. According to the IFE, these centers were specially equipped for rapid processing of applications to facilitate a speedy turn around. Second, the IFE waived the hometown voter registration requirement for voters registering in the new border offices.

Even with the extra resources in border towns, the fact that many eligible Mexicans live far away from the U.S.-Mexican border meant that travel would be cost prohibitive. Moreover, it was perhaps unrealistic to expect a large number of unregistered voters to return to Mexico to register to vote if they were among the estimated 5 - 6 million unauthorized Mexican residents in the United States. Undocumented entry to the United States is more costly and dangerous than ever for migrants, presenting a significant obstacle for those who may wish to exercise their voting rights.

Hence, critics of the Mexican registration system argue that Mexico should adopt a registration-by-mail system similar to that in the United States. The U.S. system allows potential voters to register by filling out a standardized form and mailing it to election officials along with a copy of an approved identification card.

**Limited Access to Candidates:** Another possible inhibitor of absentee registration was the limited access of candidates and issue groups to potential Mexican voters living abroad. An administrative ruling by the IFE in 2005 prohibited Mexican candidates from campaigning in the United States. Speaking to the *San Francisco Chronicle*, Arturo Sanchez-Gutierrez, a high-ranking Mexican election official said “the ban was necessary to ensure that parties stay within campaign contribution and spending limits, which can’t be easily monitored outside the country.” Also, if Mexican officials were to allow campaigning in the United States, it would signal a major shift in Mexican campaign finance laws, which are presently relatively restrictive.

Others have pointed to the possible implications of extra-territorial campaigning in the current political climate in U.S.-Mexican relations. The 2005 U.S. Congressional legislative session considered bills that cut all funding to Mexico to

force faster extradition, and that erect a 2,000 mile-long barricade along the Mexico–United States border. Statements perceived to be inflammatory on U.S. soil could have negative diplomatic repercussions.

**Lack of Awareness of Among Eligible Voters:** A related factor that potentially reduced registration for absentee ballots was the concern that Mexicans living abroad were not fully aware they could vote in absentia. Because Mexican parties, candidates, and civic organizations were barred from spending money to recruit outside of the country, potential voters lack information regarding the upcoming election. The IFE, the Mexican government, and private, U.S.-based groups are the only sources of information not constrained by Mexican election law from promoting the vote abroad.

Election officials contend that, while nearly half of its U.S. budget of \$130 million was allocated to postage alone, the IFE did spend part of its budget on public service announcements. Some of these announcements featured prominent Mexican sports stars such as Jorge Canto of the Tampa Bay Devil Rays and Ismael Valdez of the Florida Marlins baseball teams. Critics, however, point out that the announcements were released in limited markets for only a short period of time.

**Distrust of Mexican Postal Service:** According to newspaper reports, some Mexicans living in the United States worried that the Mexican Postal Service would be too slow and often loses or misdirects mail. The IFE tried to address this issue by receiving all absentee ballots at the International Airport in Mexico City where all international mail to Mexico is initially routed. This was meant to assure voters that their absentee ballot materials would arrive safely to the IFE. Still, potential voters may have been unaware of these precautions or remained wary of sending sensitive personal information by mail.

**Immigration Issues:** Fears of deportation for unauthorized (undocumented) immigrants may have been a major reason for low absentee ballot registration. The issue of unauthorized Mexican immigration only intensifies the debate surrounding expatriate voting. Unauthorized Mexican immigrants may have had a legitimate fear they would be deported if found by U.S. immigration officials, should they obtain a list of absentee voters that includes current addresses.

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The IFE explained on their website that Article 135 of the COFIPE prohibited the agency from making its voter rolls public and claimed that the list enjoyed “absolute confidentiality.” Still, unauthorized migrants may have feared that U.S. immigration officials could simply trace where ballots were sent via mail, since there is no clear indication that monitoring foreign ballots is barred by U.S. law.

**Disinterest or Assimilation:** Low vote-by-mail registration among Mexicans living abroad may also have been a result of disinterest in Mexican domestic politics, possibly as a result of the assimilation of Mexican immigrants to life in the United States. Some authorized immigrants living in the United States may have stronger motivation to participate in their local U.S. communities—to support clean streets, safe and prosperous schools and beneficial government services—than in domestic politics in Mexico.

This possibility fuels controversy, since some opponents to absentee voting question whether disinterested or possibly assimilated Mexicans living abroad merit democratic representation in Mexico’s domestic politics. Still, Mexican migrants to the United States generally have substantial personal ties to Mexico. The expected \$19 billion sent in 2005 by immigrants to Mexico is one indication of the strong connections that exist between immigrants and their home communities. Absentee voters who wish to participate in the upcoming Mexican federal election may have significant monetary and familial interests in Mexico.

## **U.S. Controversies Regarding Mexicans Voting Abroad**

Anti-illegal immigration groups argue that allowing Mexicans to vote in absentia will only compound the unauthorized immigration that already occurs or may undermine U.S. sovereignty. Commenting for the *Los Angeles Times*, Diana Hull, President of Californians for Population Stabilization explained, “I think it is all part of erasing the borders in North America... I’m opposed to the intrusion of the Mexican government into the

United States. I don't want illegal immigrants here to have that vote. They shouldn't even be here.”

Then again, sixty countries allow their citizens living abroad to vote in home-country elections, including the United States. United States citizens enjoy the ability to vote in federal, state and local elections when living abroad, regardless of their migration status abroad. The current U.S. administration actively promoted absentee voting abroad for Afghani and Iraqi citizens living in the United States.

As for the notion of erasing national boundaries, it is true that most democratic countries allow only their own citizens to vote in domestic elections. However, globalization has contributed to important changes in the notion of citizenship and political participation. Today twenty-one countries actually allow non-citizens to vote in their domestic elections, as was also the case in 22 states for the first 150 years of U.S. history.

## Conclusions

After the absentee registration process was closed on January 15, 2006, the unexpectedly low response led the Mexican Congress to reduce the IFE's funding for conducting out-of-country voting. The low response rate will likely be used as ammunition in the debate over Mexican voting abroad. Opponents argue that the low response rate indicates Mexican expatriates are not interested in Mexican elections, and that the absentee ballot program is too costly at a price tag of roughly \$7,000 per vote under IFE's original budget.

Proponents are likely to respond that the low return rate is a result of inadequate or mismanaged funds for promoting the program. Additionally, proponents will likely claim that the procedural requirements for absentee voting present unduly high barriers. Finally, proponents may assert that the Mexican government must provide representation for its citizens abroad, since they would otherwise lack political representation of any kind. What is clear is that the continuing debate on the political rights of Mexicans living abroad is part of Mexico's on-going democratic consolidation, in which political processes will evolve through experimentation and public debate.

### Author Biography

D. Scott Martinez is a third year law student at the University of San Diego. Prior to law school Mr. Martinez was the director of the Hispanic Vote Project in Colorado and a professional campaign consultant for local and statewide candidates for political office. He attended the University of Colorado at Boulder where he was elected student body president and graduated with a B.A. in International Affairs. Mr. Martinez recently accepted an offer to work at the law firm of Holland & Hart in Denver, Colorado upon graduation. The brief is based upon a paper written for the Mexican Law course taught by Professor Jorge Vargas at the University of San Diego.

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