

UC San Diego

SCHOOL OF GLOBAL POLICY AND STRATEGY
Center for U.S.-Mexican Studies



CETYS
UNIVERSIDAD

ELECTORAL NEWSLETTER
NO. 12 | MARCH 2024

Democratic Integrity: Mexico 2024

AFFIRMATIVE ACTIONS



Summary

“Affirmative action is defined as a set of procedures designed to; eliminate unlawful discrimination among applicants, remedy the results of such prior discrimination, and prevent such discrimination in the future. Applicants may be seeking admission to an educational program or looking for professional employment. In modern American jurisprudence, it typically imposes remedies against discrimination on the basis of (at the very least) race, creed, color, and national origin.”
Legal Encyclopedia, Cornell Law School

More than 20,700 federal and local positions will be at stake in Mexico’s June 2 election. The Mexican Constitution establishes that candidacies for these posts must adhere to principles of gender parity, equality, and non-discrimination. Political parties are therefore required to nominate an equal number of male and female candidates for federal offices (principally the Chamber of Deputies and Senate), as well as for governorships, local congresses, and municipal positions.

Beyond this constitutional mandate, in recent years several measures have been implemented to promote the political representation of historically discriminated social groups. At the federal level, the National Electoral Institute (INE), in accordance with the criteria of the Federal Electoral Tribunal (TEPJF), approved a series of affirmative actions for the 2024 elections. These guidelines ensure the representation of five different groups: indigenous peoples, Afro-Mexicans, people with disabilities, members of the LGBTQI+ community, as well as migrants and Mexicans living abroad. These affirmative action candidacies must also respect the principle of gender parity.

These actions are mandatory for political parties and coalitions for the nomination of candidates for the Chamber of Deputies and the Senate.

In the "Last Glance" section, we examine a recent decision by the Electoral Tribunal regarding the undue interference of the President of Mexico in the current electoral process.

Affirmative Actions

Congressional Candidates

In Mexico, the legislative branch is composed of two chambers: the Chamber of Deputies and the Senate. In both, there are two forms of representation: relative majority and proportional representation (see Democratic Integrity: Mexico 2024, number 6, "The Mexican Congress").

Candidates to the legislature are nominated as slates or "formulas" of a primary candidate ("propietario") and an alternate candidate ("suplente") who would assume office if the primary candidate is unable to serve.

The Chamber of Deputies is composed of 500 deputies. Three hundred are elected by relative majority in single-member districts. The remaining 200 deputies are elected by proportional representation in five electoral regions, each of which elects 40 deputies.

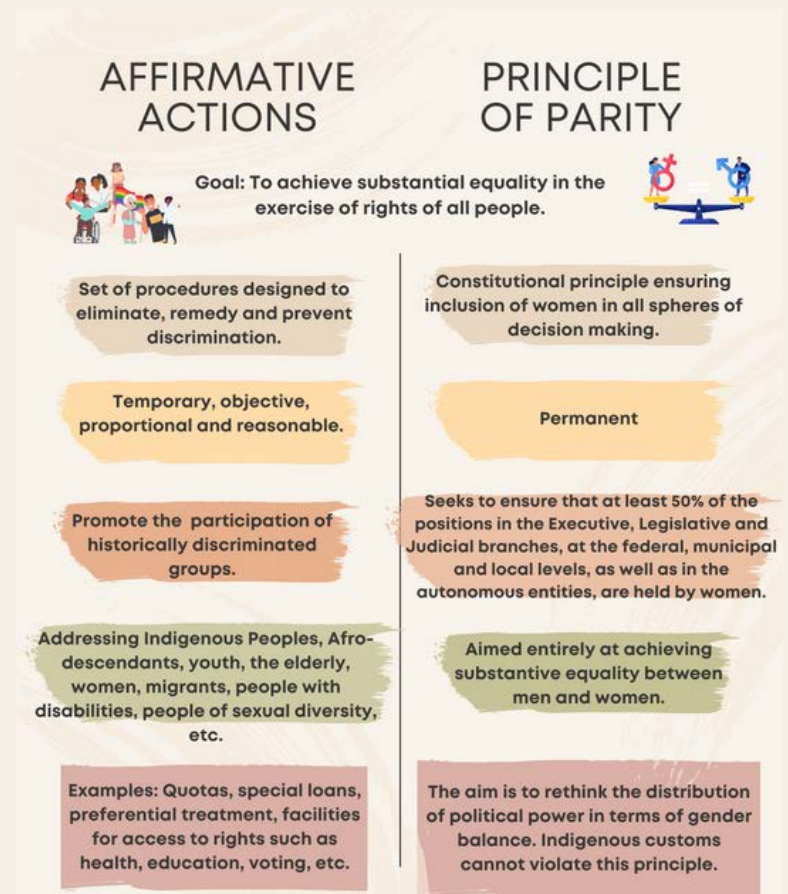
The Senate of the Republic is composed of 128 members. Ninety-six members are elected by relative majority, three from each of Mexico's 32 states. Two of those seats are awarded to the party or coalition that receives the most votes, with the third seat awarded to the second-place party or coalition. Parties and coalitions nominate two candidate slates per state, for a total of 64 slates each election.

An additional 32 seats in the Senate are elected nationally according to the principle of proportional representation.

In 2024, current affirmative action guidelines obligate political parties and electoral coalitions to nominate candidate slates representing vulnerable groups for both the Chamber of Deputies and Senate. To comply with affirmative action guidelines, both members of a slate must come from the designated group. These guidelines apply to both relative majority and proportional representation candidates. In all cases, the constitutional principle of gender parity must also be respected.

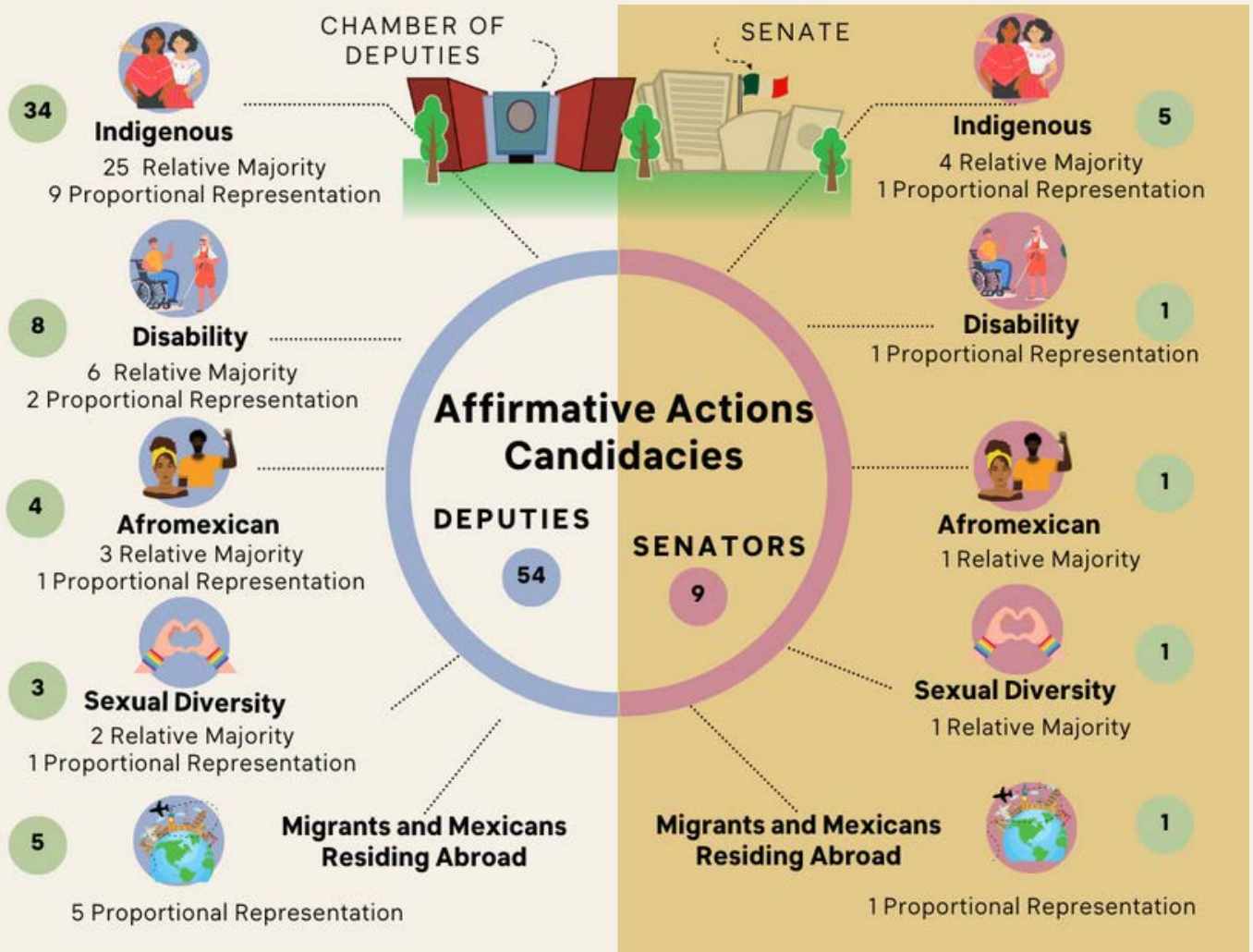
As a result, in this electoral process, the political parties and coalitions have each nominated at least 63 persons representing the following groups: indigenous peoples, Afro-Mexicans, people with disabilities, members of the LGBTQI+ community, as well as migrants and Mexicans living abroad.

To learn more about the affirmative actions adopted by INE, please see Acuerdo INE/CG625/2023 at: <https://repositoriodocumental.ine.mx/xmlui/bitstream/handle/123456789/156945/CGex202311-25-ap-1.pdf> and TEPJF Decision SUP-JDC-338/2023 at: <https://www.te.gob.mx/sentenciasHTML/convertir/expediente/SUP-JDC-0338-2023>.



Source: Compiled by the author with information from the National Institute for Women. INMUJERES.

The 2024 election marks the first time affirmative action guidelines will apply for candidates to the Senate. They had been applied to candidacies for the Chamber of Deputies in both 2018 and 2021.



Eligibility Criteria

A) Indigenous Candidates

Chamber of Deputies:

Mexico is divided into 300 federal electoral districts, 44 of which are considered indigenous districts (See Democratic Integrity: Mexico 2024, number 2, which is dedicated to explaining the composition of electoral districts). This means that, according to the 2020 census, at least 40 percent of Mexicans in these 44 districts identify themselves as indigenous.

Of these 44 districts, there are 25 in which 60 percent or more of the population is considered indigenous. In these 25 districts, the National Electoral Institute, in compliance with the criteria of the Electoral Tribunal, has agreed that political parties and coalitions must nominate only indigenous candidate slates to ensure that 25 members of this group reach the Chamber of Deputies through the principle of relative majority. In these districts, citizens who are not considered indigenous cannot be nominated.

In the 2018 elections, the same criteria was applied in 13 electoral districts, and in 21 districts in 2021 .

Passive suffrage—the ability to be elected to office —is a fundamental political right that, for non-indigenous Mexicans residing in these districts, will not be exercised by decision of the electoral authorities in 2024.

The 25 indigenous districts are distributed among nine states: five in Chiapas, one in Guerrero, two in Hidalgo, two in the State of Mexico, eight in Oaxaca, one in Puebla, one in San Luis Potosí, two in Veracruz and three in Yucatán.

In accordance with the principle of gender equality, these 25 candidacies cannot include more than 13 candidates of the same gender.

Electoral Districts for relative majority indigenous candidacies for the Chamber of Deputies



State	District number	State	District number
Chiapas	1, 2, 3, 5, 11	Puebla	16
Guerrero	1	San Luis Potosí	7
Hidalgo	1, 2	Veracruz	6, 18
México	3, 9	Yucatán	1, 2, 5
Oaxaca	1, 2, 4, 5, 6, 7, 9, 10		

Proportional representation indigenous candidacies for the Chamber of Deputies by electoral region



Electoral Region/Indigenous Candidate Slates

- First 1 slate
- Second 1 slate
- Third 4 slate
- Fourth 2 slate
- Fifth 1 slate

Regarding proportional representation in the Chamber of Deputies, the country is divided into five electoral regions, in which each party nominates lists of 40 candidate slates (see Democratic Integrity: Mexico 2024, number 9, "Electoral Justice in Mexico" for the composition of each region).

Since the indigenous population is concentrated in certain states, each electoral region has differing numbers of indigenous districts. To address this, the INE has determined that the distribution of proportional representation indigenous candidacies will vary by region.

Political parties must nominate at least one indigenous candidate slate on the proportional list in the first, second and fifth regions; four in the second, and two in the fourth.

On proportional representation slates, indigenous candidates must be included in the top ten (on the list of 40 nominations). This gives them a better chance of being elected.

Senate:

For the Senate, parties must nominate four indigenous candidate slates for relative majority elections. The four relative majority slates may only be nominated in the eight states with the largest indigenous populations: Campeche, Chiapas, Guerrero, Hidalgo, Oaxaca, Puebla, Quintana Roo and Yucatan.

Additionally, the parties must nominate one indigenous candidate slate on the national (proportional representation) list. This slate must be included in the first fifteen places (out of 32) of each party's national list.

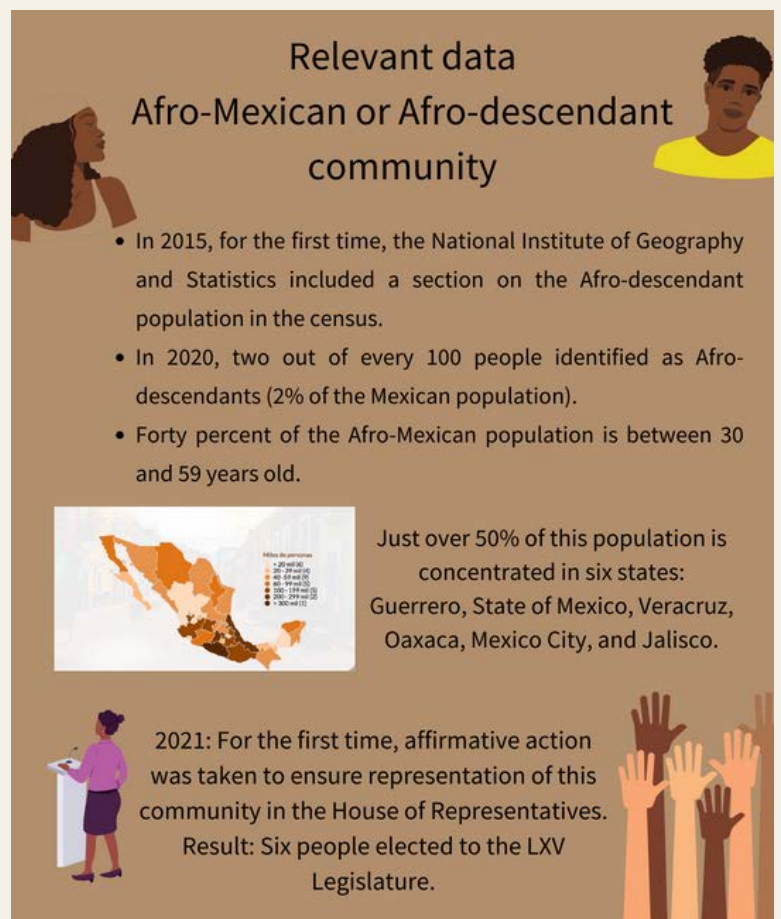
B) Afro-Mexican Candidates

According to the 2020 Population and Housing Census conducted by the National Geographic and Statistics Institute (INEGI), there were 2,576,213 people in Mexico who identified themselves as Afro-Mexican, representing 2.04% of the total population.

For the Chamber of Deputies, the INE established that political parties and coalitions must nominate at least three slates of Afro-Mexican candidates, with no requirements as to which of the country's 300 electoral districts they will compete in., They must also place an Afro-Mexican slate within the first ten places of the list of proportional representation candidates.

For the Senate, parties and coalitions must present a single Afro-Mexican candidate slate as one of the relative majority slates in any state.

To register as an Afro-Mexican candidate, individuals must "declare under oath that they belong to an Afro-Mexican people or community" when applying.



Source: Compiled by the author with information from the National Institute of Geography and Statistics (INEGI) and the National Electoral Institute (INE).

C) Persons with Disability

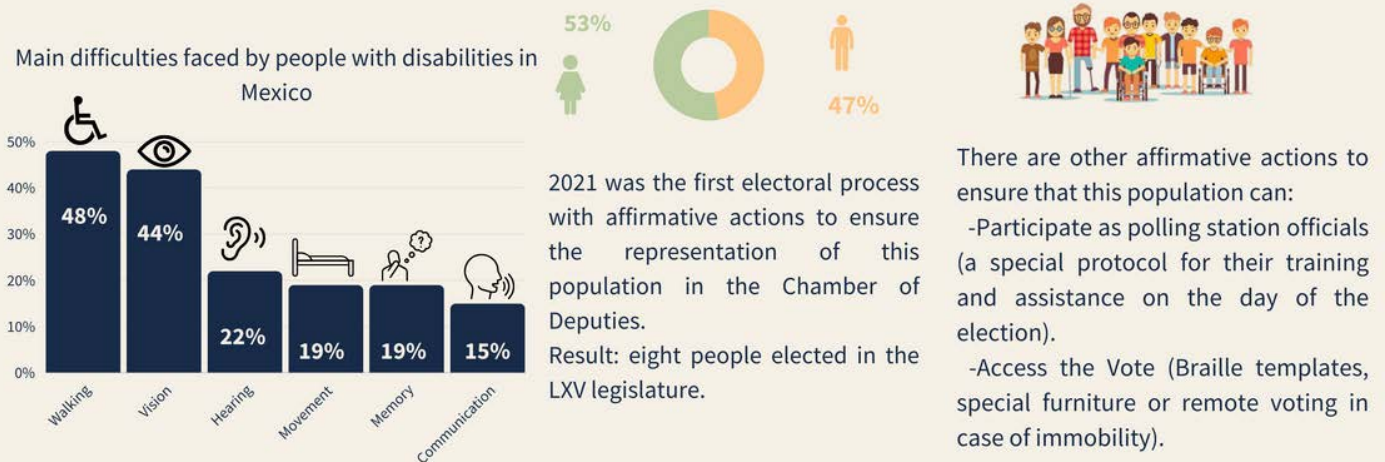
The 2020 Census recorded that 7,168,178 individuals (5.69% of the population) have a disability and/or a mental problem or condition.

The INE has established that parties and coalitions must nominate at least eight candidate slates of persons with disabilities for the Chamber of Deputies. Six of these must be nominated for relative majority contests in any of the 300 electoral districts. The other two slates must be placed within the first ten places of the proportional representation list in any of the five electoral regions.

For the Senate, the seven national political parties are obligated to nominate a slate of persons with disabilities within the first 15 places on the national proportional representation list.

To qualify as a person with disability, candidates must present a medical certificate stating the type of disability (physical, sensory, mental or intellectual) and whether the disability is permanent. A simple copy of the National Certificate for Persons with Disabilities issued by the Federal Government may also be presented.

Relevant Data. People With Disabilities



D) LGBTQI+ Sexual Diversity Candidates

Affirmative action in elections for the LGBTQI+ community began in 2021. That year, four people were elected to the Chamber of Deputies as representatives of sexually diverse groups. For 2024, each party and coalition must register two candidate slates of persons belonging to this group in any of the 300 districts for election by relative majority, and one slate within the first ten places of the proportional representation list in any of the electoral regions.

For the Senate, at least one slate of LGBTQI+ persons must be nominated to compete in relative majority contests in any of the 32 states.

To qualify as a sexual diversity candidate it is sufficient to present a letter of self-identification signed by the candidate, stating the gender with which they identify and/or their sexual orientation.

E) Migrants and Mexicans Living Abroad

In this case, candidate slates are only nominated as part of proportional representation lists. This is because to qualify as a relative majority candidate, the person must reside in the federal entity in which they are nominated and those considered under the affirmative action for expatriates must be residing outside of Mexico.

The Mexican electoral roll has two sections: voters residing in the national territory and those residing abroad. The latter totals 1,413,493 voters and represents 1.42% of the total electorate.

The parties must nominate five slates of candidates for the Chamber of Deputies belonging to this group, one in each electoral region. These slates must be included within the first ten places of the list. Additionally, there could be no more than three slates of the same gender.

It should be noted that Mexican electoral law allows those living abroad to vote only for the Presidency of the Republic and the Senate. Therefore, candidates representing migrants and Mexicans living abroad will not appear on the ballot for those they represent.

General Law on Electoral Institutions and Procedures:

Article 329.

1. Citizens residing abroad may exercise their right to vote in the election of the President of the United Mexican States and Senators.

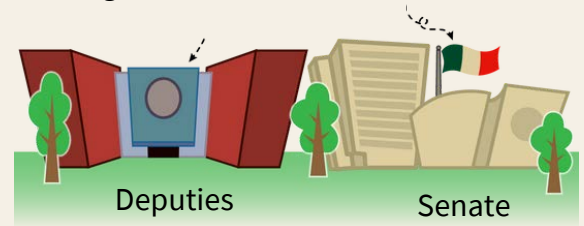
In the case of the Senate, the parties are required to nominate a single candidate slate of migrants and Mexicans living abroad within the first fifteen places of their national proportional representation list. The 2024 election is the first in which an affirmative action has been implemented to provide representation for this group in the Senate.

As proof of residence abroad, candidates must present a voter's card issued abroad, or registration on the nominal list for voting from abroad, or active membership in a migrant organization, for example.

Affirmative Actions: Migrants and Mexicans Living Abroad

5 slates, one for each electoral region

1 slate in the top 15 of the national list



In 2021, 10 people representing this group joined the Chamber of Deputies through affirmative action.

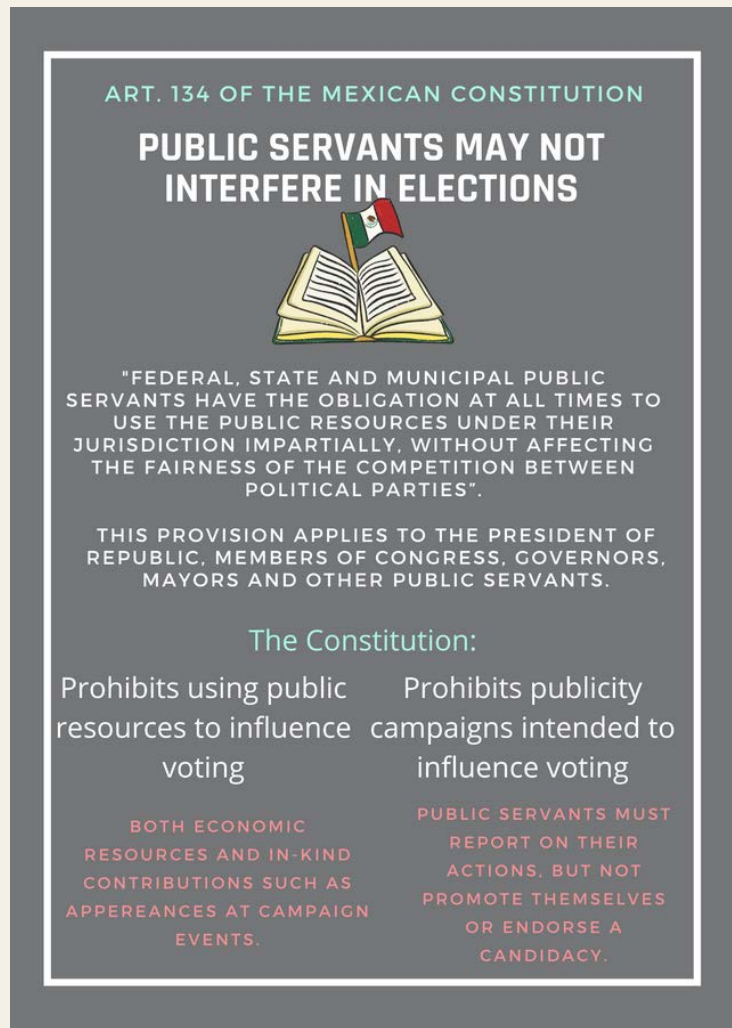
Source: Compiled by the author with information from the National Electoral Institute (INE).

Last Glance

The President of Mexico's interference in the ongoing electoral process


On February 28, 2024, the Electoral Tribunal confirmed that President Andrés Manuel López Obrador had violated the Constitution by interfering in the ongoing electoral process. This ruling found that on July 1, 2023, during an event in Mexico City commemorating the fifth anniversary of his electoral victory, López Obrador made remarks that had violated the law.

In response to a formal complaint from opposition parties, the Electoral Tribunal determined that the president had broken the law by influencing voters' preferences and committed "violations related to personalized advertising, the improper use of public resources, as well as the violation of the principles of impartiality, neutrality and fairness in the contest."



ART. 134 OF THE MEXICAN CONSTITUTION

PUBLIC SERVANTS MAY NOT INTERFERE IN ELECTIONS



"FEDERAL, STATE AND MUNICIPAL PUBLIC SERVANTS HAVE THE OBLIGATION AT ALL TIMES TO USE THE PUBLIC RESOURCES UNDER THEIR JURISDICTION IMPARTIALLY, WITHOUT AFFECTING THE FAIRNESS OF THE COMPETITION BETWEEN POLITICAL PARTIES".

THIS PROVISION APPLIES TO THE PRESIDENT OF REPUBLIC, MEMBERS OF CONGRESS, GOVERNORS, MAYORS AND OTHER PUBLIC SERVANTS.

The Constitution:

Prohibits using public resources to influence voting	Prohibits publicity campaigns intended to influence voting
BOTH ECONOMIC RESOURCES AND IN-KIND CONTRIBUTIONS SUCH AS APPEARANCES AT CAMPAIGN EVENTS.	PUBLIC SERVANTS MUST REPORT ON THEIR ACTIONS, BUT NOT PROMOTE THEMSELVES OR ENDORSE A CANDIDACY.

While the Electoral Tribunal's ruling is final and unappealable, it also does not imply a sanction as the court does not have the power to do so. This is due to the fact that the Mexican Constitution only allows the president to be sanctioned through criminal charges put forth by the Senate.

For this reason, the court ordered the creation of a public registry of those sanctioned for violating Article 134 of the Constitution during the 2024 electoral process. To date, the Electoral Tribunal has ruled that President López Obrador has violated the Constitution on 34 instances, actions that have affected the integrity of the electoral process and which have legal ramifications.

Newsletter Editorial Team: Coordination: [Ciro Murayama](#); Editing: [Farah Munayer](#); Editorial Board: [Kathleen Bruhn](#), [Cecilia Farfán](#), [Michael Lettieri](#), [María Marván](#), [Heberto Peterson](#) and [Daniel Yanes](#).