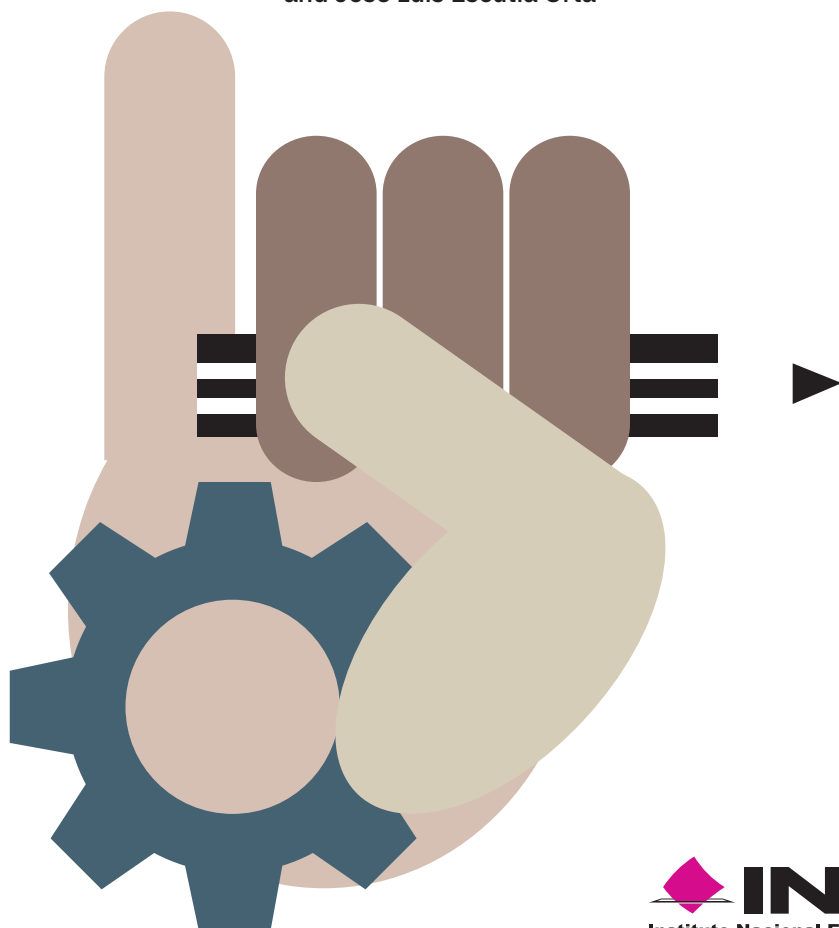


International comparative study on electoral inclusion

Carlos M. Navarro Fierro

with the collaboration of
Julia Almaraz Anaya, Nohemí Vázquez Cervantes,
Martha Moreno Tirado, Christian Sánchez Delgadillo
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International comparative study on electoral inclusion

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Presentation

This comparative study is particularly satisfying because of the input on electoral inclusion mechanisms it contributes to the endeavours of the National Electoral Institute for the study, reflection, and debate on current electoral topics, as well as to the purposes pursued by the Institute's international programmes for the exchange of knowledge and experiences.

We trust it will turn out to be useful to every person and organisation interested in this topic for three specific elements that ought to be highlighted. The first one is that its comparative viewpoint adopts a global perspective. Although it focuses on Latin American countries, it includes representative experiences or examples from other regions. This helps to extend the apparent horizon.

This strictly geographic perspective is complemented by two additional approaches to make the concept of electoral inclusion ampler and more pertinent. One is that a varied set of social sectors and groups, which are not usually considered in specialised literature or are not the target of initiatives or actions that help them overcome the legal, cultural, or material pitfalls that keep them from accessing or fully exercising their rights, are included. In this sense, the study identifies and sweeps across a broad social spectre: from the affirmative actions to promote gender parity or equity and the inclusion of the diaspora (for which relevant advancements can be found in Latin America), to others, such as the

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homeless or youth political representation (who have been left behind and for whom the areas of opportunity are evident).

The other refers to the introduction of a distinction of the kind of inclusion measures that can be adopted for each of the social groups considered in this study. Even if, conceptually or analytically, there is a clear progression line or sequence between the three identified dimensions (voter registration and voting, nomination as candidates, and political representation), truth is they are not applicable to all groups and that the priorities or emphases vary from one group to the other.

The current topics, issues, and challenges (that this study identifies and explores from a general and comparative view) need to be addressed for democratic institutions and practices to take root and become stronger. This study was conceived and prepared as the democratic order in several regions and many countries around the world faces serious threats and challenges, a fair share of them being inherent to the operation logic of the very principles and values that identify every democratic order, although transferred to planes of social strain and polarisation. Others are somewhat new, although not because of its content or orientation, but for the extreme boost and reach provided by the strategies, tools, and practices of the digital era.

The study was already going through those circumstances during its final stage when the COVID-19 pandemic broke out. The teachings and experiences that the pandemic has bequeathed us regarding the planning, organisation, and logistics of the electoral processes are numerous. For now, and at least in a foreseeable future, electoral management bodies will have to consider sanitary protocol provisions for everybody involved throughout the electoral process.

In this sense, the fact that this comparative study makes reference to institutional programmes or mechanisms meant, above all, to ease that, persons facing difficulties, for a number of reasons, to attend to the polling stations on Election Day

can cast their votes is really fortunate. One of the areas of debate and proposals opened up by the pandemic was the mechanisms and guarantees for voting in conditions of confinement, social distancing and other biosecurity measures. We are now aware that no univocal answers have been given to these demands or concerns, but some of the cases referred to in this study, such as early voting, the mobile ballot box or home voting, offer affordable alternatives, while the climate of confidence or political will is generated to further, in a gradual and well-planned manner, others that take advantage of the enormous benefits offered by new information technologies and, in particular, the Internet and digital platforms.

On the other hand, it is a fortunate coincidence that this study is published as part of the 2021 federal and concurrent local elections in Mexico, for which the General Council of the National Electoral Institute, as the highest directive body, approved a set of affirmative measures to encourage the political representation of social groups with are in vulnerable conditions, such as persons with disabilities, from the LGBTI community, African-Descendants, indigenous peoples, and voters from abroad. Likewise, a pilot project was approved for persons on remand to vote for the first time ever.

In this way, Mexico, like other countries of the region in some of these areas, is taking concrete measures to encourage an effective inclusion of social groups that have suffered, or continue to suffer, conditions of political and/or electoral exclusion, marginalisation, discrimination, and under-representation, and, in certain cases, is helping to settle old historic debts. Once again, a fundamental purpose of this study is to display a range of rules, procedures, and practices, as broad and representative as possible, that can contribute to the strengthening of the democratic culture and values, but that can also guide other studies or actions to complement or deepen the knowledge and practices on this matter.

My deepest gratitude towards Lorenzo Córdova Vianello, PhD, President Councillor of the National Electoral Institute, for his support and guidance to take on this kind of initiative that allow to bring support and sense to the international

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exchange and cooperation programmes of the Institute. Likewise, a recognition to the Unit's team responsible for this book, headed by the Director of International Studies and Projects, Carlos Navarro, for the serious and thorough work they make to bring these initiatives to fruition.

There cannot be a greater incentive for all the efforts and support that have made this work possible, than its review from and usefulness to all persons interested in continuing to broaden, from their own activity, the horizons of political and electoral inclusion.

Manuel Carrillo Poblano
Head of the International Affairs Unit of the
National Electoral Institute

Introduction

It is noticeable that many countries around the world have (throughout the past years) adopted legal measures, designed programmes, and undertaken efforts imbued with inclusiveness to strengthen their political and electoral regimes. Even though the notion of an inclusive democracy is most certainly not limited to political and electoral rights or participation, that is the focus that this study will follow.

More specifically, the intent of this study is to present the interested audiences with a rather rigorous and representative compendium of some of the legal mechanisms and, if that were the case, institutional programmes that have been implemented to promote or ease the exercise of the fundamental political rights of some social groups which (for several historical, juridical, institutional, political, social, cultural, or even administrative reasons) have not ever had, or do not usually have, the necessary guarantees, opportunities or easiness for their full exercise.

For the sense, content, and scope of this work to be clearer, some of the elements in the previous sentence ought to be specified. In the first place, it must be highlighted that the geographic scope and dimension of this study is ampler than the preceding ones. The previously published studies were solely focused in 18 Latin American countries. While the current comparative panorama maintains a format that favours those countries' registries, some representative specimens or examples of mechanisms or programmes adopted by countries from other

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regions of the world are now included. This innovation is meant to offer the readers a broader and more varied horizon (which will, hopefully, contribute to the reflections and actions) on this topic.

In the second place, it must be specified that, sociologically speaking, the concept of inclusion is used in a much looser sense to the one prevailing in the political and electoral spheres. In addition to women, youths, indigenous peoples, ethnic minorities, persons with disabilities, or citizens living abroad (whose demands against their political and/or electoral exclusion, marginalisation, discrimination, or under-representation are frequently addressed with affirmative actions) other groups have also been included. Those groups face (for different reasons) circumstances or restrictions that affect the due recognition or full exercise of their political rights. They were, until recently, disregarded not only in juridical and institutional terms, but also administratively and procedurally, and even by the public debate and scholarly work.

It is indeed in light of the new global and regional dynamics about the due recognition and value of human diversity, and the legitimate rights of all of its members, that some efforts to answer to the political and electoral needs and demands of groups like the LGBTI community, but also from those who throughout the electoral process or, at least during Election Day, face circumstances that hinder or altogether prevent them from personally going to the polling station to cast their vote (inpatients at health care centres or nursing facilities, or whose official functions simply restrain them from voting, or otherwise, under other parameters, persons with no fixed abode, are starting to be addressed).

In a much broader sense, this study also refers to the situation of another two groups, namely, the prison inmates and the members of security and/or armed forces, who are sometimes deprived of their political and electoral rights either for juridical and doctrinarian reasons, or for political and institutional ones. It is important to take notice that, as it is the prerogative of sovereign States to rule over the restriction or suspension of political rights (whether for these last two groups or any other), it is usually acknowledged by the international law and the

applicable international legal documents, as long as its enforcement is justified, has a general scope, and does not allow any discretionary implementation.

In other terms, this study spans a variety of groups whose political and electoral rights are somewhat infringed or limited for several reasons (some of which are juridically supported, while others stem from different historical and cultural, or even administrative or budgetary, conditionings, limitations, or shortages).

In that sense, the purpose is to highlight that much of the exclusions, restrictions, insufficiencies, or shortages that infringe that principle and affect some of the groups considered in this study have begun to be questioned, debated, and overcome in various jurisdictions. Hence (and leaving behind all pretences of adopting doctrinaire postures or prescriptive approaches), it is possible to sustain that the rules, policies, programmes, or initiatives to favour the granting and exercise of political rights to all those groups are themselves inclusive, both in the expansive sense used here and in the one that focuses on the realisation of a set of democratic principles and values, the first one being the universal suffrage.

In the third place, it must be pointed out that different specific objectives can be sought through inclusion mechanisms or policies, many of which are related with the particular circumstances or conditions of a given group that need to be met. In some cases, it is about making it easier for the members of the group to be able to register as voters and/or cast their vote. In others, they are offered guarantees or facilities for their nomination and competition for popular elective posts. In some others, the intention is to secure the representation and furtherance of the interests of the group as a whole in the legislative bodies, usually through reserved seats or representation quotas.

In the fourth place, it must be pointed out that, for the identification, selection, and submission of the mechanisms or policies cited in the different sections of this study, legal and/or institutional mandates took precedence, meaning that they are generally and systematically implemented by the electoral authorities at each electoral process in the corresponding countries.

In that sense, it is worth stressing that there is nothing unusual about some institutional policies or programmes stemming from demands or proposals made by civil society groups or organisations (including those encompassing the potential beneficiaries), or that those very groups or other interested institutions play a relevant role in their furtherance, dissemination, and implementation.

Likewise, it is most relevant to indicate the full cognisance of the fact that, while the thorough assumption and exercise of political rights is clearly discernible from other fundamental rights and guarantees (like the freedom of expression, assembly, movement, information, and prompt access to justice), it cannot happen unless they are observed. Furthermore, when said actual assumption and exercise involve vulnerable, excluded, marginalised, discriminated, or under-represented groups or communities, additional measures that make that possible (for instance, information or training campaigns, and the production of electoral documents or materials in indigenous languages) are usually needed. Whenever relevant, such kind of initiatives will be stated in the corresponding sections of this study.

In summary, this inclusion study will focus on the regulations, mechanisms, or initiatives related with three of the essential elements of the political and electoral rights and participation: 1. Voter registration and voting; 2. Nomination for elective posts; and 3. Political representation. And ten specific groups or communities will be included:

1. Members of the security forces.
2. Inmates in prisons.
3. Persons with health problems.
4. Persons with disabilities.
5. Members of the LGBT community, especially transgender people.
6. Persons with no fixed abode.
7. Youth.
8. Indigenous peoples and/or ethnic minorities.
9. Women.
10. The diaspora, that is, those residing away from their own country.

In this sense, it is necessary to keep in mind that the three elements, or dimensions, of political and electoral inclusion in which the study is focused are not necessarily applicable to all the groups and communities listed, since there are only a couple of cases (like the diaspora, and maybe the indigenous peoples or ethnic minorities) whose circumstances meet the indispensable requirements for the inclusion regulations or mechanisms to actually follow a progressive sequence or logic of the elements. For most of the cases, the inclusion guarantees or facilities, or rather the exclusion conditions or barriers that must be overcome, are basically related with voter registration and/or voting itself.

Consequently, for the study to meet its purpose and bring these elements into line, its core will be divided into three sections. In the first one, the exposition includes two of the groups upon which legal restrictions are imposed, that is, they are expressly stated in the legal framework: the members of the security forces (particularly the military), and the inmates in prisons. In the second, the attention is shifted to the groups for whom there are no express legal prohibitions or restrictions that prevent them from exercising their rights (especially their right to vote), but who face social and cultural, or simply bureaucratic and administrative, obstacles or limitations, and in some cases even the mechanisms set to surmount them. In the third, the emphasis is placed on the mechanisms established to attend the expectations or claims of the groups whose demands pretty much belong to the political representation plane, although that does mean they face no obstacles or restrictions in the preceding dimension.

The following table shows the social groups included in each of the sections and the scope or objectives of the mechanisms or measures used to take care of their needs.

Table 1
Thematic outline of the study

	Social group	Mechanisms or measures examined
First section	Security forces	Enfranchisement Right to be nominated for elective posts
	Inmates in prisons	Enfranchisement
Second section	Persons with disabilities	Accessibility to vote
	Inpatients in health centres	Accessibility to vote
	Transgender persons	Accessibility to cast their vote
	Persons with no fixed abode	Accessibility to cast their vote
Third section	Youth	Political representation guarantees
	Indigenous peoples	Usages and customs to choose authorities Political representation guarantees
	Diaspora	Enfranchisement Political representation guarantees
	Women	Guarantees for nomination to elective posts Political representation guarantees

FIRST SECTION

Inclusion and legal barriers

According to internationally recognised theory, principles, and jurisprudence on the guarantees and protection of human rights, and especially under the International Covenant on Civil and Political Rights (signed in 1966), the population must, upon reaching the necessary age, be granted full guarantees for the enjoyment and exercise of their political and electoral rights. However, those same doctrine and legal instruments recognise and admit the possibility that (in the exercise of their sovereignty) States establish regulations (ergo, imposing general, reasonable, and non-discriminatory restrictions, limits, or conditions) for the assumption and enjoyment of such rights. In fact, many States around the world (even those that present themselves as democratic or reassure their adhesion to the essential principles for the broader protection and defence of human rights) impose some of these restrictions.

While the repertoire of reasons for sanctions to entail the loss, suspension, or limitation of political and electoral rights is not that large, they do have some contextual variations. From a comparative point of view, aside of the obvious particularities of some regions and countries, those who face these measures much more frequently are the members of the States' security forces (markedly the military), and those confined in prisons.

1. Members of the armed forces

There is no doubt that the armed forces (in its different types and variants) play a key and exceptional role in the organisation and protection of the whole legal and institutional system and, in consequence, of every social order. On this basis and from a democratic point of view, the debate agenda on the political rights of their members can be approached from two perspectives.

The first one, which would be strictly referred to the individual, is related to the personal rights of their every member. In this rigorously individualised plane, and as it would be the case for each and every one of the members of any other group included in this study, there is no doubt that enough and well-grounded arguments could be found in the guiding principles and fundamental provisions of the internationally recognised legal instruments on political rights (beginning with the International Covenant on Civil and Political Rights, and its many continental variations) to advocate for the full recognition and enjoyment of their political rights.

However, when the delicate nature of the functions and responsibilities of the armed forces as a public corporation are considered, along with the principles and values that must govern their actions and/or the institutional image they must project publicly, then, assessments, perceptions, and reasonings that might cause dissents and controversies due to the acknowledgement, extension, or scope of their members' political rights are factored in.

That is why it is not strange that, when it comes to compared legislation, there is such a broad and diverse range of national responses to the dilemmas that an equation trying to reconcile the characteristics and attributions of the social function of the armed forces with the political rights of their members raises. A spectrum of legal regulations that, due to the very characteristics and attributions of the armed forces, is much more extensive and includes a lot more variables and variations that could be established in comparison with other social groups.

In the case of the armed forces, both the controversies and the dilemmas and the legal prescriptions, do frequently go beyond the classic dichotomy between the active and passive electoral right (voting and nomination to a popularly elected post, respectively).¹ They are also structured around political participation's concomitant broader rights and more specific faculties, like the freedoms of assembly or of expression. Likewise, regulations about their possibilities to aspire, be nominated to, and hold popularly elected offices are usually set.

Therefore, when addressing the political rights of the members of this group, in addition to the prohibitions or limitations to their active and passive electoral faculties, some specific examples about their involvement and participation in political and partisan activities will be provided. Also, because of the nature and dynamics of the functions of this group, it is relevant to highlight the mechanisms and every facility that can be offered so that (as long as there is no legal restriction) they can register or cast their vote at, or from, the places where they are deployed and carrying out their official functions, whether within or away their national territory.

Table 2 offers a synthetic overview of the political rights of the members of the security forces, especially the military, in 18 Latin American countries. On the one side, whether they are granted the right to vote or not, and on the other, if there are provisions for their nomination to national representation offices (and if that were the case, for which and how long before their nomination would they have to leave their position). About their separation, it must be noted that (as it will be explained later) in most of the cases that implies their retirement from the military, which means they will no longer be able to return to active service.

Table 2²
Political rights of the members of the security forces

Country	Right to vote	Accessibility for nomination	
		Elective post	Span between separation from the military and nomination
Argentina	Yes	No	
Bolivia	Yes	Unspecified	3 months
Brazil*	Yes	Unspecified	
Chile	Yes	Deputy Senator	1 year
Colombia	No	President Deputy Senator	1 year
Costa Rica	Yes	Deputy	6 months
Dominican Republic	No	President	3 years
Ecuador	Yes	No provisions	
El Salvador	Yes	President Deputy	3 years 3 months
Guatemala	No	President	5 years
Honduras	No	President Deputy	1 year 6 months
Mexico*	Yes	President Deputy Senator	6 months 3 months 3 months
Nicaragua	Yes	Unspecified	1 year
Panama	Yes	No provisions	
Paraguay	Yes	President Deputy Senator	1 year 90 days 90 days

Continue...

Country	Right to vote	Accessibility for nomination	
		Elective post	Span between separation from the military and nomination
Peru	Yes	Deputy	6 months
Uruguay	Yes	President Deputy Senator	3 months
Venezuela	Yes	No provisions	

1.1. Enfranchisement and accessibility to vote

There is a voluminous file that shows that, in many Latin American countries, the armed forces (particularly the armies) have played an active political role during significant periods of their history which has not stand out for its institutional loyalty or respect. On the contrary, there are several examples in history of their involvement in promoting or supporting coups d'État that were frequently followed by dictatorships or autocratic governments, or of their aid to preserve them.

Because of that, it is not completely incomprehensible that, beyond the objections and restrictions that are usually imposed on them due to their social nature and function around the world, in some Latin American countries the opinions on the issue on the political rights and obligations of the members of the armed forces, specifically, and of the security forces altogether (it must be remembered that there are no armed forces in Costa Rica and Panama), are divided and cause a lot of controversies which are often expressed and settled in the legislative field.

As it can be appreciated in Table 2, there are four countries in the region (Colombia, Dominican Republic, Guatemala, and Honduras) where the members of the armed forces are disenfranchised. In all four, the prohibition includes the civil public security corps, such as national guards or police forces. It is important to highlight that in these countries, but particularly in Colombia, the continuation of the prohibition has been publicly debated and there have been initiatives for its repeal.

In the case of Guatemala, the constitutional reform project (which was surprisingly rejected by the 1999 plebiscite) was drafted to comply with the 1996 Peace Agreements between the government and the insurgent forces, and it expressly stated the enfranchisement of the armed forces. Honduras is a unique case because the members of the armed forces can run for some popularly elective posts, although they cannot vote. In Dominican Republic, the fact that the new constitutional order adopted in 2010 (which according to experts included important advancements) maintained the disenfranchisement of the security forces was highly criticised.

In contrast, the other 14 countries of the region acknowledge the right to vote of the members of public security forces, including the armed forces. Among the last countries to have incorporated this trend are Venezuela (new Constitution in 1999), Peru (2004 constitutional amendment), and Ecuador (new Constitution in 2008).

Even if this is usually a general enablement, so it is tacitly applicable to security forces of all kinds, levels, or degrees, there are some cases, like Brazil and Paraguay, where the conscripts and those enrolled in military or police academies are excluded.

In many countries, public security forces (whether military or civil) fulfil supporting logistic or security functions in electoral processes that can imply the deployment of their members to areas different to that where they registered to vote. Therefore, it is pertinent to review some of the procedures or protocols meant to facilitate that they cast their vote, or in some cases exempting them from voting. It must be noted that, normally, these procedures are not exclusive for the members of the security forces.

In countries like Ecuador, El Salvador, Nicaragua, and Panama, there are express legal provisions for the members of the security forces to cast their vote at a polling station close to where they are deployed. While in El Salvador they must vote at the beginning of Election Day, along with the polling officers (otherwise they would only be able to vote where they are registered), in Panama, they must vote at the end of Election Day, and can only cast their vote for president.

Indeed, in these cases, one of the elements to consider when voting in a different place to the one where the voter registered is the geographical correspondence of the alternate location in relation with the elections being held. The lack of correspondence can result in the security forces' voter not being capable to cast their vote for some of the elections. In an extreme situation, it could happen that they could only vote for the presidential elections (since those may be the only national ones in which the same ballot paper is used throughout the national territory), just as the Panamanian law establishes.

In essence, in most of the countries of the region, voting provisions for the members of the security forces while deployed on official functions during the electoral process (or on Election Day) only refer to their deployment within the national territory. It is not common for them to be stationed overseas to take part in armed conflicts, war operations, or peacekeeping missions. However, in other countries (notably the United States of America and Canada), the adoption of the out-of-country and postal voting mechanisms, was originally made to benefit the members of their armed forces deployed overseas.

Another interesting provision to be recorded is the one that exempts (or not) the members of the security forces from complying with the general rule that forbids armed persons to enter the polling stations, and hence from voting. Thus, in Argentina, for instance, the members of the armed forces can vote while carrying their weapons, whereas in other countries, like Bolivia and Ecuador, they ought not to carry theirs. In El Salvador and Nicaragua, the possibility to vote while carrying weapons is limited to the police and does not include the military. Of the two countries with no armed forces, in Costa Rica, the police cannot vote while carrying weapons, although it is allowed in Panama.

By the way, Panama is the region's pioneer in adopting (through a reform in 2017) early in-person voting within their national territory (Colombia has a similar mechanism since 2014, but only for out-of-country voting) for various categories of citizens, one of which is the members of the national police.

1.2. Nomination to elective posts and other types of political participation

Ultimately, it is clear there is a natural continuity solution between the rights and freedoms a person has to take part in political and partisan activities (in particular those of electoral proselytism and propaganda), and their possibilities to contend for an elective office.

In the case of the debates and definitions regarding the members of the armed forces (or any public security corps in general), in addition to the nature and attributions of their functions (like loyalty, institutional discipline, and its compliant character), their role as public officers and public servants is also factored in.

It is, therefore, understandable that prohibitions or restrictions for their participation in political and partisan activities (such as running for elective posts) exist in every country in the region. They are, however, only applicable while they belong to the corps in active duty.

To be precise, in 14 of the 18 countries of the study, the available legal evidence clearly indicates that if a member of the security forces (especially the military) wishes to compete for an elective post, not only should they separate themselves from their commission ahead of Election Day (the requirements go from a couple of months to several years), but they must ask for their discharge or retirement from the corps. That means that, unlike most of the people who are asked to either quit or take a leave to be able to compete in an election, in the case of the members of public security forces, aspiring to a candidacy does not imply a temporary discharge from a life career, but a definitive separation that makes it impossible for them to go back to active service.

With that in mind, the most extreme situation takes place in Argentina, where the prohibition goes beyond the members of the armed forces on active service to include those who have retired. In Guatemala, five years must go by from their retirement before they can stand for elective posts, and in the Dominican Republic the span is of at least three years.

On the other hand, there are only four cases where the legal provisions do not seem to go to those lengths, since looking for a candidature does not necessarily imply the end of their military or police career. A peculiar dual system (with leaves of absence for vying for elective posts contingent on the years of active service) is in place in Brazil. If a member of the armed forces wants to be a candidate, they can look for a nomination from a political party (independent candidacies are not allowed). If they succeed and have been in the military for over 10 years, they can request a temporary leave of absence; however, if they have served for less than 10 years, they must retire to pursue their political aspirations.

In Chile, the exception to the proscription is that they can stand for office if they separate from the service in advance and, most importantly, they are allowed to return afterwards. In the case of national elective offices (president, deputies, and senators), they must take their leave one year prior and can resume their service in the military a year after the ending of the term in office. The case of Honduras is particular because the ban on the members of the security forces in active service to stand for office is limited to the presidency and the Congress, and does not include other elective offices. Lastly, Mexico has the least restrictive legal provisions. The members of the armed forces who wish to stand for office can request (in advance) a special licence which allows them to take part in the electoral competition and, should they win the election, to return to active military service on the day next to the last of the term of the elective office for which they were elected.

Although it is easy to infer that, given the nature and attributions of their functions (as well as from the prohibitions or restrictions against their running for elective positions), the members of the security forces in active duty cannot participate in political and partisan activities (particularly those of proselytism or propaganda during electoral periods), there are specific bannings established on that regard in the laws of some countries.

1.3. Extra-regional comparative overview

Even though the outcome of the comparative analysis of the regulations about the entitlement and exercise of political rights of the members of the security forces offers many variations, the one widespread practice is to grant them the right to vote. Meanwhile, allowing them to run for elective offices, even if with some restrictions (like not being in active duty), is not as recurrent.

In that regard, in countries such as Australia, Canada, the United States, and many in Europe (Austria, Bulgaria, France, Germany, Hungary, Latvia, Poland, Slovakia, Slovenia, and Spain, among others), they can both vote and run for elective offices, or hold government positions. Among the several countries in Europe where the members of the military and civil security forces can vote, although they cannot stand for public offices, are Armenia, Estonia, Lithuania, Luxembourg, and Romania.

Customarily, the members of the security forces benefit from special programmes or mechanisms that facilitate voting, especially when they are carrying out official security or logistic support tasks away from where they registered to vote, or when they are quartered and have no possibility of attending their designated polling station.

One of the most common special voting mechanisms, especially devised to make voting accessible for this segment of the electorate, is postal voting. If the voters know in advance that they will be stationed away from their jurisdiction, or that they will not be able to attend their polling station on Election Day, they can request beforehand for the ballot papers, along with any other relevant electoral documents, to be sent to their domicile (or where they reside), and comply with the necessary provisions for their vote to be considered valid.

In fact, several postal voting mechanisms (like that of Canada or the United States) were originally adopted to guarantee and facilitate that the members of the military forces deployed overseas could vote. Simultaneously, or gradually, the access to these mechanisms was extended to benefit other segments of the

electorate who were unable to attend to the polling stations on Election Day, or were carrying out official missions, or were residing abroad.

Another mechanism that is not necessarily implemented to specifically tend to the needs of the members of the security forces (although it can easily benefit them or be adjusted to their circumstances) is early voting. It consists in the installation of polling stations before Election Day, so that the voters who are aware beforehand that they will not be able to cast their vote on Election Day itself can personally assist to vote in advance. This last attribute (personal attendance of the voters to the places designated by the electoral authority where their identity is verified) is which sets apart early voting from postal voting.

Obviously, in countries with exceptional circumstances like Estonia, where their levels of technological development, but most importantly the trust of the citizens, makes the general implementation of remote electronic voting mechanisms, for example, over the Internet, possible (in which votes are not cast in person and there is no in situ voter-identity verification by the electoral authority), the accessibility opportunities for the segment of the electorate under discussion, and almost any other imaginable, near universality.

Naturally, when another set of circumstances are also favourable (and in democratic terms that means trust and credibility, rather than availability of material resources or technological capabilities), polling stations could be installed within the military facilities or compounds. This is a practice in countries like Lithuania or Romania.

In summary, both the regulations and the options to ease that the members of the security forces cast their votes are highly contextual. Although there certainly are international principles and commitments regarding them (as well as to other social groups in this study) to which the States in question voluntarily commit, there are also contextual factors of a juridical, institutional, and socio-political nature, in addition to cultural and budgetary considerations. Above all, there are issues of citizenry's trust, institutional credibility, and political will.

Unsurprisingly, many European countries (Estonia itself does not rely solely on Internet voting, Austria, France, Germany, Romania, Spain, or United Kingdom), and other like Australia and Canada, offer the members of the security forces (and other segments of the electorate) with a range of mechanisms to cast their votes within the national territory and abroad.

On the other hand, as previously mentioned, the possibility that the members of the security forces (especially those of the armed forces, due to their training and the nature of their functions) run for an elective office is fairly extended. Ordinarily, they must abide by a set of rules and procedures, among which the most common is to request to leave the active duty and join the reserve.

In Australia, for instance, there is a law that establishes in detail the terms and conditions under which any member of the armed forces (army, navy, and air force) in active duty can stand for a seat in Parliament or to any other elective office. The first thing they must do is request their officer in command to join the reserve. The legislation foresees the mechanism under which the one who requests the leave can return to active duty if they are not actually nominated or if they end up losing the election.

In the United States, on the other hand, only the members of the reserves of the armed forces can request the Department of Defense a permit to run for an elective office; although it can be revoked, and they must abandon the candidacy, if they are called for active duty. The reservists who are nominated as candidates are allowed to mention they are members of the armed forces in their campaign materials and rallies, and can use details of their military career, such as their photography in their military uniform.³

2. Remand prisoners

The loss of freedom as a penalty imposed over a crime is one prototypical situation for which the relevant international law, principles, and juridical instruments acknowledge the possibility that a State, being sovereign, can establish the suspension or cancellation of the entitlement to political rights of a person and, in consequence, their exercise. And States usually do.

However, it is an issue in which the comparative international perspective clearly shows there is no basis for consensus either about the philosophical and doctrinal propriety and pertinency of this exclusion, or, if that is the case, on the consequences of its implementation.⁴

From a comparative perspective, there is such a clear tendency to question, review, and revert or qualify that kind of penalty, that in Latin America, for instance (and as it will be seen later), seven countries have already moved away from disenfranchisement due to incarceration. Now, to continue with this line of reasoning two clarifications are indispensable. The first one is that, almost by definition, reclusion in a prison imposes serious limitations to the exercise of political rights, in particular to the active and (categorically) passive suffrage, which are at the core. However, those specific limitations or restrictions do not necessarily apply to other concomitant rights, such as that of petition or the free expression of ideas in writing.

The second one is that reclusion in a prison can entail judicial statuses and juridical implications that can change from one context to the other. In this regard, for this study, it is particularly relevant to distinguish between remand (held in preventive detention and/or under trial) and convicted prisoners (whose deprivation of physical liberty is the result of a judicial condemnatory sentence).⁵

This last distinction has a clear procedural foundation from which a significative differentiation of those legally detained in correctional facilities can be easily attained to take a position on their political and electoral rights and the practical implications that can entail. It is not the same to take those rights away from someone on remand than from a convict. This difference requires the relevant legal framework to specify whether that suspension is the result of the detention itself (which, all controversies aside, could be the case), or if there must be a sentence.

Should it be the latter, only the convicts would be deprived from their political rights (or other rights associated with citizenship), and those who are yet to be sentenced would not only retain them but should be able to exercise them. A recurring problem where the legal framework expressly establishes that only convicts are to have their political rights suspended is that, for different reasons, States lack the will or the necessary capabilities to guarantee that remand prisoners can exercise their political rights, especially active suffrage.

Therefore, detention on remand is in practice an infringement of political rights, which is aggravated by the fact that judicial procedures frequently are very slow, and the rights are violated for long. In fact, in many countries (particularly of the region), juridical procedures do not stand out for being swiftly resolved. Also, for the purposes of this study, it is evident that "justice delayed is justice denied".

In any case, it is worth highlighting that, for understandable reasons, which mainly derive from being socially segregated, it is noticeable that the debates and solutions raised for issues related to the entitlement and exercise of the political rights of remand prisoners in correctional facilities are usually focused on their ability to vote.

2.1. The vote of incarcerated persons in Latin America

A first consideration about this topic in the region is that, as shown in Table 3, there are currently nine countries with legal provisions that acknowledge and enable the vote of remand prisoners. That is remarkable considering that in the mid-1990s, in the peak of the processes to root and strengthen democracy, there was not a single country that allowed it.

There is a clear progressive trend that started with two important precedents among the sovereign States of the region (Costa Rica and Colombia), although, rigorously, Puerto Rico pioneered the issue with the introduction of prison voting in 1977. In the case of Costa Rica, it was its Ministry of Justice which proposed to repeal a law forbidding the installation of polling stations within correctional facilities, which infringed a right granted by the Constitution. The proposal was favourably received by the Legislative Assembly, which passed the reform three years later. The following year, in September 1997, the *Tribunal Supremo de Elecciones* (Supreme Court of Elections) enacted a regulation for voting at correctional facilities which was first implemented at the 1998 general elections.

Table 3
Countries in Latin America that allow the vote of incarcerated persons

Country	Year of adoption	Type of election	Eligibility criteria
Argentina	2007	National	Preventive detention (on remand)
Bolivia	2009	National	Preventive detention (on remand)
Brazil	2010	General	Preventive detention (on remand)
Colombia	1994	General	Preventive detention (on remand)
Costa Rica	1997	General	Even sentenced
Dominican Republic	2016	Presidential	Preventive detention (on remand)

Continue...

Country	Year of adoption	Type of election	Eligibility criteria
Ecuador	2009	General	Preventive detention (on remand)
Panama	2006	Presidential	Even sentenced
Venezuela	—	General	Preventive detention (on remand)

While Costa Rica's action was a milestone for the sovereign States of the region, it was also recognised globally for pioneering in extending vote to remand and sentenced prisoners equally, as provided in its 1958 Constitution, which establishes that disenfranchisement is only enforceable upon those who have been specifically stripped from their civil rights.

On the other hand, a ruling of the Constitutional Court of Colombia to an appeal filed by three remand prisoners declared their disenfranchisement was illegal. Its implementation took some time.

Argentina, Bolivia, Brazil, Dominican Republic, Ecuador, Panama, and Venezuela have joined to the list. Before detailing some of the characteristics of the mechanisms adopted by each of the nine countries, it must be noted that, after rigorously going through the current constitutional provisions in the other nine countries of the region, in none is it expressly stated that the mere detention in correctional facilities causes the loss or suspension of political rights. In consequence, at least in the case of remand prisoners, it is an infringement of their political rights.

Therefore, it is no surprise that demands have been raised in nearly all the countries that disenfranchise incarcerated persons to remedy that omission, so that voting is accessible to remand prisoners. Legislative initiatives on the matter have also been introduced (although they have been unsuccessful), and judicial sentences have been passed. In Chile, for instance, a sentence delivered by the Supreme Court of Justice in 2017 that is yet to be enforced declared that disenfranchisement of prisoners on remand, or of those convicted for minor crimes, is illegal, and it orders measures for remedying it be taken. In the case of Mexico, the Electoral Court of the Federal Judicial Branch passed a similar sentence.

Back to the previous group of countries (where enfranchisement in prisons is allowed), the first thing to highlight is that the provisions and mechanisms for voting are restricted to remand prisoners in seven of them, namely, Argentina, Bolivia, Brazil, Colombia, Dominican Republic, Ecuador, and Venezuela. Meanwhile, in Costa Rica and Panama, convicted prisoners are also able to vote.

In all cases, it is in-person voting, so polling stations are installed within the prison facilities, which entails agreements and collaboration mechanisms with the relevant authorities both in terms of the organisation and logistics of the process, and of the necessary security measures and conditions for its due development. Customarily, correctional or public security authorities are responsible for the security of all those involved in the organisation, conduction, and oversight of the electoral process, the security of the electoral documentation and materials, and the transfer of the voters to the polling stations.

Likewise, it is the electoral authority who is responsible of registering enfranchised voters in each facility from the information provided by the pertinent authorities. In some cases, the electoral authority even makes periodic visits to the prisons to make out the corresponding electoral rolls and, if it falls under its competencies, issue the required identification document.

There are cases where the regulations or dynamics of the electoral process have certain particularities. In Argentina, for example, detainees are the only ones who vote on sole ballots. It must be remembered that the conventional way of voting there, as in Uruguay, continues to use differentiated ballots for each contender, so the voter must choose the ones corresponding to the party, candidacies or lists they prefer and put them in an envelope. Only in correctional facilities do they use sole ballots for each kind of election. Besides, according to the applicable legislation (which is federal and covers exclusively national elections), the voters choose from among the candidates or list that correspond to their last address since the votes are not electorally geo-referenced to where the correctional facilities are located.

Argentina is also particularly notable for being the only country in the region to set the voting age at 15. Consequently, voting operations also take place at

juvenile correctional facilities so that those who meet that requirement can cast their vote. The same happens in Ecuador in terms of the installation of polling stations in juvenile detention centres due to the required age being 16 years old. The Ecuadorian case is also noticeable because voting is carried out three days in advance of Election Day. This kind of voting mechanism (advance or early voting) had already been mentioned in relation with to Panamanian security forces and is, as will be mentioned subsequently, used in other countries to tend to the requirements, or make voting accessible for, other social groups.

One characteristic of the regulations on prison voting that shows differences is the possibility that proselytical or vote-seeking events take place within the correctional facilities. In Argentina, for instance, the law forbids the presence of party representatives or campaign events inside the correctional facilities. In contrast, the celebration of propaganda activities is allowed in Costa Rica, as long as there is a written request before the warden three days beforehand. Nevertheless, the available evidence indicates that, where it is lawful, contestants show almost no interest in holding proselytical activities at prisons.

As it is easy to imagine, prison voting operations tend to require hard work and to be quite complex; its deficiencies become evident and are frequently the subject of enquiries, especially in terms of the coverage and that the interest and turnout indicators are low.

Before ending this segment, it is important to highlight that, in all rigour, the legal provisions or regulations on which the enfranchisement of detainees is based (like the principle of presumption of innocence and the utmost protection of human rights) can be extended to also refer to the exercise of passive suffrage of the persons on remand. That is, the possibility of running for an elective office or to continue to be a candidate in case of detention. Hence, it is not surprising that there are some cases, although quite rare, in which persons on remand maintain their right to appear on the ballot and can be voted on while in prison.

2.2. Extra-regional comparative overview

An international trend to guarantee the political rights (especially in relation to the enfranchisement) of persons on remand, and even of convicts, can also be observed. However, among the range of variations that a comparative view of the legislation can offer, there is a situation that is incomparable in Latin America: the fact that there are still cases in which convicted persons are deprived from their political rights not only during their imprisonment, but for an additional period after their release, or even permanently.

It is true that, from a comparative perspective, the spectrum of variations in the regulations of the political rights of persons convicted or on remand is wider. The acknowledgement of enfranchisement for all incarcerated persons, whether on remand or convicted, keeps extending and includes countries as diverse as Albania, Bosnia, Czech Republic, Denmark, Finland, Ireland, Israel, Japan, Kenya, Poland, Serbia, South Africa, Spain, Ukraine, and Zimbabwe. Despite that, available evidence suggests that due measures, support, or accessibility necessary to materialise this right are not always in place.

There are some cases where certain conditions or restrictions are imposed on sentenced persons before they can exercise their right to vote. The most common are related to the seriousness of the crime, the length of the imprisonment, or an explicit judicial resolution. In Iceland, for example, those convicted for crimes regarded as “infamous in public opinion” and whose sentence of imprisonment is over four years. In countries like Germany, Norway, or Portugal, it is those convicted for electoral crimes, treason, espionage, or for being part of illegal organisations who are disenfranchised. In others, like Belgium, Bulgaria, Slovakia, Italy, and the Netherlands, the decision of this kind of punishment falls within the discretion of the judges. There are also variations on the kind of elections in which they can vote. In Latvia, the Czech Republic, and Ukraine, for instance, they are only allowed to vote in national elections under the reasoning that local issues are not of their concern.

In contrast, there remain cases, like Belgium, Luxembourg, Poland, and some jurisdictions in the United States, where political rights are not automatically

regained upon the fulfilment of a sentence and as they are released from prison. In Luxembourg, a sentence of over 10 years entails the automatic loss of political rights for life, and the possibility is latent even for those served with a sentence of over five years. In the United States, only two states (Maine and Vermont) of the 50 of which the country is comprised, grant and facilitate the enfranchisement of incarcerated persons; in 16 states, their political rights are suspended while imprisoned, and are automatically reinstated upon their release; in another 21, their rights continue to be suspended even after they are released; and in the remaining 11 states, the rights can be indefinitely suspended for certain crimes, and can only be recovered through specific actions (like an executive pardon).⁶

SECOND SECTION

Voting Accessibility

The approach of this section will be modified to address the issue of the measures or mechanisms adopted for the electoral inclusion of persons belonging to different social groups who face difficulties or obstacles in the effective exercise of their political rights, since their exclusion has a non-legal origin.

Among the groups that have been the main recipients of electoral inclusion measures and mechanisms in recent years are the persons with disabilities, inpatients in health care centres or nursing facilities, or even persons whose health conditions or age have made it difficult for them to personally go to their respective polling stations.

Essentially, two kinds of inclusion mechanisms or measures have been designed and furthered to tend to the needs of these groups: 1) The ones where the ballot boxes are taken to the places where those persons are confined (and can be their own home), which will be referred to as “mobile ballot boxes”; 2) The ones that facilitate that persons who, despite some physical condition, have the means to attend to their respective polling stations to vote in the most comfortable, easy, or accessible way according to their needs.

The adoption of the mobile ballot box is one of the most recent innovations and is still incipient in the region. Given its extraordinary nature, only persons from the referred groups who meet extremely specific requirements are eligible to access to it. In contrast, favourable voting conditions at the polling stations designed primarily for persons with disabilities can be found in practically all the countries of the region. They are commonly associated with some preferential treatment criteria that benefit other persons, such as pregnant women and the elderly.

It is important to highlight that, in some cases, the adoption of this kind of instruments is part of larger and comprehensive electoral inclusion or accessibility programmes or initiatives. Countries like Argentina, Ecuador, and Paraguay stand out for the efforts they have displayed on this matter. In Argentina, for instance, the “electoral accessibility” policy has been developing for over a decade, and it includes “actions, guidelines, and procedures” for “advancing and guaranteeing the society has full and integral access to the multiple aspects that make up the political and electoral process, by detecting and solving existing barriers, whether physical, communicational, or sociocultural”. On that regard, it is specified that the adopted measures “deal with more than operational issues and the mechanics of the elections. The advancement is verified by the demand for access to all the elements of the electoral process: in the provision of information, the sharing of proposals, the participation in political life, and a fulfilling citizenship.”⁷

going further, it is worth reiterating that, while the mobile ballot box and the favourable voting conditions are compatible with each other, they must be distinguished from another voting mechanism that is starting to be adopted in the region, early voting. It implies the installation of polling stations ahead of the ordinary Election Day, so that the voters who know beforehand they will, for whichever reason (mostly, although not exclusively, for professional or work-related reasons), be unable to go to their polling stations, can vote in advance.

It is important to notice that the early voting mechanism has a clearly inclusive character in the sense that it offers the chance to vote to those who, for reasons of professional or work-related mobility, are unable to attend to their polling stations on Election Day. Still, regardless of its obvious advantages, it must be remembered that it is not devised to address the needs of persons who face evident obstacles or limitations to cast their vote for circumstances beyond their control (disability, illness, or aging).*

* The preparations for this study were concluded and submitted for editorial approval at the beginning of 2020, before the World Health Organization (WHO) declared the COVID-19 pandemic. This note is brought up because, as it is well known and has been profusely documented, the pandemic has also generated important consequences in the politico-electoral field. One of those consequences is related to the debates and definitions about whether elections should be carried out or not during the pandemic and under which terms and conditions. It was in the midst of those debates that the demands, proposals, and expectations related to the implementation of mechanisms that would ease voting in compliance with the biosecurity measures devised to curb the pandemic, among which many of those included throughout this study in general and this section in particular, became even more relevant.

Indeed, if the purpose is to offer every facility to the whole electorate of a country or a jurisdiction (regardless of the physical condition, circumstances, or location of each of the voters) to cast their vote, there is a very broad set of possibilities that, in combination, could really make the principle of universal suffrage feasible.

3. Mobile ballot box

3.1. Overview of Latin America

Table 4
Countries with mobile ballot boxes mechanisms

Country	Initial year	Main characteristics
Ecuador	2013	Started out as a pilot, and in 2017 was extended nationally. Includes, exclusively, persons with severe physical disability (75 per cent or higher), and at least 65 years old. Eligible persons for the programme are identified according to information provided by the Ministry of Public Health, which is verified and validated by the electoral authority. The mechanism is implemented two days before Election Day.
Paraguay	2015	At first was regional but has been extended. Includes persons with severe physical disability (no threshold), with severe motor disfunction, or critical illness, preventing their attendance to polling stations. Requirements are subject to inspection or validation by the electoral management body. No age limit is set to access the programme, but the number of possible beneficiaries cannot surpass 0.05 per cent of all enfranchised voters.
Dominican Republic	2016	Initial project limited to a 100-person universe, randomly selected from a database including all persons with a severe disability that keeps them from going to a polling centre.

Continue...

Country	Initial year	Main characteristics
Honduras	2017	Pilot project in two cities, less than 20 lucid persons of over 65 years of age whose mobility was reduced past the 60 per cent threshold.
Mexico	2018	Pilot project where a ballot box was installed inside one hospital in each of the 32 states of the country to facilitate voting on Election Day for inpatients, relatives or caregivers, and personnel on duty. The only ballot box to also be mobile to be transported to the patients' rooms was the one in the hospital of the national capital city.

Ecuador is the pioneer in the region to adopt this mechanism. In conformity with the provisions of the 2008 Constitution on the promotion of political participation of the persons with disabilities, and with the commitments from signing the Convention on the Rights of Persons with Disabilities, the National Electoral Council implemented a small pilot in 2013 that was gradually enlarged to the point that, in the 2017 elections, it was an already national programme that included the capital cities and some of the cantons of the 24 provinces of the country.

It is specifically targeted towards persons whose disability is equal or greater to 75 per cent and who are at least 65 years old. Eligible persons for the “mobile ballot box” programme are identified through information provided by the Ministry of Public Health. The electoral authority visits those who meet the requirements to find out if they are interested in (and are in conditions to) taking part in the programme. It is upon the express declaration of the voter that a special voter registry is put together, along with the route proposals to attend to them, for each mobile ballot box can only visit a maximum of 18 voters. This is an early voting mechanism that is carried out two days before Election Day. From the end of the advance voting until the votes are counted, on the afternoon of Election Day, the mobile ballot boxes are kept under the custody of the armed forces.

It must be noted that, even though this mechanism is only accessible to persons with disabilities who meet very rigorous requirements, it is part of a larger and comprehensive set of measures to further the inclusion and political participation of greater segments of persons with disabilities, especially for voting at the polling site, that can benefit other groups of the electorate.

In any case, the Ecuadorian experience has become a reference of great relevance for other comparable initiatives that have been deployed, so far, in another four countries of the region: Paraguay, the Dominican Republic, Honduras, and Mexico, in that very order. Furthermore, there were even collaboration agreements or exchanges between the electoral authorities of Ecuador and those of the three first countries for the design or implementation of their mechanisms.

The four countries that have replicated this kind of mechanism have also decided to follow a gradual and selective development, hence beginning with small scale pilot projects. The first country to adopt a similar model was Paraguay. A pilot project of “home voting” was put in place in six electoral districts during the 2015 municipal elections and was broadened to eleven districts at the 2018 general elections.

When compared to the Ecuadorian, it shows some particularities. On the one hand, in addition to persons with severe physical disabilities (for which no threshold is set), those whose serious motor dysfunction or critical ill health prevent them from attending their respective polling station are also included. These conditions are certified, either by a qualified professional and/or through an inspection (or validation) by representatives of the electoral management body. There is no age limit to access home voting.

On the other hand, however, it is established that the whole of beneficiaries cannot surpass the 0.05 per cent of all the enfranchised voters in the corresponding district, which can obviously have a restrictive effect on its coverage. Even though the mechanism is (as the Ecuadorian) conceived to bring the ballot box to the personal domicile of the registered voters, the applicable legislation explicitly bans inpatients in medical, psychiatric, or health facilities (or the like) from benefiting from it.

Despite that, the Paraguayan case is notable because its home-voting mechanism is part of a greater and comprehensive “accessible vote” project which includes other instruments and actions aimed to facilitate and guarantee the full inclusion of persons with visible or invisible disabilities, as well as of pregnant women or with breastfeeding babies, and persons over 75 years of age.

The Dominican Republic was the third country to introduce this practice for the 2016 general elections, when a limited universe of 100 persons was randomly selected from a database of persons with severe disabilities that prevent them from personally going to a polling centre. In this case, if needed, the documents required to vote were issued or updated for the selected persons.

In 2017, Honduras furthered a small pilot project in two cities in which less than 20 persons whose mobility reduction was over 60 per cent, were mentally healthy, and over 65 years of age took part.

The region's catalogue is complete with Mexico's 2018 pilot project. It consisted in the installation of a ballot box at one hospital in each of the 32 countries' states so that inpatients, their relatives or caregivers, and the personnel on duty cast their votes on Election Day. The only hospital where the ballot box was also mobile, and could be brought to the patients' rooms, was the one in the national capital city.

3.2. Extra-regional comparative overview

As it was previously mentioned, nowadays, the range of options that can be provided to the electorate to make it easier for them to vote (including, of course, the mobile ballot box) is quite broad and diverse. If the objective is to furnish the electorate with the most favourable voting conditions in an election or referendum, hence overcoming almost any time and space barrier, and if resources are available to design and implement several mechanisms, then it is nearly impossible that a person genuinely interested in expressing their preferences to find any pretext not to do it.

In addition to in-person alternatives, like early voting or the mobile ballot box, there are remote ones, like postal voting, and even those that were unimaginable until very recently if it were not for the use of new information technologies, like voting over the telephone or the Internet. Although those have certainly been devised to benefit larger segments of the electorate than the ones confined (or

not) for reasons of disability, illness, or age, they can somewhat easily be focused on them and be adapted for their needs.

It can be achieved if there is will and resources. However, there is an ingredient that is just as important, but much scarcer or limited in our societies, and in whose absence even the best intentions succumb. It is about distrust between uncompromising adversaries regarding the impartiality of the electoral regulations, institutions, and procedures, and the fairness of the rules of the contest. When that set of elements are trustworthy and credible in the eyes of the contenders, the electorate, and the public opinion in general, adopting and adapting those mechanisms to the specific needs of certain groups is certainly easier.

From an extra-regional comparative perspective, some experiences aimed to easing the access to the ballot boxes that target groups of persons who (due to a disability, health problems, or age) are not able to attend their polling station can be highlighted. In Australia, where voting is mandatory, while all voters may apply for postal voting at each election, persons with disabilities or mobility restrictions are eligible to become general postal voters (and have the ballots papers sent to their domicile without filling an application form every time a federal election is announced).

Persons who are blind or have low vision can request the electoral authority, the Australian Electoral Commission (AEC), to have access to the telephone voting service and cast their votes from their own homes. Besides, the AEC enables mobile polling teams to visit not only hospitals or nursing homes for the elderly, but also prisons and remote areas.

In the United States, the absentee vote (essentially a kind of postal voting) is very common. The electoral legislations of all the states of the Union include provisions to operate mechanisms where the ballot papers are sent over the post to the domicile of the persons who, for justified reasons, cannot attend to the polling stations on Election Day, which obviously benefits the persons with disabilities and with severe or chronic health problems. Although the terms, deadlines, and

requirements to access this service vary from one state to the other, common practice is that it must be requested and used some days ahead of the elections. In addition, most of the states also consider the possibility of issuing “emergency absentee ballots” to the persons who notice too late that they will not be able to attend to the polling stations and did not apply for postal voting in time.

Despite the requirements varying from one state to another, the most common reasons to grant access to emergency absentee ballots are related to medical emergencies or sudden injuries whose treatment calls for confinement to a medical facility or being bedridden. Because of its nature, it is a remote voting mechanism, but it does not operate using the post. In general, both the application form and the vote must be delivered by a person close to the voter at the corresponding electoral office.

Canada is a country that stands out because inclusion-oriented legal reforms and mechanisms to encourage and facilitate voting have been furthered for almost three decades now, and special attention has been paid to the needs of persons with disabilities. For that reason, the means in place, both federally and in most of its provinces, to achieve accessibility are divided into two major sets. On the one hand, alternative voting mechanisms, namely, postal voting, advance voting at accessible venues, proxy voting (where voters formally enable someone they trust to vote on their behalf), or mobile polling stations at long-term care facilities. On the other hand, favourable in-person voting conditions at the polling stations, such as accessible formats and assistive tools, as well as the option of being assisted by a person the voter chooses or with the help of interpreters.

Although occasionally questioned about how they function, Central and Eastern European countries (Azerbaijan, Belarus, Georgia, Kyrgyzstan, and Ukraine, among others) have been using mobile polling stations for some time. In general,

they carry out on Election Day, and target persons with disabilities or ill, so they visit private residences and health care and nursing facilities. Turkey is one of the countries that recently joined this category. The first mobile ballot box operation was implemented at the 2018 general elections targeting persons who could not go to the polling stations due to disability, illness, or age, although a medical certificate was required for them to be included.

4. Favourable conditions at the polling stations (accessible, assisted, and/or priority in voting)

4.1. Overview of Latin America

The progresses of the region are notable in this matter. All the countries have specific programmes or measures in place to make in-person voting accessible for voters with disabilities, of which other segments of the electorate also benefit. In most of the cases, they are laid down in the legal framework, but some also stem from agreements or initiatives furthered by the electoral management body (sometimes in coordination or with the collaboration of institutions or associations related with the beneficiaries).

Most of the mechanisms of these programmes are usually implemented on Election Day. However, there are countries where some are launched beforehand in preparation to the assistance envisaged for Election Day. Table 5 shows some of the region's main mechanisms or measures of this kind that focus on the attention to persons with disabilities but are not necessarily limited to them.

Table 5
Measure to facilitate in-person voting

Stage	Measures
Before Election Day	Voter registration at home Identification of needs during the registration process
On Election Day	Free transportation to the polling station Accessibility to the polling station Priority information and attention table Priority polling station Special furniture and materials Assistance from a third-party to cast the vote

In Costa Rica or Dominican Republic, for instance, electoral registration at home of persons with disabilities is carried out. Activities of the kind also take place in Bolivia, although the focus there is on meeting, attention, or care centres for persons with disabilities. In other countries, like Colombia, Peru, or Venezuela, measures are taken while putting together or updating the electoral rolls to identify the voters with disabilities and anticipate the assistance that could be provided on Election Day when they arrive to the polling station.

In recent years, systematic efforts have been made in the region to adopt measures on Election Day that can facilitate the access to polling stations for persons with disabilities. But, at the same time, they also benefit other segments of the electorate, like the elderly. Among the most common are the building of access ramps or removing physical barriers that hinder access to the venues; installing polling stations on the ground floor of the selected venues, or at least, those where persons with disabilities cast their votes.

In Costa Rica, the installation of polling stations in upper floors or inaccessible venues is forbidden. As part of Paraguay's comprehensive "accessible vote" programme, an information desk is available at every polling centre to provide orientation and support to persons with disabilities, people over 75 years of age, pregnant women, or any other person in need of help. Moreover, one or several

accessible polling stations are installed for all those voters, who can request their use through the electoral authority's website, call centre, or registration offices. In Ecuador, not only does the electoral management body also install a specific polling station for these groups of voters, but a free volunteer transportation service is also provided to the persons with disabilities from their home to the polling station and back.

Countries where no specific polling stations are installed to attend certain groups of voters do have general guidelines for them to take precedence at their corresponding polling stations, meaning they do not have to queue for voting. Additionally, some countries (Colombia, Costa Rica, and Mexico, among them) have modified and adapted the design and characteristics of the furniture where the electorate cast their votes, privately and in secrecy, to the specific needs of persons with disabilities. Likewise, in some other countries (of which Paraguay is a clear example), other support materials are made available, for instance, magnifying glasses, grip adapters for ballot-paper-markers, or voting instructions in accessible formats, such as sign language or audio-visuals.

Although, seemingly, a large share of persons who are blind are not familiar with Braille, the availability of Braille-voting instructions and -guides to identify the candidates on the ballot paper is widely extended through several countries in the region (Bolivia, Colombia, Guatemala, Mexico, Peru, and Dominican Republic, among others).

Now, basically all countries of the region have an "assisted voting" mechanism for persons with disabilities (mostly visual), or with a permanent or transitional impairment that restrict, or altogether prevent, them from voting by themselves (reading and/or identifying the options and/or marking the ballot paper). It works by allowing persons with disabilities to receive help for voting from someone they trust, and in some cases (like in Argentina or Bolivia) by the presiding officer of the polling station, or even (Bolivia) by a randomly selected queueing voter. Since, almost by definition, this practice supposes consent to the necessary infringement of the principle of secrecy to uphold the right to vote, some security

measures are taken for its exercise. For example, assistants must satisfactorily identify themselves and be eligible voters, and their personal details must be recorded on the relevant electoral documents. In some cases, as in Chile, one person cannot assist two or more voters. Nevertheless, it is a controversial measure through which some kind of coercion, induction, or deliberate alteration of the voter's choice can be exerted. It is even more controversial in residual cases (like Venezuela's), where a reason to request assistance for voting is being "illiterate".

An even more peculiar variation to vote subsists in Costa Rica and Honduras. Voters that opt out of assisted voting can express their preference aloud. In this exceptional case, the presiding polling officer reads the options available to the voters, so that they can answer their choice out loud, and the ballot paper can be marked accordingly.

In any case, sight must not be lost from the fact that, aside from all the doubts and reservations that can be raised, these are mechanisms devised to facilitate and encourage the vote of persons with disabilities and other beneficiaries that can, most likely, be improved or replaced for others that are safer and more effective, particularly given the options available through the development of new technologies and the evident perseverance for the advancement of political and electoral accessibility and inclusion.

Before ending this section, it must be mentioned that most of the mechanisms, measures, or actions that have been adopted in Latin America to further the electoral inclusion of persons with disabilities deal with a variety of physical disabilities or psychomotor disorders. But, as positive as that is, there is another set of disabilities that, despite being acknowledged by juridical instruments and specialised institutions and organisations, continue to be overlooked (due, probably, to their complexity) at inclusion debates and initiatives. Persons with intellectual or psychosocial disabilities even continue to face legal restrictions regarding their political rights.

Even if, in theory, many of the electoral inclusion and accessibility mechanisms for persons with disabilities implemented in the region can include the persons with intellectual or psychosocial disabilities, truth is, there is no clear evidence that there is an express intent for that. Plus, legal restrictions are still applicable in some countries that keep these persons from enjoying and exercising their political rights.

4.2. Extra-regional comparative overview

During the last few years, there has been a noticeable formal advancement, especially in some European nations (among them, Austria, Croatia, Spain, Italy, the Netherlands, and the United Kingdom), in which all legal restrictions and discriminatory measures against political rights of the persons with disabilities have been repealed, following a particular progressive trend in favour of persons with intellectual and psychosocial disabilities.

The most recent was in October 2018, when the Congress of Spain passed an electoral reform allowing persons with intellectual disabilities, mental illness, or cognitive decline to vote and run for elective offices. Thus, the possibility that any court or judge can decide whether a person with any of the aforementioned problems is able to exercise their political rights is completely ruled out.

On an executive or operational plane, the current development and implementation of new technologies (which go beyond information and communication, as it is frequently presupposed) offer a very broad set of devices, mechanisms, and procedures that make it possible to address almost any demand or necessity, and guarantee and facilitate the enfranchisement of persons with disabilities, with health problems, or the aged. That is, of course, if there is political will from the authorities and the interested groups.

The range of available alternatives is very illustrative and representative once the options available in the Latin American are considered.

In India, voters with disabilities or with reduced mobility can register themselves through the electoral authority's website, where they can also request that preparations be made for them to vote, but they must cast their vote personally at a polling station. Among the favourable voting conditions available, aside of taking precedence at accessible polling stations installed on the ground floor, are the free use of public transportation to the polling station, a special area to park their cars, and wheelchairs at the venue.

5. The LGBTI community

One of the most eloquent manifestations of the impact the efforts and initiatives of the international community to further and protect every person's human rights to the maximum in an environment of full respect to plurality and diversity have had is, without a doubt, the emergence of movements and communities that vindicate several gender identities and sexual preferences, which are usually grouped under the acronym LGBTI.⁸

In most contemporary societies, especially those of less developed and non-western countries, the main demands of these movements and communities are related with the guarantee and respect of basic human rights (particularly civil and social), which succeed among many socio-structural and legal obstacles and difficulties, as well as cultural and even religious.

It is possible that those demands will gradually emerge or be closely related with the community members' political rights. While it is not yet a priority in their agenda, as there are other challenges they face, some knotty problems regarding their political and electoral participation can already be identified, for which some concrete interventions have been demanded and addressed.

For now, the most visible are those of trans people (including cross-dressers, transgender, and transsexual) because of the evident lack of correspondence (under the conventional male-female binary parameters) between the name and gender identity they vindicate for themselves, and the ones originally assigned to

them at the civil registries and the subsequent identification documents. That is, persons who perceive (and declare) themselves to have a gender identity different to the biological status they were assigned at birth (sex).

While the lack of correspondence between a person's name and perceptible physical features (gender expression) and the data recorded in their official documents (name and sex) can result in discriminatory or offensive actions, it can also hinder, complicate, and even nullify the right to active and passive suffrage: to vote and to run for an elective office. Hence, this group's demand that their gender identity (name and sex, or even a whole new suitable identity) be legally recognised have important implications for different spheres of the social life, including the political and electoral.

In this sense, a fundamental problem is that civil registry and personal identification laws or criteria in many countries continue to be based on binary parameters (male/female), or on obsolete gender notions in an era of an enormous identity diversity. Nowadays, not only do people change their political opinions or preferences, their residence, or civil status over time, but even between elections. They can also change their gender identity or sexual preference. According to internationally recognised and accepted principles and rules on human rights, those changes should not affect, interfere with, or invalidate their electoral rights and abilities.

Therefore, the focus of this study will be, on the one hand, in the possibility that transgender people can change or correct their name and/or gender on their official records or documents, so that they do not have to face any obstacles to exercise their political rights freely and without any kind of discrimination. On the other hand, should the option to change their identity be blocked or be too complex from a juridical point of view, on concrete administrative actions to ease or make it viable to exercise those rights.

5.1. Overview of Latin America

Because of its nature, for it to be possible to introduce changes to the official identification records and documents to make them coincide with the identity vindicated by trans persons, the legal framework must be adjusted, be that through legislative reforms, judicial sentences, or executive decrees. In any case, it means putting a lot of effort into procedures and lobbying to confront opposing misconceptions and prejudices that are deeply rooted in culture and religion, as well as removing questionable legal requirements that have been established to proceed with the demanded changes.

Historically, trans people have been considered to suffer a pathological disorder, and it was not uncommon for them to be forced into different treatments to try to “rehabilitate” them. Therefore, it has also not been unusual that (according to the applicable legal framework when requesting a modification in the official records and documents) requirements, which in some cases are still current, like a judicial permit, a medical certificate from a specialist, or even proof of hormonal treatment or surgery, were established. With that in mind, the advancements in the region are far from negligible, and its progressive tendency is quite remarkable.

Even though the regional overview is heterogeneous, there is an evident positive trend to guarantee or facilitate that trans people can legally adjust their gender identity, with which the issue of exercising their political rights according with their new identity features is also solved, or, at the very least, some of obstacles are overcome and there are administrative tools that favour it. Table 6 summarises the countries with legal instruments that allow the modification of identification documents or with mechanisms to facilitate the exercise of political and electoral rights.

Table 6
Countries that allow changes according to the identity of transgender persons
or that facilitate the exercise of their rights

Country and adoption/ initial year	Legal instrument or guarantee	Changes in the identification document
Argentina (2012)	Law on Gender Identity (Ley No. 26.743)	Name Sex Picture
Bolivia (2016)	Law on Gender Identity (Ley No. 807)	Name Sex Picture
Brazil (2018)	Sentence of the Supreme Federal Court	Name
Chile (2018)	Law on Gender Identity (Ley No. 21.120)	Name Gender
Colombia (2018)	Decree 1227, approved by the Ministries of Interior and of Justice	Name Sex
Costa Rica (2018)	Decree 7-2018 of the Supreme Court of Elections	Name (Sex is removed)
Ecuador (2016)	Organic Law on the Management of the Identity and Civil Data	Name Gender
Mexico (2018)	Sentence of the Supreme Court of Justice and Protocol issued by the electoral authority	Protocol to facilitate voting
Peru (2016)	Sentence of the Constitutional Court (No. 06040-2015-PA/TC)	Name Sex
Uruguay (2009 and 2018)	Law on the Right to Gender Identity and Comprehensive Law for Trans People	Name Sex

Source: Self-elaborated for this case study.

There are ten countries with juridical instruments or mechanisms by which the right to name change is recognised, and in most also of gender, is possible administratively, and without any judicial intervention. In five of those countries (Argentina, Bolivia, Chile, Ecuador, and Uruguay) the rights are established in national laws on identity. In two (Brazil and Costa Rica), the foundation are judicial

resolutions from higher courts. In Colombia, a presidential decree. In Mexico, there is a judicial resolution and favourable provisions in the legislations of most of the states, but for political and electoral purposes, the electoral authority has had a key role.

In Argentina (2012), Bolivia (2016), Ecuador (2016) and Chile (2018), there are national gender identity laws that allow persons of full legal age to change their name and sex without the need of undergoing (or proving they have undergone) through any hormonal therapy or surgery. In Argentina, the law even establishes the inclusion of all necessary medical treatments for the transition in the mandatory medical service. In Bolivia, a technical psychological examination is required to substantiate the change. In Ecuador, the law on the management of the identity and civil data requires two witnesses to vouch for the “self-determination” of the applicant through, at least, the two previous years. In Chile, it is possible to make the change even for teenagers between 14 and 18 years old, as long as there is a favourable resolution from a family judge to an express consent petition from the parents or tutors. While Uruguay is the region’s pioneer on the adoption of a gender identity law (2009), and unlike the laws that followed, only name change is allowed for trans people.

In Brazil, the Supreme Federal Court passed a resolution in 2018 that allows trans people over 21 years of age to change their name at the civil registry without the need to undergo sex reassignment surgery, which until that moment was a requirement. Also in 2018, and in consequence to an advisory opinion on gender identity issued by the Inter-American Court of Human Rights to Costa Rica’s express request, the Supreme Court of Elections, being the fourth power of the State, authorised the administrative (desformalizada) name change for reasons of self-perceived gender identity on the national identity card, although specifying that it could only be done once.

In Mexico, where everything related with the civil registry falls under the responsibility of each of the 32 states of the federation, there have been some important advances. On the one hand, from a judicial point of view, the Supreme Court of Justice established a first precedent with a favourable resolution to a writ of amparo from a

trans person requesting the rectification of the data recorded in their identification document. Meanwhile, on the legislative plane, Mexico City (the country's capital city), was the first state to pass legal reforms in 2014 to acknowledge the rights of trans people and make it possible for them to have their name and gender changed administratively, with no medical requirement whatsoever. Another three states have also adjusted their laws with that purpose. However, it is because of the actions taken by the electoral authorities to facilitate that trans people exercise their political and electoral rights that the Mexican case stands out. There are referents to the registration of trans people to run for elective offices (the first of which was the approval to register a candidate under the desired name for the ballot paper of the 2003 federal elections), and with guaranteeing and facilitating the vote of the trans community. The first precedent for that also happened in Mexico City, whose local electoral management body issued a notice in 2012 to instruct all electoral officers, and the members of polling stations specifically, to guarantee and facilitate that trans people could vote.

In 2018, for both the federal and local elections (which were carried out in 30 of the 32 states of the country), the national electoral management body approved a protocol to guarantee that trans people could cast their vote in equal conditions and with no discrimination. The protocol was the result of a long planning, consultation, and deliberation process with political parties, public institutions, specialised civil society organisations, and representatives of trans associations from all over the country. It contains punctual measures to facilitate voting on Election Day, and it also provides guidelines for previous training and to encourage the members of this community to cast a free and reasoned vote.

At a regional level, it can also be noted that there is another group of countries (which includes El Salvador, Guatemala, Panama, and the Dominican Republic) where name change is possible, although judicial requirements are in place, making it too complex and even inaccessible for a group that, almost by definition, suffer from social stigma, discrimination, and mistreatment. Nevertheless, in some countries, like El Salvador, the electoral authority has also furthered awareness and orientation campaigns to encourage the vote of trans people.

It is important to take notice that there are no legal provisions prohibiting members of the LGBTI community to stand for office in any of the Latin American countries. In fact, they have been candidates for different public offices in several countries of the region (and around the world, particularly in Europe and the United States), and have accessed those positions, even at the national level. In many cases, it is not an issue of legal restrictions being in place to prevent their participation, but existing socio-cultural circumstances that end up inhibiting, discouraging, or hindering their legitimate intent to stand for office.

It is in this context that a very recent initiative in Mexico stands out. The Mexican electoral authority issued an agreement for the 2021 federal legislative elections that required political parties to nominate at least three candidates representing the LGBTI community, two for single-member constituencies and at least one in their proportional representation lists. While this requirement does not guarantee their parliamentary representation, it does provide a way to encourage their political and electoral participation. Apropos, that agreement issued by the National Electoral Institute of Mexico also required political parties to also nominate as candidates for that election at least four African-Descendants and eight persons with disabilities, which also had to observe the principle of gender parity.

5.2. Extra-regional comparative overview

The international comparison of laws on this topic shows noticeable differences. In one extreme are about 70 countries, mostly from Africa and Asia, where homosexuality is illegal and can even be punished with death penalties.⁹ Needless to say, there is no possibility in these cases for any person of the LGBT community to claim and exercise any kind of rights if not within the conventional binary sex and gender parameters.

From there, variations of greater advancements unfold until the vindications of political rights are granted through laws and measures that guarantee full respect and favourable conditions for their exercise. Once again, while history and culture,

in addition to contextual factors, seem to make a difference, the advances are not homogeneous.

It is not a surprise that Europe is the most favourable region for trans people to claim and exercise their political and electoral rights. In spite of that, with the data available to 2016, most countries (including Croatia, France, Greece, Norway, Romania, Russia, Serbia, and Ukraine) required some kind of certification of medical treatment, or surgery, to grant a request for administrative gender change.

Once more, the peculiar federal model of the United States leaves the laws on identity under the jurisdiction of each of the 50 states, so there are important variations in relation with the likeliness and requirements for name and/or gender change on the official records and documents. In recent years, to address security and migration problems, the laws and the identification requirements have toughened, which, according to specialists and representatives of the trans community, is disproportionately affecting trans people, especially in relation with their political and electoral rights.

Under those circumstances, the vote encouragement work of the National Center for Transgender Equality, a civil society organisation that advocates for transgender rights is noticeable. In political and electoral matters, the Center conducts a permanent information and orientation campaign in which they highlight that “having [an] ID that doesn’t match your gender identity or presentation should not affect your right to cast a ballot”. Their campaign is supported by a website that provides broad information and assistance about the measures that can be taken to exercise their right to vote, including postal voting or demanding to cast an “observed” vote, depending on the rules and procedures available in each of the states.

About this topic, it is worth mentioning some of the recent developments in some South Asian countries. Aside of the typical socio-economic disparities, their religious, ethnic, cultural, and sexual differences are as ancient as they are particularly evident. Despite that, they are very conservative societies in which many

minorities, especially sexual minorities, have been recurrent victims of persecution, violence, and harassment.

In India, where (beyond individual expressions) there is a myriad of socio-cultural transgender groups (of which the most notorious is that of the hijras/kin-nars), the Supreme Court of Justice passed a sentence in 2009 that recognised the third gender, so they could claim their rights, including that of their new identity. From that moment on, the Electoral Commission allows the registration and exercise of political rights under the new gender identity. In Pakistan, the Parliament approved a law in 2018 allowing the persons to choose a third gender, which also brought immediate effects from trans people both in the vindication of the right to vote and in the nomination to elective posts. Although no information was found about the impact on the political and electoral plane, there is evidence of judicial resolutions for trans people in Bangladesh and Nepal.

6. Persons with no fixed abode or experiencing homelessness

Whether it be due to factors imputable to the nature of the world economic system, or for strictly personal circumstances and decisions, there is practically no society in which many persons wind up living outside certain conventionally accepted parameters (especially that of a domicile or fixed abode) and find themselves sleeping rough.

The spectrum of reasons for that to happen, and the many different variations of that circumstance, can be very broad and even differ from one context to another. The lack, loss, inadequate remuneration, or instability in a job, a disability, a chronic illness, a personal tragedy, a natural disaster, or an addiction, can all be causes that justify or explain that people end up with no home, or the need to live in the open. A good share of those reasons is thought to be shameful or can cause groundless social prejudices. It is assumed, without real or convincing evidence, that the persons lack the will or the interest to overcome their circumstances, hence their political and electoral apathy or disinterest.

However, there are situations in which, beyond social prejudices, the humanitarian, social, and, eventually, political and electoral implications are far more reproachable. For instance, those who have been living in the streets ever since their infancy, by the time they become adults, in addition to sleeping rough, they have no identity documents, so they cannot access, nor demand, their fundamental rights.

The problem for most of these persons lies in how difficult (or even impossible) it is for them to obtain, or renew, their identification documents, which would allow them to exercise their fundamental rights, or to benefit from public programmes or services. Ultimately, exercising their political and electoral rights is an unsurmountable task.

Strictly from the political and electoral perspective, providing information of a domicile or a fixed residence (as well as a valid identification document) is a critical juridical and institutional element. Recording that information is essential for electoral purposes, in particular when it is not automatically obtained from the civil registry. Consequently, in most jurisdictions, it is a requirement for enfranchisement and for standing for office.

The panorama continues to broaden and complicate further when it is considered that there are other segments of the population in practically every country in the world who, without falling into any of the aforementioned categories or being in any of the previously referred circumstances, do not have a fix abode, at least in its most conventional sense. They are, for example, living in docked boats, in campers, or sleeping over with relatives or friends, or are even seasonal migrants.

In summary, the spectrum of variations that can be considered under this topic is too broad. Hence, the Latin American review will be succinct, and some illustrative examples from other regions will be offered.

6.1. Overview of Latin America

The narrative will be brief. There were no general or institutional rules, mechanisms, programmes, or campaigns to encourage or facilitate that people with no fixed abode or sleeping rough could exercise their political rights found in any of the countries of the region.

The demands to adopt and implement the necessary measures can, by all means, differ between countries according to the laws, criteria, mechanisms, or

requirements to issue, replace, or update their identification records and documents, in the understanding that in most (except for Mexico and Uruguay) there is one single or national identification document that is used to both register and to vote.

In consequence, the possibility to go through the procedures, or meet the requirements, can vary between the different aforementioned categories of persons. Surely, the barriers are quite different depending on who is facing them. A person living in a vessel or in a caravan could ultimately provide the address of a relative or friend, while someone sleeping rough has no possibility of providing any address, especially if they grew up and became adult in those circumstances and has no official identification document or any means to prove their identity.

There are testimonies from persons who had the individual determination to overcome the legal and administrative obstacles to, despite having no fixed abode, register as voters and/or cast their votes. The emphasis here is that, so far, those are success histories driven by individual efforts and motivations, and not the result of express regulations or strategies designed for that purpose. This is a pending issue for most of the countries in the region.

6.2. Extra-regional comparative overview

Although in practice there is no territorial jurisdiction in which a person is not required to produce an identification document and provide an address to be enfranchised and vote, there are some that do consider the situation of different groups of people who have no fixed abode and for whom alternative procedures or measures are foreseen to allow them to claim and exercise their political rights.

In the United States, for instance, there is a National Coalition for the Homeless that (in the understanding that in all states of the Union people experiencing homelessness can register and vote) offers information, guidance, and support so that all interested persons can comply with the requirements established by each state's legislation for those purposes. Once again, even if the requirements

and procedures vary from one state to another, alternatives like requesting the issuance of some identification document, or asking to be included in the electoral registry by providing the address of some community centre or shelter where the persons go for food or to stay for the night stand out. It is worth noting that in some states, like Colorado, Florida, Maryland, or Virginia, even references to a park or a corner where they spend most of their time or where they sleep rough are allowed.¹⁰

In the United Kingdom, the law establishes the possibility that people with no fixed address, who live in a boat or in other kind of mobile residence, or who belong to a nomad community (among others) can register to vote, and the electoral authority provides information and orientation so they can do it. They all need to fill a form called "Declaration of local connection", in which they provide the address of a place where they spend a substantial part of their time during the day or night, like a shelter or a community centre.

In Australia, unlike the rest of the electorate, people experiencing homelessness are not required to vote, although they can do it according to their last permanent address. In New Zealand, an address is also necessary to enrol as voter, but it can be that of all kinds of community or assistance centres, and of third parties (like family or friends), and there are even campaigns in which different organisations of the civil society offer the addresses of their venues.

In Canada, the possibility of people with no fixed abode to register and vote is expressly acknowledged. Still, they must prove their identity and provide an address, for which the law admits the use of library cards, social insurance cards, or fishing licenses. While to prove the address, an official letter called a "Letter of Confirmation of Residence" provided by shelters where the persons go for food or lodging. Ultimately, should a person have no identification documents, they can declare their identity and address in writing and have someone from their same polling station who knows them vouch for them, for which they themselves must be able to prove their identity and address.

India is a peculiar example. In 2014, the electoral authority of the capital city began to implement an operation to provide identification documents to homeless people who were at the facilities offered by the government (mostly in tents) to live and/or stay the night. Aside of voting, the issuance of the electoral identification document allowed them, for the first time, to have the possibility to get a gas connection, open a bank account, get a driving licence, or travel by train.

THIRD SECTION:

Mechanisms for and guarantees of political representation

This section is focused on groups for which the concept of political and electoral inclusion has advanced to the point in which there are mechanisms to encourage, and even guarantee, their political representation through the access to elective offices. The groups considered are: the youth; indigenous peoples or other ethnic groups; diaspora; and women. Different political objectives can be pursued through those mechanisms and guarantees, from settling historic debts to solving cohesion, legitimacy, or governability problems, not to mention the elemental principles of social justice and equality.

The fact that with these groups in particular (as well as with some others that in other contexts might be necessary or relevant) mechanisms of inclusion and political representation are privileged, does not necessarily mean that other electoral inclusion demands or challenges does not exist, much less that other demands like the ones raised in the previous section are resolved. On the contrary, it only implies (if it can be put in these terms) that their inclusion demands are of such density and magnitude that they receive and require a comprehensive, all-inclusive, attention and response.

7. The youth

There is a reason for the incorporation of a chapter devoted to the youth in this study, but for dimensioning it properly some preliminary considerations are called for. The first one is that youth is not, in rigour, a sign of identity, as those of the other social groups considered here. It is not related to having or acquiring specific self-perceived or externally assigned socio-cultural attributes or features, nor is it of a stable or permanent character, and neither is it an exclusive social situation or condition of distinct segments of the population. It is but a condition or chronological stage every human being goes through. Save for fatalities, there is no single person who must not navigate through it as part of their development and vital experience. Focusing on, referring, or addressing to young people ends up relating to all individuals without any exception at one specific stage of their life. It is strictly on the basis of a chronological, temporary, common, general, inescapable, and transitional factor over which all persons are included, or excluded and discriminated, namely, race, creed, gender, or any other socio-cultural construction, feature, or attribute.

The second is that no universally recognised or accepted chronological parameter or age range on who are to be conceived as youth has been established, nor to whom are the policies or programmes that expressly claim to target them aimed for. The segment of the population that is to be understood as juvenile, usually varies between jurisdictions or institutions, and even depending on the specific objectives or scope of the programmes or projects. There are some age ranges or parameters, but none which definitely or homogeneously delimits that universe.

If youth refers to a common (although invariably transitional) chronological stage for all human beings which is not universally delimited, designing and assessing the impact of medium- and long-term policies turns out to be quite problematic simply because the population to whom they were originally targeted, or in which the efforts were focused, will have most probably mutated its age situation or condition by the time the results are expected.

The previous digressions are motivated by the fact that specialised and common literature alike continuously state that young people are not involved in matters of public interest, let alone take part in them, so they do not participate in electoral processes. Data on the turnout of young people is offered as a corollary to a self-fulfilling prophecy. Highly precise statistics is used to gather specific data of electoral processes in which the turnout of young people (however they are defined, although always referring to the lowest age group) is proved to be the lowest or one of the lowest percentages.

This interpretation of the data oversees that the evidence provided is temporary or episodic. If it were true and constant through time, the turnout indicators would show a systematic decrease (and, at some point, a steep drop) as the once young people who did not vote continued to not go to the polls as they grew older. That is not at all what the evidence (the synchronic voting patterns) proves. What it proves is that not as much young people vote (when compared with other age groups) as they go through that condition (where and however it is determined), but that, as they reach other age groups, that tendency is, to a greater or lesser extent, reversed.

The perceptions and concerns about the disinterest or apathy of the youth towards going to the polls, or with their general indifference to all matters of public or common interest, are only soundly founded from a quite temporary and episodic optic. In the current times of globalisation and new ways to perceive and understand the world, but mostly to socially relate and interact through the use of new technologies, it is worth querying the validity of the criteria that are still used to determine or assess the methods or indicators of interest or of political and electoral participation of the new generations.

Resuming the coordinating and guiding axis of this study, it can be sustained that the inclusion of a segment devoted to the young is related, not to pressing impediments or obstacles to claim and exercise their political rights (even though there are some very specific), but to their political representation.

Beyond establishing which is the age range to determine youth in each territorial jurisdiction, or (more appropriately) at which age is majority attained, the importance of this category lies in their representation possibilities and needs at deliberative and legislative bodies.

Youth constitutes, for the purposes of this study, a frontier case, not only because it refers to a social category that (unlike the previous ones) is universal and transitional, but because it starts to change the focus towards issues associated with political representation, instead of with having and exercising political rights.

In consequence, for the regional overview and the international comparative panorama, the focus will be on the adoption of mechanisms to encourage the political representation of the youth, that is, the conditions and possibilities young people have for accessing elective offices, but only at the national level. The reason is that the range of variants to access executive and/or sub-national posts can be so broad and diverse that its processing would easily exceed the scope of this study. Besides, deliberative and legislative bodies is where their presence, representation, and participation are claimed to have a more significant and lasting influence in decision-making processes on issues that call for fresher and more creative vision and proposals which, in most cases, the young, the new generations, are in better position to provide than anyone else.

The previous assertion is mainly grounded on the results of studies conducted by the Inter-Parliamentary Union (IPU) that show that, as of 2018, only 2.2 per cent of parliamentarians in the congresses of 150 countries were aged under 30, although the percentage increases to 15.5 when those aged under 40 are considered. There is no parliamentarian aged under 30 in one third of the congresses of those countries and, if only the higher chambers or senates of countries with bicameral congresses are considered the scarcity amounts to 75 per cent.

7.1. Encouragement of youth political representation in Latin America

It was only recently, August 2018, that a youth quota for the nomination of candidates to all elective offices was first included in the law of one of the region's countries. The new law on political parties and organisations passed in the Dominican Republic orders political parties, associations, or movements to include a 10 per cent of young people aged under 35 in their national candidates' proposal. The legal provision was applied for the first time at the 2020 national and municipal elections.

This is the first case of a legal quota for a national election. To date, no other country of the region has adopted any legal mechanism neither to encourage the nomination of young people to national elective offices, nor to guarantee their representation in national congresses or assemblies.

Despite the lack of national legal mechanisms, it must be noted that, according to the parameters and measurements of IPU, several of the region's parliaments are among those with a greater percentage of young people.¹¹ For example, on its 2018 report, five countries of the region were among the 20 with a greater percentage of young parliamentarians aged under 30 in their single or lower chambers: Venezuela ranked 7th with 9.82 per cent; Mexico, 9th with 7.62 per cent; Cuba, 17th with 5.89 per cent; Ecuador, 19th with 5.84 per cent; and Chile, 20th with 5.83 per cent. This list is headed by Norway, with 13.61 per cent. If the age threshold is set under 40, two of the region's countries are once again among the first 20: Mexico is 8th with 35.67 per cent, and Ecuador is 14th with 34.31 per cent. This other list is headed by Denmark, with 41.34 per cent.

However, legal mechanisms and youth quota experiences for sub-national elective offices do exist in the region, and they precede the national one of the Dominican Republic. In 2006, Peru became the region's pioneer with the introduction of a law for local election's quotas which required that at least 20 per cent of the parties' lists of alderperson candidates were young people aged under 29. Three years later, in 2009, a similar law for regional elections was passed,

establishing that at least 20 per cent of the candidates to the regional (state) council be young people aged under 29.

There are youth quotas in at least two of Mexico's 32 states. In Chiapas, 20 per cent of the political parties' candidates to all elective offices must be young persons aged under 25. In San Luis Potosí, the quota is also of at least 20 per cent of the candidates, but only of those running for alderpersons by proportional representation at the municipal elections.

The study found no country in the region with reserved seats for youth representatives at elective legislative bodies. Neither was a legal regulation or mechanism found to favour youth candidates during electoral contests, such as preferential public funding for their campaigns or propaganda expenditures, or in the access to electoral strip scheduling.

A measure that is usually proposed as a means to encourage youth political participation, and their interest to run for elective offices in particular, is to reduce (or equalise) the gap between voting age and age of eligibility for elective offices. While that seems much more feasible at the local level, and might face less opposition, Table 7 shows the different ages required for voting and for accessing national elective offices.

As it can be appreciated, the usual is for there to be a gap between voting age and the one set to aspire to a national elective office. Moreover, the gap is usually wider to access a seat in the Upper Chamber, and even more for the presidency. As for the age required to be eligible for president, the two extreme cases that stand out are Nicaragua, where it is set at 25 years of age, and Guatemala, where the threshold is established at 40.

Bolivia is the only country in the region where the age for voting and age of eligibility for both chambers of the Congress is the same, as is in Ecuador for its Legislative Assembly, although only in relation with the age for mandatory voting. Half the countries set the age to aspire to a seat in the Lower Chamber or National Assembly, respectively, at 21 years of age.

Table 7
Age for voting and age of eligibility for national elective offices

Country	Voting age	Elective offices		
		Presidency	Lower Chamber	Upper Chamber
Argentina	16	30	25	30
Bolivia	18	30	18	18
Brasil	16/18*	35	21	35
Chile	18	35	21	35
Colombia	18	30	25	30
Costa Rica	18	30	21	-
Dominican Republic	18	30	25	25
Ecuador	16/18*	30	18	-
El Salvador	18	30	25	-
Guatemala	18	40	21	-
Honduras	18	30	21	-
Mexico	18	35	21	25
Nicaragua	16	25	21	-
Panama	18	35	21	-
Paraguay	18	35	25	35
Peru	18	35	25	-
Uruguay	18	35	25	30
Venezuela	18	30	21	-

* Voluntary voting between the ages of 16 and 18. Mandatory voting from 18 years of age.

It is important to point out that (aside from political representation mechanisms) the implementation of several programmes or initiatives to encourage voting, of citizen building or civic education, especially targeting children and young people, are widely extended in the region.

7.2. Extra-regional comparative overview

Despite all the efforts deployed and initiatives furthered in the last years to encourage youth political participation globally, there were not many examples of laws, legal mechanisms, or any other kind of affirmative action found around the world, at least on the political representation plane.

Only four countries were identified to have reserved seats for youth parliamentarians. All four in Africa, namely, Kenya, Morocco, Rwanda, and Uganda. The case of Kenya stands out because the guarantee covers both chambers of the Congress. The one for the Lower Chamber is somewhat inexplicit because it establishes the allocation of 12 out of the 290 seats for representatives from three special groups (youth [aged under 35], persons with disabilities, and workers), although it is not clear if that representation must be equally distributed or not. In the Senate, 47 seats from a total of 68 are elective (the other 21 are appointed), two of which are reserved for youth representatives (one man and one woman), also aged under 35.

Morocco's National Assembly is comprised of 395 seats, of which 30 out of the 305 elective seats (90 are appointed) are reserved for young people under the age of 40. In Rwanda, two of the 80 seats of the National Assembly are reserved for young people aged under 35. In Uganda, five seats of the Assembly are reserved for youth representatives of under 30 years of age, of which at least one must be a woman.

There is another set of countries in which guaranteeing youth political representation has not reached the point of reserving seats, although political forces are

required to include youth quotas for the candidates they register or nominate. In Kyrgyzstan, for instance, political parties are required to include at least 15 per cent of young candidates aged under 35. In Tunisia, at least one of every four candidates must be under the age of 35.

8. Indigenous peoples and other vulnerable groups or minorities

In Latin America, the concept of “original” peoples has been specifically developed to refer to pre-Columbian indigenous peoples who were present in the Americas before the arrival and colonisation of European conquistadores (predominantly Spanish, Portuguese, and English). Despite all the domination, marginalisation, and discrimination processes suffered by the indigenous peoples, they preserve part of their socio-cultural characteristics, and, in most cases, their own languages. Beyond its numeric volume, indigenous peoples are distinct from the dominant majority of the population of the Americas’ societies for their physical (race) and symbolic (cosmovision) features.

In a broader, although not less literal, sense of pre-existent peoples or communities, and even nations, to the arrival and domination of the European conquerors during the Renaissance and the Age of Enlightenment, the term could be easily extended and applied in almost all of Africa and Oceania, and quite a big part of Asia. In any case, and beyond the pertinence of certain analogies, it is paradoxical that in most of the societies of the Americas, indigenous peoples continue to be excluded and marginalised, and that, unlike what happened in almost the rest of the regions and latitudes, the independence or liberation processes did not result in respect for their traditions, the restitution of their rights, or written equality laws, let alone dominant political roles.

From a global perspective (and aside of [or to reinforce] advancements made in some countries), part of the circumstance of the indigenous peoples has been

recognised and started to be modified in the last decades. The Indigenous and Tribal Peoples Convention adopted by the International Labour Organization (ILO) in 1989, where their right to self-determination is established, and particularly the commitments that stem from the 2007 United Nations Declaration on the Rights of Indigenous Peoples, are benchmarks on that regard. They were the foundation to launch, or emphasise, a great number of legal and constitutional reforms in Latin America, as well as initiatives and programmes to acknowledge and guarantee rights in various dimensions, including those of political inclusion and participation.¹²

Given the historical situation and condition of most of the indigenous peoples of the Americas (according to the Economic Commission for Latin America and the Caribbean [ECLAC] there are 826 in Latin America), it is quite contradictory that the current circumstances of the Afro-descendants, which is sometimes much more dramatic than that of the indigenous peoples, continue to be ignored (except for very specific cases).¹³ In that regard, not much can be reported by this study. However, there are some international experiences from other regions on political representation guarantees that include other vulnerable groups or minorities of different kinds.

8.1. Overview of Latin America

Given the marginalisation, discrimination, and exclusion that the original peoples have suffered, and their specific needs to overcome them through the vindication of their legitimate rights, it is not strange that the efforts for their political inclusion comprise a large set of mechanisms and actions. While many of those mechanisms and actions are related or included among the ones designed and implemented to address the needs of other groups or communities that are examined in another study, some others are only relevant purposeful for the members of the original peoples.

Before referring to some of the most distinctive political inclusion and participation mechanisms targeting original peoples, it must be pointed out that, even if there is a certain correlation between the volume, weight, or diversity of the peoples living in each of the national jurisdictions and the variety or intensity of the adopted mechanisms, the commensurateness is not necessarily symmetric. The degree of correspondence differs among countries and can be explained by a great deal of contextual variants than the ones intended for the scope of this study. In this sense, the only thing left to mention is that there is no country in the region, as shown in Table 8, where there is no presence of original peoples.

Table 8
Percentage of population of indigenous ascent or that identify themselves as indigenous

Country	Estimated population	Percentage of total population	Ethnic groups	Examples of major peoples
Argentina	955,032	2.2%	35	Mapuche, Mbyá guaraní, Mocoví, Pilagá, Toba, Quechua
Bolivia	2'800,000	48.0%	36	Quechua, Aymara, Chiquitano, Guaraní, Moxeño
Brasil	896,917	0.4%	305	Tikúna
Chile*	2'158,792	12.8%	9	Mapuche, Aymara, Diaguita, Atacameño, Quechua
Colombia	1'500,000	3.4%	102	Wayuu/Guajiro, Senú, Nasa, Pasto
Costa Rica	100,000	2.4%	8	Huetar, Maleku, Bribri, Cabécar, Brunca
Dominican Republic	-	-	-	-
Ecuador	1'100,000	6.4%	14	Kichwa, Shuar
El Salvador	-	-	3	Nahua/Pipiles, Lencas, Cacaopera
Guatemala	6'000,000	45%	24	Maya, Garífuna, Xinca

Continue...

Country	Estimated population	Percentage of total population	Ethnic groups	Examples of major peoples
Honduras	601,824	7.2%	9	Lenca, Misquito, Garifuna, Maya chortí
México	27'500,000	21.5%	68	Náhuatl, Maya, Zapoteco, Mixteco, Otomí, Totonaca, Tzotzil
Nicaragua	250,921	4.8%	7	Chorotega, Mískitu, Cacaopera, Ocanxiu, Náhuatl
Panama	417,559	12%	7	Ngäbe, Buglé, Guna, Emberá, Wounaan
Paraguay	112,848	2%	19	Mbya, Ava guaraní, Pai Tavytera, Nivaclé
Peru	4'000,000	12.5%	55	Quechua, Aymara, Asháninka
Uruguay**	134,000	4%	-	-
Venezuela	725,128	2.8%	51	Wayuu/Guajiro, Warao, Kariña, Pemón

* The only country in Latin America whose Constitution does not acknowledge indigenous peoples.

** The State still does not recognise the existence of indigenous population in the country and has not ratified the Indigenous and Tribal Peoples Convention (No. 169) of the International Labour Organization, that regulates matters related to the customs and the right of indigenous peoples to preserve and strengthen their cultures, ways of life, and own institutions, as well as their right to effectively participate in the decisions that affect them.

8.1.1. Inclusion mechanisms

Due to their nature and attributions, not only do all electoral management bodies of the region have facilities that allow them to register voters throughout their territory, but they also usually have the programmes or mechanisms to encourage and facilitate the enrolment of people in special circumstances or with specific requirements.

In terms of reach or territorial coverage, those programmes or mechanisms allow the permanent attention, sometimes through focalised actions (like mobile units or brigades), of most of the persons that belong to communities of indigenous peoples, or to other groups or sectors inhabiting remote or secluded areas. Additionally, it is common for those programmes to be preceded or accompanied by information campaigns or documents and materials in the languages of those communities. The coverage, intensity, or effectiveness of those campaigns can vary among jurisdictions depending on the available resources or capacities, but there are widespread signs of will.

Still, in some countries, like Colombia, Costa Rica, Ecuador, and Venezuela, the efforts to especially facilitate the enrolment of indigenous persons or communities is noticeable. In Colombia, the electoral authority implements special enrolment operations for original peoples in secluded areas. In Venezuela, the communities themselves can request that centres to enrol and update their data be installed within their territory. Costa Rica and Ecuador even implement operations to go to the residences of these groups.

8.1.2. Political participation mechanisms¹⁴

There are two different sorts of political participation mechanisms. The first one refers to the traditions of the indigenous peoples that articulate the principles of electoral participation and political representation and are expressed in the acknowledgement of their own methods for the selection and renewal of their authorities (of an invariably local or community nature), or their representatives at legislative assemblies. The second one makes reference to the conventional participation mechanisms to access elective offices. The guarantees and easiness available for indigenous peoples to make up their own political forces or groups and compete for elective offices, as well as those to stand for office through any other political party or organisation, are considered under this second category. In all cases, some of the special incentives that can be granted so that they can compete on fairer conditions are identified.

8.1.3. Acknowledgment of traditional methods for the election of the local authorities or candidates to representative bodies

Bolivia and Mexico are two particularly representative cases of acknowledgement, at the constitutional level, of a set of rights for indigenous peoples, among which are the respect to their traditional (communal) methods or mechanisms to choose their local authorities and even, in the case of Bolivia, the persons who can represent them at departmental (state) assemblies.¹⁵

In Mexico, a constitutional reform in 1995 recognised and guaranteed the right of indigenous peoples and communities to their self-determination and, in consequence, autonomy to, among other things, “choose the authorities or representatives for the exercise of their own self-government according to their traditional rules, procedures, and practices”. This amendment established, at the highest federal law, a system colloquially known as *elección por usos y costumbres* (election by usages and customs) that is quite extended among the indigenous peoples and communities of some areas of the country, but specially in the state of Oaxaca, whose electoral legislation had already recognised (three years earlier) the common law and practices that have been used for hundreds of years to elect the communal authorities. That acknowledgement has been included in other states’ legislations and has been applied for the election of the authorities of their indigenous peoples and communities, but it is in Oaxaca where it stands out because it is used in 418 of its 570 municipalities (Oaxaca is not the most populated state, nor the largest, but it is the one with the majority of the municipalities with almost one fourth of the nearly 2,500 of the country).

Although the system has some variations among the different peoples and communities, in essence, is based on a communal meeting or assembly in which the preferences are openly expressed (by raising hands, or standing around the preferred candidate, or by writing them on a board), and the nominations are usually grounded on merits or service record. Obviously, this system is an alternative to conventional voting and is not necessarily also carried out on Election Day.

It is true that, in rigour, Ecuador was the first country to acknowledge in the text of its new Constitution (promulgated in 2008) the concept of communal democracy as one of the foundations (along with representative and direct democracy) of what is conceived as the interculturalism and plurinationality of the State, which implies respecting, preserving, including, and encouraging, among others, the cultural practices and how all peoples and nationalities (not only indigenous, but also Afro-Ecuadorians and the Montubio [mestizo countryside people of the littoral]). Despite that, the concept has not been developed into any laws or regulations.

Hence the merit of putting into practice, even if not of conceiving, the concept of communal democracy is Bolivia's, whose constitutional text was adopted in 2009, one year after the Ecuadorian. In this case, the concept of intercultural democracy is vindicated as being based on the complementarity of the direct and participative democracy, and the representative and communal one. Even though the electoral law establishes that communal democracy is practiced through "self-government, deliberation, qualitative representation, and the exercise of collective rights according to the rules and procedures of each of the indigenous peoples and nations", so far, and according to their communal democracy rules, that practice has been limited to selecting the candidates for departmental legislative assemblies. The first time it happened was in the 2014 departmental elections when, in the end, the indigenous candidates were elected through conventional representative democracy in several departmental assemblies.

8.1.4. Acknowledgement to their own organisation and political and electoral systems

Another option to try to settle historical debts, grant rights, or favour inclusion and integration processes within national States on the basis of shared principles, has been through recognising or encouraging that political and electoral participation of indigenous peoples and communities, especially to choose or renew representatives to elective offices, is carried out according to their own forms of organisation or that they expressly correspond to their interests.

In most of the region's countries there is (and the law [expressly or tacitly] admits) the possibility for political parties of indigenous affiliation or orientation, or related with their causes and interests, to take part in national or sub-national electoral processes. Because of the principles established in their novel constitutional texts, Bolivia and Ecuador are once again archetypal examples of this dynamic, but it also takes place in other countries of the region, like Guatemala, Nicaragua, or Venezuela.

Bolivia (nurtured by much more than a recent history in which an important conglomerate of typically indigenous social forces was key to the shaping of the government that allowed to devise and pass the new constitutional text) recognises the right of indigenous peoples and nations to nominate candidates for all elective offices.

8.1.5. Political representation guarantees (reserved seats)

The ultimate expression, at least formally, of the acknowledgement of the rights of the indigenous peoples to take part in the deliberation and decision-making processes about collective matters, particularly those of national interest, is the guarantee to a guaranteed representation in the legislative and deliberative assemblies.

Although the candidates representing, or associated with, the interests of indigenous communities can compete and win at virtually any kind of election under representative democracy, there are several legal provisions in the region that guarantee that happens.

Under different terms, there are formal and explicit provisions for the integration of national legislative bodies in four countries: Bolivia, Colombia, Mexico, and Venezuela.

The Bolivian case, which is the result of the provisions in the 2009 constitutional text and the subsequent electoral law, presents some particularities. The first one is that the legal framework establishes that the nine departments (states)

of the country are divided, according to the distribution and territorial weight of the indigenous peoples, into seven special circumscriptions for their representation. The criteria or mechanism for the distribution and delimitation of those seven districts can be periodically revised and adjusted. Given the diversity and territorial dispersion of those peoples and communities, determining and delimiting those seven circumscriptions is, as it can be imagined, quite complex.

Paradoxically, a second distinctive feature is that the candidacies for the seats of those seven circumscriptions of districts (which represent a little over 5 per cent of the 130 seats of the National Assembly) can be nominated by associations of those peoples and communities or by other legally recognised political parties.

Colombia not only pioneered the region with the adoption of reserved seats, but it also established them for both chambers of its Congress, and in the case of the Lower Chamber, Afro-descendant communities and Colombians abroad are also beneficiaries. Those provisions are established in the constitutional text promulgated in 1991, in which the State recognises itself as “multi-ethnic and pluricultural”, and in whose Constituent Congress took part representatives from indigenous communities.

In terms of the integration of the Chamber of Representatives, there is a special circumscription with five reserved seats. Although the criteria to determine the number of seats for the special circumscription and who have access to them has experienced changes over time (political minorities were originally considered), what has kept unchanged is that one seat is for indigenous communities and two are for Afro-descendants. Despite the percentage of African-Descendant population outnumbering that of the indigenous peoples and communities in almost all the countries of the region, no other country has taken a representation measure like that of Colombia, at least on the political and electoral plane.

In the case of the Senate, in addition to the 100-seat single national circumscription, there are two reserved seats for representatives from indigenous communities at a national special circumscription. The constitutional text establishes that the candidates nominated to represent the indigenous communities in both

chambers “ought to had held a position of traditional authority in their community or had been a leader of an indigenous organisation”, for which the organisation itself must extend a certificate to be countersigned by the Ministry of Government. That means that the membership to and representativity of an indigenous community must be duly accredited.

In Mexico, there is no express provision about reserved seats for indigenous representation in the Congress of the Union in the legal framework. It was through agreements passed by the General Council of today’s National Electoral Institute and resolutions issued by the Electoral Court over several years that, in 2017, it was finally determined that, for the 2018 elections to renew the 500 seats of the Chamber of Deputies, only candidates of indigenous descent could be nominated in 13 of the 300 single-member districts in which there was a majority of indigenous inhabitants. Therefore, it was guaranteed that at least the representatives from those 13 single-member districts were from indigenous communities.

Lastly, in Venezuela, the constitutional text promulgated in 1999, which also acknowledges broad rights to indigenous communities, reserves three seats at the National Assembly. For that purpose, three territorial circumscriptions were created (western, eastern, and southern) to group the areas in which indigenous communities are preponderant. Among the candidate nomination requirements in those three circumscriptions are, aside of the ones related to their experience or career, that the persons belong to one of those communities and that they speak their original language.

8.2. Extra-regional comparative overview

Notwithstanding the case of women (which will be examined in the final part of this study), almost all the legal mechanisms and provisions applied in Latin America to encourage or guarantee political representation are targeted to indigenous peoples and communities, and (as it has been discussed) their use to benefit other sectors is quite marginal.

Outside of the region, the situation is very different. The catalogue of benefitted groups or communities is very broad and the mechanism of reserved seats for the integration of national or sub-national assemblies is recurrent. Its use is mostly due to demands for inclusion, integration, participation, and (of course) political representation of several groups or sectors in societies with great (and sometimes deep) divisions for ethnic, religious, sociocultural, socioeconomic, and even linguistic reasons.

It is that multiplicity of factors which explains that the guarantee of reserved seats is so widely extended along the most varied regions of the world with so different purposes.¹⁶ It is usually used for the political inclusion of minorities as a means of integration, cohesion, or legitimation, mostly because of historical debts due to exclusion and marginalisation, but there are cases when the power needs to be distributed among different social groups (not necessarily minorities) to achieve political stability or governance.

The types differ according to the various mechanisms or criteria used for their design or operation. For instance, the number of reserved seats and the percentage they represent out of the whole of the legislative chamber or assembly; whether they apply, were that be the case, to both chambers of the Congress or Parliament; for which groups are they reserved; if they are voted in one single national jurisdiction or in several with different territorial scope or coverage; if special electoral rolls are put together for those circumscriptions, and who can be included in them (solely those belonging to that groups or communities, or all the inhabitants of the special circumscription), just to mention some of the most relevant variables. The following are some examples of those variants along with some representative cases.

New Zealand's is indispensable, for it is recognised as the pioneer experience in the reservation of seats to secure the representation of the indigenous people in its territory, the Māori. It was established in 1867 and, with some adjustments made over time to adapt it to changes in the electoral system to constitute the Parliament, it is still preserved. Ever since 1994, a personalised proportional

representation system is used to renew the 120 seats of Parliament. Half (60) are voted in single-member relative majority districts. The other 60 are chosen by proportional representation from a national party list. What is interesting is the criterion for determining the amount of relative majority seats (single-member districts) that are reserved for the Māori political representation. Every five years, voters of Māori descent can choose in which electoral roll to be, the general roll or the Māori roll. The number of seats for the Māori depend on the number of registered voters in the Māori roll. Ever since 2000, seven relative majority seats are reserved for them, that is, a little under 6 per cent of the total. Since self-identification as Māori is enough to be nominated as candidate to a reserved seat, any political force can endorse the candidates for those seven seats.

The history of India is marked by a profound, complex, very rigid, and controversial social caste system. Upon obtaining its independence in 1950, it preserved the British archetype of single-member relative majority districts for constituting its national parliament and granted reserved seats at the national parliament (Lok Sabha), as well as in its state legislative assemblies and local councils, for the Scheduled and Scheduled Tribes, which are the lowest, most marginalised, and most vulnerable sectors and classes of the highly hierarchal Indian society. According to the 1950 Constitution, this special protection was supposed to last 10 years, but it has been continuously extended and, according to the last constitutional, it will last until 2030. The number of reserved seats for Scheduled Castes (SC) and Scheduled Tribes (ST) is determined by the volume of voters registered from those groups in relation to the national population. The Indian Parliament is currently made up of 543 single-member seats, of which 84 (a little over 15.3 per cent) are reserved for SC and 47 (a little over 8.5 per cent) for ST. There are no special electoral rolls for the 131 reserved districts, and the contesting candidates all belong to the Scheduled Castes and Scheduled Tribes, so all the voters enrolled in those constituency vote for those candidates, even if they do not belong to any of those special groups.

Romania is also, for contrasting reasons, an emblematic case world-wide. The settlement of communities from various nationalities within its boundaries, as in many countries of Europe (and of other regions of the world), due to continuous

international migration flows and to the convulsive geo-political history of the 20th century is not as relevant as the fact that, ever since the restoration of democracy after the collapse of the Soviet bloc, it has provided every facility for the majority of those national minorities (most of them European) to be represented in its Lower Chamber through reserved seats. Despite the system used for the constitution of its bicameral parliament has experienced several adjustments since 1990, the possibility of political representation of minorities has been preserved. Reserved seats are not automatically assigned as in other countries, but it is very easy to access them. A list proportional representation system is currently in place to renew the 329 seats of the Chamber of Deputies (the number is periodically revised and adjusted in accordance with the number of voters) and the clubs or associations of national minorities can submit lists, but if they do not win a seat (there is a 5 per cent voting threshold), they can obtain one single seat if they get at least 5 per cent of the votes that were necessary to win a seat. This is how up to 18 national minorities are usually represented through one single seat, among them, Albanians, Germans, Greeks, Italians, Jews, Poles, Russians, and Turks.

Recently, the self-proclaimed Republic of Kosovo (it declared its independence from Serbia in 2008) reserves 20 of the 120 seats of its parliament for representatives of several minorities: 10 for Serbs; four for a conglomerate including Egyptians and Gypsies; three for Bosniaks; two for Turks; and the last one for a local minority (the Gorani).

As previously mentioned, some African countries reserve seats for minorities or different kinds of special groups. In Kenya, 12 of the 349 seats of the Lower Chamber are reserved for persons with disabilities, youth, and workers, although with the peculiarity that those representatives are not voted directly, but designated by parties with parliamentary representation, which makes them clearly discretionary. Rwanda, which is the country with the world's largest number of women in parliament (despite only 24 out of the 80 seats are reserved for them) due to very dramatic reasons from its recent history, also reserves two seats for the youth and one for persons with disability. Uganda, as already explained, offers broad guarantees for the representation of persons with disabilities in the different levels of government, including 5 seats in parliament.

9. Out-of-country voting and voting rights of the diaspora

At the end of the 1990s, the combination of various world dynamics, some of which were the unprecedented expansion and rooting of democratic rules and institutions and a rise in international migration (both within a vertiginous globalisation process), created a context of important demands for the adoption of mechanisms that acknowledged out-of-country voting and made it possible. Rigorously speaking, it was not a novel demand, nor had it never been practiced. The pioneer experiences (New Zealand and Australia) took place in the transition between the 19th and the 20th centuries, and then some other countries gradually joined the list, but until before the decade of the 90s the list was not long, and the topic was not widely debated and was not in the agendas for political and electoral reform. Since then, it has experienced a noticeable growth, and now it is a dominant topic around the world.

Even if the relevance and visibility that out-of-country voting has acquired can be understood mainly because of general circumstances that, obviously, transcend frontiers, there is no doubt that the reasons or motivations that ultimately determine and force its legal recognition, and the subsequent configuration of the mechanisms needed for its materialisation, refer to each country's contextual factors.

It is understandable that advocates of the rights of the diaspora tend to invoke and manage them as issues linked to universal democratic principles and values, even when they lack clear substantiation from international juridical instruments that acknowledge, promote, and protect the fundamental political rights. This stance

can be held from the perspective of the broadest human rights protection in a globalised world, in which mere de facto residence within a state jurisdiction does not entail (for non-nationals or non-citizens) the acknowledgement and guarantee of many of those rights, including political ones.

Hence, when the discussion on the political rights of migrants changes its focus towards their original political institution and community, and considering the matter from a comparative global perspective, it can be argued that among the main objectives that are usually suggested or noticed to reach to a favourable (though not always simple) resolution are the following: to contribute to the legitimation of a renewed political or electoral order; to settle, even if only symbolically, a debt with those who were forced into exile by the imposition of autocratic regimes; or to preserve, restore, or strengthen the links with the diaspora. Ultimately, to strengthen or extend the characteristics of the democratic regime.

In any case, it is a paradox that the rising in the international migration flows and the vindication of political rights for the diasporas take place in a context in which many States around the world, and most notably in the ones that can be considered as “natural” destinations of international migration, have reviewed and toughened their immigration policies and significantly restricted the access of immigrants from less developed (and with less economic potential) regions. At the very least, they have put them in a much more vulnerable situation. In consequence, this dynamic also influences and, in a certain way, forces an answer to the claims for recognition of the international migrants’ political rights to come from their original States, and not from those in which they end up having an effective and lengthy (and in many cases irregular) residence.

9.1. Overview of Latin America

9.1.1. Acknowledgement of out-of-country voting

During the last quarter of the century, the number of Latin American countries that have adopted the necessary legal regulations to allow the exercise of the vote

beyond their frontiers has gone from three to sixteen. That number represents an overwhelming majority of the 18 countries included in this study (except for Nicaragua and Uruguay), and means Latin America is the world's region with the greatest percentage of favourable registries in that regard.

The following Table summarises some basic data on the mechanisms that have been adopted in the 16 countries of the region, including the year when it was first implemented and how are votes cast abroad.¹⁷

Table 9
Countries with out-of-country voting

Country / Initial year	Applicable types of elections	Voting mechanism
Argentina (1993)	Presidential Legislative (both chambers)	In-person
Bolivia (2009)	Presidential Referendums	In-person
Brazil (1989)	Presidential	In-person (electronic voting machine)
Chile (2017)	Presidential Referendums	In-person
Colombia (1962)	Presidential Legislative (both chambers) Referendums	In-person
Costa Rica (2012)	Presidential Referendums	In-person
Dominican Republic (2004)	Presidential Legislative (both chambers)	In-person
El Salvador (2012)	Presidential Local (2021)	Postal
Ecuador (2002)	Presidential Legislative	In-person
Guatemala (2019)	Presidential	In-person
Honduras (2001)	Presidential	In-person (only in the USA)

Continue...

Country / Initial year	Applicable types of elections	Voting mechanism
Mexico (2006)	Presidential Legislative (Senate only) Local	Postal Internet (2021)
Panama (2006)	Presidential	Postal Internet
Paraguay (2013)	Presidential Legislative (Senate only)	In-person
Peru (1980)	Presidential Legislative Referendums	In-person
Venezuela (1998)	Presidential Referendums	In-person (electronic voting machine)

That indicator is consistent and reflects, in its own sphere, the centrality that most of the countries have granted to the efforts to root and strengthen electoral legal regulations, institutions and procedures as key elements of the processes for democratic change and strengthening. It is true that the acknowledgement and regulation of out-of-country voting has not been a cornerstone for reform processes in the region, but (sooner or later) the line of reasoning for some of its objectives or the weight of their demands has made its way through and has generated the necessary agreements to be included in the law.

9.1.2. Elections in which it is applied

A first piece of information regarding the 16 countries is that, except for Mexico, it is only considered for national elections or referendums, although with some particularities that are worth mentioning.

As it can be observed in Table 9, in a first set of four countries (Brazil, El Salvador, Honduras, and Panama), out-of-country voters can only participate in presidential elections, which, from the perspective exposed, would be the ones with the most limited coverage.

A second group of four countries, in which out-of-country voting applies to national referendums: Bolivia (the only country that expressly includes recalls), Chile, Costa Rica, and Venezuela. In a third set are included four countries in which, in addition to presidential elections, out-of-country voters can also take part in legislative elections, although not in referendums: Argentina, Paraguay, and the Dominican Republic (whose national parliaments are bicameral), and Ecuador (whose parliament is unicameral).

There are two good examples among this group of how, in a very short period, out-of-country mechanisms have significantly broadened their coverage (by adding legislative elections to the presidential) and, following the footsteps of Colombia, have advanced the rights of the emigrants by granting them their own parliamentary representation (see below). Ecuador only limited it to the presidential elections at their pioneer experience in 2006, but thereafter (and with the adoption of its new Constitution in 2008 and new electoral law in 2009), expanded it as already explained. Something similar happened with the Dominican Republic with the adoption of its new Constitution in 2010 and its obvious impact on the electoral legislation (its first two out-of-country exercises [2004 and 2008] were limited to its presidential elections).

The catalogue of countries that circumscribe out-of-country voting to national elections and referendums is completed with the two that display the largest coverage, for they extend it to every nation-wide election: Colombia and Peru. Colombia, besides pioneering in the introduction of out-of-country voting in the region over half a century ago, when it was a rarity even on a global scale, is the most remarkable example of gradual progression and innovation on the matter.

Between 1961 and 1990, Colombia circumscribed out-of-country voting to presidential elections. In December of that last year, voters abroad were convoked to take part in the setting up of the National Constituent Assembly which, a few months later, delivered the new constitutional text that was promulgated in July 1991. The new Constitution ratified the right to vote on referendums to overseas

voters and, although it would take some time and its implementation would be gradual, it was extended to legislative elections (for the Senate since 1998, and for the Chamber of Representatives since 2002) and, what was unprecedented, they were granted parliamentary representation in the Lower Chamber (at first, one seat that was voted for the first time in 2002, and then two from the 2013 elections onwards).

Mexico appears at the end of the list. It distinguishes itself from the previous countries because, being a federal State in which a clear division of competencies in electoral matters prevailed for over 6 decades between the federation and the federal states, when out-of-country voting was federally granted exclusively for presidential elections, a precedent was established for each of the 32 federal states to, in turn and in exercise of their attributions, also recognise out-of-country voting. This has effectively been happening and, today, most of the states have provisions on the matter, turning Mexico into the first country in the region to recognise out-of-country voting at sub-national level.

9.1.3. Eligibility requirements

All the countries of the region that regulate (and have implemented) out-of-country voting experiences impose as requirement for eligibility, and in consequence viability, to comply with a specific enrolment procedure. This implies that, regardless of the type of electoral registry used within the country, an additional procedure as out-of-country voter has to be fulfilled to be enfranchised.

While the enrolment requirements and procedures can include several variants that can differ from one context to another, Table 10 shows information on four basic elements that can help explain and compare their nature and reach.

Table 10
Characteristics of out-of-country voter enrolment

Country	Type of register	Means for enrolment	Period	Document(s)
Argentina	Permanent	In-person and Internet	Continuous and until six months ahead of elections	National identity document
Bolivia	Permanent	In-person in embassies and consulates	Temporary and until four months ahead of elections	Official identity document or valid passport
Brazil	Permanent	In-person in embassies and consulates	Continuous and until five months ahead of elections	Any national civil identification document
Colombia	Permanent	In-person in embassies and consulates	Temporary and until three months ahead of elections	Citizenship card of valid passport
Costa Rica	Permanent	In-person in embassies and consulates or within the country	Continuous and until four months ahead of elections	Valid identity card
Dominican Republic	Permanent	In-person in embassies and consulates	Continuous and until three and a half months ahead of elections	Electoral identity card
El Salvador	Permanent	In-person and Internet	Continuous and until six months ahead of elections	Sole identity document
Ecuador	Permanent	In-person in embassies and consulates	Continuous and until five months ahead of elections	Citizenship card or passport
Guatemala	Permanent	In-person in consulates or within the country or Internet	Continuous and until four months ahead of elections	Personal identification document

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Country	Type of register	Means for enrolment	Period	Document(s)
Honduras	Permanent	In-person in embassies and consulates (only in the USA)	Temporary and until three months ahead of elections	Identification card
Mexico	Permanent	In-person, post and Internet	Temporary and until six months ahead of elections	Photo voting card
Panama	Permanent	In-person and Internet	Continuous and until one year ahead of elections	Valid identity card
Paraguay	Permanent	In-person in embassies and consulates	Temporary and until four months ahead of elections	Identity card
Peru	Permanent	In-person in embassies and consulates	Continuous and until three months ahead of elections	National Identity Document
Venezuela	Permanent	In-person in embassies and consulates	Continuous and until three months ahead of elections	Identity card

9.1.4. Voting mechanism

As it can be appreciated in the last column of Table 9, most of the countries of the region (13 out of 16, with the noticeable exceptions of El Salvador, Mexico, and Panama) require the presence of out-of-country voters at special electorally furnished locales, so it can be appropriately regarded as in-person voting in a controlled environment.

Usually, provided there is enough space and resources, polling stations are preferably installed within the facilities of the diplomatic missions (embassies and consulates) to ease the organisation and logistic tasks, as well as for control and security considerations, not to mention to secure they are constituted and work just like the ones installed within the corresponding national territory.

However, as it would be expected, such pattern frequently requires and admits variants and adjustments to accommodate to the needs of overseas voting.

For most in-person voting, the number one option is to instal the polling stations within the diplomatic missions. However, that rule admits two important exceptions. The first one is related to adapting alternative or additional venues as official polling centres, and it is essentially for administrative and logistic reasons. In that sense, and particularly in recent times, some countries have taken steps to take out-of-country voting further and try to bring the polling stations closer to the voters. Using the geo-referenced location of the enrolled voters' domiciles, authorities of countries like Bolivia, Ecuador, and the Dominican Republic have determined the places with the highest density of voters to instal polling centres or stations where they have easier access to them. Surely, the limits imposed by the location of diplomatic missions around the world (countries and cities) continues to be a pitfall that is hard to overcome for the deployment of in-person operations, although there are already examples attempting to broaden those limits and, as already mentioned, get closer to the voters.

The remarks about the lack of guarantees for impartiality are the other reason for desisting from using official facilities and, moreover, for preventing the diplomatic personnel from being involved altogether in the tasks related to out-of-country voting.

From the thirteen countries that use in-person voting, there are five in which voting is mandatory nation-wide (Argentina, Bolivia, Brazil, Ecuador, and Peru), and noncompliance, except for completely justified reasons, leads to fines and administrative sanctions. Notwithstanding, such legal mandate only extends to out-of-country voting in the Peruvian case, in which failing to vote for valid reasons results in penalties that the authority rigorously applies. In the four remaining countries, voting is voluntary for out-of-country voters.

As for the adoption of measure to facilitate in-person voting, the case of Colombia must be highlighted. Along with other legal reforms passed in 2011, and with the

purpose of making it easier for out-of-country voters to cast their votes, it was established that polling stations abroad would operate throughout a week, and not only on Election Day.

Leaving aside Puerto Rico's peculiar case, which (due to its status of Free Associated State of the United States of America) has not been considered for this study, Mexico was the first country to introduce postal out-of-country voting. It was a novelty for the whole region, since only in-person voting had been practiced until then either within or beyond the countries' boundaries.

At least for their inaugural experience, Panama (2006) and El Salvador (2013) followed the route Mexico had already practiced and also opted for out-of-country postal voting. By 2013, Panama became the first country to offer its electorate abroad the option of voting at national elections over the Internet. Mexico had previously developed an Internet platform exclusively for out-of-country voting at a local 2012 election in Mexico City. In preparation for the 2024 federal elections, the National Electoral Institute of Mexico operated a new mechanism for out-of-country voting over the Internet that is only applicable for local elections at the states in which it is legislated.

9.1.5. Political representation of the diaspora

One of the most refined expressions of the progressive trend of acknowledgment of political rights of the diaspora is the current adoption of legal provisions to guarantee their parliamentary representation through reserved seats. Although so far it is only three countries (Colombia, Ecuador, and the Dominican Republic) whose laws recognise and guarantee this right for the constitution of their national assembly of popular representatives, it must be highlighted that it is a claim that is being raised by the diasporas of many countries of the region, so, it is likely the near future will bring more of these cases. The legislations of those three Latin American countries provide the right to stand for a seat in their parliaments as representatives of the diaspora.

This is a very recent development from the perspective of comparative electoral law. As it was already mentioned, Colombia has the merit of being the first country to put the experience into action in 2002 following a mandate in its 1991 Constitution, which considered the possibility of establishing special circumscriptions to secure that ethnic groups, political minorities, and Ecuadorians abroad were part of the Chamber of Representatives.

The new constitutional text adopted by Ecuador in 2008 (two years after its first out-of-country voting experience) also established the right of Ecuadorians abroad to have parliamentary representation, which would become a reality the following year at its 2009 general elections. The current Latin American catalogue is completed with the Dominican Republic. Among an important set of reforms that were passed in 2010, the Caribbean country also included this innovative dynamic and, a couple years later, in 2012, Dominican nationals overseas had the opportunity to actually have representatives of their own in the Lower Chamber.

9.1.6. Number of seats and their extra-territorial distribution

As it can be appreciated in Table 11, the first important difference among the three national cases lies, precisely, in the number of seats granted. In Colombia, the promulgation of a law in July 2013 increased to two the seats for out-of-country representatives in its 166-seat Lower Chamber. Likewise, Ecuador’s migrants hold six of the 137 seats of its National Assembly, and in the Dominican Republic, seven of the 190 that make up its Chamber of Representatives. These figures can, at least, palliate some of the criticism about the parliamentary representation capacity of the many interests of the diaspora.

Table 11
Characteristics of the seats for the diaspora

Country	Number of seats	Basic characteristics
Colombia	2 out of 166 of the Lower Chamber	One single world-wide circumscription

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Country	Number of seats	Basic characteristics
Ecuador	6 out of 137 of the National Assembly	Three two-seat circumscriptions: one comprises the United States of America and Canada; another, Latin America, the Caribbean, and Africa; and the last one, Asia and Oceania.
Dominican Republic	7 out of 190 of the Lower Chamber	Three circumscriptions comprised of only eleven countries and 20 cities: three seats for the one consisting of Canada and the northern part of the United States of America; two seats for that of the southern part of the USA, Puerto Rico, Nicaragua, Panama, and Venezuela; and, two seats for the one consisting of European countries (Spain, Italy, the Netherlands, and Switzerland).

Despite Colombians abroad now choose not one but two representatives, they all continue to compose one single electoral circumscription or jurisdiction, and they all vote the same list of candidates world-wide (the one for the five special representatives, not only those overseas). Instead, out-of-country voters from Ecuador and the Dominican Republic are respectively divided into three extra-territorial circumscriptions, although with some variations. While the Ecuadorian out-of-country mechanism is correlated with the coverage of its diplomatic network, so it extends over 33 countries, the Dominican one only covers seven countries.

In consequence, Ecuador's extra-territorial electorate is distributed along three larger circumscriptions: one comprises only the United States of America and Canada; another the countries of Latin America, the Caribbean, and Africa; and the third one, those of Europe, Asia, and Oceania. The circumscription delimitation by the Dominican Republic has two particularities. The first one is that the electorate enrolled in the United States of America is split up into two of those circumscriptions, one, denominated North American, comprising Canada (Montreal and Toronto) and the northern part of the United States (New York, New Jersey, Massachusetts, Pennsylvania, and Washington, D.C.), and two, denominated the Caribbean Basin, made up of Florida, Puerto Rico, Curaçao, Nicaragua, Panama, and Venezuela. The remaining circumscription is composed

of Spain (Madrid, Barcelona, and Valencia), Italy (Milan), Switzerland (Zurich), and the Netherlands (Amsterdam). The second particularity is that, while the North American circumscription (which has the larger number of enrolled voters) elects three representatives, the other two circumscriptions elect two representatives each, which could be interpreted as the votes being weighted to establish the representativeness of each jurisdiction.

Lastly, it is worth mentioning that, given the political and electoral particularities of Mexico's federal system, to date, there are three states (Chiapas, Guerrero, and Zacatecas) whose legislation guarantees, under different terms and forms, that their respective local congress or legislative assembly include at least one "migrant" representative. Meanwhile, another state (Durango) enables political parties to nominate at least one "migrant" candidate.

9.2. Extra-regional comparative overview

However much the existence of a number of global favourable conditions or internal demand contexts can be argued, the vertiginous increase in the number of countries that have adopted (or even revised and adjusted, usually in a much inclusive manner) out-of-country mechanisms in the last three decades is still surprising. Nowadays, there is evidence of its regular or systematic application in most of the around 150 countries that have already adopted it.¹⁸ It is amazing, among other reasons, because their adoption does not stem from express mandates, commitments, or recommendations established in international juridical instruments, particularly those related to the rights of the migrants, who are the majority of the potential beneficiaries of those mechanisms.

The repertoire of countries that acknowledge and regulate out-of-country voting is quite diverse, and it is not possible to correlate its adoption and specific political and institutional, economic, or socio-demographic factors. Nevertheless, there is no doubt of the magnitude of the challenges and complexities that its acknowledgement, as well as the selection and design, and the implementation of the mechanism, differ significantly from one context to another. A good share

of those challenges and complexities relate to, on the one side, the profile, volume, and distribution of potential out-of-country voters, and, on the other side, with the inclusion expectations, and the available capacities to accomplish it. Designing a mechanism to essentially attend their nationals on official duties abroad is not the same as one targeting migrant workers or refugees, whose absence from the territory has been somehow forced and could be lengthy. Therefore, it is common for it to be much more complex for countries with high international labour and undocumented migrant flows.

In any case, the international comparative perspective shows some other variations of inclusion attempts and coverage (or scope) of the out-of-country voting mechanisms. The definition of the eligibility criteria is a first indicator of how inclusive a legal mechanism is, although it is not necessarily the one that has the greatest impact on its actual coverage or reach. Usually, the requirements are the same as within the country, although in some cases some others are added that have, by definition, restrictive effects.

While many countries have relaxed their regulations, there are still some that circumscribe it only to those carrying out official military or diplomatic duties abroad, like Guyana or Israel, or that impose some kind of temporary restriction regarding their presence in, or absence from, the national territory. There are even some peculiar cases under that double logic. India, for instance, maintains out-of-country voting solely for the ones on official duty. Other nationals abroad can enrol as voters, but can only cast their vote within the country's boundaries.

In Ireland, besides the national on official duty abroad, to whom no restriction applies, out-of-country voting is possible for those who leave the country for no more than 180 days. In New Zealand, for citizens abroad to be enfranchised, they must prove to have visited the country in the last three years. In Singapore, it is indispensable for the potential voter to have resided in the country for at least 30 days during the 3 years preceding an election. In Malaysia, the same cumulative residence must be proved as for Singapore, but through the previous 5 years. In Australia, out-of-country voters must not have been absent from the country

for more than six years. In Sweden, they keep the right to vote for up to 10 years after leaving the country, but it can be renewed for an additional period. Actually, up until January 2019, an absence of no more than five years was required in Canada to qualify as out-of-country voters, but such requirement was declared unconstitutional by its Supreme Court.

As it was evidenced through the Latin American experiences, enrolment requirements and procedures also play a crucial role in determining the potential for inclusion or scope of an out-of-country voting mechanism. The will or endeavour of the legislators and the authorities to provide easy enrolment options are just as important, if not more, than the technological advances in the matter themselves. Today, many countries already allow to enrol through electronic means, which greatly reduces time and space barriers.

In contrast with the overview of the current Latin American experiences, some countries allow out-of-country voting even for persons who are momentarily abroad, that is, to those who have, or make, plans to travel overseas on the eve of Election Day, and who usually do not have to justify their request. In the United Kingdom, for example, postal voting (documents are sent to an address abroad) can be requested up to 12 days prior to Election Day. Moreover, within 12 days before Election Day, voters can request for someone else to vote in their behalf (proxy voting). Other countries like Germany, Australia, or Canada, also offer every facility for voting from abroad in case of a temporary absence from their territory.

Under this logic, but moving onto the form in which votes are cast abroad, which end up being the crucial factor in the coverage and scope of any out-of-country voting mechanism, the case of Estonia is emblematic. In 2005, it became the first country to enable a national Internet voting system, which was extended to its voters abroad. Ever since then, and despite the setbacks such an option has experienced in other countries (notably Germany and the Netherlands), or the continuous doubts and objections in many others, it has turned into a paradigmatic example of the scope and benefits of Internet voting. Besides, Estonia's

electorate abroad has the option of postal voting or in-person polling stations at the country's diplomatic missions around the world.

In other countries, among them Australia, Philippines, Finland, and Lithuania, even if out-of-country voters can vote by post, they can also vote in-person at the polling stations installed at their diplomatic missions around the world. Although India, Great Britain, and the Netherlands also turn to postal voting as the conventional out-of-country voting mechanism, they offer proxy voting as an alternative. In any case, most of the countries reserve in-person voting at polling stations usually located within their diplomatic missions (or other official venues) as the only available option for out-of-country voting.

Lastly, in terms of the expansion of political rights to the diaspora to the extent of guaranteeing their representation at national assemblies, despite the efforts and initiatives deployed in countries of various regions, the universe of national cases that have actually implemented it has remained relatively limited in recent years.

The case of Tunisia stands out for both its absolute (number of seats) and relative (percentage of the total) figures, not to mention that it is one of the most recent ones. In 2011, as a result of the "Arab Spring", a Constituent Assembly was set up to draft a new constitutional text. At the time, it was decided that 18 of its 217 members (9 per cent of the total) would be representatives of the diaspora. The same formula has been preserved for the constitution of the Assembly of Representatives of its renewed parliamentary system of government.

Using the Tunisian case as an example, it is interesting to consider the variable of the criterion under which the geographic composition of the circumscriptions where the representatives of the diaspora are voted is determined. While attempting to conciliate the indicators of geographic coverage of the voting mechanisms (in-person ones are much more limited, and the remote ones, like postal voting, are much more open) and the ones on the concentration/dispersion of the diaspora is common, the criteria applied in countries where a larger number of seats are reserved end up revealing the way in which that equation is solved.

Tunisia allocates 10 of the 18 seats to its electorate in France, three to that in Italy, two to the one in the Arab countries, one to that located in Germany, and the last seat to its electorate settled in the United States and the rest of the world. Italy (which, as Romania, reserves seats for the diaspora in its two legislative chambers) reserves five of the 12 seats in the Lower Chamber and two of the six in the Senate for its electorate in other European countries, four seats in the Lower Chamber and two in the Senate for those residing in South America, two in the Lower Chamber and one in the Senate for those settled in the countries of North and Central America and the Caribbean, and the rest of the seats (one in each chamber) for the electorate in the rest of the world (Asia, Africa, and Oceania). France guarantees, since 2012, 11 of the 577 seats of its Assembly of Representatives to the diaspora (it has an indirect influence in the composition of the Senate), there are two districts in America (one comprises Canada and the United States, and the other the rest of the continent), six districts correspond to Europe (one of them includes Israel), two for Africa (one of which includes the Arabian Peninsula), and the last one (which is the larger in territory) comprises Asia and Oceania, but also Belarus, Moldova, and Ukraine.

Lastly, the Romanian case is worth reiterating since, as already mentioned, reserved seats are guaranteed in both legislative chambers, but also because in the Lower Chamber it also includes representatives from other nationalities and ethnic minorities.

10. Women: quotas and gender equity

In terms of the demand, acknowledgement, and effective exercise of political and electoral rights, it is likely that no other journey has been as long, complex, and tortuous than that of women. This is another case of a monumental historic debt with deep and profound roots of oppression and injustice which, obviously, completely transcend the strict political and electoral plane, and which only quite recently are they starting to be fully understood and adequately addressed.

It is clear that, in the case of women, the conditions of oppression and injustice are generally worsened or severely accentuated if, additionally, other social vectors, like their belonging to vulnerable, marginalised, or discriminated groups such as (in the context of Latin America) indigenous peoples or African-Descendants, or in general, to ethnic or religious minorities, are considered.

Therefore, many of the policies, programmes, or initiatives for women empowerment (whether strictly local or encouraged and supported by international institutions), on the one side, emphasise their political inclusion and participation, and, on the other, favour working with women in greater vulnerable conditions.

In any case, while admitting these specificities, it can be argued that, in a more general and formal plane, women's demands and minimal expectations of political inclusion are guaranteed and are usually attended, especially in relation to the acknowledgement and accessibility to exercise their right to vote.

Therefore, this study will focus on the legal provisions and actions meant to favour their political representation and, as a necessary precedent, to those that encourage or facilitate their right to stand for elective offices. In that sense, it is important to notice that, once the obstacles of recognising and guaranteeing women's right to vote (a process that has differed significantly from one country to another), the journey to encourage their political participation and representation has been largely based in trial-and-error experiences. The periplus to secure women's political participation and representation has probably not been as long, in a strictly time-related dimension, in comparison with the process for the acknowledgement of their right to vote, although that does not mean it has been less turbulent.

That complicated periplus began with the advent of affirmative actions in their most fragile sense: voluntary quotas. Contenders in an election were urged, in some cases they still are, to include a certain percentage of women in their lists of candidates. That, almost by definition, is much more feasible at the elections to constitute multi-member bodies, like national assemblies or local councils, where the members are chosen through the list proportional representation system (List PR). The candidacies to single-member offices or by the relative majority principle are usually exempted of this requirement. Sooner or later, it became evident that this kind of exhortations, which are non-binding and for which there is no sanction, would hardly meet their purpose.

Upon evidence of lack of interest or political will to comply with the established goal because there was no obligation or sanction to do so, the legislation escalated to the next level: make the provisions binding and impose the obligation on the contenders to include a minimum percentage of women in their lists of candidates. A common problem with this kind of provisions have been, and in some cases continue to be, that by no setting parameters for its implementation, it favours the emergence of manoeuvres that end up invalidating their intents; the letter was abided, but the objective was not met. Women were included in the lists of candidates, although in electoral districts or in positions within the lists that made it difficult, if not nearly impossible, that they accessed elective

offices. Women candidacies were confined to merely symbolic positions or places, where their possibilities to access a seat or winning an election were slim.

In this circumstances, new binding initiatives started to be conceived and furthered to, on the one side, positioning women within the lists of candidates where they had the opportunity to access seats and, in consequence, political representation, and on the other side, to provide them with resources and tools that would allow them to compete in less disadvantageous conditions.

For the first objective to be achieved, gender quotas are not only binding, but they include specific requirements for their positions in the lists is not left to the free will or the benevolence of partisan leaders. Hence, for instance, if a quota of 30 or 33 per cent is set, it is specified that within each three-candidate segment of the list, at least one must be of a different gender. In the case of the second objective, several legal mechanisms have been used to encourage and advance partisan activities that promote women's participation and political leadership, including equity guarantees or conditions during electoral campaigns.

The most recent development of legal mechanisms and lines of action to encourage women's political participation and leadership are guided by the notion, policies, and guarantees of gender parity. That notion, closely related to equality between sexes, is understood as a balanced participation between women and men at decision-making positions and processes in all spheres of the social life. Specifically, it is derived from the concept of "parity democracy", coined in the first European Summit of Women in Power (1992), where a document known as the Athens Declaration was subscribed. The Declaration openly criticised the historic exclusion situation of women from spaces of political power and described that situation as a serious deficit of the democratic system, and stated that parity democracy was a proposal that intended to make real changes that went beyond the formal recognition of rights which, in practice, could not be equally exercised by women in relation to men.

In essence, parity democracy is an answer to a concept of citizenship and to a democratic representative system that were built in the name of a “universality” that assumed the masculine as the main referent, excluding women.¹⁹ Strictly on the political and electoral plane, that concept has been translated into legal provisions meant to balance, as much as possible, the actual opportunities to compete for elective offices and for the effective constitution of political representation bodies, especially multi-member bodies (legislative assemblies and councils at all levels of government).

The progression line that has been sketched on the adoption of legal provisions to encourage women political participation and representation has not followed, nor does it necessarily follow, a sequential or homogeneous logic in different national jurisdictions. In some cases, its assessment and adoption has faced and came into conflict with other demands for democratic change or strengthening, such as, for instance, quotas versus selection of candidates through primaries, or open lists to give greater liberties to the electorate (preferential voting).

While addressing the issue of gender violence is beyond the scope of this study, it must be mentioned that it is a serious issue that has recently gained visibility and notoriousness, and that its occurrence in the sphere of women’s political participation also has significant implications. Therefore, the emergence of initiatives from both authorities and associations to fight this problem off is completely consequential.

10.1. Overview of Latin America

Table 12 eloquently condenses and reflects the legal provisions that (except for Panama for reasons mentioned below) eight countries of the region have adopted, on the basis of gender parity, for the nomination of candidates to elective offices, which, concomitantly, produces greater equity in the composition of political representation bodies, in particular of multi-member bodies.

Table 12
Gender affirmative actions

Country	Type of lawful affirmative action	Observations
Argentina	Parity	Comprises lists of candidates to the national Congress under the principles of sequence and alternation
Bolivia	Parity	Comprises to relative majority and proportional representation lists' nominations for all levels of government
Brazil	30% quota	Only for lists to Lower Chamber, not the Senate
Chile	40% quota	Comprises both chambers of Congress
Colombia	30% quota	Comprises both chambers of Congress
Costa Rica	Parity	Comprises all proportional representation lists for multi-member bodies at all levels of government under the sequence and alternation criteria
Dominican Republic	33% quota	Only for lists to Lower Chamber, not the Senate
El Salvador	30% quota	Comprises the lists for the National Assembly
Ecuador	Parity	Comprises proportional representation lists for multi-member bodies at all levels of government under the sequence and alternation criteria, as well as mixed-gender governorate tickets for local relative majority executives
Guatemala	None	
Honduras	Parity	Comprises all candidates to elective offices
Mexico	Parity	Comprises all relative majority and proportional representation candidates for the Congress of the Union
Nicaragua	Parity	Comprises all proportional representation lists for multi-member bodies at all levels of government under the sequence and alternation criteria
Panama	Parity	Applies only to the internal elections of the parties and their primaries
Paraguay	20% quota	Applies only to the internal elections of the parties and their primaries
Peru	30% quota	Comprises both chambers of the Congress
Uruguay	None	
Venezuela	Parity	The criterion is flexible, since the authority establishes it for each electoral process, and the range varies up to 60/40%

Ecuador deserves a double acknowledgement, first for being the region's pioneer in adopting a quota law (2000) that was expressly intended for gender equity, and second, for being the first country to include the concept of gender parity in its Constitution and apply it to all candidates to elective offices and for the composition of several multi-member public bodies with directive, executive, and control functions. While that happened with the 2008 Constitution, a decade earlier, in 1998, along with the process to adopt and enforce a previous constitutional text that established the equitable participation of women and men, the Ecuadorian Congress passed a quota law that already made reference to the concept of parity, particularly on the electoral plane.

That quota law, brought to the 2000 electoral legislation, established that the percentage of women (which started at a 30 per cent threshold) in the proportional representation lists of candidates would successively increase by 5 per cent at each electoral process until a minimum of 40 per cent was reached, which was a range considered within equity parameters. The enforcement of this rules faced multiple obstacles that prevented its effective compliance, but it is the first legal testimony of the attempts to advance the gender parity principle in the political and electoral sphere. On this basis, the concept of parity established in the 2008 Constitution, and stated in the 2014 applicable electoral rules, have the following consequences:

- For the composition of multi-member bodies (assemblies and councils at all levels), it comprises the proportional representation lists under the criteria of sequence and alternation: one candidate of one gender followed, without exception, by one of the opposing sex (woman-man-woman or vice versa). While this mechanism has brought important advancements for the composition of those bodies, some elements of the electoral systems, like preferential voting with open lists or the size of the districts, have conspired against the full compliance of its objectives.
- For relative majority executive offices, it comprises mixed-gender prefectural tickets (prefect and vice prefect), where both candidates must be of opposing sexes. That is, it transcends the natural applicability sphere of this kind of precepts on the electoral plane (which is multi-member bodies elected

through proportional representation lists) to include the provincial (state) relative majority executive offices.

It is worth highlighting that the criterion for parity composition extended to other high profile state institutions, including the electoral ones (National Electoral Council and Electoral Contentious Court), as well as the leaderships of political forces.

One year after Ecuador, in 2009, Bolivia also promulgated its new constitutional text in which, even if the principle of parity was not expressly mentioned, it did made reference to equal opportunities between women and men. That would be the basis for the consequent legislative development (which was started and enforced that same year) to express itself in terms of parity and alternate sequence, firstly for multi-member bodies, and shortly after also for single-member offices. In this case, the precept of parity can also be referred to previous social struggles, like the 2004 law on the organisation of citizen associations and indigenous peoples, which ordered that at least half the candidates for elective offices were women and arranged sequentially and alternately. It must be noticed that such requirement was only applicable to the candidates of indigenous peoples, but was soon established in the Constitution and became generally binding.

Those were the kind of demands that turned Bolivia into one of the first countries of the region to notice, especially locally, the existence of manoeuvres meant to distort and disregard the objective of encouraging greater women representation by, for instance, modifying the names of male candidates to seem to be women's names, or nominating female candidates that would renounce to their offices once elected to yield in favour of their male substitutes, for which they were forced to sign their letters of resignation in advance of the election. The replication, and even sophistication, of those manoeuvres in other countries forced the adoption of rules and design of mechanisms that could be more effective to inhibit and eradicate them.

Also in 2009, although not at the constitutional level, Costa Rica included in its legal framework the principle of sequential and alternate parity as binding and

applicable to all lists of candidates to every multi-member representation body at all levels of government. In this case, the mandate was part of an amendment project of the electoral legislation that was started, in the exercise of its attributions, by the electoral authority (the Supreme Court of Elections), and which was applicable to the nomination of candidates to the 2010 legislative elections and to the constitution of the leaderships of the political parties.

Nicaragua was the next country to include binding gender parity regulations to its legal framework. In 2012, a reform to the electoral legislation that required that the political parties' lists to municipal, national, and Central American Parliament elections were made up of 50 per cent women and 50 per cent men ordered equitably and alternatively.

In 1996, Mexico introduced binding quotas in its legal framework for the first time, but it was not until 2014 that, in the context of a broad electoral reform, the principle of parity between women and men for the candidacies to both chambers of the Congress of the Union, as well as the 32 state unicameral congresses, was established in the Constitution. During the periods in which the quotas were binding (30 per cent in 1996–2008, but mostly 40 per cent in 2008–14) there were several practices meant to infringe the law, so that electoral authorities, the then-Federal Electoral Institute and the Electoral Court, had to take additional measures, within their sphere of competence, to prevent their reiteration and allow for the quotas to meet their purposes.

Due to the characteristics of the electoral systems used in Mexico for the constitution of its federal and local congresses (mixed systems in which one element is majoritarian [single-member seats elected by relative majority], and the other is by list proportional representation), the electoral authorities have once again adopted measures to guarantee not only that the parity principle is observed, both in the proportional representation lists through the sequence and alternation of genders (vertical parity) and in the candidate tickets of relative majority seats (horizontal parity), but also that women are not relegated by the political parties that nominate them to the relative majority seats to the districts where they do not have enough electoral strength.

In Honduras, an electoral reform passed in 2014 rose the quota of women to 40 per cent of the candidates to elective offices (as well as in the lists of candidates for political parties' authorities and directive bodies), and which also ordered that the principle of parity (50 per cent women and 50 per cent men) was to be enforced as of the 2016 electoral period.

Argentina was, in 1991, the region's pioneer in the introduction and enforcement of binding gender quotas, but it was only until 2019 that the regulations for a 2017 law for gender parity in political representation were issued, with which it became the latest nation to join this category. The law has federal coverage, and it establishes the principle of sequential and alternate gender parity for the lists of candidates to the National Congress and the Mercosur Parliament.

The case of Venezuela is unique because, in all rigour, there is no legal or constitutional provision that expressly establishes and defines the principle of gender parity for political and electoral purposes. It has been the electoral authority, the National Electoral Council, which has exercised its regulatory attributions to adopt this kind of provisions. According with the information available, it was for the 2005 state and legislative elections that all political organisations were ordered, for the first time, to observe gender alternation and parity in their lists of candidates to the national, state (municipales), and municipal (parroquiales) deliberative bodies. Thereafter, the regulations issued at each electoral process include provisions on this matter, although they are flexible and on a case-by-case basis, for it has been accepted that when parity is not possible, the nomination can range between a minimum of 40 per cent and a maximum of 60 per cent for each sex.

It is important to notice that among this group of eight countries in which (with the already described variations) the principle of gender parity is acknowledged and observed for the nomination of candidates, there are six (except for Honduras and Nicaragua) in which the electoral authority has the powers to enforce them, that usually implies a procedure of verification and validation of the nominated candidates, including the notification of non-compliance to the political forces so that they can make the appropriate adjustments in due time. Eventually, the

procedure enables the authority to reject the lists that, in the end, fail to meet the lawful requirements. In Honduras, the law grants the authority the power to impose sanctions for non-compliance, although that does not necessarily mean the exclusion of the non-complying lists from the competition. In Nicaragua, there is no express attribution of sanction in case of non-compliance with gender parity requirements.

Another unique case is Panama's. The law establishes the principle of gender parity, but only for the internal elections of the political forces and their primaries, and does not extend it for the nomination of candidates to elective offices. Hence, its potential political representation effects are inhibited or all together neutralised, especially if the system for the constitution of the National Assembly is considered. The parallel system that is used is not very conducive for those purposes because almost one third of the seats are allocated through single-member relative majority districts, and for the remaining two thirds by list proportional representation, there is the option of preferential voting.

In another eight countries, the law orders gender quotas for the nomination of candidates. Under this system, the highest quota is 40 per cent, and it was established both in the case of Chile (passed in 2015 and enforced for the first time in 2017, without any precedent) and Peru (adopted in 2019, although with a precedent of a 30 per cent quota since 1997). In Chile, it comprises all kinds of candidates for the constitution of both the Lower Chamber and the Senate. In Peru, its enforcement for the nomination of candidates (alternation) to its unicameral legislature is foreseen for 2021, but it is enforceable even for the primaries.

The next highest percentage in descending order belongs to the Dominican Republic and Uruguay, with 33 per cent of the candidates. In the Caribbean island, it dates back to 1997, and has not been modified since then. Originally, it is applicable only for the nomination of candidates to the Lower Chamber, but as of 2000, it has been extended to municipal elections. They must follow an alternate order, that is, one in every three candidates. In the case of Uruguay, the law was passed in 2009, and it is applicable to all list-based elective offices, and it is mandatory to include one for every three candidates.

In the other three countries the quota is of 30 per cent, but with some variations. In Brazil, it has been in force since 1997 but, as in the Dominican Republic, only in relation to the Chamber of Deputies, not the Senate, and there is no express provision on their position within the lists. In Colombia, it was adopted in 2011 and has remained unchanged, and it is particular because, although it is foreseen for both the Chamber of Representatives and the Senate, it is only applicable if five or more seats are elected in the circumscription, or in the case of candidates to primaries, but it has no effect in the results. In El Salvador, the quota was established in the 2013 law on political parties, and it covers the candidates of legislative and municipal elections in general, although there are no further details about the terms and conditions. Guatemala is the only country where no gender affirmative action has been adopted to date.

Nevertheless, it is worth noticing that some countries have additional measures or incentives to encourage women political participation and/or reinforce their affirmative actions.²⁰ In Chile, the law foresees that for all national legislative elections until 2029, political parties shall receive an additional amount to the public direct allowance for each of their women candidates that were elected as deputy or senator, and the competing women candidates shall also receive an additional reimbursement for each vote they obtain. In Colombia, 5 per cent of the annual public funding is distributed among the political parties and movements according to the number of women candidates that were elected. Both in Bolivia and Brazil, it is guaranteed that women candidates have access to the free electoral strip scheduling in radio and television. Lastly, in Argentina, Brazil, Mexico, and Panama, the provision is that political parties must allocate a minimum percentage of the ordinary funding they receive to the political training of women.

10.2. Extra-regional comparative overview

Around the world, a gradual and progressive tendency towards the adoption of legal affirmative actions to encourage women candidacies to elective offices or to guarantee their political representation can also be appreciated. The International

Institute for Democracy and Electoral Assistance (International IDEA) has put together a specialised database (which is periodically reviewed and updated) that shows (as of May 2020) the existence of affirmative actions of this kind (from binding quotas to reserved seats) in almost 80 countries from around the world. It is not a contemptible figure (even though it is not even half of the countries in the United Nations' system, or of those in which elections are carried out periodically to renew their governments and authorities), and it is rising, although it is far from being satisfactory if the magnitude and intensity of the efforts and initiatives to be responsive and urgently attend the conditions women continue to suffer in many countries of the world are considered.

It is even less satisfactory when the variations in terms of the percentage magnitude, scope, guarantees of compliance, or potential effectiveness of the adopted mechanisms are examined. It is not the same to establish a quota, no matter how high it is, to the nomination being ruled by the principle of parity, or that the guarantees or demands are only imposed for list proportional representation (vertical) elections, instead of also including whichever majority (horizontal) elections. Even in the simple case of quotas, it is not the same that they are set up at 25 per cent than at 40 percent, nor that requirements on the sequence and alternation of the candidates are in place or not. There are several forms and variations found from a comparative perspective. One fairly extended form which has no reference in Latin America is that of reserved seats. A little over 20 countries have chosen this option to guarantee women representation, especially at national assemblies.

As it was previously discussed, reserved seats have the virtue of guaranteeing the political representation of the groups or communities they target. Their very nature secure their compliance, something that, in rigour, the parity mechanisms for nominations cannot achieve since they allow certain variability depending on the characteristics of the electoral systems in which they operate. The issue with reserved seats is that, in general and due to the objective they pursue, their magnitude (the percentage of guaranteed seats from the total) is usually not as large as that of the quotas.

The essential features described below belong to some of the cases that show variations in regard to the established representation threshold, and also with respect to the mechanism used to enforce it, which is usually related to contextual factors and demands or characteristics of the corresponding electoral system. Interestingly enough, Afghanistan is one of the countries with the highest percentage of reserved seats for women: 68 seats out of 249 that make up its National Assembly (Wolesi Jirga), that is, 27 per cent of the total. Since an unconventional system of single non-transferable vote (seats are elected by relative majority, but in 34 multi-member circumscriptions [each province is one circumscription] in which the electorate has only one vote they cast for individual candidates, irrespective of them being part or not of party lists) is used, the law establishes two seats in each province (governorate) are allocated to women regardless of the votes they have obtained from the total. It is important to point out that the mechanisms of reserved seats for women used in direct elections do not have a restrictive nature, meaning they do not limit the possibility of other women candidates who meet the necessary rules or voting thresholds to be elected. However, due to the prevailing conditions in Afghanistan, it is common that women only have representation through reserved seats.

In the Kingdom of Jordan, where the electoral system for the constitution of the House of Representatives has gone through constant changes in the recent years, the list proportional representation system in multiple multi-member circumscriptions has prevailed since 2016. Of the 130 seats of which the House is composed, 15 (12 per cent) are reserved for women (one in each of the governorates, and three of the nine seats that are reserved for the Bedouin community), but there are also nine seats reserved for the Christian community and six for the Circassian ethnic community. In Morocco, 60 of the 395 seats of the Lower Chamber (a little over 15 per cent) are reserved for women (in addition, 30 seats are reserved for young people under the age of 40, among which women must also be represented). Even if a list proportional representation system in multi-member constituencies is used, the 60 seats for women are elected through a single nation-wide list.

In Bangladesh, the Constitution establishes that 50 seats of its 350-seat unicameral parliament (almost 15 per cent of the total) are reserved for women, but those seats are allocated on the basis of the results of the election and through direct voting on Election Day. In the election, only 300 seats are elected in single member districts by relative majority, in which women can be candidates, but the 50 reserved seats are allocated in proportion to the percentage of votes obtained by each political party according to the overall results of the election, so, in the end, partisan leaderships determine who holds them.

The case of Kenya has already been mentioned because it reserves 12 of the 349 seats of its Lower Chamber for the representation of groups with special interests (youth, persons with disabilities, and workers), but it is also foreseen that 47 seats (almost 13.5 per cent of the total) are reserved for women. Except for the seats for the groups with special interests, which are elected through a list system, the other 337 seats are elected in single-member relative majority districts, meaning there are districts where only women can stand as candidates.

Balance and final comments

In light of the information presented, there is no doubt that important advancements have taken place in recent years, both in Latin America and in other regions of the world, regarding the passing and enforcement of legal provisions and the furtherance of institutional initiatives and programmes for the encouragement of inclusion, participation, and political and electoral representation of different social groups who have suffered (or continue to suffer) exclusions or limitations from exercising their basic political and electoral rights.

While the trend is positive, and even encouraging, the overall vision and the detailed examination of some components show contrasts, limitations, shortcomings, and unresolved issues, especially if the principles related to the utmost guarantee of the rights of the persons, in this particular case in the political and electoral sphere, are used as the “measuring rod” to assess the existing conditions.

Naturally, among the issues that were raised, and as it was pointed out, there are some that are open to debate in the philosophical, juridical, political, and academic planes, and on which it is difficult to build consensus on the pertinence or convenience to impose or remove legal exclusions or restrictions. The enfranchisement of the members of the security forces is gaining traction, although there is an evident reluctance to broaden their sphere of action any further. While, similar to other persons in public offices, it may seem reasonable and justified to establish requirements for their temporal parting from active duty to contest in

an election, the demand that an aspiration of that nature would mean their re-nouncement or definitive separation from service seems excessive.

The principles of due process and presumption of innocence have been essential to claim, at the very least, the enfranchisement of the persons on remand, so that, by judicial or legislative means, the adoption of mechanisms that allow (with all due precautions) its concretion in several State jurisdictions can be furthered or guaranteed. Some countries, two of which are in the region, have already extended that right even to convicted persons. All in all, it is a controversial topic and the global overview shows stark contrasts when dealing with the political rights of incarcerated persons, the ones that have been convicted, and even those who have been released after serving their sentence.

The process to build consensus, join efforts, and adopt mechanisms or measures to facilitate the inclusion and voting of the persons with disabilities (especially the motor and sensory ones), and of the persons belonging to other groups with mobility limitations or special needs by reasons of health or age, seems much easier. That is especially noticeable for conventional voting, that is, in-person and at the polling station on Election Day. Virtually all countries in the region have programmes in place for easy access to polling stations, assisted voting, as well as some furniture, equipment, or materials to attend the special needs of those groups in particular.

There have already been trials in the region of alternative in-person voting mechanisms for persons with serious mobility limitations because of disability or health problems, like the mobile ballot box, that can operate ahead of or on Election Day. Although there are countries in the region where trust reservations about all kinds of innovations continue to exist, and the budgetary and logistic challenges cannot be disregarded, there are promising signs in the horizon for its potential expansion. The same applies to other in-person voting alternatives, like advance voting, or even more for remote ones, like Internet voting, whose adoption and combination have an unprecedented expansive potential, and whose virtues and coverage would benefit a lot more social groups or segments. The voting alternatives are,

to a great extent, hand in hand with the ideal of the universalisation of the vote, and always through willingness to exercise it, instead of coercion.

In such a globalised, diversified, and demanding world, the vindication and acknowledgement of rights for new (but also old) forms of identity, are foreseeable. Today, the gender and sexual identities are at the centre of it all. Even in reluctant societies like those of Latin America, which are full of opposing traditions, values, perceptions, and behaviours to those gender perspectives and sexual orientation, the efforts and sensibleness to find accommodation for them and provide a juridical and institutional answer, are evident. While the political and electoral sphere does not seem to be a priority topic in their agenda just yet, several countries in the region already have answers that, although not having been conceived for those exact purposes, provide greater guarantees and make it easier for them to claim their political and electoral rights.

One of the region's greater deficits, of evident voids, and shortcomings that are not, by far, limited to the political and electoral sphere, is the one related to the persons with no fixed abode or, even worse, who are experiencing homelessness. Without ignoring the constraints entailed by certain rules and procedures, but also considering those that stem from prejudices, the experience in other latitudes prove that, with just a bit of interest and willingness from electoral authorities, and within their sphere of responsibilities, options can be sought to neither ignore nor completely infringe their basic political and electoral rights.

Leaving all the objections aside about whether youth should be considered, or not, as an identity sign, or at least of a stable nature, the need and relevance of examining core issues related to their political participation and representation cannot be eluded. The first one deals with their forms of expression and political participation in a world that is experiencing remarkable transformations in communications and the social interaction, and the conventional channels, patterns, and formats to express or examine the political and electoral interests, opinions, or preferences have mutated of domain, sense, and content. In any case, the second refers to the particularly low indexes that, in general, have the persons

under the age of 40 or 35 in the national parliaments as prototypical instances of deliberation, stance, and legislation on public topics and issues. That is another space for reflection and improvement which is usually outside the range of action of the electoral authorities and institutions, and other groups of interest, although it can still be attended.

The enormous debts towards the indigenous peoples have also started to be settled in terms of political inclusion, participation, and even representation through different mechanisms and guarantees, including the respect to their own traditions and customs for the election and renewal of their authorities. The range of their needs is very broad, and even if there are rules and good intentions to address them, their objective and subjective conditions of marginalisation, heterogeneity, and dispersion, conspire against the achievement of many of the objectives of inclusion, participation, and representation rules, initiatives, and efforts. The very coexistence and interaction among visions, mechanisms, and dynamics of political participation and representation tend to produce tensions and conflicts. The situation of the communities of African-Descendants in the region is not very different to that of the indigenous peoples. However, it is not clear if there will ever be elements from which collective demands can be articulated and managed to transcend very focalised local contexts, particularly on the plane of political representation. In any case, it is yet another pending matter.

Beyond it being justified, understandable, and even commendable, it is somewhat ironic that, in terms of the acknowledgement of political and electoral rights and the challenges for their materialisation, one of the greatest advances in the region during the last decades is the one related to the diaspora, that is, to their nationals living abroad. The overwhelming majority of the Latin American countries have mechanisms that, to a greater or lesser extent due to their nature and scope, allow out-of-country voting. From an international comparative perspective, its expansive effect has been so relevant that it has virtually become a global electoral processes standard. There is still a small number of countries, three of them are in the region, who have broadened the rights of the diaspora by guaranteeing their representation in the national assemblies. The demands in that sense

have augmented, and it is foreseeable that they will grow stronger and that the number of countries with those kinds of provisions will increase.

The path that has been trodden for women to conquer and exercise their political and electoral rights, and many others, has been (and continues to be in many cases) slow, tortuous, and full of obstacles. A global overview shows remarkable contrasts: regions and countries where atavistic rules, cultures, traditions, and behaviours that exclude, subdue, or discriminate them; some others where there is full respect for their rights and basic conditions of equity on different planes of social life, including the access to public elective or appointed offices. The circumstances in the region are also very diverse, not only among countries, but also within each of them according to different factors, like the racial and socio-economic. At first glance, the regional tendency seems positive in terms of the adoption of affirmative actions that encourage the nomination of women to elective offices, and even of some based on the principle of parity, which guarantee a high degree of representation at elective offices.

However, it is quite disturbing that, along the evolution history of the adoption of affirmative actions for women inclusion and participation, specifically, that a result from the demands for their compliance, prototypical cases of deceitful manoeuvres to infringe their spirit were found, as well as dramatic and unacceptable scenes of gender political violence. It is evident that gender violence is a serious problem, which has deep roots and that fighting it off transcends the political and electoral plane. But it is also true that it demands actions in this sphere. In some countries, gender political violence has already been classified as a crime. Electoral management bodies have attributions and tools within their range of action to face the problem, from tasks of education on democracy, to preventative and dissuasive mechanisms during electoral campaigns. There are already initiatives and actions in several countries of the region, but everything points out to the need of much more. That is another complex battlefield.

One last reflection. No matter how many elements there are to explain it, the fact that those noticeable advances in the political and electoral inclusion,

participation, and representation of several social groups (some with traditional identity features, others emerging in a growing social plurality [and fragmentation]), have taken place in moments and under conditions (which vary in intensity among regions and countries) that are unfavourable for their due recognition and assessment is paradoxical. Particularly in the region, regardless of the many policies and programmes that are furthered, the scenario continues to be full of inequalities, injustices, corruption, and impunity, as well as with claims, inquiries, and demands to revert them, some of which frequently and easily overwhelm the State capacity to act.

Yet, the overall outline this study has shown, has tried to illustrate that a core element of the efforts to strengthen the democratic rules, institutions, and practices deployed in the last two or three decades, both in the region and in other latitudes, have been the mechanisms and actions for overcoming the conditions of political and/or electoral exclusion, marginalisation, discrimination, or under-representation that several social groups and communities have suffered, or continue to suffer.

It is obvious that, even if the small and very limited sphere of action, shortcomings and limitations still exist. All in all, and regardless of the many paradoxes that arise from the trends and dynamics that were suggested, a counterfactual argument is most valid and pertinent. Without these sand grains to further inclusion, participation, and representation mechanisms for several social groups that have been, or continue to be, politically excluded, marginalised, or under-represented, the overview could turn out to be much sombre, less encouraging, for thousands, millions of people who still believe that social coexistence under democratic principles and values is the best of the desirable, and even possible, worlds. Such is the size of the challenge, of such depth the expectation to persevere in the efforts, initiatives, and guarantees for the inclusion, participation, and representation of the social groups that were considered in this study, but also of those that could not be brought to light.

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Reference notes

1. Although the topic of political rights of the members of the armed forces is the source of interest and controversy in many countries and regions, there is not much specialised literature about it. Among the most recent comprehensive and comparative publications there is a report on a meeting organised by the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE), that took place on May 2016 in Vienna, to discuss their access and use of social media, and to provide recommendations. The report can be consulted at <https://www.osce.org/files/f/documents/c/4/135696.pdf>
2. Save for an express indication, the comparative tables about Latin American countries have been specifically elaborated for this study from information or data obtained from the laws and websites of the corresponding electoral management bodies.
3. Those interested in learning details of the regulations over the nomination of the members of the armed forces to elective offices can follow the links to official information on the cases of Australia (<https://pay-conditions.defence.gov.au/pacman/chapter-2/part-4>) and the United States of America (<https://www.fvap.gov/uploads/FVAP/Policies/doddirective134410.pdf/>).
4. One of the studies that has come to be a fundamental reference for debates on the pertinence and implications of policies for disenfranchisement of incarcerated persons is "Prisoner Disenfranchisement Policy: A Threat to Democracy?" by Mandeep K. Dhani, published in *Analyses of Social Issues and Public Policy*, Vol. 5, No. 1, 2005, available at <http://citeseerx.ist.psu.edu/viewdoc/summary?doi=10.11.233.2327/>
5. Even though it is expressly meant to answer a request from the authorities of Panama, those interested in studying the topic further should refer to the 2013 technical consultative opinion of the

Office on Drugs and Crime of the United Nations on the right to participate for persons deprived of liberty in Panama, available only in Spanish at https://www.unodc.org/documents/ropan/TechnicalConsultativeOpinions2013/Opinion_5/Opinion_Consultiva_005-2013.pdf

6. While there are no updated sources of information on the global overview of incarcerated persons, among the most recent ones is a survey conducted in 2016 (<https://www.penalreform.org/resource/global-prison-trends-2016-2/>) by the non-governmental organisation Penal Reform International (PRI). As for the situation in the United States of America, the website of Brennan Center for Justice at the New York University School of Law has a section that details the current laws and situation in all of the country's jurisdictions: <https://www.brennancenter.org/issues/ensure-every-american-can-vote/voting-rights-restoration/>
7. For further details on the comprehensive accessible voting programmes, refer to the websites of Argentina (https://www.argentina.gob.ar/interior/dine/accesibilidad_electoral) and Paraguay (<https://tsje.gov.py/accesibilidad-electoral.html>).
8. The website of Amnesty International has a section with basic information on the current situation and rights of the LGBTI+ community around the world: <https://www.amnesty.org/en/what-we-do/discrimination/lgbt-rights/>
9. The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA World) displays a world map with information on the laws related to the community's situation and rights by country: <https://ilga.org/maps-sexual-orientation-laws>
10. There are several NGOs in the United States that provide information on the applicable legislation in each state and offer support so that, if that were the case, persons with no fixed residence can register and vote. Detailed information provided by one of those organisations can be found here: <https://www.nonprofitvote.org/voting-and-homelessness/>
11. The Inter-Parliamentary Union conducts periodic studies and measurements on the political participation of young people, which can be consulted at their website at <https://www.ipu.org/our-impact/youth-empowerment/data-youth-participation>

12. The study of the Economic Commission for Latin America and the Caribbean (ECLAC) on indigenous peoples in Latin America published in 2014 continues to be a good source of information on their situation, figures, and rights within the region. It is available online at <https://repositorio.cepal.org/handle/11362/37222>
13. For basic information in Spanish on the situation and rights of African-Descendants in Latin America, there are two studies available online that can be very useful. One was published in 2009 (<https://repositorio.cepal.org/handle/11362/7227>), and the other in 2017 (<https://repositorio.cepal.org/handle/11362/42654>).
14. For an overview on the advancements on and challenges for the rights of indigenous peoples, particularly the political ones, a text of José Aylwin of the Austral University of Chile, is available online at: [https://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/DD54C41D968FFA2B0525801A006B96DF/\\$FILE/DHGV_Manual.275-300.pdf](https://www2.congreso.gob.pe/sicr/cendocbib/con4_uibd.nsf/DD54C41D968FFA2B0525801A006B96DF/$FILE/DHGV_Manual.275-300.pdf)
15. In the case of Mexico, there are variations in the usages and customs among the states. Those interested in the topic can consult a study published by the Chamber of Deputies on the variations in the state laws, which is available at www.diputados.gob.mx/sedia/sia/spi/SAPI-ISS-04-18.pdf
16. In relation with the use of reserved seats around the world, there are two studies published by the Inter-Parliamentary Union (IPU) and the United Nations Development Programme (UNDP). The first one is *Promoting inclusive parliaments: The representation of minorities and indigenous peoples in parliament. A global overview de Oleh Protsyk* <http://archive.ipu.org/splz-e/chiapas10/overview.pdf>, and the second is *Promoting inclusive parliaments: The representation of minorities and indigenous peoples in parliament. Interviews with parliamentarians. Diversity in parliament: Listening to the voices of minorities and indigenous peoples*, edited by Elizabeth Powley (<http://archive.ipu.org/splz-e/chiapas10/interview.pdf>).
17. Although the most recent changes in the region are not included, the 2016 comparative study on out-of-country voting in Latin America published by the National Electoral Institute (INE) of Mexico and the United Nations Development Programme (UNDP) shows a broader and more detailed overview of the instruments adopted in the region. It is available at <https://www.undp.org/publications/electoral-studies-compared-international-perspective/>

18. The International Institute for Democracy and Electoral Assistance (International IDEA) has a database with updated information on the regulations of out-of-country voting around the world: <https://www.idea.int/data-tools/data/voting-abroad>
19. While it is focused on the cases of Ecuador, Bolivia, and Costa Rica, the study *Banking on parity: Democratizing the political system in Latin America* (only in Spanish), published by the International Institute for Democracy and Electoral Assistance (International IDEA) and the Inter-American Commission of Women (CIM) in 2013, offers an overview of the evolution of the gender affirmative actions in the region. It is available at <http://www.oas.org/en/cim/docs/ApuestaPorLaParidad-Final-Web.pdf>
20. In collaboration with the Inter-Parliamentary Union (IPU) and Stockholm University, the International Institute for Democracy and Electoral Assistance (International IDEA) also has an online database on gender quotas around the world: <https://www.idea.int/data-tools/data/gender-quotas>

