

DRAFT

“The General Election in Costa Rica, February 2010”

Forthcoming in: *Electoral Studies* (Elsevier Journals).

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On 7 February 2010, almost 2 million Costa Ricans (69% of the registered electorate) voted in the country’s general election, the fifteenth consecutive general election to be held since the end of the short but bloody civil war of 1948. Laura Chinchilla was elected as Costa Rica’s first woman president but her *Partido Liberación Nacional* (National Liberation Party, PLN) fell short of a parliamentary majority and so will have to sustain agreements with other parties in the legislature in order to pursue its policy agenda.

1. Electoral system

General elections take place once every four years on the first Sunday in February. Voters are presented with a ballot paper for the offices of the president and two vice presidents; a separate ballot is used for to elect all 57 deputies (*diputados*), the members of the single-chamber national legislative assembly. Simultaneously, the 495 representatives for the 81 municipal governments are also elected on a separate third ballot (*Regidores Municipales, Propietarios and Suplentes*, regular representatives and alternates). Neither deputies nor the president can seek immediate reelection: the former must sit out a four-year term, while presidents can seek a second stint only after sitting out two full terms. (From 1969 until 2003, presidents could only serve a single term; a ruling by the Constitutional Chamber of the Supreme Court in 2003 removed the prohibition and returned to the original constitutional provision that allowed reelection after eight years out of office.)

For presidential elections, the country is treated as a single constituency where the candidate with the largest vote share is declared winner so long as he or she received more than the 40% threshold. If no candidate receives more than 40% of the vote, a second round is held one month later between the two leading candidates. In the post-Civil War period, only one presidential election has required a second round: in 2002, Abel Pacheco de la Espriella fell approximately one percentage point short of the threshold and went on to win the run-off (Wilson 2003; Lehoucq and Rodríguez-Cordero, 2004).

For legislative elections, Costa Rica uses a closed-list, proportional representation (PR) electoral system. The country's seven geographic provinces serve as seven multi-member districts, with the total number of representatives for each district allocated in proportion to its population (as measured by the most recent census but with updates based on population estimates by the *Instituto Nacional de Estadística y Censos* (National Institute for Statistics and Census, INEC)). The distribution of seats for the 2010 elections is the same as those used in the last two elections and are based on the 2000 census. In this particular version of PR, the quotient is calculated by dividing the number of votes cast in a district by the number of seats allocated to that district. If no party has enough remaining votes to secure a seat through the quotient, a sub-quotient (50% of the quotient) is used. Any seats remaining once the sub-quotient has been exhausted go to the party with the largest remainder. By way of an illustrative example, San José, the most populous province, was allocated 20 of the 57 seats. A total of 690,336 votes were cast in the 2010 Legislative Assembly election (90,000 more than in the 2006 election), which produced a quotient of 34,517 votes per seat (almost 4,000 votes more per seat than in 2006) and a sub-quotient of 17,258.

2. Electoral administration

Elections are staged under the auspices of the *Tribunal Supremo de Elecciones* (TSE, Supreme Tribunal of Elections). The TSE, a constitutionally mandated quasi-fourth branch of government, controls all aspects of electoral administration and is composed of three full-time Magistrates (*Magistrados Propietarios*) who are appointed by the Supreme Court to renewable six-year terms. Supreme Court Magistrates, for their part, are elected to eight-year terms by a supermajority vote of the Legislative Assembly, which helps enhance the political independence of the TSE. Twelve months before the general election, two “supplemental magistrates” (*Magistrados Suplentes*) are added to the Tribunal’s three sitting members. Their term ends six months after the election.

While Section 6 of Constitutional Article 102 is commonly interpreted as transferring total control of the police forces to the TSE during elections, this formerly important power has now become largely symbolic. Nevertheless, the TSE does function as an election court and must examine any Legislative Assembly bill related to elections before it can be passed into law. The *Registro Civil* (Civil Registry), under the authority of TSE, is also charged with registration of births, marriages, and deaths, with creating the electoral roll, and with ballot design (a lottery being used to allocate individual candidates’ positions on the ballot). The TSE also regulates the election campaign: it licenses polling companies and sets the rules concerning when polls can be conducted; it enforces the *tregua navideña* (a two week Christmas truce, when all campaigning is put on hold); and it maintains scrutiny over parties’ election funding and expenditure. The 2010 saw one significant example of this role of judicial oversight. A *recurso de amparo electoral* (a writ of protection) case was filed with the TSE during the election campaign. Its ruling served as a reminder to church leaders that they should not interfere in the elections by openly endorsing

candidates regarded as more likely to uphold church doctrine. In the case (Sentence 3281-E1-2010) the TSE admonished a Catholic bishop for “telling his parishioners for whom to vote”), a contradiction of Constitutional Article 28 (Vizcaíno, 2010b).

The TSE’s election monitoring system is sophisticated and comprehensive. There are over 6,000 polling rooms housed in almost 2,000 polling stations (*centros de votación*), generally schools but also old people’s homes, jails, and indigenous areas, with the goal of facilitating the as high a turnout as possible. Each polling station is staffed by representatives of political parties (*miembros de mesa*) who are trained by the TSE to keep the balloting process fair. As well as the Costa Rican monitors, over 100 international observers fan out across the country visiting polling stations to monitor the process. In 2010, the international observers reported the process as being fair with no evidence of corruption or malpractice. One reason why electoral fraud is so rare is that there is a total ban on absentee balloting. In order to cast a vote, electors must be physically present in their TSE-assigned polling station, have their original *cédula de identidad* (a virtually tamper-proof, TSE-issued photo identification card). The practice of voters dipping their index finger into indelible ink once they had voted was discontinued for the 2006 elections. (And the prohibition on absentee voting will be lifted for the forthcoming referendum on same-sex civil unions, scheduled for December 2010).

Finally, perhaps the most popular measure taken during the 2010 election was a minor reform of the Electoral Code to repeal the application of the “Ley Seca” (literally, Dry Law) during national elections. This widely unpopular law, designed to prevent political disturbances during the election period, banned the sale and distribution of any alcoholic beverages from the day before the election until the day afterwards. In spite of its repeal, no political disturbances were reported (Vizcaíno, 2010a).

3. Parties and candidates

For forty years after the 1948 civil war, Costa Rican politics was dominated by the left-of-centre PLN and its opponents, a collection of more conservative anti-PLN parties which contested presidential elections together in a coalition before eventually becoming a single party, *Partido Unidad Social Cristiana* (United Social Christian Party, PUSC), in 1982. The supremacy of these parties came under challenge in the late 1990s and the weakening of their supremacy was confirmed in the 2002 elections. The 2006 and 2010 elections appear to have cemented the new multiparty character of Costa Rican politics. While the PLN remains strong, its policy positions have shifted to the right. Meanwhile, the PUSC collapsed in the 2006 election and was electorally dislodged by a new leftist party, *Partido Acción Ciudadana* (Civic Action Party, PAC) and an increasingly competitive libertarian party, *Movimiento Libertario* (Libertarian Movement, ML). A few other parties exist and can win some representation, but they tend to be small.

The complete ban on incumbents seeking reelection is an unusual feature of Costa Rican politics. It means that informal election campaigns tend to start immediately after the inauguration of the president, with rising party leaders trying to position themselves as their party's next presidential candidate. Although Laura Chinchilla, a former Vice President under outgoing President Oscar Arias, was the first woman to lead a major political party in Costa Rica and was standing to be its first female president, gender was not a major issue during the campaign. A much more central concern was the possibility of *continuismo*: that Chinchilla would provide a front behind which the outgoing president Arias could retain control. The PAC pushed this idea through TV advertisements depicting Chinchilla as a puppet controlled by actors portraying President Oscar Arias and his brother, Rodrigo (YouTube, 2010).

Chinchilla attempted to stay above this fray and to present herself as the logical choice, the only person qualified to be president, using the slogan “Laura: firme y honesta” (Laura: firm and honest). Her campaign was very cautious and largely error-free, and, according to Costa Rican political analysts, she was the clear winner in the TV debates, coming across as the most “presidential” candidate.

Ultimately, after a contentious primary between the party’s founder, Ottón Solís, and his former vice presidential running mate, Epsy Campbell, the *Partido Acción Ciudadana* (Civic Action Party, PAC) did not pose a major challenge to the PLN slate. Towards the end of the campaign, the PAC formed an electoral pact with *Alianza Patriótica* candidate Rolando Araya Monge, a disaffected former PLN presidential hopeful. This helped to shore up support from the PAC’s disaffected left-leaning sympathisers but, according to Jorge Vargas Cullell, one of Costa Rica’s leading political scientists, “in the final analysis, the move was largely ineffectual” (Vargas, 2010).

Otto Guevara, headed the *Movimiento Libertario* (Libertarian Movement, ML) ticket for the third successive presidential election. The party began as an ideological libertarian force but currently campaigns as a right-of-centre party with the slogans “*cambio ya*” (Change Now) and “*mano dura*” (Strong Hand). The first appeals to voters’ disaffection with the old parties and with “politics as usual,” while the second tapped into a growing – and well-founded – perception that crime and personal insecurity is becoming a major problem. National polls in the final months of the election campaign suggested that ML might succeed in its bid to force a second round of presidential voting but, as in the 2006 election, the polls fluctuated wildly and did not accurately foretell the final outcome.

Each of the three major parties (PLN, PAC, and ML) had clear objectives in the election. For the PLN, as the largest party, the goal was to win in the first round by clearing the 40% threshold; for the PAC and the ML, the goal was to take second place in the first round and then win the head-to-head contest with the PLN in a second round. Meanwhile, the formerly powerful PUSC effectively abandoned the presidential race when, in the months leading up to the election, its candidate, former president Rafael Ángel Calderón, received a five-year jail sentence for corruption. Calderón was replaced on the ticket by Luis Fishman, a divisive figure in the party.

4. Results

A growing concern over the last few general elections has been the decline in participation. Historically, turnout was relatively high, averaging over 80%, but from 1998 it began to slip and by 2006 had fallen to 65%. The increase to 69% in the 2010 election therefore provided some relief, but regional variation in abstention rates remains a concern. Turnout is generally lower in the less populated rural districts, falling to 60% in Puntarenas compared to 74% in the more populous district of Cartago (TSE, 2010a, 2010b, 2010c).

[Table 1 about here]

PLN candidate Laura Chinchilla won 47% of the presidential vote, which gave her an outright victory in the presidential election and eliminated the need for a second round. Her coattails, though, were not enough to give her party a majority share of the seats in the Legislative Assembly. The PLN received approximately 10% less of the popular vote for assembly, which was insufficient to win the 29 seats necessary to control a majority of the seats. Indeed, the PLN's 23 seats is two less than in the party had in the 2006 Assembly elections. The election has cemented the realignment of Costa

Rica's party system with the PUSC, formerly one of the two dominant parties, reduced to the status of a minor player. The PUSC's vote share has collapsed over the last three elections: having won 39% of the vote in the Legislative Assembly elections of 2002, it received just 8% in both the 2006 and 2010 elections. The party's 6 seats together with the PLN's 23 would create a majority voting bloc, but weak party discipline and policy differences between the parties would make it a very fragile working majority. For these reasons, Laura Chinchilla had to negotiate a major agreement with Otto Guevara of the Libertarian Party on the upcoming legislative agenda and immediately after the inauguration of the new Legislative Assembly in May 2010, the PLN began a dialogue with the PAC concerning the legislative agenda to try to cobble together working majorities for specific policies.

Even if parties agree to work together in the Assembly, the notoriously low levels of party discipline in Costa Rica – especially as the internal party presidential candidate elections heat up – will inevitably make policymaking difficult. The fragmentation of the party system in the Legislative Assembly will further exacerbate the new President's problems in pushing her agenda through. A notable advance by a hitherto minor party was made by the *Partido Accesibilidad Sin Exclusión*, PASE (Party Accessibility without Exclusion), which increased its representation in the Assembly from one deputy after the 2006 elections to four deputies in 2010. The party, led by Óscar López, a visual impaired former deputy, does not really sit on the traditional left-right spectrum and is therefore likely to be a difficult party to deal with in the Assembly.

Compounding the problems of governability are the legislature's rules which strengthen the role of the smaller parties in the congressional policymaking process. For example, any group of ten deputies can send a bill to the Constitutional Chamber of the Supreme Court for a review of its constitutionality. Thus, the smaller parties can (and frequently do) harness the assertive constitutional court to block, delay, or modify policy as it passes through the congress (Wilson, 2010).

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Table 1

Results of the presidential and legislative assembly elections in Costa Rica, 7 February 2010

| Political Party | | Presidential votes % | Assembly votes % | Assembly seats (2006 seats) |
|--------------------------------|--------------------------------|---------------------------------|-----------------------------|--|
| Liberación Nacional | Laura Chinchilla Miranda | 46.9 | 37.3 | 23(25) |
| Acción Ciudadana | Otón Solís Fallas | 25.1 | 17.6 | 11(17) |
| Movimiento Libertario | Otto Guevara Guth | 20.9 | 14.5 | 9(6) |
| Unidad Social Cristiana | Luis Fishman Zonzinski | 3.9 | 8.2 | 6(5) |
| Accesibilidad Sin Exclusión | Óscar López Arias | 1.9 | 9.0 | 4(1) |
| Restauración Nacional | | -- | 1.6 | 1(1) |
| Frente Amplio | Eugenio Trejos Benavides | 0.4 | 3.6 | 1(1) |
| Renovación Costarricense | Mayra González León | 0.7 | 3.9 | 1(0) |
| Others* | | 0.2 | 4.3 | 1(1) |
| <i>Total</i> | | <i>100.0</i> | <i>100.0</i> | <i>57(57)</i> |

-- Restauración Nacional did not contest the Presidential election

* *Alianza Patriótica* won an Assembly seat in 2010 and is included in 'Others.'

Source: TSE (2010b, 2010c).