

THE
CARTER CENTER



Analyzing Colombia's 2022 Presidential Elections

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CONTENTS

EXECUTIVE SUMMARY	3
INTRODUCTION	5
POLITICAL CONTEXT	6
Presidential Candidates and the Electoral System	7
CAMPAIGN ENVIRONMENT	8
First Round of the Presidential Election Campaign: May 29, 2022	8
Second Round of the Presidential Election Campaign: June 19, 2022	9
Presidential Debates	10
<i>First Round</i>	10
<i>Second Round</i>	10
Campaign Financing	10
ELECTION ADMINISTRATION	12
The National Electoral Council	12
National Registry of Civil Status	12
Preparations for the Elections	14
Electoral Technology Audits	15
Observance and Technical Tests	16
Electoral Census	17
IMPLEMENTATION OF PEACE ACCORD: POLITICAL REFORM	18
Electoral Legal Framework	19
Proposed Electoral Reforms: Special Electoral Mission 2017	20
Proposed Electoral Reforms: 2020	20
MEDIA AND ELECTIONS	22
Legal System	22
Media Context	22
The Media and Candidates	23
Disinformation on Social Media	23
TikTok and Wappid in the Electoral Campaign	24
PARTICIPATION OF WOMEN	25
VOTING, COUNTING, AND TALLYING	26
First Round of the Presidential Election: May 29	26
<i>Preliminary and Final Results: May 29</i>	26
Second Round of the Presidential Election: June 19	27
<i>Preliminary and Final Results: June 19</i>	28
Candidate Reactions to Preliminary Results	29
ANNEX A: TERMS AND ABBREVIATIONS	29

EXECUTIVE SUMMARY

At the invitation of the Colombian electoral authorities, The Carter Center deployed an electoral expert mission to assess several key aspects of the electoral process for the 2022 presidential election, focusing on two issues: the analysis of the electoral legal and administrative framework of the election, with special emphasis on the transparency of the process, and the implementation of the 2016 Peace Accord on electoral reform.

Because of its limited size and objectives, the mission analyzed the electoral process in a limited manner and was not in a position to assess the voting and counting processes. The mission's analysis is based both on its own observations and on reports and meetings with the election administration, political organizations, the media, civil society organizations, and other observation missions.

The presidential election in Colombia proceeded in an orderly manner, and voting was able to take place in practically all parts of the country. The change in the political scene that Colombians demanded was reflected in the results. Gustavo Petro (Pacto Histórico) won the election with 50.42% of the vote, defeating Rodolfo Hernández (Liga de Gobernantes Anticorrupción, (League of Anti-Corruption Rulers), who won 47.35% of the vote. The large margin of victory meant that the results were accepted by all. Turnout was 58%, the highest since the 1998 presidential election.

The election took place in an environment marked by extreme polarization and a deteriorating security situation that was of serious concern during the campaign. During the first round, candidates were able to hold mass activities, although they could not campaign freely in areas where armed clashes were taking place. Some candidates reported threats and had to cancel several campaign events. During the second round, both candidates restricted their public appearances.

Allegations of possible fraud, which occurred mainly during the first round, came not only from contenders of different ideologies but also from the highest echelons of Colombian politics. This context allowed rumors and misinformation to flourish, particularly on social media, where the idea of fraud gradually spread. Confidence was somewhat boosted by the success of the first round, although rumors of possible fraud resurfaced days before the second round.

Although the shadow of mistrust was also present in previous electoral processes, several elements further eroded trust during this process. First, the shortcomings in the legislative elections dealt a severe blow to confidence in the electoral system. Shortcomings in the electoral institutional design, setbacks in transparency and access to information — as well as an inadequate communication strategy on the part of the electoral authorities — led to increased mistrust. Far from generating certainty, the use of technology exacerbated doubts about the integrity of the electoral process.

The suspension of the Law of Guarantees, which seeks, among other things, to guarantee equal and neutral conditions for public servants in election periods, was highly controversial. Although this decision was reversed a few days before the first round, the interim period may have generated some inequities in the campaign. The attorney general's temporary suspension of four mayors opened a debate on the absolute prohibition on elected officials' engaging in political activities, given Colombia's commitments to political rights.

The partisan makeup of the National Electoral Council (CNE) meant that its independence was questioned. Moreover, the dysfunctions of this body, mainly caused by the lack of budgetary and administrative autonomy as well as its territorial structure, adversely affected its ability to function. Consequently, there was a general view that there was a lack of effective oversight of key aspects of

the process, such as election campaigns or political financing. There was a perceived lack of strong internal and external communication that would have given the electorate certainty regarding the process.

Overall, most analysts reported that the National Registry of Civil Status (RNEC) adequately organized the logistical aspects of the presidential election, which presented fewer operational complexities than the legislative elections. The RNEC also implemented some measures that contributed to making the electoral roll reliable and inclusive and to improving the voting process and voter information services. However, the electoral authorities devoted few resources to address recurrent problems, such as vote buying, which remains a challenge in Colombia's electoral processes. The organization of the overseas vote was also a considerable challenge.

The RNEC invested considerable efforts in addressing the shortcomings of the legislative elections and, as the process progressed, showed improved communication on different aspects of the organization of the election. However, these initiatives came at a very late stage, too late to regain voters' full confidence in the run-up to the elections. As a result of mistrust in electoral institutions, political parties and candidates had to employ a huge machinery to protect their vote and to verify election results.

Broad sectors of Colombian society questioned the current model of political financing and agreed on the need for reform. Electoral experts from The Carter Center pointed to the persistence of important regulatory gaps and deficiencies that, first, increase the possibility of candidates or parties resorting to illicit sources; and secondly, affect fairness in competition. Once again, the presidential candidates failed to receive the advance funding. The lack of reliable and complete information on actual campaign revenues and expenditures was closely linked to the lack of oversight in campaign financing.

Election days were characterized by orderly and generally peaceful conduct. The strong engagement of party witnesses, as well as the presence of national and international observers, were measures of transparency. Although the system for the transmission of provisional results generated a great deal of mistrust in the weeks leading up to the election, results were disseminated in a timely manner, and there were no questions about their integrity.

Although there has been some progress in the implementation of the 2016 Peace Accord in recent years, such as the implementation of the Special Transitory Peace Constituencies or the approval of the Opposition Statute, political reform is one of the points of the peace accord with the lowest implementation levels to date. In the 2018 elections, positions on the accord were extremely polarized; in 2022, it was not a divisive issue. There was a broad consensus on boosting the implementation of the commitments made by the accord.

Colombia still faces the scars of past mistrust that were reflected in widespread concern over the transparency of its electoral processes. Despite efforts to conduct the most efficient elections possible, this election was far from reassuring or allaying suspicions. There is broad consensus on the need for comprehensive electoral reform to provide guarantees and build confidence. The start of the new legislature in Congress provides a new opportunity to debate and agree on these reforms.

The Carter Center mission offers the following priority recommendations for the improvement of future electoral processes in accordance with international standards:

1. Stakeholders should redesign the electoral institutional framework of the National Electoral Council, prioritizing steps to ensure its independence as well as technical and professional criteria

for the selection of its members. This electoral body should have budgetary autonomy and territorial decentralization.

2. The electoral code should be reformed to establish an electoral system that builds confidence in the process. The reform should prioritize urgent needs, focus on politically and technically feasible areas, and serve to clarify inconsistencies and deficiencies in the current law.
3. Consideration should be given to increasing direct and/or indirect public funding, restricting private funding, adopting measures to effectively deliver the state advance, and strengthening transparency and oversight of campaign financing. Widespread concern about the financing of political parties calls for reform in this regard.
4. Electoral authorities should provide electoral stakeholders with the information necessary to understand election technologies and the mechanisms used to protect system integrity.
5. The processes and capacities of the National Electoral Council should be strengthened to ensure the implementation of electoral campaign regulations, including aspects related to combating hate speech and disinformation on social media.

INTRODUCTION

At the invitation of the Colombian electoral authorities, The Carter Center deployed an electoral expert mission to assess several key aspects of the electoral process for the 2022 presidential election. The team carried out its work from May 12 to June 24, 2022. The mission was led by Jennie Lincoln.¹ The Carter Center focused its assessment on two issues: the analysis of the electoral legal and administrative framework of the election, with special emphasis on the transparency of the process and the implementation of the 2016 Peace Accord on electoral reform.

Because of its limited size and objectives, the election mission team analyzed the electoral process in a limited manner and was not in a position to assess the voting and counting. The mission's analysis is based both on its own observations as well as on reports and meetings with the election administration, political organizations, the media, civil society organizations, and other observation missions. The Center's mission was conducted in accordance with the *Declaration of Principles for International Observation* as signed by intergovernmental and international non-government organizations at the United Nations in 2005.

During the election days (first and second rounds), the mission visited a small number of polling stations in the department of Bogotá to get a glimpse of the setup of polling processes. The Carter Center's team attended simulations and technical tests of the technological tools organized by the National Registry of Civil Status but did not carry out any audits of the systems. This report includes a series of recommendations aimed at contributing to the improvement of future electoral processes. It also reflects upon the second point of the 2016 Peace Accord, which is about implementation of political participation. The 2016 Peace Accord designates The Carter Center as one of the international monitors of point two. This electoral mission responds to the Carter Center's commitment to the peace process in Colombia.

¹ In addition to Lincoln, senior adviser for Latin America and the Caribbean at The Carter Center, the team was composed of Idoia Aranceta San Antón (Spain), Michaela Sivich (Austria), and Lucas De Souza (Brazil).

POLITICAL CONTEXT

The presidential election came after two years marked by economic crisis, exacerbated by the pandemic, massive social protests that paralyzed the country for months, and an increasingly deteriorating security situation. The persistence of structural corruption and growing dissatisfaction with institutions fueled the discontent of citizens and the rejection of political parties. As a result, candidacies in Colombia rely on strong personal leaderships rather than ideologies or party identities.

Colombia's political landscape was dominated by the Liberal and Conservative parties for most of its history and then articulated around the figures of former presidents Juan Manuel Santos and Alvaro Uribe. The public demanded a drastic change in the political scene, which was reflected in the results of the legislative and presidential elections. For the first time, the left-wing coalition achieved an unprecedented result and became one of the leading forces in Congress and won the presidency. However, the elections also reflected extreme polarization and two visions of the country, with Congress essentially divided between right and left.

The presidential election took place in an environment marked by low confidence in electoral institutions.² The shortcomings that emerged during the legislative elections dealt a severe blow to confidence in the electoral system.³ Throughout the presidential process, there was a genuine atmosphere of unease. Since the beginning of the presidential electoral process, both left-wing and right-wing parties began to suggest the possibility of fraud.⁴ In this context, an ideal scenario was created for rumors and misinformation, particularly on social media, where this idea gradually spread. International and national observers also noted that some stakeholders sought to delegitimize the election, particularly given the possibility of a close result.

In response, some politicians, civil society organizations, and even international organizations called for people to be calm and responsible. Although confidence was somewhat boosted by the success of the first round, rumors of possible fraud resurfaced days before the second round. The results of the second round, however, were accepted by the whole country.

Another fundamental circumstance that has marked the country in recent years has been the persistent threat of violence, which was a serious concern during the election campaign. Overall, security conditions improved following the signing of the 2016 Peace Accord between the Colombian government and the Revolutionary Armed Forces of Colombia-People's Army (FARC-EP), which raised hopes for a new era of peace and stability in the country. However, 2019 marked the beginning of a trend of increasing violence. The Office of the United Nations High Commissioner for Human Rights raised the alarm about the political violence in the country, indicating that violence mainly occurred in areas where guerrillas used to operate, with high levels of inequality and a low state presence.⁵

Civil society and international organizations warned that armed groups, the National Liberation Army dissidents of the now-demobilized FARC-EP and groups of paramilitary origin such as the

² According to [an Invamer survey](#) carried out at the end of March 2022, the image of the National Registry of Civil Status was considered to be four times more unfavorable than favorable.

³ During the March 2022 legislative elections, there were a number of errors in the completion and transmission of the E-14 results forms, due to the RNEC's poor design of the form, which mainly affected half a million votes of the Pacto Histórico (Historic Pact). These problems were solved during the final counting stage.

⁴ [Open letter by former President Andrés Pastrana to President Duque](#). May 2022.

⁵ [Annual Report of the United Nations High Commissioner for Human Rights on Colombia](#), 2021.

Clan del Golfo, continued to expand their territorial control and intensified the use of violence in the first months of 2022.⁶

Presidential Candidates and the Electoral System

Six presidential candidates contested the first round of the presidential election on May 29. The candidates selected through the interparty consultations were Gustavo Petro and Francia Márquez for the Pacto Histórico (Historic Pact) coalition; Federico Gutiérrez and Rodrigo Lara for Equipo for Colombia (Colombia Team); and Sergio Fajardo and Luis Gilberto Murillo for Centro Esperanza [Hope (of the) Center]. These candidates competed alongside others selected through internal party procedures or nominated by significant citizen groups: Rodolfo Hernández and Marelén Castillo for the Liga de Gobernantes Anticorrupción (League of Anti-Corruption Rulers); John Milton Rodríguez and Sandra de las Lajas for Colombia Justa Libres; and Enrique Gómez and Carlos Cuartas for Salvación Nacional (National Salvation).

Previously, Luis Óscar Iván Zuluaga of Centro Democrático decided to withdraw from the presidential race to support Federico Gutiérrez. On May 5, Luis Pérez, of the citizens' group Colombia Piensa en Grande (Colombia Thinks Big), withdrew his candidacy. On May 20, Ingrid Betancourt, who was running with her party Verde Oxígeno (Green Oxygen), withdrew her candidacy and joined Rodolfo Hernández's campaign. The two candidates and their running partners that advanced to the second round were Gustavo Petro/Francia Márquez and Rodolfo Hernández/Marelén Castillo.

During the second round, Rodolfo Hernández, who publicly ruled out alliances, won the support of former presidential candidates Fico Gutiérrez (Equipo por Colombia), Enrique Gómez (Salvación Nacional), John Milton Rodríguez (Colombia Justa Libres), and Ingrid Betancourt (Oxígeno Verde). Gustavo Petro was not supported by any of the former presidential candidates, as Sergio Fajardo (Centro Esperanza) and Luis Pérez (Colombia piensa en Grande) gave their supporters the freedom to vote.

Colombia's president and vice president are elected for a four-year term. The 1991 Constitution was amended to prohibit reelection.⁷ If no presidential ticket reaches 50% of the valid votes plus one, the two candidates with the highest number of valid votes go for a second round. The candidate who comes in second in the presidential election takes a seat in the Senate. Likewise, the vice presidential candidate will be able to take a seat in the House of Representatives.

⁶ [2022 Pre-election legislative period: Most violent against political, social and community leaders](#). Electoral observation mission. 2022.

⁷ The 1991 Constitution prohibited the reelection of the president. The Legislative Act 2 of 2004, which amended the constitution, established immediate presidential reelection. Subsequently, the Legislative Act 2 of 2015 returned to the mandate of the 1991 Constitution, which prohibits the reelection of the president.

CAMPAIGN ENVIRONMENT

First Round of the Presidential Election Campaign: May 29, 2022

The security situation worsened in the months leading up to the election, with various "armed strikes"⁸ paralyzing much of the country. According to Colombia's Misión de Observación Electoral (MOE), the level of violence in the months leading up to the 2022 elections was the highest in the last three election campaigns. Despite the increasingly deteriorating security situation, during the first round the candidates were able to hold mass events and participated in debates. However, violence in certain parts of the country limited the full exercise of their freedom, as candidates could not campaign freely in areas where armed clashes were taking place. Both Gustavo Petro and Francia Márquez reported death threats. Gustavo Petro decided to cancel several campaign events. Federico Gutiérrez also denounced death threats against him and some of his collaborators. Rodolfo Hernández announced that he would not attend the campaign closing event for security reasons.

The government programs disseminated by the candidates included proposals on economic development, employment, land reform, security, education, health, restoration of relations with Venezuela, and corruption, among others. Candidates agreed on their efforts to distance themselves from the current government. The 2016 Peace Accord was not a divisive issue as in the 2018 election where positions on peace were extremely polarized. All candidates stated the need to implement the accord, although they did not give much detail on how to do so. The issue that was mentioned most often throughout the campaign was the possibility of fraud. Social media experts indicated that in this election, the narrative of electoral fraud had been considerably higher than in 2018.⁹

Suspension by Congress of the 2005 Law of Guarantees,¹⁰ arguing that this would revitalize the economy after the pandemic, was highly controversial. The Law of Guarantees prohibits inaugurations, hiring, and official advertising during the electoral campaign, with the objective of guaranteeing equal conditions and neutrality for public servants in the electoral period. The suspension came into effect in November 2021 through the incorporation of an article in the 2022 Budget Law. On May 5, the Constitutional Court reversed the reform on the grounds that an ordinary law cannot amend a statutory law.¹¹ Although this judgment was considered positive, it came, as contracts that had already been fully or partially executed could have generated certain inequities in the campaign.

One issue that caused consternation during the campaign was the temporary suspension from office by the attorney general's office of four mayors for engaging in political activities.¹² This issue opened a debate on the prohibition of elected officials from engaging in political activities, which is mainly due to the absence of a statutory law specifying the conditions for doing so.¹³ The Inter-American Court of Human Rights had already ruled in similar cases,¹⁴ stating that disqualification or removal

⁸ "Armed strikes" refer to actions by illegal armed groups, such as guerrillas or paramilitaries, to halt all economic, academic, and, above all, mobility activities for a certain period of time and in a certain area.

⁹ [Electoral Disinformation](#). Linterna Verde. May 2022.

¹⁰ [Law 996 of 2005](#), known as the Law of Guarantees.

¹¹ Statutory laws seek to regulate situations of special importance, which is why their enactment follows a more demanding procedure than that of other laws (approval by special majorities and prior constitutional review).

¹² Daniel Quintero, Mayor of Medellín; Andrés Fabián Urgado, Mayor of Ibagué; Wilfrido Alfonso Romero Vergara, Mayor of San Juan Nepomuceno (Bolívar) and Marco Adrián Artunduaga, Mayor of Timaná (Huila). In the case of the mayor of Medellín, the suspension was based on a video posted on social media in which it was interpreted that he was secretly supporting the candidate Gustavo Petro.

¹³ Article 127 of the constitution prohibits certain categories of civil servants from taking part in political activities and states that employees not covered by the constitutional prohibition may only take part in political activities under the conditions laid down for that purpose by a statutory law.

¹⁴ www.corteidh.or.cr/docs/casos/articulos/seriec_233_esp.pdf (2011) and [Petro vs Colombia](#) (2020). Inter-American Court of Human Rights.

from elected office by an administrative body is contrary to the American Convention on Human Rights, and ordered Colombia to bring its legal system in line with it. Some experts considered that the legal effects of an interim suspension are similar to those of an impeachment. The suspensions were also considered arbitrary because of the lack of sanctions beyond other political interventions by high-ranking state officials, including President Iván Duque and the commander of the Armed Forces.

Recommendation: The Carter Center recognizes the importance of preventing the use of public resources to favor a particular political option. However, the absolute prohibition on elected officials participating in political activities goes against the very essence of their political rights. The Carter Center recommends the approval of a statutory law that governs the conditions for elected officials to participate in politics.

Second Round of the Presidential Election Campaign: June 19, 2022

Following the results of the first round, which were accepted by all contenders, tensions eased. Soon, however, the Petro and Hernández campaigns contributed negatively to the tense atmosphere in the days leading up to the second round. With the possibility of a close election predicted by the polls, speculation reappeared from Petro and his followers about the possibility of fraud, which even included questioning the neutrality of the RNEC.¹⁵ On the other hand, rhetoric spread from his opponents about Petro's possible rejection of the results if he lost the election.¹⁶ The MOE reported an intensification of coercion of citizens to vote a certain way and of messages aimed at scaring voters about a possible outbreak of violence if Gustavo Petro lost the elections.¹⁷

In the second round, both candidates restricted their public appearances due to the situation of violence and the direct threats they received. Rodolfo Hernández announced from the United States that he was canceling his public appearances until the elections because of threats to his life.¹⁸ Petro's campaign focused on talks with citizens, interviews in the media, and different meetings with political stakeholders that were broadcast in real time via Facebook Live. Rodolfo Hernández ran an effective social media campaign, with live broadcasts via Facebook Live, YouTube Live, and Twitter as well as short videos on TikTok interacting with young people, influencers, and athletes.

With regard to their campaign messages, both candidates agreed on their intention to bring about a profound change in the country through comprehensive protection for the most vulnerable, universal and free education, the transformation of the health system, environmental protection, and the improvement of citizen security. Both reiterated their commitment to comply with the peace accord and to start negotiations with the National Liberation Army (ELN). Vice presidential candidate Francia Márquez campaigned actively for human rights and the environment. Several observers highlighted Márquez's positive impact on Petro's campaign.

Supporters of both contenders deployed mechanisms to unleash a “dirty campaign,” not necessarily driven by the Petro or Hernández campaigns but possibly the result of the country's polarization. One issue that caused a great stir was the leak of recordings of private discussions, in which a senator from the Pacto Histórico (Historic Pact) proposed different strategies focused on attacking different leaders. The speakers also noted the candidates' mutual attacks on each other via social media. Given

¹⁵ [Interview with the newspaper el País](#). June 14, 2022. See also [Lo único que nos queda por enfrentar es el fraude \[The only thing left to deal with is fraud\]](#). Gustavo Petro. June 2022.

¹⁶ Rodolfo Hernández said that if the difference between the two candidates were close, Petro would not accept the results and his supporters could destroy “the little infrastructure we have.”

¹⁷ [Ninth report submitted by the electoral observation mission for the National Commission for the Coordination and Follow-up of the Electoral Processes - Presidential Elections 2022](#). Electoral observation mission. June 8, 2022.

¹⁸ [Statement by Rodolfo Hernández](#). June 9, 2022.

the high level of aggressiveness in political campaigns and social networks, the attorney general's office launched the campaign “*menos ofensas, más respeto* (less offenses, more respect)” and invited electoral players to avoid hate speech and misinformation.¹⁹

Presidential Debates

First Round

In the first round, there were more than 30 presidential debates organized by the media, journalistic associations, and universities, among others. Four of these debates were held in the last week of the campaign. The debates covered a wide range of issues and allowed the candidates to directly compare and contrast their political projects. Some critics argued that the format generally used in Colombia tends to reinforce political polarization and prevents real discussion. Others commented that the number of debates was excessive and that there was a fatigue in the candidates and a certain fatigue in the electorate. Petro and Hernández, who made it to the second round, avoided attending several debates in the final phase of the first round.

Second Round

Two days after his passage to the second round, Rodolfo Hernández announced that he would not participate in any debates. Colombian law does not explicitly require candidates to participate in debates. However, on June 14, five days before the second round, the High Court of Bogotá ordered the two presidential candidates to jointly request and schedule a presidential debate within 48 hours, “with the rules and on the topics indicated in the request.”²⁰ The candidates did not reach a consensus, and no debate was held.

The problem of candidate absenteeism from debates is not new in Colombia. The High Court of Bogotá points out that the national importance of the election of the president — and the right of access to the media of parties, social movements, politicians, and significant groups of citizens — implies a duty to citizens to allow them to know their candidates. While some invoked the principle of informed voting to require candidates to participate in public debates and put their ideas before the voters, others questioned whether debates are really in the general interest or whether they are useful in shaping public opinion.

***Recommendation:* In light of the Bogotá High Court’s ruling ordering presidential candidates to participate in a debate, it would be advisable to analyze the issue in depth to determine whether it is appropriate to oblige candidates to participate. Once the decision has been made, policy adjustments should be made.**

Campaign Financing

For years, broad sectors of Colombian society have questioned the current model of political financing and agreed on the need for reform. Electoral experts point to the persistence of significant policy gaps and deficiencies that first, increase the possibility of recourse to illicit sources and secondly, affect fair competition.

While the regulations establish a predominantly state presidential campaign regime, presidential candidates were again unable to receive the public funding designed to establish fairer conditions for candidates. As a result, the organizations and candidates relied almost exclusively on their own resources and loans from financial institutions to cover their campaign expenses. The contenders reported that the requirements to access the funding were overly complex.

¹⁹ [Menos ofensas, más respeto](#). Procuraduría General de la Nación [attorney general’s office]. June 2022.

²⁰ [Ruling of the High Court of the Judicial District of Bogotá](#). June 14, 2022.

Since 2013, political organizations and candidates have been required to use Clear Accounts, the electronic tool of the National Electoral Council (CNE) and the official mechanism for reporting election campaign revenue and expenditure and for public consultations of the data entered. In November 2021, the CNE issued a resolution with a provision that electoral campaigns should record their financial movements in Clear Accounts within one week of making a transaction.²¹ Several investigations by civil society organizations and the media into campaign financing revealed that not all organizations reported revenue and expenditure on time, and there was a widespread perception that financial movements were underreported.

The lack of reliable and complete information on actual campaign revenues and expenses is closely linked to the lack of oversight of campaign financing. The capacity of the CNE to monitor the financial reports of political organizations is highly limited by the lack of technical, operational, and budgetary resources. However, observers also noted that the council did not aim to comply with the accountability requirements set out in its own procedural standards.

Recommendation: Widespread concern regarding the financing of political parties calls for reform. The Carter Center recommends giving consideration to increasing direct and/or indirect public funding, restricting private funding, adopting measures to effectively deliver the state advance, and strengthening transparency and oversight of campaign financing.

²¹ [Resolution No. 8586/2021](#). CNE. “Adopting the procedure for reporting revenue and expense reports for the election campaigns of candidates, parties, political movements, and significant citizens groups, and for popular consultations of political groups, via the obligatory use of the “Clear Accounts” software.

ELECTION ADMINISTRATION

The Colombian constitution establishes that electoral organization shall be composed of the National Electoral Council and the National Registry of Civil Status. The CNE conducts supervision and oversight of electoral management, and the activities of political groups and their candidates, plus national ballot counting. The RNEC is responsible for the logistics of each stage of the electoral process, including polling station selection and the compilation of the electoral roll and the preliminary results schedule.²² The RNEC has permanent offices in all 32 departments and in the capital district of Bogotá. The Fifth Section of the Council of State exercises the highest judicial authority in electoral matters. Other state institutions, such as the office of the attorney general (which deploys tens of thousands of officials on election day), the public prosecutor's office, the Ministry of the Interior, the military, and the police, among others, have important roles in the management and oversight of the electoral process. For election day, the RNEC appoints precinct poll workers from citizens lists provided by public institutions, private companies, and political parties.²³

The National Commission for the Coordination and Follow-up of Electoral Processes,²⁴ chaired by the minister of the interior and composed of the aforementioned control bodies, the political parties, and the electoral observation mission, among others, monitors the electoral process and coordinates and presents suggestions and recommendations they consider appropriate. At the lower administrative levels, these are headed by departmental and municipal authorities. Some observers pointed out that the electoral organization and oversight bodies form a very sophisticated framework, which is sometimes confusing and has certain competence duplicities.

The National Electoral Council

The nine magistrates of the CNE are elected for a period of four years by the congressional parties with a proportional representation system.²⁵ The partisan composition of the CNE has led to questions regarding its independence. In addition, its dysfunctions (mainly the lack of budgetary and administrative autonomy as well as its territorial structure) have adversely affected the exercise of its functions. Consequently, there is the general view that effective oversight is lacking on key aspects of the process such as election campaigns and political financing. According to the electoral experts, disagreements among the magistrates gave rise to prolonged internal disputes and adversely affected decision-making. In this process, this was evident in the absence of strong internal communication that would have given the electorate assurances regarding the electoral process. All these factors contributed to the perception of a highly weakened institutional structure.

***Recommendation:* The Carter Center recommends that Colombian stakeholders redesign the electoral institutional framework of the CNE, prioritizing steps to ensure its independence, as well as the technical and professional criteria for selecting its members. This body should have budgetary autonomy and territorial decentralization.**

National Registry of Civil Status

In general, the RNEC has enjoyed reasonable confidence in its ability to run elections. The registrar is selected by means of a merit-based process conducted by high-level judicial institutions. The selection process for the current registrar in 2019 was not devoid of criticism. According to electoral

²² [Political Constitution of the Republic of Colombia](#). Article 265. July 20, 1991.

²³ According to data from the RNEC, 102,152 polling tables were set up, distributed in 12,513 polling stations. These figures include 1,343 polling tables in the 250 external polling stations, distributed in 67 countries. Each polling station had six polling staff members.

²⁴ [Rules of Procedure of the Commission for the Coordination and Monitoring of Electoral Processes](#).

²⁵ To balance the political forces within the CNE, since 2003, its members have been elected by the Congress from candidate lists put forward by the political parties.

experts, it was not conducted according to the established legal parameters or with the expected transparency. This raised questions regarding the suitability of the registrar to conduct efficient and transparent electoral processes. At the time of writing, the registrar selection process was being investigated by the Council of State.

While the shadow of mistrust was also present in previous electoral processes,²⁶ the analysts consulted by the Carter Center's electoral mission team agreed that following the legislative elections of March 2022 the electoral system faced its worst crisis of legitimacy in decades. Additional matters further eroded confidence. Political stakeholders and civil society organizations widely felt that there were major setbacks in transparency and access to information in the office of the RNEC. This was the case, for instance, in the procurement process for the various actors in the electoral process, particularly in contracting technological solutions for polling stations and voter registration. Observers pointed out that contrary to what occurred in this process, the RNEC in previous electoral processes had invited the various political and civil organizations to participate and submit recommendations on essential matters, which guaranteed transparency.

Inadequate communication with the electorate and political and social actors also was referenced. Analysts indicated that the RNEC did not provide a timely explanation of the alleged irregularities in the legislative elections leading to major uncertainty and that it did not clarify the widespread confusion regarding the differences in the legal scope of the interim results and the official count. Moreover, messages were launched from the registry, which, rather than giving assurance, caused further confusion. This was the case, for instance, with the presentation of the digital systems to national and international organizations, which the RNEC attempted to equate with audits. The registrar's response to Gustavo Petro on allegations of possible fraud were considered inopportune, as they crossed the limits of neutrality that the electoral institutions are required to maintain at all times.²⁷ There was also major criticism of a video broadcast the day before the second round of a poll showing a chart of the election results, with the names of the real candidates rather than fictitious names.²⁸

***Recommendation:* The Carter Center recommends that the electoral administration ensure that the different campaign stakeholders, as well as civil society, and oversight bodies have the necessary information and access to all aspects of the electoral process. This will help build confidence in the process. The Carter Center further recommends that the National Registry of Civil Status develop a communication strategy to educate citizens on the electoral system overall and in particular on the preliminary results.**

Finally, it should be noted that the RNEC's functions include politically sensitive issues — for instance, the selection criteria for election poll workers, the rules on provisional counting, and the locations of polling stations. These require deliberation and consensus-seeking with an official body.

Other circumstances, such as political polarization and the spread of disinformation on social networks, contributed to mistrust of the process. However, the effect of these would have been substantially mitigated if the electoral institutions had been perceived as professional, transparent, independent, and impartial. In short, a strong institutional system, capable of generating trust in the electorate and assurances for political actors, is necessary.

²⁶ Some observers refer to the 1970 presidential election, in which there were alleged irregularities favoring the winning candidate. Others claim that discrepancies between preliminary and official results were also evident in previous elections.

²⁷ [National Registrar's Response to Petro](#). El País. June 14, 2020.

²⁸ [Video Technical Test](#). June 18, 2022.

Preparations for the Elections

While the RNEC is responsible for the preparation and logistics of all stages of the electoral process, many of the electoral processes have been managed by the private sector for more than two decades. For presidential elections, UT Disproel was contracted to publish preliminary results, develop applications to select poll workers and poll watchers, and manage voting day logistics, among other tasks. Some observers were of the view that outsourcing so many electoral processes weakens electoral institutions because it prevents them from exercising full oversight over the process and from gaining experience in running elections and technological development.

In general, most analysts reported to The Carter Center that the electoral administration carried out election logistics effectively. It is important to note that the organization of presidential elections posed fewer operational complexities than the legislative elections, with a single ballot and an improved record of results. The success of the first presidential round may have covered up some of the shortcomings of the legislative elections, which were not adequately addressed, and that could reappear in future elections.

The RNEC had implemented various positive measures that aided in the perception of voter registration as reliable and inclusive and improved the voting process, such as the use of more than 20,000 biometric identification devices in a pilot project in areas at high risk of identity fraud. Another positive aspect was the improved online and in-person information services for voters to verify their voting station. Organizing voting from abroad for more than 800,000 Colombian nationals in 69 countries was also a considerable challenge. The RNEC reported that the number of polling stations had increased by about 7% compared to the 2018 elections. However, civil society organizations pointed out that the higher number of polling stations did not necessarily mean that voting had been enabled for residents of remote areas.

Following the legislative elections, the RNEC made considerable efforts to help solve the problems that arose during the elections, including changing the criteria for poll workers to prioritize prior electoral experience. The selection process excluded poll workers from the 5,109 polling stations where irregularities had been reported in the legislative elections. In addition, international and Colombian election observers reported that poll worker training and the publication and reception of preliminary results were strengthened. However, civil society organizations noted difficulties accessing complete data on the application process; validation of information submitted by entities and companies; ballots; publication; notification; the software for the ballot process; and appointment of polling juries, which had been available in prior electoral processes.

Other measures included a redesign of the E-14 results form, double entry of pre-count data, strengthening voter information platforms, and shorter deadlines for registering poll watchers.²⁹ Some political organizations reported accreditation problems. For instance, the Pacto Histórico (Historic Pact) complained that the RNEC had failed to accredit 8,000 of its witnesses. Likewise, the Partido Colombia Justa indicated it had put forward 5,191 poll watchers but only 3,512 had been accredited. Some political campaigns criticized the RNEC's lack of transparency in the administration of accreditation of both poll workers and political party poll watchers.

The publication of provisional results over the two election days was a success. In addition, full traceability was ensured through the publication of several documents and results reports. Observers valued the registrar's change in approach with the timely delivery of information and documentation on the election results, which made a significant difference in terms of transparency and confidence.

²⁹ According to the RNEC, for the first round, 177,311 witnesses were credited from all political groups for the first presidential round and for the second round 83,290 witnesses were credited from the Pacto Histórico (Historic Pact) and 75,535 from the Liga de Gobernantes Anticorrupción (League of Anti-Corruption Rulers).

Nevertheless, as a result of the mistrust in electoral institutions, the political parties and candidates had to engage large-scale machinery — from deploying tens of thousands of poll workers and poll watchers to hiring computer and business technicians to conducting a parallel tabulation — to protect their vote and obtain records of results for internal tabulation. The high degree of organization and staff recruitment required for this effort meant that it was possible only for the political organizations with the most resources.

While the electoral authorities invested considerable effort in the preparation of the draft electoral code and in various training initiatives related to the protocol to drive the political participation of women or disinformation on social networks, little effort was devoted to responding to recurrent problems, such as vote buying, which remains a challenge in Colombian electoral processes. According to research, vote buying, which goes hand-in-hand with illegal campaign financing, occurs mainly in marginalized rural and urban areas, especially on the Atlantic coast.

***Recommendation:* The Carter Center recommends the design and implementation of a comprehensive policy to combat vote buying that includes studies to diagnose the extent of the problem, awareness campaigns about the guarantee of voting secrecy, improving instruments for complaints, introducing policy changes to eradicate “voter registration relocation,” and greater oversight and transparency over political financing, among others.**

Electoral Technology Audits

For the 2022 electoral process, the RNEC implemented a two-software solution for official ballots. For national ballot counts, the RNEC acquired state-owned software from the Spanish company Indra. The private company UT Disproel was again contracted for the software for territorial ballot counts (of zonal, municipal, and departmental commissions) and for the software for provisional results.

In 2021, the RNEC contracted the private firm JAHV McGregor to carry out an external audit on all processes contracted to UT Disproel. On March 10, three days before the legislative elections, an audit on the software for the vote count acquired by the state from Indra was added to these tasks. The contract with Indra also included a cybersecurity software audit. This audit was carried out by SIA, a company belonging to Indra, which compromised its independence.

The Carter Center has noted some confusion regarding public access to audit reports in the electoral process. The RNEC claims that political parties have had access to them. The political parties consulted by the electoral mission team deny such access. The team had access to a document by JAHV McGregor dated June 17,³⁰ two days before the second round. The document does not contain the signature of the auditor who performed the audit; does not establish audit criteria (standards and requirements); does not refer to specific documents with specific versions; and does not identify the applicable software versions, vulnerabilities, or proposals for improvement. The document looks more like a description of good practice in the auditing process than an audit report. The only reference to cybersecurity in the report is that “cybersecurity [was conducted] according to contractual requirements.” However, the scope of the audit is not known.

In April, the CNE requested government funding for an “international” audit. Even though the government provided the funds, the audit was never conducted due to insufficient time. The office of the attorney general also indicated that JAHV McGregor had already conducted an audit and that another audit would incur contract duplication. Observers indicated that in order to restore confidence

³⁰ Concept of Polling Transparency Contract 071 of 2021, for the Elections of (i) Municipal, Local, and Youth Councils Electoral Processes; (ii) the Congress of the Republic; and (iii) Presidential Formula, First and Second Rounds in 2021 and 2022. JAHV McGregor S.A.S. June 17, 2022.

in the process this additional audit would have been important to carry out. In any case, the CNE's request was made late, with insufficient time to comply with an audit in accordance with international standards. The CNE's lack of foresight in this regard was widely criticized, particularly in view of the anticipation of controversial elections.

With regard to the transparency of the software procurement documentation and the audits, a number of political and civil society stakeholders indicated they had not received information regarding the software procurement contract, which should include software functionality requirements, cybersecurity requirements (reference to standards and integrity levels), requirements for comparable past experiences, test coverage requirements, functional testing and system testing requirements, and simulations.

Nor did they receive information on the contracting process of auditors, definitions of the tests to be carried out by the auditor, the audit certificate indicating the extent of regulatory compliance, or the suitability of the product for use. Similarly, they did not receive information regarding cybersecurity auditing, such as the auditor's definition of the tests to be run on all aspects of cybersecurity, giving priority to robustness against attacks that block the application during elections and specific data integrity against modification, nor on the overall degree of the software integrity.

In both the main and cybersecurity audit, access to information on the full content of the audit report (identifying vulnerabilities, level of test coverage, and points of improvement) should have been evaluated and agreed with political stakeholders at a stage prior to recruitment.

However, the most critical point was that the parties were not able to conduct a comprehensive audit of all the software because, for the most part, private companies owned the software used. In particular, there was no access to the source code whose intellectual property belonged to the company. It is not clear that, in itself, the development of software by electoral institutions is the solution to the problem, given that it is the institution itself that generates mistrust. Experts consulted have indicated that developing proprietary software is not without its challenges as it requires technical expertise and ongoing updates that can make it unsustainable.

Recommendation: The Carter Center recommends that the electoral authorities provide electoral actors with the information required to understand the technologies and the mechanisms used to protect system integrity. If the technology continues to be outsourced, it should be done well in advance to allow for audits and simulations. Both political actors and civil society organizations should be able to monitor this outsourcing, from recruitment to evaluation of the contracted content. Timely access to documents relating to the quality and cybersecurity levels of technologies should be facilitated.

Observance and Technical Tests

In the months leading up to the first round of the presidential election, there were almost daily news stories reporting that political parties and civil society and international organizations would be conducting audits. The National Registry of Civil Status invited international electoral technology specialists from the International Foundation for Electoral Systems, the Electoral Advisory and Promotion Center (Centro de Asesoría y Promoción Electoral), and Electoral Transparency to participate in numerous technical tests and simulations. Their technical reports were submitted to the RNEC and, at the time of writing, had not been made public.

In addition, the RNEC arranged technical tests for political parties, civil society organizations, and observers. These consisted mainly of pre-count and final count simulations, poll worker selection software presentations, and software freeze sessions. The office of the attorney general and the office

of the comptroller also attended some of these events. Political and civil society organizations highlighted the RNEC's ongoing improvisation, which made it impossible for electoral observers to make the necessary technical assessments. For instance, they indicated that concurrent meetings were arranged for the technicians, invitations reached participants at short notice or even once after an event had ended, and there was on some occasions an absence of those responsible for technical matters.

***Recommendation:* The Carter Center recommends independent audits of both software quality and cybersecurity. These should be assessed prior to contracting, and parties should agree in advance about the information that should be made public. In addition, the relevant actors should be given the chance to independently observe the technologies, ensuring their presence in the functional testing simulations. Reports on the main results of the simulations should be made public.**

Electoral Census

According to RNEC, the electoral census for the presidential elections included 39,002,239 Colombians eligible to exercise their right to vote — 20,111,908 women and 18,890,331 men — an increase of 2,774,972 (7.7%) voters over the 2018 presidential elections. These figures include the 972,764 Colombian citizens eligible to vote abroad, including 529,087 women and 443,677 men. Voters were able to consult their polling stations on the website and the mobile device application *infovotantes* or in person at the registrar's office.

Observers appreciated the significant effort by the National Registry of Civil Status to improve the quality and reliability of the electoral census, including the elimination of a large number of registered people who had died or emigrated. To correct low enrollment, the RNEC promoted mass enrollment campaigns prioritizing the most marginalized urban and rural areas, especially those affected by conflict. At the end of 2021, it was made possible for Colombians to register their citizenship card virtually. However, due to difficulties during the legislative elections, the RNEC decided that registrations for the presidential elections had to be done in person.

The reliability of the electoral census has not been a priority concern for the parties. One of the organizations said that the polling center³¹ of Corferias in Bogotá, with 557,031 voters, maintained voter numbers similar to those of prior presidential elections. In addition, civil society organizations have commented on the difficulties of accessing certain disaggregated data in order to track the registrations at each polling station. This made it difficult to monitor a number of key issues, such as identifying atypical behaviors or patterns that might reveal irregular electoral practices such as relocating voter registrations.

³¹ Citizens whose identification document was issued between Jan. 1, 1988, and Jan. 7, 2003, and were not assigned a polling place depending on their residence. As of Jan. 7, 2003, all ballot papers are assigned to the polling station nearest the address reported at the time of processing the identity document.

IMPLEMENTATION OF PEACE ACCORD: POLITICAL REFORM

The 2016 Peace Accord³² was not only an agreement to cease the armed activity of the FARC-EP, it sought the transformation of the country, especially in the areas most affected by the conflict. In the five years since the signing of the accord, there have been serious difficulties that have impeded its implementation, such as increasing violence by illegal armed groups, political polarization, and the social and economic impact of the pandemic. At the end of 2021, the Kroc Institute for International Peace Studies published a progress report on the implementation of the peace accord.³³ The institute concluded that 30% of the provisions of the accord had been fully implemented, 18% were in intermediate status, 37% were in minimal implementation status, and 15% were uninitiated.

The 2016 Peace Accord provided for the implementation of comprehensive political reform. According to the Kroc Institute, political participation (point 2 of the accord) is one of the points that has seen lower levels of implementation. Its monitoring on this point indicates that 43% remain in minimal implementation status, and 29% are uninitiated. According to their analysis, this is because the implementation of these reforms depends mainly on policy reforms that require a high level of political consensus. Such are the political and electoral reforms resulting from the recommendations on electoral organization made by The Carter Center in 2017. The report points to other reforms pending, such as the need for regulatory changes for the functioning of a system of progressive acquisition of rights, funding and disclosure of programs, and untying the legal status of the political parties from an electoral threshold.

On a positive note, there has been some progress:

- The demobilization of the FARC-EP and its constitution as the political party Comunes in August 2017, which included its public funding and minimum representation in Congress for two legislatures, was one of the most important results of the 2016 Peace Accord, as it involved the integration of those who belonged to the guerrillas in political life. Despite the difficulties, former FARC-EP members and Comunes party members were able to campaign and vote in the legislative elections for the second time since the signing of the accord.
- The first-time implementation of the Special Transitory Peace Constituencies into the 2022 legislative elections, in which 16 seats in the House of Representatives are elected for two terms, was a milestone in terms of compensation to the victims of the armed conflict and thus strengthened the political participation of the most excluded sectors.
- With the adoption of the Statute of the Opposition in 2017, a number of measures were adopted that provided greater participation to political organizations with minority representation in Congress, such as participation in boards of directors, access to the media, official documentation, and increased party funding. It was also decisive in promoting conditions of gender parity in the governing bodies of Congress.

On the occasion of the fifth anniversary of the signing of the 2016 Peace Accord, the United Nations High Commissioner stated in November 2021³⁴ that despite the progress made many challenges remain, such as ensuring the presence of the state in the areas most affected by the conflict and finding development alternatives to consolidate peace in these areas. At the U.N. Security Council meeting held in April 2022, in order to examine the progress of the peace accord in Colombia, the head of the U.N. Verification Mission in Colombia stated that “the peace process will succeed or fail based on

³² [Final Agreement to End the Armed Conflict and Build a Stable and Lasting Peace](#). 2016.

³³ [Five Years of Peace Agreement Implementation in Colombia: Achievements, Challenges, and Opportunities to Increase Implementation Levels \(December 2016–October 2021\)](#). Kroc Institute for International Peace Studies of the University of Notre Dame. United States. 2021.

³⁴ [Words from the U.N. High Commissioner](#). November 2021.

the efforts to end the deadly violence faced by ex-combatants, social leaders, and human rights defenders”.³⁵

Despite the upsurge in violence in some parts of the country, the peace process in Colombia experienced new progress by holding largely peaceful presidential elections. The implementation of the accord did not play an essential role in the presidential campaign. However, there was a broad political consensus for respecting the 2016 Peace Accord. President-elect Gustavo Petro expressed his commitment not only to implement the accord but also to engage creatively in negotiations with the Gaitanista Self-Defense Forces of Colombia (Autodefensas Gaitanistas de Colombia Clan del Golfo [Gulf Clan]) and the National Liberation Army. All Carter Center interlocutors conveyed the need to give momentum to meeting the commitments acquired by the accord.

Electoral Legal Framework

Colombian electoral legislation is spread among numerous laws,³⁶ judgments by the Constitutional Court, and the Council of State as well as in administrative regulations and decisions by the National Electoral Council. Consequently, it is not up to date, lacks clarity, and fails to provide legal certainty. The CNE has recently expanded the legal framework, seeking to provide greater certainty to the 2022 electoral process. However, interlocutors pointed out that the last-minute introduction of regulations gave rise to problems of interpretation and added confusion and uncertainty, above all, in technology-related issues.

The current electoral code in effect since 1986 and prior to the Constitution of 1991 was substantially modified by the constitution and subsequent political-electoral reforms approved by Congress (particularly in 2003, 2008, and 2011), which made many of its provisions inapplicable. In addition, the 1986 Electoral Code contains a series of deficiencies and gaps relative to the electoral institutional design, the internal democracy of the parties, private financing of electoral campaigns, insufficient stimuli for guaranteeing gender equality, and inadequate deadlines for registering candidates or for rulings on motions filed, among other things.

Since the peace accord was signed, there have been unsuccessful attempts to carry out electoral reform. Carter Center interlocutors coincided on the need to update and harmonize the electoral legal framework urgently in light of the constitution, the laws enacted in these last years, and new technological solutions (some of which are being applied in practice) as well as in solving the gaps and deficiencies of the current law and providing the electoral system with greater transparency and efficiency.

***Recommendation:* The Carter Center recommends reforming the electoral code, which will serve to clarify the inconsistencies and deficiencies of the current law. The reform should prioritize urgent needs, focusing on politically and technically viable areas. The areas identified as top priorities are the transformation of the electoral architecture to ensure its independence; financing of political parties, with special attention to the origin of private financing; strengthening of transparency; internal democracy of the parties; and gender equality.**

³⁵ [U.N. Security Council](#), April 2022.

³⁶ [The most relevant electoral regulatory framework consists of:](#) The Political Constitution of 1991, the 1986 Electoral Code, Act 1475/2011 on Political Parties and Electoral Processes, Act 996/2005 on the election of the President of the Republic, Act 130/1994 on Political Parties and Political movements, Act 1581/2012 on the Protection of Personal Data, and Legislative Act 01/2004 on the loss of Political Rights.

Proposed Electoral Reforms: Special Electoral Mission 2017

At the beginning of 2017, the Special Electoral Mission, an electoral working group, was formed to carry out a comprehensive electoral reform within the peace accord framework.³⁷ The group received the mandate of proposing recommendations to provide the electoral administration with greater autonomy and independence, modernize and make the electoral system more transparent, provide greater guarantees for political participation in equal conditions, and improve the quality of democracy.³⁸

In April 2017, the group presented its “Proposed Political and Electoral Reform” document.³⁹ The proposed reforms included an electoral institutional redesign in order to strengthen impartiality, autonomy, and efficiency of electoral organs as well as to bring about greater confidence in electoral processes. Toward that end, the special electoral mission proposed the creation of a nonpartisan Colombian Electoral Council, with budgetary autonomy and territorial decentralization, responsible for the regulation, surveillance, and control of electoral processes and promoting democratic participation. The council would be exclusively responsible for regulating the organization of elections. Electoral jurisdiction would rest on an electoral court. The RNEC would remain in charge of the registry, organization of elections, and creation of the electoral roll.

Other proposals referred to political financing to provide its control with greater transparency and financing. The proposed mechanisms included maintaining the model of mixed political financing, but with an increase in public financing; enacting new prohibitions on the sources and ceilings in absolute values for private financing; a more severe sanctioning regime; the development of guidelines for publicity and accountability; and the expansion of citizen surveillance channels.

In order to improve the political representation of young people, ethnic groups, women, and territorial representation — as well as discouraging patronage practices — the working group considered it necessary to reform the electoral system for the election of the Senate by adopting unique lists by parties, closed and blocked, among other measures. In reference to the House of Representatives, adopting a mixed system of multimember constituencies and single-member districts was proposed, along with increasing the representation of the underrepresented departments (states) as well as developing criteria for the layout of single-member districts.

The government submitted the Draft Law for Political and Electoral Reform to congress in 2017. Upon failing to achieve the necessary consensus, the Senate withdrew the legislative initiative in November 2017. The Carter Center considers that the majority of the proposals submitted by the Special Electoral Mission continue to be pertinent and should be considered in future reforms to the electoral system.

Proposed Electoral Reforms: 2020

The draft law for a new electoral code was approved by Congress in December 2020. The electoral reform was carried out at the initiative of the CNE and RNEC and in collaboration with the Ministry of the Interior and the Council of State, in addition to the participation of political parties and movements. This reform entailed a great effort by electoral institutions to harmonize electoral procedural standards with the Constitution of 1991 on political participation-related issues; gender equality; publicity; transparency; impartiality; and nondiscrimination, while adopting the legal framework to new technological realities and incorporating some pronouncements of the electoral-

³⁷The Special Electoral Mission was formed with outstanding personalities and organizations of the electoral environment, which included the electoral observation mission and the current electoral authority, and it had the technical assistance of international organizations.

³⁸Final accord to end the conflict and build a stable, lasting peace. Point 2.3.4.

³⁹ [Political and Electoral Reform](#). special electoral mission. April 2017.

contentious jurisdiction, particularly those relative to the principles that must govern the interpretation of the rules of law. However, in April 2022, the Constitutional Court declared the draft law unconstitutional due to defects in the procedure during its processing in Congress, and the debate on the reform was postponed for the next legislature.

The draft law strengthened the duties and powers of the CNE, imbuing it with, among other things, express attributions to perform audits on technologies and other activities of the electoral process, emphasizing the vote-counting stage and statement of results, and providing it with a minimum territorial structure. In order to combat fraudulent practices such as migratory herding, the project foresaw the creation of an electoral domicile, binding it to the effective residence of the voter. Moving deadlines forward and establishing digital procedures were proposed for registering the national identity card. In addition, including population data was contemplated for setting out public policies for inclusion and differential approaches, and parameters were incorporated for their publicity.

With regard to the registration of candidates, the project proposed that information periods be established for significant groups of citizens, rules for forming coalitions be written, and the grounds for disqualification and incompatibility be redrafted. The gender quota on the lists of multimember candidates also was proposed to be increased to 40%. It introduced the concept of political violence against women and set out mechanisms to combat it. It proposed other political inclusion measures of diverse communities (LGBTIQ, disabled people, etc.).

The project included a calendar for campaigns and guidelines for propaganda on social networks. In reference to election day, the poll workers would be selected from the electoral census. A digital accreditation process and virtual training were proposed for poll watchers as well as the possibility of discharging their duties at more than one polling station.

The project introduced the gradual possibility of early voting and electronic voting. The possibility of using biometric identification systems and developing the digital national identity card would become available. It further incorporated jurisprudence relative to the conservation and custody of physical and electronic electoral documents as well as the acquisition of vote counting software. The principles of traceability, auditability, and security of the processes were introduced. The binding force of performing audits of electoral technologies was incorporated in conformity with standards on efficiency, digital security, and source code; publicizing answers to audit findings; and developing a contingency and cybersecurity plan.

In the judgment of various experts consulted, the draft law also contained deficiencies such as insufficient guarantees of permanent, free access to public information on electoral processes, the introduction of rules that could discourage electoral observation, and an insufficient transparency requirement in the RNEC contracting regime. One of the most criticized points was the proposal to grant the registrar the power to directly appoint various levels of employees of the National Registry of Civil Status outside the administrative career. The same thing happened with the gender equality proposals, which only applied to constituencies with five or more seats and did not include a “zipper” formula so that men and women appear alternately on the lists.

MEDIA AND ELECTIONS

Legal System

The legal framework that regulates the functioning of audiovisual means of communication and telecommunications is set forth in a collection of laws and regulations.⁴⁰ The Colombian Constitution sets forth freedom of speech; the right of free association; the prohibition of censorship; and the right to receive accurate, impartial information. The Communications Regulation Commission and the Ministry of Information and Communication Technologies (MinTIC) regulate the radio spectrum and are responsible for granting radio and television licenses, and the National Television Authority regulates television.

Media Context

There is a wide array of public and private media at a national, department, municipal, and community level in Colombia. However, its centralization in the principal cities limits diversity and access to information from a large part of the country. According to “Information Cartographies,”⁴¹ prepared by the Foundation for Press Freedom (FLIP, per its acronym in Spanish), at least 578 municipalities (of the 994 mapped by FLIP) of the country are areas of “information silence,” without media nor any type of local news.

According to the press freedom index of Reporters Without Borders (2021),⁴² Colombia placed 134 out of 180 countries. Contrary to the world trend recorded by the United Nations Educational, Scientific, and Cultural Organization, the number of assassinated journalists in Colombia has increased in these last years. The Inter-American Court of Human Rights affirmed in 2021 that violence against journalists in Colombia continues to be systematic.⁴³ FLIP reported that the 2022 electoral period has been the most violent in the last decade, and violence has increased 59% compared to the past 2018 elections.⁴⁴ According to FLIP, almost 80% of the assassinations of Colombian journalists are unpunished, which feeds a cycle of permissiveness and self-censorship.

Another face of violence against journalists is intimidation. Interlocutors stated that the approval of Draft Law 090 of 2021 (Anti-SLAPP),⁴⁵ currently undergoing debate in Congress, would bring progress in the improvement of working conditions since it seeks to avoid judicial harassment of journalists. In addition, stigmatization of journalists by politicians and candidates is habitual during electoral campaigns, by discrediting journalists who report critically on their campaigns.

Even though the transparency law sets forth that all public entities and officials have the duty of delivering public information that is requested from them, journalists and representatives of the sector have stated the difficulties in obtaining it. FLIP specially criticized the RNEC for relegating any request for information to the press office.⁴⁶

⁴⁰ Among other things, [Act 72/1989](#) on the right to public telecommunications, [Act 14/1991](#) which regulates public radio and television services and [Act 335/1996](#) which establishes the creation of private television. The Transparency Law, [Act 1712/2014](#), regulates access to information.

⁴¹ [Information Cartographies](#). FLIP.

⁴² [2021 Annual Report](#), Reporters Without Borders.

⁴³ [Physical, sexual, and psychological torture against Jineth could not be carried out without the collaboration of the State](#). FLIP. October 2021, and [Bedoya Lima case and another vs Colombia. Sentence of the Inter-American Court](#). August 2021.

⁴⁴ [This electoral period has been the most violent for the press in 10 years](#). Criterion. May 2022.

⁴⁵ Draft law. Act 090 of 2021. (Strategic demands against public participation).

⁴⁶ [Coverage of the 2022 elections: recommendations and good practices](#). FLIP. March 2022.

The Media and Candidates

Presidential candidates are entitled to disseminate their government programs in the public space as well as on social media from 60 days up to eight days before voting.⁴⁷ During the month prior to election, the CNE distributes free spaces at random in private radio and television media.⁴⁸ Private television chains that provide a subscription television service in Colombia are prohibited from telecasting or disseminating electoral propaganda or have it telecasted through foreign television channels.

In compliance with the provisions of the Law of Guarantees on the information balance between the presidential campaigns,⁴⁹ the National Electoral Council required weekly communication reports from the media with the list of times and spaces granted to the campaigns of each candidate. According to the council, the majority of the media sent the foregoing report. Four days before the first round, the CNE submitted a report with its conclusions: The candidate that received the highest media coverage was Federico Gutiérrez with 76,482 seconds; followed by Rodolfo Hernández with 51,421 seconds; Gustavo Petro with 47,046 seconds; Sergio Fajardo with 43,540 seconds; Enrique Gómez with 39,805 seconds; and John Milton Rodríguez with 26,887 seconds.

In cases where a fair and equitable treatment had not been given to the contenders, the CNE, together with the Communications Regulation Commission and MinTIC, requested that the respective media grant increased space to candidates that were not favored to reestablish balanced information. It appears that these measures were not adopted sufficiently in advance to guarantee balanced information during the campaign.

In 2020, the CNE ruled that the use of social networks to promote candidacies to public offices or popularly elected public bodies were deemed publicity and/or political propaganda.⁵⁰ Political publicity on networks outside of the electoral campaign period was prohibited. The CNE engaged the specialized company Siglo Data⁵¹ to monitor the campaign on social networks. The reports furnished by Siglo Data to the CNE were not made public.

Disinformation on Social Media

According to the 2022 Digital Annual Report,⁵² Colombia is the fourth country of the world in information searching on social networks. In the Freedom House Internet Freedom Index, Colombia obtained a 65/100 index in 2021⁵³ by marking four consecutive years of decline, which places Colombia in the “partially free” category.

The narratives on electoral fraud gained alarming momentum on social networks, which intensified after the legislative elections. In its electoral disinformation report,⁵⁴ Linterna Verde, a think tank that monitors discussions on social networks, concluded that the number of publications on Facebook

⁴⁷ [Act 130/1994](#) regulates the organization and functioning of parties and political movements and access to the media. [Act 1475/ 2011](#), whereby rules are adopted on organizing and functioning of parties and political movements, electoral propaganda, and electoral processes, and [Act 996/2005](#), Statutory Electoral Guarantees that set out restrictions for seeking equality and equity between the candidates.

⁴⁸ [Decisions issued for the 2022 presidential elections](#). CNE.

⁴⁹ Article 25 of [Act 996 of 2005](#), known as the Law of Guarantees.

⁵⁰ [Official Statement on the use of social networks for electoral purposes](#). CNE. July 2020.

⁵¹ Siglo Data is a Colombian company that monitors, classifies, analyzes, and files news on massive media and social networks.

⁵² [2022 Digital Annual Report](#). Freedom House.

⁵³ The Freedom House Internet Freedom Index rates the access of people to political rights and civil liberties in 210 countries and territories, arising largely from the Universal Declaration of Human Rights. The index includes three components: obstacles to access, limits to contents, and violation of user rights. The countries are rated as free, partially free, or not free.

⁵⁴ [Electoral Disinformation](#). Linterna Verde. May 2022.

about “fraud” grew 25 times, compared with the 2018 presidential elections. The conversation about fraud on Twitter reached higher interaction peaks than other campaign issues such as abortion or pensions. Three days after the first round, the #ElectoralFraud hashtag positioned itself as a trending topic on Twitter. According to Linterna Verde, the hashtag was driven by Gustavo Pedro followers.

Interlocutors pointed out that the unfamiliarity between the preliminary count and the counting of votes contributed to the disinformation on social networks. Some governmental authorities reinforced the doubts on the process on the networks. For example, President Duque insinuated the possibility of interference in elections through “hackers” in February. According to La Silla Vacía and the Latin American Center for Investigative Journalism (CLOP, per its acronym in Spanish), in addition to disinformation there were also coordinated campaigns for disseminating negative publicity on Facebook.⁵⁵

The nongovernmental organization Colombiacheck⁵⁶ performed a fact check during the 2022 electoral process.⁵⁷ Colombiacheck published that of the 138 verifications performed as of June 14, 73 were false, 24 were questionable, and only eight were correct. Colombiacheck published other specific investigations on the truth of the statements of four presidential candidates (Petro, Gutiérrez, Hernández, and Fajardo) while they held the office of mayor. The investigation, presented on a video, #verifiuenvagos, transmitted on YouTube, showed various questionable and false statements of the four former mayor candidates, among other things.⁵⁸

The CNE signed an alliance with the Kwai platform to prevent fake news in 2021, and it announced training for influencers on electoral rules and disinformation. There is no public information on the result of this or other possible collaboration.

Recommendation: The Carter Center recommends that the processes and capacities of the CNE be strengthened to ensure the implementation of electoral campaign regulations, including aspects related to combating hate speech and disinformation on social media. Toward that end, literacy and nonpartisan fact-checking programs should be carried out, and there should be collaboration agreements between the CNE and social network platforms. Traditional media and social networks should be monitored, taking into account the new digital formats.

TikTok and Wappid in the Electoral Campaign

According to experts consulted, social networks in Colombia were a critical factor for determining elections for the first time, since the efficient campaign strategy on the social networks of Rodolfo Hernández, with fewer followers than Petro, contributed significantly to him going to the second round. Experts singled out the importance of TikTok, especially, for reaching the youngest voters.

Linterna Verde pointed out the strategies of Rodolfo Hernández on TikTok:⁵⁹ First, the use of direct, repetitive language that easily goes viral; secondly, the use of nontraditional political language, positioning himself as a political alternative; thirdly, he reversed his public image by transforming it to his favor. Thus, according to Linterna Verde, the presidential candidate went from being “rude” and “unprofessional” to “upfront” and “sincere,” thereby building an alternative image that appeals to emotions and seeks to reach the empathy of voters.

⁵⁵ [Dirty campaign on Facebook spent \\$309 million](#). Silla Vacía and CLIP. May 2022.

⁵⁶ Colombiacheck is one of the signatories of the [Code of Principles of the International Fact-Checking Network](#).

⁵⁷ Verifications of statements by candidates and of disinformation on social networks relative to the elections. [2022 Voto Checkeado \[Vote Checked\]](#), Colombiacheck.

⁵⁸ [Verifiquen Vagos](#). Colombiacheck.

⁵⁹ [The strategies on TikTok](#) Linterna Verde.2022

According to experts on the subject, Rodolfo Hernández’s campaign also made use of a relatively unknown tool up to that time. Wappid,⁶⁰ a political marketing platform that uses messaging apps, mainly WhatsApp, to create support networks under the name Rodolfistas.wappid.com. Apparently, there were more than 400,000 Colombians registered on the Hernández network.⁶¹

PARTICIPATION OF WOMEN

The results of the legislative elections represented significant progress in the representation of women in Congress, since 28.8% of the total seats will be held by women. This presumes a 9.1% increase, compared with the 2018–2022 legislature. Even so, Colombia is one of the countries with the worst indicators of the political participation of women in the region.⁶² In the presidential elections, there were no female candidates, although three of the six vice presidential candidates were women, all of them Afro-Colombians. According to interlocutors, Francia Márquez, who obtained a historical vote in the internal elections of March and was elected vice president of Colombia, played a central role in Petro’s campaign. Only one of the nine magistrates of the CNE is a woman.

Violence against women in politics continues to be the main obstacle. Civil society denounced that political violence against women in Colombia has increased continuously since 2017, and attacks against women candidates increased during the 2022 electoral process. Colombia does not have a special law that addresses violence against women in politics, as in other countries of the region. Some legislative progress has recently been made to protect the political participation of women. In 2021, the National Electoral Council issued the Political Participation of Women Protocol.⁶³ The council provided training, among other things, to the political parties on the new regulations of gender violence. However, information is not available on the measures adopted to implement the protocol concretely on the criminal complaints received, steps taken by the authorities, and the actions taken to guarantee financing in the political participation of women.

***Recommendation:* The Carter Center recommends that legislative reforms be adopted that require gender equality and alternation on the candidate lists as well as representation quotas in the structures of the political parties and in the senior election administration body. Regulations on political violence against women must be developed. Finally, the data related to implementing the National Electoral Council protocol on political violence against women should be published.**

⁶⁰ Wappid is an SaaS (software-as-a-service) political marketing platform that uses messaging apps. It is a software that resembles a social network that connects followers mainly through WhatsApp, which is used by approximately 92% of Colombians. [The unknown digital weapon that took Rodolfo Hernández to the presidential second round of Colombia.](#)

⁶¹ [The Rodolfo Hernández phenomenon. These are the keys of his success.](#) Week. June 2022.

⁶² Colombia is above the global average of women’s participation in parliaments (25.5 %) and approaching the average in the region, which is at 32.4% (IPU-UN Women, 2021).

⁶³ [Decision 8947/2021.](#) CNE. “Protocol for promoting greater political participation of women to guarantee the right to vote in equal conditions between men and women, prevent, and deal with cases of violence against women in politics.”

VOTING, COUNTING, AND TALLYING

First Round of the Presidential Election: May 29

Election day was characterized by most analysts and international and domestic observers as being performed in an orderly manner, and voting could take place in practically all parts of the country. Regrettably, a poll worker was assassinated in the department of Meta in the afternoon while he transferred the election material. In addition, one soldier was wounded during the attack.

Participation (54.90%) was somewhat higher than in the 2018 elections. The elections were extensively supervised by various institutions of the state. In addition, the strong participation of party poll watchers, along with national and international observers, was a measure of positive transparency. The electoral observation mission, which comprehensively observed election day, deployed 3,539 observers in more than half the municipalities of the country and at 19 voting booths abroad.

Analysts and observers generally agreed that the RNEC adequately organized the logistical and operational aspects of the election. Voting proceeded smoothly since this was a single-ballot presidential election. Observers indicated that the poll workers generally showed good knowledge of the voting procedures and vote counting, which could be due to the changes in their selection as well as reinforced training. The electoral observation mission confirmed the presence of poll watchers at 74% of the polling stations they visited. In reference to the biometric identification that had been installed at 20,000 pilot polling stations, the mission observed problems in identifying people at 41% of the polling stations where there was biometric equipment, which caused some delays in the voting process.

Voters could file their complaints on alleged irregularities or electoral crimes through various means. The attorney general received 96 complaints, the Immediate Reception Unit for Electoral Transparency governmental platform received a total of 584 citizen complaints, and the electoral observation mission's *pilas con el voto* app (app for reporting voting irregularities) received 418 reports. Irregularities reported include cases of assumed political intervention by public officials and voter intimidation, procurement of votes, identity theft (phishing), failures of biometric identification devices, exhibition of delivery of publicity during election day, problems with the electoral census, and problems with accrediting witnesses on a timely basis.

International and domestic election observers reported that votes were counted in the presence of political party poll watchers and observers. The nature of the elections provided for a simplified counting of votes. Observers also indicated that the forms were filled out correctly. The mission indicated that the E-14 results form was free of erasures and corrections at 88.9% of the polling stations and that the votes were recorded correctly at 98% of the polling stations.

Preliminary and Final Results: May 29

In the weeks leading up to the election the system for the transmission of RNEC provisional results generated a lot of mistrust, but its functioning was not questioned during election night. The success of the transfer of the provisional results was due fundamentally to the fact that residential elections require a much simpler counting and reporting procedure than do legislative elections. In addition, new methods introduced by the RNEC included double entry in the transfer of data included in the E-14 results forms.

The National Registry of Civil Status was able to disclose the electoral results on a timely basis. Polls closed at 4 p.m. The RNEC had transferred 91.66% of the provisional results by 5:15 p.m. The RNEC

published its last bulletin with 99.99% of the certificates processed by 9:45 p.m. The difference between provisional results and the official counting of votes was 0.1%. The results were disclosed on a specific RNEC webpage⁶⁴ and through a mobile telephone application. The scanned certificates of E-14 results were published online on the election night itself. Political party poll watchers were allowed to take images of the certificates of results, and those images were shown at the offices of the vote counting commissions where the official counting of the votes was carried out.

The official counting of the votes started on the day following election day, and it was extended to June 1. Citizens were able to track the official counting of votes through a specific link to the RNEC webpage.⁶⁵ The composition of the vote counting commissions consisted mostly of poll workers from polling stations where the vote counting process ended without any claims.

According to the official results published by the CNE⁶⁶ of the first round, no candidate achieved an absolute majority of valid votes. Therefore, those with the highest votes, Gustavo Petro/Francia Márquez Mina (Coalición Pacto Histórico [Historic Pact for Colombia]) with 40.34% of the votes and Rodolfo Hernández/Marelén Castillo (Liga de Gobernantes Anticorrupción [League of Anti-Corruption Rulers]) with 28.17% moved on to the second round of presidential election. Both were followed by Federico Gutiérrez/Rodrigo Lara (Colombia Coalition Team) with 23.90% of the votes and Sergio Fajardo/Luis Guilberto Murillo (Coalición Centro Esperanza), which successfully exceeded the threshold of 4% for the replacement in money for each vote obtained. The percentage of blank votes (1.70%) was lower than in the 2018 elections (4.20%), whereas the total invalid and unmarked votes (1.1%) remained at similar levels.

Second Round of the Presidential Election: June 19

International and domestic election observers reported that election day was generally calm, although one laments the murder of a human rights defender and a poll watcher linked to Petro's campaign, both in Cauca. In addition, an army soldier was killed in Caquetá. Participation was 58%, which was the highest participation since the 1998 presidential election.

There was also a significant presence of international observers in the second round.⁶⁷ The special electoral mission deployed 3,381 in all the departments of Colombia as well as in 39 consulates in 24 countries. The mission reported that there were poll watchers at 89% of the polling stations observed at the time voting closed. At 42% of the booths where biometric identification systems had been installed, it was observed that not everyone went through that process. The attorney general's office reported 148 complaints about ballots already marked, the lack of training of poll workers, and the intervention of public officials in politics. By relying on the Pilas con el Voto application, the electoral mission received a total of 393 reports on possible irregularities, particularly on the printing of voting ballots, the alleged buying of votes, and constraining citizens.

The second round of the presidential election was conducted with the poll workers and voting places as the first round. Therefore, the poll workers were well acquainted with the voting and vote counting procedures. In accordance with the information reported, dots or lines were observed on the blank ballots at the polling station, which led to confusion about the impact that this could have on determining their validity. Eventually this was not a problem, since the observation mission reported that the total written votes in the vote count certificates were correct at 98% of the polling places observed. At 88% of the polling places observed, the E-14 forms did not show any erasures or corrections.

⁶⁴ <https://resultados.registraduria.gov.co/>

⁶⁵ [Inquiry on vote-counting documents](#). RNEC.

⁶⁶ [Resolution No. - 2979 of 2022](#). CNE. June 2, 2022

⁶⁷ The RNEC reported that 418 observers from 32 countries had been accredited in the second round.

Preliminary and Final Results: June 19

The preliminary results, with 97.06% of the polling places reported, were published at 5:05 p.m. (bulletin 12), an hour after voting had closed. The certificates of the results were digitalized and published on the RNEC webpage that same night, which enabled the transparency of the results. According to the data published by the CNE,⁶⁸ Gustavo Petro/Francia Márquez Mina (Coalición Pacto Histórico [Historic Pact for Colombia]) obtained 50.42% of the votes and Rodolfo Hernández/Marelén Castillo (Liga de Gobernantes Anticorrupción [League of Anti-Corruption Rulers]) 47.35%. Blank ballots added up to 2.23%, the lowest percentage in the second round of the last 20 years, whereas the total invalid and unmarked ballots (1.30%) remained at levels similar to those of 2018. The National Electoral Council declared Gustavo Petro as president-elect and Francia Márquez as vice president-elect of Colombia.

Candidate Reactions to Preliminary Results

After the preliminary results were announced, Petro started his victory speech with a conciliatory message wherein he assured that among the priorities of his government, there would be a great national agreement to carry out the reforms needed by the country. He added that his government would work on three fundamental aspects: peace, social justice, and environmental justice. The first Afro-descendant vice president of the country, Francia Márquez, highlighted the priority in her speech of integrating the most marginalized groups in Colombia.⁶⁹ Gustavo Petro and Francia Márquez will be sworn into office on Aug. 7, 2022.

In a statement on networks, Rodolfo Hernández accepted the results without nuances and congratulated president-elect Petro. Hernández sent a message to Petro exhorting him to meet the expectations of the Colombians.⁷⁰ From his campaign, it was ensured that Hernández would take the seat in the Senate and Marelén Castillo would occupy a seat in the House of Representatives, as contemplated by the Statute of Opposition for the formula that obtains second place in the presidential election.

⁶⁸ [Resolution 3235](#).CNE, June 23, 2022.

⁶⁹ Francia Márquez said that Colombia will have “a government of the people.” “The government of the common people, the nobodies (men and women); “We are going for dignity, for social justice. We women are going to eradicate the patriarchy of our country. We are going for the rights of our diverse LGBTIQ+ community. We are going for the rights of our mother earth, our big house. Together we are going to eradicate racism.”

⁷⁰ Rodolfo Hernández said: “I hope that Petro knows how to lead the country, that he is faithful in his speech against corruption and that he does not disappoint those who trusted him.”

ANNEX A: TERMS AND ABBREVIATIONS

CNE	National Electoral Council
CTEP	Special Transitory Peace Constituencies
FARC-EP	Revolutionary Armed Forces of Colombia-People's Army
FLIP	Foundation for Press Freedom
MinTIC	Ministry of Information and Communication Technology of Colombia
RNEC	National Registry of Civil Status