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1910 Colombian constitutional reform and the electoral system (1910-1914)¹

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Abstract

In 1910 in Colombia a constitutional reform took place. It was promulgated through Legislative Act 03 and its aim was to strengthen the development of democracy, as a strategy for mediating the bipartisan conflict that Colombian society had been living through since the XIX century. Therefore, governments needed to be legitimated periodically and systematically through the ballot box. Although the elections were not enough to define a democratic political system,

1 This article is derived from the study «Representaciones del poder político en Colombia durante el siglo XX» financed by the Research Department of the Universidad Pedagógica y Tecnológica de Colombia, through the tender of seed capital 2015.

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they were associated with the expression of representative democracy. The objective of this work is to analyze in what way the constitutional reform was intended to introduce an electoral system that would allow the *elites* to solve the problems of governability and representation, without significantly expanding the number of voters. The study of the elections is mainly carried as from political history, which allows for the analysis of how the constitutional reform was a strategy of the elites to reorganize the political and economic context after the thousand-day war (1898-1902), and thus avoid the development of a new conflict. Through the constitutional reform, representative democracy, centered on elections as a mechanism for legitimating power, was called for, and a new form of electoral organization was established which had its center in the capital of the country and from there links were made to the processes carried out in the departments and municipalities.

Key words: 1910 constitutional reform, representative democracy, elections, electoral system, participation.

La reforma constitucional colombiana de 1910 y el sistema electoral (1910 – 1914)

Resumen

En 1910 en Colombia se efectuó una reforma constitucional, promulgada mediante Acto Legislativo 03, cuyo objetivo fue fortalecer el desarrollo de la democracia, como estrategia para mediar el conflicto bipartidista que vivía la sociedad colombiana desde el siglo XIX; por lo tanto, los gobiernos debían ser legitimados periódica y sistemáticamente a través de las urnas; aunque las elecciones de por sí no bastaban para definir un sistema político democrático, el desarrollo de los comicios se asoció con la expresión de la democracia representativa. El objetivo del texto es analizar de qué manera la reforma constitucional pretendió instaurar un sistema electoral que le permitiera a las élites solucionar el problema de la gobernabilidad y de la representación, sin ampliar significativamente el universo de los votantes. El estudio de

las elecciones se efectúa principalmente desde la historia política, que permite analizar cómo la reforma constitucional fue una estrategia de las élites para reorganizar el espacio político y económico, con posterioridad a la guerra de los mil días (1898 – 1902) y así evitar el desarrollo de otro conflicto. A través de la reforma constitucional se reivindicó la democracia representativa centrada en las elecciones como mecanismo de legitimación del poder, se instauró una forma de organización electoral que tenía su núcleo central en la capital del país y desde allí se establecieron nexos con los procesos efectuados en los departamentos y municipios.

Palabras clave: reforma constitucional de 1910, democracia representativa, elecciones, sistema electoral, participación.

La réforme constitutionnelle colombienne de 1910 et le système électoral (1910-1914)

Résumé

En 1910 la Colombie a entrepris une réforme constitutionnelle, promulguée à travers l'acte législatif 03, dont le but était d'affermir le développement de la démocratie et d'amortir ainsi les disputes partisans subies par la société du pays depuis le XIXe siècle. Même si le déroulement des élections ne suffit pas pour définir un régime comme démocratique, les gouvernements colombiens ont cherché systématiquement à être légitimés à travers le suffrage. Notre objectif est d'analyser comment la réforme constitutionnelle s'est proposée d'instaurer un système électoral permettant aux élites de résoudre les problèmes de la gouvernabilité et de la représentation sans pour autant élargir en forme significative le nombre de votants. Nous étudions les élections à partir de l'histoire politique afin de comprendre comment la réforme constitutionnelle a été une stratégie des élites pour réorganiser l'espace politique et économique au lendemain de la guerre dite des Mille Jours (1898-1902) et empêcher ainsi l'éclat de nouveaux conflits. La réforme constitutionnelle a permis de revendiquer la démocratie et la place centrale tenue par les élections dans ce système en tant que mécanisme de légitimation du pouvoir.

Elle a instauré également une organisation électorale dont le centre était la capitale du pays et à partir de laquelle se sont établis des liens avec les départements et les communes.

Mots-clés: réforme constitutionnelle de 1910, démocratie représentative, élections, système électoral, participation.

1. Introduction

The 1910 Colombian constitutional reform suggested the formation of an active and participative citizenry in order to oppose authoritarianism. The elections, as an expression of representative democracy, created a space for the expression of popular sovereignty, through which a party obtained power and was legitimated according to the number of votes obtained in the elections. The objective of the reform was also to pursue the participation of the parties, in order to try to mediate the traditional bipartisan conflict which was a part of Colombian society, the greatest expression of which was the thousand-day war. The reform was also intended to take authority away from the executive with the demand for popular sovereignty and the balance of the three powers, so as to put an end to the closure of congress that had been effected in 1905 by Rafael Reyes³ and in its place a National Assembly operated instead.

At the center of the debate, the type of democracy was considered, particularly that related to the participation and representation of minorities, legitimacy, and power, under the pretense of extending universal suffrage to all individuals. According to Pierre Rosanvallon universal suffrage was the main topic of debate throughout the XIX century, «it is on it that social specters, intellectual perplexities, and political dreams are focused»⁴, which for the case of Colombia remained a substantial factor in the definition of the type of democracy and representation. The elections turned into the means of

³ Article 6 of the Legislative Act n° 9/1905, of 17 April.

⁴ Pierre Rosanvallon, *La consagración del ciudadano. Historia del sufragio universal en Francia* (México: Instituto Mora, 1999), 10.

appropriation of the citizenry and the main fundament of political participation, in general terms, the return to elections in 1910, as a mechanism for the legitimation of political power was a strategy to improve governability⁵. At the time, it was thought that proportional representation could be the best strategy to guarantee the exercise of democracy.

The adoption a new political order in which were simultaneously accommodated selective⁶ and universal suffrage, and the partisan contest, was intended to give more prominence to the elites so as to attempt a political reconstruction of the country, under the precepts of tolerance and conciliation. At the same time, it would allow the elites to establish mechanisms for negotiation with the participation of minority parties and, in this way, resolve the existing political problems. The political representation of minorities was a concept used to refer to the small parties or those with a lower number of voters, not precisely so as to expand the participation of the political body. In order to achieve this inclusion, a «proportional representation system» was adopted, through the system of incomplete vote – electoral quotient, cumulative vote, which ensured the participation of minorities in the parliament.

As from the constitutional reform of 1910 the electoral system was modified, the regime of majorities was replaced with one of proportional representation, which facilitated the liberal party's access to public corporations while the republican party, which represented a third force, eventually disappeared from the electoral map. On the other hand, the concept of citizenship was broadened by giving inhabitants more participation in the election of their representatives,

5 Dieter Nohlen, «Electoral systems and governability» (Working Paper n° 63, Universität Heidelberg, 1992), access 20 February 2016, <http://www.corteidh.or.cr/tablas/a19113.pdf>.

6 The census suffrage system was considered to be the basis of the electoral system, elaborated from the census defined by tax payment. Thus, the attribution of political sovereignty was closely linked to the valid fiscal systems «Sistemas electorales y estructuras sociales. El siglo XIX europeo.» en *Democracia, elecciones y modernización en Europa, siglos XIX y XX*, coord. Salvador Forner (Madrid: Editorial Cátedra, 1997), 5-6.

although weighted voting was established to elect the president of the republic and representatives, the election of senators continued to be indirect⁷.

Below, three sections will be addressed: the role of elections in the expression of democracy where elections and representation are reflected on, which allows for a possible influence of regulations on the electoral system established in Chile, Argentina, Spain, and Paraguay on Colombia, highlighting the way in which the representation, participation, and organization of the electoral system were assumed in each state and, how in general, the governments designed policies to regulate the elections. In the second part, the way the constitutional reform had an influence on generating changes in the development of the elections is described, taking into consideration that one of the objectives was to expand participation and representation, and that the elections had to be the means of guaranteeing popular sovereignty. The third part describes the structure of the electoral system in Colombia and the way in which the lists should be made for each election, taking into account the proportional relationship and the type of requirements demanded for each election.

2. Elections and regulations. Some reflections

The role that elections fulfill is that of establishing a public authority through which the citizen establishes a relationship of authority and power with the government. Elections are a symbol of sovereignty, which guarantee the exercise of democracy in accordance with the nature of the republican regime. According to Gueniffey, since the beginning of the French revolution, elections have been the expression of a political system in which rulers obtain their authority from the people for whom they are responsible. Suffrage would then be a means of selecting leaders, an institutional procedure and one that legitimizes public authority, as well as being

⁷ National Civil Registry, *Historia Electoral de Colombia* (Bogotá: National Civil Registry, 1988).

a regulatory instrument of the relations between society and power⁸. The realization of direct suffrage represents an expression of popular will, through which the representatives are elected who will act before the government on behalf of the people. Thus, the people participate in the election of legislators and agents of executive power. This process has been denominated “popular sovereignty⁹”, and this is precisely one of the principles that the political elite intended to call for with the constitutional reform of 1910.

One of the main concerns during the XIX century and the beginning of the XX century was the implementation of universal suffrage, which represented a guarantee as regards the expression of citizenship. It is possible to see how regulations responded to internal and external situations, for this reason it is not possible to see the implementation of liberties and the progressive extension of suffrage. For example, in the case of Spain, the 1878 electoral reform suppressed male and direct universal suffrage and instead the census or weighted vote was established. Additionally, changes in the electoral geography were introduced as well as in the electoral procedure with the objective of facilitating the representation of minorities, through the creation of uninominal and plurinominal electoral constituencies. Although the reform was intended to limit the intervention of the government in the elections, in practice it continued to control a large number of the constituencies. For this reason, government intervention continued to be a key factor in elections¹⁰. While the Spanish electoral law of 1890 allowed the adjustment of the practice of taking turns in accordance with the pact between parties, in that way elections became a formalism which depended on the organization

8 Patrice Gueniffey, *La revolución francesa y las elecciones. Democracia y representación a finales del siglo XVIII* (México: Instituto Federal Electoral, Fondo de Cultura Económica, 2001), 38.

9 Alex de Tocqueville, *La Democracia en América* (Buenos Aires: Hyspamérica, ediciones Orbis, 1985), 42.

10 Carlos Dardé, «Avanzar retrocediendo. La reforma electoral española de 1878,» en *Legitimidad, representación y alternancia en España y América latina: las reformas electorales (1880-1930)*, coord. Carlos Malamud (México: El Colegio de México, Fondo de Cultura Económica, 2000), 44- 54.

of the parties and their respective machinery, which were central aspects in the legitimization of power. Paradoxically, the changes introduced by the regulations focused on the electoral procedure with the aim of avoiding fraud, at the same time, they were intended to establish more controls for the elaboration of an electoral census, in order to form central, provincial and municipal boards in charge of forming electoral lists. Likewise, changes were introduced in the composition of polling stations because it was considered that in the stations lay the key to the elections. They should be formed by delegates from the different parties; their constitution was the guarantee of the validity of suffrage. This law also included sanctions to be imposed upon any attempt at fraud. Additionally, it offered the government a number of possibilities for intervention in the electoral process in seeking favorability¹¹.

Representativeness was the focus of the debate of the governments at the beginning of the formation of modern states in Latin America¹², and in moments when democracy was weakened or when it aimed to achieve the inclusion of the citizenry in other social sectors, as was seen in the Chilean

11 Aurora Garrido Marín, «La reforma electoral de 1890,» en *Legitimidad, representación y alternancia en España y América latina: las reformas electorales (1880-1930)*, coord. Carlos Malamud (México: el Colegio de México, Fondo de Cultura Económica, 2000).

12 José Carlos Chiaramonte, «Ciudadanía, soberanía y representación en la génesis del Estado argentino (1810-1852),» en *Ciudadanía política y formación de las naciones. Perspectivas históricas de América Latina*, coord. Hilda Sabato (México: Fondo de Cultura Económica, 2000), 94-113. Pilar González Bernaldo, «Los clubes electorales durante secesión del Estado de Buenos Aires (1852-1861): la articulación de dos lógicas de representación política en el seno de la esfera pública porteña,» en *Ciudadanía política y formación de las naciones. Perspectivas históricas de América Latina*, coordinado por Hilda Sabato (México: Fondo de Cultura Económica, 2000), 142-161. Marcela Ternavasio, «Nuevo régimen representativo y expansión de la frontera política. Las elecciones en el Estado de Buenos Aires: 1820-1840,» en *Historia de las Elecciones en Iberoamérica, siglo XIX*, coord. Antonio Annino (Buenos Aires: Fondo de Cultura Económica, 1995), 65-105. José Carlos Chiaramonte, Marcela Ternavasio y Fabián Herrero, «Vieja y Nueva Representación: Los procesos electorales en Buenos Aires, 1810 – 1820,» en *Historia de las Elecciones en Iberoamérica, siglo XIX*, coord. Antonio Annino (Buenos Aires: Fondo de Cultura Económica, 1995). María Celia Bravo, «Elecciones y prácticas electorales en Tucumán - Argentina 1870-1880,» *Historia Y MEMORIA*, n° 10 (2015): 241-270. Edwin Monsalvo Medoza, «Ciudadanía, vecindad y sufragio en Cartagena 1810-1834,» *Historia Y MEMORIA*, n° 6 (2013): 171-204.

electoral reform of 1890, the Spanish electoral reform of 1878¹³, the Spanish electoral reform of 1890¹⁴, the constitutional reform of 1880 in Paraguay¹⁵, the Saenz Peña law in Argentina in 1902¹⁶, to cite only some cases. However, to what extent did representation reflect the diversity of interests? Taking into consideration that political representation is an instrument for the formation of citizenship, it is the route that permits the establishment of the relationship between the individual and the nation, and, at the same time, promotes the expression and the strengthening of the political values that are significant in the construction of national identity¹⁷. In the Colombian case, and particularly regarding the constitutional reform of 1910, representation was focused on how to achieve the participation of the parties with less electoral strength or of minorities. Although inclusion was debated, three election models were simultaneously established: a census vote for the elections of president and representatives, an indirect vote for the election of senators, and universal male suffrage for men over 21 years of age in the election of congressmen and councilors.

In some states like Argentina and Colombia, at the beginning of the XX century, the concern of the elites was focused on trying to find procedures that promoted inclusion and that allowed the participation of the parties. At the same

13 Carlos Dardé, «Avanzar retrocediendo. La reforma electoral española de 1878,» en *Legitimidad, representación y alternancia en España y América latina*, coord. por Carlos Malamud (México: El Colegio de México, Fondo de Cultura Económica, 2000).

14 Samuel Valenzuela, «La ley electoral de 1890 y la democratización del régimen político chileno,» en *Legitimidad, representación y alternancia en España y América latina: las reformas electorales (1880-1930)*, coord. Carlos Malamud (México: El Colegio de México, Fondo de Cultura Económica, 2000).

15 Samuel Valenzuela, «La ley electoral de 1890 y la democratización del régimen político chileno,» en *Legitimidad, representación y alternancia en España y América latina: las reformas electorales (1880-1930)*, coord. Carlos Malamud (México: El Colegio de México, Fondo de Cultura Económica, 2000).

16 Carlos Malamud, «La efímera reforma electoral de 1902 en Argentina,» en *Legitimidad, representación y alternancia en España y América latina: las reformas electorales (1880-1930)*, coord. Carlos Malamud (México: el Colegio de México, Fondo de Cultura Económica, 2000).

17 Raffaele Romanella, «Sistemas electorales y estructuras sociales. El siglo XIX europeo,» en *Democracia, elecciones y modernización en Europa, siglos XIX y XX*, coord. Salvador Forner (Madrid: Editorial Cátedra, 1997).

time, they put forward mechanisms for the control of electoral fraud, but they did not worry about making citizenship extensive and inclusive for all the social sectors.

With the elections it was sought to legitimate power, from the expression of the will of the voters or active citizens, who gave the representatives, through their vote, the power to legislate¹⁸. In order to achieve that free expression, the parties made use of the press, meetings, demonstrations and in general of electoral campaigns, which would theoretically allow the citizens to freely express their decision. However, cultural practices, party endorsements and traditional negotiations were part of the ritual of the elections and the legitimization of power.

3. The 1910 Colombian constitutional reform and elections

Regarding the topic of elections, for the period 1910-1914, historians such as Jorge Orlando Melo have pointed out that the elections became a means of strengthening the conservative hegemony and the exclusion of liberalism, given that the former, according to Melo, used violent and fraudulent¹⁹ practices in order to keep themselves in power, and he reiterates that the system of proportional representation, although it gave participation to minorities, not everyone could participate. Melo's view is suggestive, in that it alludes to practices that «deformed» the democratic system. Nevertheless, perhaps these were what allowed for other social actors to begin to take part in politics, which places it in the trend that considers that the conservative hegemony was a period of few changes because it seemed that it was the conservatives that were

18 Francois Xavier Guerra, «El Soberano y su reino. Reflexiones sobre la génesis del ciudadano en América Latina,» en *Ciudadanía política y formación de las naciones. Perspectivas históricas de América Latina*, coord. Hilda Sabato (México: Fondo de Cultura Económica, 2000).

19 Jorge Orlando Melo, «De Carlos E. Restrepo a Marco Fidel Suárez: Republicanismo y gobiernos conservadores» en *Nueva Historia de Colombia, Vol III*, edited by Álvaro Tirado Mejía, Jaime Jaramillo Uribe and Jorge Orlando Melo (Bogotá: Editorial Planeta, 1989), 25 February 2016, retrieved from http://www.jorgeorlandomelo.com/bajar/carlose_marco.pdf.

actually controlling the exercise of power. On the other hand, Eduardo Posada Carbó, after carrying out an analysis on the diverse historiographical interpretations, puts forward that the elections, existing in Colombia during the conservative hegemony, were strengthened by practices and legislation, at the same time that the importance of suffrage for the different sectors of society was assimilated. The author insists that the elections allowed for the construction of an image of partisan rivalry in the struggle for power²⁰. The elections were presented as a guarantee of the exercise of democracy, in which although only the elites took part, the development, institutionalism, and legitimacy of which depended on the civil service and it allowed for many of the inhabitants to advocate the role of the elections and of participation as an expression of citizenship.

The origin of the 1910 constitutional reform was bred within a political tendency of dissidents, liberals, and conservatives against the government of Rafael Reyes who, as president of Colombia since 1904, eventually concentrated power in the executive and took power away from the elites and the clergy, represented in the judicial power and congress. This motivated a group of bankers and businessmen from Antioquia, Carlos E. Restrepo and Nicolás Esguerra among them, to lead a demonstration in rejection of Reyes dictatorship and in defense of the republican government,²¹ characterized by the strengthening of democratic practices, popular sovereignty, and the inclusion of political minorities. We share the hypothesis of Catalina Brugman that this group intended to build a suitable environment for the economic development of the nation²², given that war and permanent conflict were practices that impinged upon progress; by overcoming or mediating the conflict, investment and production would be favored. Behind the notion of conciliation, there was a pretense of political reform and of a

20 Eduardo Posada Carbó, «Los límites del poder: Elecciones bajo la hegemonía conservadora, 1886 – 1930,» *Boletín Cultural y bibliográfico* 39, n° 60 (2002): 47 -49.

21 Melo, «De Carlos E. Restrepo,».

22 Catalina Brugman, «El fracaso del republicanismo en Colombia, 1010-1914,» *Revista Historia Crítica*, n° 21 (2001): 92.

boost to economic development. The republican union had its origins in Antioquia, where an economic elite had started to consolidate, which was interested in peace in the country and that the political fights were decimated in order to give way to progress and innovation.

The articulation of the dissidents of the government of Rafael Reyes took place under the consolidation of the republican committees, in which liberal leaders of a civil bias and historical conservatives converged. These were the bases for the consolidation of a republican union, which proposed an idea of coalition and peace. In addition, the republican union was a strategy of the political elites to put an end to Reyes' government, as they considered him a threat to the control they had on the institutions of the state. Thus, republicanism became a government program, the main objective of which was to promote a reform of the 1886 constitution, with the aim of taking power away from the executive-president, under the pretense of pursuing democracy and popular sovereignty.

On the other hand, the internal tensions within the political parties were constant at the end of the XIX century and beginning of the XX. For example, in the liberalist party there was a trend of belligerents who rejected any type of agreement with the conservatives and the pacifist tendency, which coincided with the conservative tendency of the historical. In this scenario, critics of the Regeneration government (1886-1904) emerged and afterwards of the government of Rafael Reyes (1904-1909), as well as of the conciliation project (1910-1914) which intended to call for peace and tolerance in the republic.

Apart from the war, authoritarianism, and the partisan confrontation that existed in the Colombian society at the end of the XIX century and beginning of the XX, new political ideas emerged which advocated progress, but given the tension, governmental instability and the frequent political conflicts, the hoped for economic development could not take place. These dissident tendencies –liberal and conservative- tried to convince their co-partisans politically of the need to reform

the constitution, based on popular will. In this way, political citizenship was put on stage as the fundamental principle of a republican project that would guarantee the rights and liberties of all Colombians.

Between debates and proposals of several municipalities of the country and of diverse political tendencies, the members of the municipal Council sent letters and telegrams to the Minister of Government and to the incumbent president, Rafael González Valencia²³, requesting the election of a National Constituent Assembly to reform the constitution. In these documents it is possible to appreciate a sense of interest in the acknowledgement of the popular will and the rejection of authoritarianism. Thus, they invoked the right that the municipalities had, as had been expressed in Legislative Act No. 9 of April 17 1905, of requesting a meeting of a National Constituent Assembly²⁴. This organism should assume a legislative character and replace the function of senators and representatives.

In accordance with the legislation and the popular feeling expressed through municipal councilors, National Decree No. 127 of February 25 1910 was issued, with which the election of said National Assembly was called for; and through national decree 267 of that same year, it was indicated that the municipalities of the respective electoral districts elect their main congressmen and deputies for the National Assembly²⁵. In the whole country, 15 districts were formed and each of them would elect 3 representatives. The call for this Assembly was one of the first agreements reached by the leaders of the different political tendencies; it was a strategy to reduce the

23 See «Oficios y Telegramas enviados por los Concejos municipales de varios municipios del país, enero y febrero de 1910, solicitando la elección de Asamblea Nacional Constituyente», General Archive (AGN), Section One, *Ministry of Government*, volume 657. Ministro de Gobierno, *Informe del ministro de gobierno a la Asamblea Nacional de 1910*, (Bogotá: Imprenta Nacional, 1910).

24 Municipal Council – Municipality of Remolino, «Oficio enviado al Ministro de Gobierno», Remolino, February 1910, General Archive (AGN), Bogotá – Colombia, Section One, *Ministry of Government*, Volume 657.

25 Minister of Government, *Informe Ministro de Gobierno a la Asamblea Nacional de 1910* (Bogotá: Imprenta Nacional, 1910).

bipartisan conflict, pursue democracy, and establish practices of conciliation and tolerance.

Under the pretense of establishing a republican party in Colombia, the 1910 constitutional reform was suggested; the central point of the debate was legitimacy, which led to reformulating the concept of citizenship, the way representatives were elected, and the control mechanisms of the state: in order to achieve the transformation of the political regime from authoritarian to democratic and give legitimacy back to the people in the exercise of their rights.

The 1910 constitutional reform established the balance of powers in order to take power away from the executive; in the electoral field, greater power was granted to direct popular election, with exception of the Senate. However, the qualified vote was introduced, and it was established that in order to elect a president and representatives, citizens should know how to read and write, or have an annual income of 300 pesos, or property worth 1000 pesos; while all male citizens above 21 years of age elected their municipal councilors and congressmen for the Departmental Assemblies²⁶. With this constitutional reform participation and popular sovereignty were expanded, although participation was subject to literacy and income, which did not guarantee autonomy and freedom for the election of representatives. On the other hand, the everyday reality of the elections was accompanied by corrupt activities which became a parallel scenario to the electoral debate.

With relation to the electoral field, proportional representation of the political parties was suggested, which for the time was not only an innovation, but a mechanism to avoid both the exclusion of minorities and frequent confrontation. Article 45 of the cited legislative act introduced a proportional representation system denominated the incomplete vote, through which the majority party was assigned two thirds

²⁶ Legislative Act n° 3/1910, 31 October.

of the seats and one third to the first minority²⁷. With these considerations, the bases of the political representation of the parties were set, with the aim of minimizing the conflict. This proposal had already been made in the constitutional reform of 1905 and it was renewed²⁸ by the National Assembly. According to the Minister of Government, the minorities representation system was retaken from the French and American models, especially by setting electoral districts of 50 thousand inhabitants to elect one congressman, which was assumed as a type of proportional representation.

Besides that, the territory was divided into electoral districts for the election of representatives and congressmen to the Departmental Assemblies; with this system, it was intended that the party which obtained the majority in each electoral constituency would win. Departmental Assemblies were formed by congressmen elected by popular vote; one for every 12 thousand inhabitants, and one for each fraction above 6 thousand inhabitants. These congressmen were elected for a two-year period. In the municipalities, a corporation called the municipal council would be elected, also for a two-year period²⁹. The Senate would be formed of one senator for every 120 thousand inhabitants and one more for each fraction above 50 thousand inhabitants, senators would be elected by electoral councils for a four-year period. Representatives would be elected as follows: one for every 50 thousand inhabitants for a period of two years. With this system, it was intended to maintain the relation between majorities and minorities in each electoral district which allowed the parties to feel included in the public corporations.

In 1912, 17 electoral districts³⁰ were created in the national territory, for the election of representatives to congress. The districts were divided according to the number

27 Javier Duque, «La reforma constitucional de 1910. Constantes institucionales, consensos y nuevas reglas,» *Papel Político* 16, n° 1 (2011): 208.

28 Duque, «La reforma constitucional de 1910,» 185-212.

29 Legislative Act n° 3/1910, October 31.

30 Law 53/1912.

of departments, administrative areas, and special precincts, for which the respective capitals were taken as centers, a total of 14, and three more were established in the departments of Antioquia, Boyacá, and Cundinamarca, with capitals in Antioquia, Santa Rosa and Facatativá respectively³¹. This was another strategy for giving the regions proportional participation, according to the number of inhabitants; these three departments were assigned an additional representative because, at the time, they were the most populated.

The constitutional reform introduced the appointment of representatives for the different territories and, simultaneously, established three election models: the census vote for presidential and representative elections, the indirect vote for the election of senators, and the universal vote for men over 21 in the election of congressmen and councilors. This system can be compared to the Bolivian case, in which suffrage was the principal means of election and of legitimate access to public power between 1839 and 1952.

Vote-casting was characterized by being direct, weighted, male and literate. In the Bolivian state, the system in force was that of the majority, the open list category³² prevailing, in contrast to the Colombian system which set out an election by incomplete lists and full scrutiny, as was established in article 33:

In all popular elections, the objective of which being to form public authorities, in the election of electoral authorities and in that of senators when the number of officials that have to be chosen is exactly divisible by three, it will be voted by the two third parts, and they will be declared elected in scrutiny to those candidates who had obtained more votes until completing the total number of officials that have to be elected. When the number of officials to be elected, is not exactly divisible by three, this number will increase to the figure immediately superior that is divisible by three,

31 Pedro M. Carreño - Ministro de Gobierno, *Circular sobre elecciones*, (Bogotá: Imprenta nacional, 1913).

32 Marta Irurozqui Victoriano, *A Bala, Piedra y Palo. La construcción de la ciudadanía Política en Bolivia 1826- 1952*, (Sevilla: Diputación de Sevilla, 2000).

and the two thirds parts of this figure, minus one, will be the number of candidates that will be voted for. The voting will be separate for principals and deputies in one same voting slip, if for example four councilors are supposed to be elected, as the number is not divisible by three, the number immediately superior to this condition will be taken into consideration, which is six³³.

From this number the two third parts minus one would be considered and that is how the election of 4 councilors would be obtained, which would be verified voting for only 3. In the first case, 4 would be elected from the majority and 2 from the minority; and in the second case, there would be 3 elected from the majority and 1 from the minority³⁴, being excluded from the assignation of parliamentary seats those parties that are too small, the Republican party among them.

The incomplete list combined two aspects: on the one hand, plurality, and on the other hand, proportionality. The mechanism consisted of that the citizen could simultaneously choose various candidates, but not all of them; the proportional relation of majorities and minorities (3 to 1) was taken into consideration, in order to guarantee the participation of the latter. This list model differs from the ones suggested by Dieter Nohlen³⁵, who, in his model establishes three types of lists: blocked, closed, and open lists. What is peculiar is that with this way of voting it was intended to improve political representation and reduce the exclusion of the parties, with the aim of minimizing conflict.

The 1910 presidential election took place under the guidelines of the National Constituent Assembly, which had replaced the senate and, given that the presidential term was almost over and it was necessary to elect a new president for the constitutional period 1910-1914, the National Assembly appointed Carlos E. Restrepo as the new president of Colombia,

33 Co - J. S. Alejandro Pérez, National Constituent Assembly. *Ley de elecciones. Representación proporcional de las minorías* (Bogotá: Imprenta Nacional, 1910).

34 National Constituent Assembly, *Ley de elecciones*.

35 Nohlen, «Electoral systems and governability»

who represented the republican coalition with a spirit of conciliation. With respect to this, there were some questions as regards the power that the Assembly had attributed to itself; the questions were put forward by regional political leaders, through their newspapers. In their expressions it was possible to see the defense of direct election as a right of individuals to exert their true citizenship, given that it was the way in which the individual intervened directly in public affairs. Moreover, it was asserted that there were laws which guaranteed individual and social rights, among them suffrage and minority representation in the government. The defense of the citizenry was equally pursued through free expression and with the assertion of rights. The protection of the free and popular vote was justified in that it was a mechanism through which the people took part in the highest government functions³⁶.

4. The structure of the electoral system

The constitutional reform suggested changes in the electoral system and in the way in which the organization of the elections should operate. In Bogota, the capital, the Great Electoral Council operated, which also had to appoint the departmental electoral councils which operated in the departmental capitals and these, at the same time, appointed electoral committees which organized the elections in the municipal districts. Municipal committees were supposed to appoint the election judges, who had to elaborate the lists of voters in each municipality, in accordance with the requirements established for each election. In order to guarantee the greater participation of voters, said lists had to be put up in public places and address possible complaints. The function of the election judges was to attend to the electoral process, scrutinize and elaborate the respective reports that would be sent to the electoral boards in the municipal districts. Afterwards, the electoral boards had to meet in order to count the votes of the respective municipal districts and send the results to the

³⁶ Jorge Valencia Lozano, «La elección presidencial,» *Ecos Republicanos*, n° 15, Quibdó, 31 May 1910.

president of the Electoral Council of the department³⁷. The structure represented a concentric organization with which it was intended to guarantee participation and representation, and create an expression of public power, from the expression of the citizens in practice.

The election of councils and electoral boards was possibly taken from the Argentinian model which was, at the same time, taken from the American model, each with their respective variations. In Argentina, the election of boards was carried out popularly and the requirements were the same as the ones necessary to elect representatives, the same number of board members, representatives, and congressmen³⁸ had to be elected. In the case of Colombia, the Great Electoral Council was elected by the chamber of representatives. A common characteristic is that there was an attempt for it to be an independent entity of public authorities, so as to guarantee electoral transparency. Nevertheless, in the proportion of majorities and minorities, power was obtained by the party which achieved the majority.

According to the regulations, the appointment of council members and electoral boards should be carried out maintaining the proportional relation of majorities and minorities, but in the regions this requirement was not respected. There were claims of irregularities in appointments as well as in maintaining the proportion, given that officials put their own criteria into practice, as happened in the designation of the electoral council in the Huila department (December 1910), where 4 members of the majorities were appointed and 1 of the minorities, and not as it was supposed to be, which was 3 members of the majorities and 1 of the minorities³⁹. With the majorities and minorities system, individual participation

37 President - Carlos E Restrepo, «Decreto número 1074 de 1910. Por el cual se reglamenta la elección para diputados a las asambleas departamentales en desarrollo de las leyes sobre elecciones.» *La idea liberal*, Bogotá, 26 de noviembre de 1910.

38 Natalio Botana, *El Orden Conservador*, (Buenos Aires: Hyspamerica, 1985), 86.

39 Pedro Elías Otero, Luis Zea Uribe, «oficio enviado al Ministro de Gobierno.» Bogotá, 13 December 1910, General Archive (AGN), Bogotá – Colombia, Section *One*, ministry of government, Volume 639.

was not what was important, but that of the parties and that these felt included in the governmental structure; although the composition of majoritarian authorities was a way of homogenizing the power that dissident voices had, but not with the same strength.

Approximately three months in advance, the respective electoral authorities were appointed and installed, as it is possible to see in the designation of the officials of the councils and electoral boards, for example, through National Decree 1074 of 1910 the election of congressmen to the Departmental Assemblies was regulated, which would take place in 1911, which is why the appointments were made of the electoral councils of the departments and of the respective constituencies of the departments⁴⁰, taking into account that the elections for congressmen should take place on February 6. Likewise, in December of 1912 the officials of the electoral authorities for the election of congressmen, to be carried out in February 1913, were appointed and installed; and for the election of representatives the authorities had to be in office by April 10 of that same year⁴¹. The election of these members according to the regulations had to take the relation of the majorities and minorities into consideration. However, there were complaints due to the omission of the proportions, which caused the irritability of the minority followers: liberals and republicans were eventually excluded from the elections.

On the other hand, in order to realize the list of voters some aspects had to be taken into consideration: the official census of the population of the district, the list of contributors, the previous lists of voters, explicitly linked to the tax authority. In general, mayors had to obtain lists of the contributing neighbors of each section of the district from tax collectors and municipal treasurers, in order to submit them

40 Electoral Council- Department of Boyacá, «Oficio enviado al Ministro de Gobierno.» Tunja, 17 December 1910, General Archive (AGN), Section *One*, ministry of government, Volume 639.

41 Presidency - National Decree, Carlos E Restrepo, *Decreto 1096 de 1912 - Informe del Ministro de Gobierno al Congreso de 1913* (Bogotá: Imprenta Nacional, 1913).

to the electoral boards for the elaboration of the census; these authorities needed to have enough proof to show that a citizen could participate in an election⁴². Electoral boards had two lists: one with the names of males over 21 years of age who could take part in the elections of the council and assembly, and the list of those who also had an income and were literate, who could participate in the election of the president and representatives.

The elaboration of these lists focused the attention of the government, with the intention of guaranteeing transparency, for this reason, in 1912 the president, Carlos E. Restrepo issued a decree in which he established that the electoral census had to be permanent because it had to serve as the basis for the development of popular elections and suggested that the lists should be made separately so as to establish the two classes of voters, in accordance with the type of election. Likewise, it was determined that the electoral jury should revise this census, in accordance with the movements of the population and in relation to the citizens and neighbors of the municipality. On the other hand, citizens could make appeals regarding inclusion or exclusion from the lists, which could be verbal or written, in both cases a record of said appeal had to be left in a special minutes' book; the judges also had to issue a document⁴³. The appeals that electors could make for being enrolled (or not) in the census were another mechanism of appropriation of their rights, which allowed them to request the competent authorities' clarification regarding an omission or an error.

Another concern was how to guarantee the secret vote in such way that the citizens could exercise their right to vote in a free and spontaneous manner, without pressure from wealthy landowners and chiefs/leaders. The reports of ministers to congress and those of the president both point to the need to regulate the ballots in order to avoid malpractice

42 Carreño – Minister of Government, *Circular sobre elecciones*.

43 President - Carlos E. Retrepo, *Decreto 226 de 1913* (Bogotá: Imprenta Nacional, 1913).

and guarantee authenticity, in vote-casting as well as in counting and the elaboration of the voting records⁴⁴.

So as to guarantee public order on the day of the elections, some governors and mayors requested the presence of the police forces, in other cases mayors were given the freedom to organize ad-honorem groups formed by citizens who had a certain prestige in the locality in order to help keep order⁴⁵.

In the reports of governors and ministers very few cases of public disturbances were registered, which for some showed the existence of a civic spirit and of civilization, a solid basis for republican practice. Nevertheless, conflict was not alien to the situation; though it is important to highlight that the republican premise -the government- called for tolerance and the reduction of tensions among the parties. The fact that public order was not affected was related to the aspiration to change the way of doing politics and achieving the longed for public peace. However, the perspective of the traditional parties of strengthening their electoral bases and organizing directories in all the sectors of society brought about debate and controversy, which can be found in newspaper articles when referring to the actions of opponents.

From the point of view of the rules and from the position of some governmental entities, it was intended to find a mechanism for guaranteeing the free casting of the vote and for avoiding any type of corrupt action. In this respect, bulletins were issued to governors, mayors, and prefects so that the existing regulations as regards the elections were taken into account and, thus, to guarantee the legitimacy of the vote. For instance, the governor of Cauca, of a republican orientation, highlighted in a bulletin the importance of public servants avoiding arbitrariness, and the development of

44 Carlos E Restrepo – President, *Mensaje del Presidente de Colombia al congreso de 1914*, (Bogotá: Imprenta nacional, 1914), 11.

45 Governor of the department, *Informe del gobernador del Cauca a la Asamblea del Departamento, en sus sesiones de 1913* (Popayán: Imprenta del departamento, 1913).

corrupt practices which subverted the popular vote and public freedoms⁴⁶.

The message of the president to Congress in 1913 was related to the measures taken prior to the elections. It was highlighted how through the executive power several measures were taken with the aim of avoiding fraud and abuses, which were a regular practice in elections due to the thirst for victory and the fear of defeat. On some occasions, certain actions which led to fierce confrontations were resorted to, which according to the president were «improper actions of civilized peoples»⁴⁷. In order to rectify those public order situations, the executive requested Congress to issue a set of regulations so as to avoid any type of confrontation and, thus, to overcome the gaps in the regulations, especially in electoral terms⁴⁸.

Despite the conciliatory and tolerant position of the national government and some regional governments, the complaints were constant, for abuse of authority, omission, malpractice, for the exclusion of small or minority parties, as happened in the department of Tolima, where the liberal party was excluded from the departmental electoral councils and the lists of voters⁴⁹. These types of practices were contrary to the intentions of the republican government of respecting voter rights and securing public peace.

And as regards the development of the elections, President Restrepo, in his 1914 report to Congress, highlights that during the development of the ballots there were some public order disturbances because officials from the electoral boards and the judicial power did not give the right to vote its deserved importance, they being the entities in charge of guaranteeing vote casting. Besides, the proportional

46 Arcesio Constain - Governor of Cauca, *Circular número 7. Dirigida a prefectos, alcaldes, miembros de las juntas y jurados electorales del departamento* (Popayán: Imprenta departamental, 1913).

47 Restrepo - President, *Mensaje del Presidente de Colombia*.

48 Restrepo - President, *Mensaje del Presidente de Colombia*.

49 Aníbal Osorio - Director/Owner, «La farsa eleccionaria.» *Informaciones - Semanario liberal*, Honda, 17 de diciembre de 1912.

distribution of the minority parties in the composition of electoral boards and juries was violated⁵⁰. These corrupt actions delegitimized the democratic values of the republican project, given that by forming electoral boards proportionally, in the same way as the number of judges of the circuit, with people who mainly belonged to one party and who defended the party and not the interests of the citizens. So much so, the sense of democracy in equality of conditions changed because individual interests and those of parties above any collective pretense prevailed.

Another aspect that brought about controversy was the elaboration of the official census, given that, in some cases, the individuals who could vote did not appear in the lists as their elaboration depended on the election judges, in others there appeared more citizens who were able to vote than the number of inhabitants, also the lists had not been updated, so dead people were included in those lists. The president ended his intervention by saying: «while there is electoral fraud, the problem of public order will still continue⁵¹», a situation that has been constant in the electoral history of Colombia and that persists to date.

Those in charge of securing or adjudicating the development of the elections were the judges of the circuit, who were in charge of determining if the elections for congressmen in the departmental assemblies were valid or not. In this way, the citizens had another mechanism for taking legal actions in order to guarantee the transparency of the election as a guarantor of democracy.

The Supreme Court of Justice had the power to definitively declare the enforceability of the legislative acts that would have been objected to due to unconstitutionality by the government. In addition, the laws and decrees accused before the Courts of being unconstitutional by any citizen required a prior meeting with the Attorney General of the Nation. In

⁵⁰ Restrepo - President, *Mensaje del Presidente de Colombia*.

⁵¹ President, *Mensaje del Presidente de Colombia*.

this way, a significant transformation took place, given that enforceability did not only depend on the government, but also on the citizen who could exert control, which was denominated «constitutional control by means of action⁵²».

Conclusions

In the constitutional reform of 1910 there was some concern about strengthening the democratic regime and reducing the power that the executive had; one of the mechanisms used in order to try to achieve this was to strengthen the electoral system as an expression of citizenship and, in theory, give sovereignty back to the people. Thus, power would be obtained from the number of votes in the polling stations. The debates centered on how to achieve the participation of the minorities, the smaller parties, and in this way it was sought to minimize the bipartisan liberal-conservative conflict, and that all political ideologies could be part of the authorities.

The proportional relation of majorities and minorities strengthened the electoral power of the conservative party as a majority and that of the liberal party as a minority, while conciliating tendencies such as those of the republican party eventually disappeared from the electoral map, and their followers little by little started to return to their traditional identities as liberals or conservatives. Even when the elections allowed for the inclusion of parties and citizens, in legal terms, it is possible to say that there were few who achieved this participation. Nonetheless, the authorities received constant claims of fraud and disruption of public order, which became another scenario which vindicated participation and the expression of popular sovereignty.

Political citizenship focused more on the participation of the parties than on the participation of the political subject, for which three election models were simultaneously established: the census vote for presidential elections and representatives,

⁵² Duque, «La reforma constitucional de 1910,» 185-212.

indirect vote for the election of senators and universal vote for males over 21 in the elections of congressmen and councilors.

The constitutional reform expanded the space for citizen participation to the extent that it gave the common citizen powers as monitors of the real validity of the constitution. Likewise, it introduced the idea of constitutional judges into Colombia; in addition, it was pioneering in establishing a tribunal with the power to annul a legal norm that was considered unconstitutional⁵³. It is necessary to highlight that this constitutional judge had a higher rank than the other judges in the republic, even more than the courts. However, the central axis was how to guarantee individual and collective rights, and how the citizens assert their rights.

It is true that it was not in the political elites' best interest to expand popular participation, but instead to establish mechanisms for the inclusion of the parties. The constitutional reform left possibilities open which allowed the population to assume their citizenship. Said practices can be seen in public expression, in elections, in legal and illegal occurrences, in mobilizations, in the view of the press with the intention of generating public opinion, in the sense of belonging to parties and in declaring the enforceability of the legislative acts which would have been objected to as unconstitutional by the government. Although the elections are considered a significant means of the expression of democracy, at the time other spaces were created which allowed electors and the population in general to claim their rights.

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⁵³ Tulio Chinchilla Herrera, «Concepciones sobre el Juez Constitucional en la Reforma de 1910: una cuestión de confianza,» *Diálogos de Derecho Político*, n° 3, (1910): 5-6.

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