

## **Transcript Panamá – 1994 – Eduardo Valdés Escoffery:**

My name is Eduardo Valdes Escoffery and I have been a member of the Electoral Tribunal as a magistrate for the last 34 and a half years. That is effective June 1st 1990 all the way through to January 2nd, 2025. I am going to share some of the experiences that I lived as a member of the Tribunal of Panama towards the first national elections due in May 1994 after the tragic and unfortunate U.S. Invasion of Panama on December 20th, 1989.

The reorganization of the Electoral Tribunal began precisely when the 3 new Magistrates took over, one of them being myself, on June 1st, 1990. Our single most important challenge and issue was that we were lacking credibility. The Electoral Tribunal never had credibility throughout the republican history of Panama, either during the military process between 1968 and 1989, or prior to that with civilian governments, because the practice was to manipulate two entities, to try to extend themselves in every election: (1) using or manipulating the electoral process through the electoral tribunal on one side, and then (2) using the military force or the police on the other.

So, how did we face this quite evident lack of credibility? Well, we used a threefold approach. The first one was to get a hold of technical assistance from abroad. That was an international approach. We called upon CAPEL, the Centro de Asesoría y Promoción Electoral [Center for Electoral Promotion and Assistance], which is the electoral program of the Inter-american Institute for Human Rights with offices in San Jose, Costa Rica. CAPEL had resources from USAID and had been involved since the late 1980s in assisting all electoral bodies in Latin America to guarantee free and fair elections by strengthening their capacity to organize them.

Through CAPEL, we were able to get a hold of three mentors, very important for us: Carlos Uruti, from the Corte Electoral de Uruguay [Uruguay's Electoral Court], Juan Ignacio García, from the Servicio Electoral de Chile [Chile's Electoral Service], and Mariano Fiallos, who was the president of the Consejo Supremo Electoral de Nicaragua [Nicaragua's Supreme Electoral Council].

Those were the three magistrates at our level that had more experience than anybody in Latin America. We did not have any experience in organizing elections and had to recognize it, so went out for help, and used the horizontal cooperation process that we had through CAPEL and the protocols of the electoral bodies, practically at no fee, because all this assistance came free to the Electoral Tribunal, just through USAID funding, covering their expenses, traveling, food and lodging. And having them was a luxury, the most experienced organizers of elections in the Latin American hemisphere, assisting us without any prejudice. They became our advisers to all the issues and questions that we had at the political and technical level because they were magistrates like ourselves.

The second approach was to strengthen the relations with the Peace and Justice Commission of the Catholic Church that began its efforts to strengthen human rights throughout 1989, when the last national election took place in May, 1989, which was annulled by the electoral tribunal

when the military realized that their candidate had lost the election. So the Peace and Justice Commission of Panama has had since then, and throughout these three decades, the largest network competent for electoral observation, integrated by Panamanian volunteers. We had an international and a national ally.

The third element was the creation of the First National Commission for Electoral Reform, which eventually came to be the beginning of the process of institutionalizing a process of electoral reform that would take place every five years, initially at the initiative of the Electoral Tribunal. Eventually, in 2017, it was incorporated in the Electoral Code as a mandate. So now, for the new magistrates it's not optional to install this commission. They are obliged to do it, because it's mandatory as per the Electoral Code.

But from that first comprehensive reform of the Electoral Code that took place, I want to bring just two aspects that pertain to the challenges we had. The two reforms were brought in from the electoral legislation of Costa Rica. The first one, relates to the Cuerpo de Delegados Electorales, the Corp of Electoral Delegates, volunteers that work Ad Honorem and become the eyes and ears of the Magistrates in the streets during the campaign time, prior to an election. They have the authority to order arrests, and to call on the police to apply whatever metrics they consider proper to avoid confrontation and to mediate any controversy between the candidates of different political parties, or between any or all of them and the police force. Because the tradition of the police was that it was an instrument for the political parties in power to reduce the abilities of the opposition to exercise their political rights.

So the Corp of Electoral Delegates was a very positive contribution in our system. Costa Rica and Panama are the only two countries in the world that I know that have these corp of electoral delegates that work free. Now we, in Panama, have over a thousand of them and they have been accepted by the political parties. They call upon them to mediate during their internal elections to elect their new authorities, or during the primaries, or other processes by which they have to elect their candidates to any election.

The other reform was the obligation of the Executive Branch to transfer the command of all the components of the police forces to the Electoral Tribunal, that is, to the electoral jurisdiction, so it would be clear that, legally, whatever instructions comes out of the electoral jurisdiction at any level, be it the magistrates, the national director responsible for organizing elections, its regional directors, because we have a decentralized structure, and down to the level of the polling stations; any decision coming from the electoral jurisdiction versus or vis-a-vis the political structure—being the city mayors, ministers, or even the President—the police would be clear that it was our instruction that had to be obeyed.

These two reforms were totally new to the political arena in our history, and have been two most important pieces of legislation to prevent confrontation and to secure the authority of our jurisdiction, in case of conflict with any political authority.

The opportunities that we had prior to the 1994 election, to organize other electoral events, were very important because we were lacking the experience to organize elections. In November 1992 we organized a national referendum, whereby the Government proposed a series of amendments to the Constitution and the result was that it was rejected by the people, by the electorate in the polls. That contributed in giving us credit for the failure of the Government to attempt the constitutional reform, and anything that reduces the authority of the government, in any of these electoral processes, or any failure in them, is a credit to the electoral institution.

The second electoral experience was shortly after the invasion, in January 1991, where we had to complete the installation of the new government structure, because there were around six members of our National Assembly that could not be proclaimed for a lack of tally sheets, and 176 at the municipal council level. In that first experience, shortly one year after the invasion, with the technical assistance from CAPEL, we were able to guarantee free and fair elections.

Finally, in May, 1994, the ruling parties lost and the party that was deposed with the invasion won the election with 33.3% of the votes versus 29.1% of the government candidate, so the 4.2 percentage points difference, being a narrow one for our tradition, it didn't affect the free and fair elections that would be recognized nationally and internationally. No presidential election in the last three decades has ever been challenged. We have had, of course, litigation regarding controversies pertaining to other elections, for instance, between candidates to the National Assembly or the members of city councils.

But this is basically a summary of how we were able to overcome the challenges of being without experience and lack of credibility, to guarantee free and fair elections. The first general elections in 1994 was the first time that political power was going to be transferred.

Thank you to the organizers, for the opportunity to participate in the project.