

Second round of elections or ballotage: an option for president of the Mexican Republic**Segunda vuelta electoral o ballotage: una opción para presidente de la República Mexicana**

QUEVEDO, Noé†*

*Universidad Autónoma de Sinaloa, Facultad de Derecho, México.*ID 1st Author: Noé, Quevedo / **ORC ID:** 0000-0002-3231-4413**DOI:** 10.35429/JLE.2022.11.6.1.9

Received July 10, 2022; Accepted December 30, 2022

Abstract

This article presents the opinion of Sinaloa's voting society regarding the second electoral round as an option to elect the president of the Mexican Republic. The information obtained through a survey reflects not only the valuation of different age groups and educational level, but also the level of knowledge they have about the concept of the second electoral round or ballotage. Is the functioning of the second electoral round really recognized? Under what scenarios is it applied? Does it really solve problems such as abstentionism, in governability, or social nonconformity? Does society values the second electoral round as a way in which its vote and opinion is validated not only in the exercise of the vote, but in the entire administration of the elected governor?

Ballotage, Electoral, Electoral, System, Government, President**Resumen**

Este artículo presenta la opinión de la sociedad votante de Sinaloa respecto a la segunda vuelta electoral como opción para elegir al presidente de la República Mexicana. La información obtenida a través de una encuesta refleja no sólo la valoración de los diferentes grupos de edad y nivel educativo, sino también el nivel de conocimiento que tienen sobre el concepto de segunda vuelta electoral o ballotage. ¿Se reconoce realmente el funcionamiento de la segunda vuelta electoral? ¿En qué escenarios se aplica? ¿Resuelve realmente problemas como el abstencionismo, la ingobernabilidad o el inconformismo social? ¿La sociedad valora la segunda vuelta electoral como una forma en la que su voto y opinión es validada no sólo en el ejercicio del sufragio, sino en toda la gestión del gobernante electo?

Ballotage, Electoral, Electoral, Sistema, Gobierno, Presidente**Citation:** QUEVEDO, Noé. Second round of elections or ballotage: an option for president of the Mexican Republic. Journal-Law and Economy. 2022. 6-11:1-9.

* Correspondence to author (E-mail: noequevedo@uas.edu.mx)

† Researcher contributing as first author.

Introduction

This paper focuses on analysing the assessment of Sinaloan citizens of voting age regarding the viability of a second electoral round to elect the president of the Mexican Republic. The second round of elections is a viable alternative to solve the problems of legitimacy and abstentionism in our country's democracy. For this reason, the concept of the electoral system will be addressed, from which the second electoral round or ballotage will also be defined.

The political situation in Mexico will be briefly described, followed by the results of a survey of the Sinaloa voting society, consisting of 500 people of different ages and levels of schooling, in order to find out the opinion held on the second round of elections and how the different population groups defined by these variables respond to it.

The concern of this research lies in proposing solutions and/or improvements to our electoral system in order to resolve the different problems that revolve around the electoral exercise and which are mainly due to the population's dissatisfaction with the elected rulers.

The second round as an alternative to the electoral situation in Mexico

In the democratic exercise, the methods used to elect government representatives influence their scope, levels of reliability, and even their capacity for governability and governance; thus, it is not only important that the people elect who they elect, but also how they do it.

Electoral systems can be understood as the strategies of political parties in power to consolidate themselves through the vote; their preference for a certain type of electoral system has to do with the way they can ensure their stay in power, that is, to keep political power within their reach. In this sense, electoral systems are also subject to political decisions by political actors, who seek to promote their interests. Jean-Jacques Rousseau states that choosing an electoral system is not a problem in itself, it is more about the distribution of seats (seats) taking into account the suffrages (votes) cast by the voters (1969, p. 178).

Electoral systems can be defined as the set of normative elements that regulate the election of representatives to public office. Put another way by Gemi José González López, electoral systems are the way in which the voter manifests - through the vote - the candidate or party of his or her preference, votes that are then converted into seats (p. 4).

The electoral panorama in Mexico is one of great abstinence, whether because voters distrust the electoral process, the choice of candidates and the reliability of their proposals, all of which contributes to a situation of fatigue and distrust, mainly towards political parties. Hence, it is necessary to consolidate a democracy that includes reforms to electoral laws, alternatives that provide security or legitimacy to the voter, among these alternatives are the electoral systems of absolute majority, that is, the second electoral round or ballotage.

The main feature of the second round of voting is that voters vote again, in other words, they vote a second time, unlike in other electoral systems, which only give them one chance to vote. Absolute majority systems are distinguished from relative majority systems in that, regardless of whether or not an absolute majority of votes is reached, the candidate wins by a majority of votes. It is through the relative majority that the president of the United Mexican States is elected.

The ballotage, in this sense, allows voters to reflect on their decision. This is why the first ballot is considered to be a selection to then choose between the two options with the majority of votes. The two most preferred candidates compete in a second ballot one or two weeks after the first.

The hypothesis of this paper is to demonstrate the viability of the second round of elections as an electoral system for electing the president of the Republic. In this regard, the concepts of legitimacy, abstentionism, governability, among others, will be addressed. In addition, a seven-question survey was conducted in the city of Culiacán Rosales, Sinaloa, among 500 people in three age groups: 18 to 30 years old, 31 to 59, and 60 and older.

In the same way, the survey included people from three socio-economic levels (low, medium and high). It is worth noting that the survey reflects the position of sectors of the voting-age population with respect to the second round and its viability as an electoral system in Mexico.

In the first instance, the intention of the second electoral round, according to Nava Treviño, is to achieve a greater consensus in favour of popular representatives, which in turn leads to the legitimacy of the elected representative; it also aims to reduce the number of political parties created in an improvised manner in order to benefit from proportional representation in terms of legislative or popular representatives (1999, p. 308).

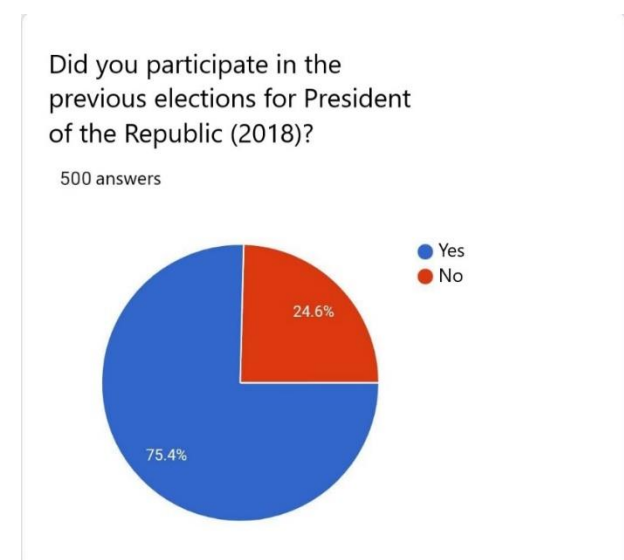
As a background, France was the first country known to implement this type of electoral system. Other countries where it has been implemented include Argentina, Peru, Portugal, Hungary and Russia, to name a few. Now, why is it relevant to implement the second round in Mexico? The key example is the 2006 elections, where Felipe Calderón Hinojosa was elected president of the Mexican Republic. The case is controversial because the margin by which he won was less than 1%, generating distrust in the authorities and in the process - the Federal Electoral Institute at the time. If there had been a system that allowed for a second vote, we would be talking about the election of an (absolute) majority and the legitimacy of the incumbent president would be reaffirmed. In short, the percentages of such a vote reveal that the majority of the people disapprove of the winning candidate, generating a great lack of support from the citizenry.

This is why the legitimacy mentioned above would result in stronger governments with greater support from the governed, as well as greater citizen participation not only at the polls but throughout the democratic exercise, and even post-electoral conflicts would decrease precisely because the winner would have an absolute majority.

The political situation in Mexico is defined by four political actors: the PAN, PRI, PRD and MORENA, the other existing political parties are defined more as coalitions than actors that influence the country's politics. This results in a polarisation of the vote and public opinion. Electing the president of Mexico is a difficult task in this scenario in which the chances of the elected candidate being elected by the majority are low; all because of the existence of alliances only in the electoral process and, therefore, the division of the vote. As a result, the majority of citizens may be dissatisfied with the president-elect and in subsequent elections abstain from voting.

An example of how the context of abstentionism is shown in the action of going out to vote can be seen in the first question of the survey. The survey was conducted in the city of Culiacán, Sinaloa, and most of the respondents were between 31 and 59 years old, corresponding to 233 of the 500 people surveyed. However, it is interesting to note that the last predominant level of education in the survey was bachelor's degree with 290 people, followed by high school with 205. This reflects the fact that a large part of the older population does not yet have professional degrees, and this could be noticeable in their information and perception of the functioning of the Mexican political system.

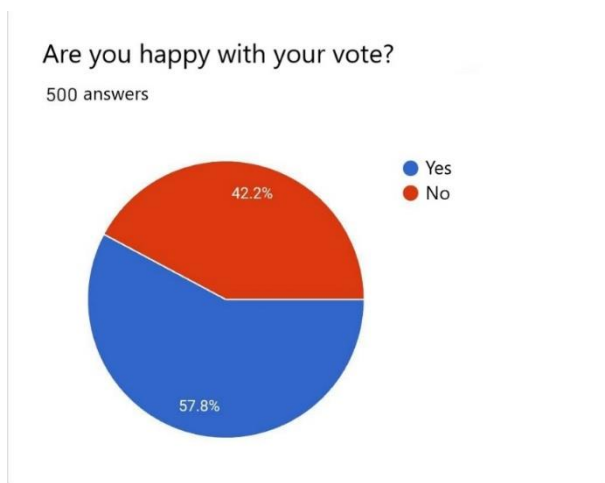
The first question asks respondents whether they participated in the 2018 elections for President of the Republic, as represented in the following Graphic.



Graphic 1 Number of people who participated in the 2018 elections for president of the Republic of Mexico, in percentages

While it is true that in this sample the number of people who voted (75.4%) is higher than those who did not (24.6%), in addition to a notorious citizen participation that denoted in the election as winning candidate Andrés Manuel López Obrador; compared to the 2012 elections where 29 348 670 citizens did not vote - out of 79 492 286 of the nominal list -, in 2018 the number of people who did not attend was 32 649 100 out of 89 250 974 of the nominal list, i.e. 36.92% versus 36.58%, correspondingly. This indicates that abstention levels in the country are high, due to generalised distrust, perceptions of the uselessness of the electoral process or even historical fears on the part of citizens.

At the same time, the discontent of the population was reflected in the following question, where 42.2% of the sample responded that they were not happy with their vote, the majority being concentrated in the 18-30 age group, the second largest group in the sample, which indicates that unlike in previous years, young people are beginning not only to exercise their vote, but also to express their discontent or feedback on the matter.



Graphic 2 People who are satisfied or dissatisfied with their vote in the 2018 presidential election

The lack of legitimacy of some results in representative election processes, especially when the winning candidate wins by less than five percent, is a general feeling among citizens. This is why political actors and academics recognise the second round as a symptom of progress in Mexican democracy.

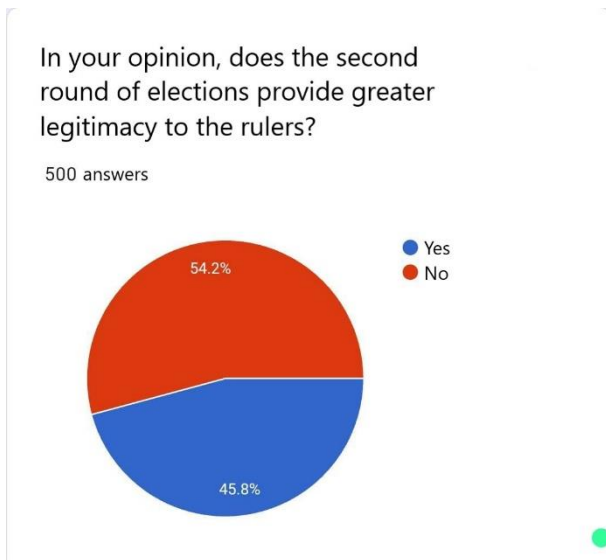
An example of this is that several deputies have already presented different law initiatives proposing the second round of elections, such as Rafael Alberto Castilla Peralta Peniche (National Action Party) in 1988, Luis Miguel Barbosa Huerta (Democratic Revolutionary Party) in 2002, Jesús Martínez Álvarez (Convergence Party) in 2002, and Jesús Martínez Álvarez (Convergence Party) in 2002. Jesús Martínez Álvarez (Partido Convergencia, today Partido Movimiento Ciudadano) in 2005; and a more recent one proposed by the Partido Sinaloense through the local deputies of the state of Sinaloa, Héctor Melesio Cuén Ojeda, María del Rosario Sánchez Zataráin and Robespierre Lizárraga Otero, on 25 September 2014, before the Chamber of Senators of the H. Congreso de la Unión.

With this in mind, it is not surprising to see in the survey that the population not necessarily dedicated to the political sphere does not recognise or understand the notion of the second round of elections. Of the sample taken, half say they know what the second round of elections consists of, compared to the other 50% who do not know what it is. It is true that there is a lack of information, which is evident in the fact that 84.6% do not know of any country in which this system is practised; in other words, even though half of them can define the second round of elections, only 15.4% have information on any country that applies it. However, the countries mentioned are many, such as Cuba, Colombia, Bolivia, Brazil, France, the United States, Argentina, Chile, Venezuela, Ukraine, Canada, England, Peru and Costa Rica. France and Brazil were the most predominant among the respondents.

Regarding the relationship between legitimacy and the second round of elections, the legitimacy of the second term is based on the fact that this system is of absolute majority, where the winner must have at least 50% plus one of the total valid votes, thus having greater approval from the people.

This conception of legitimacy is addressed by Martínez-Sincluna when he establishes that legality is not synonymous with legitimacy, understanding this precept to mean that the population has already exercised its sovereignty by electing its representatives, who created the legal norms regulating the electoral process, the consensus was established independently of the subjective judgement it may have with respect to the results of the election. Martínez-Sincluna disagrees: "it cannot be reduced, as positivism does, to the formula that identifies legality as synonymous with legitimacy, since the latter concept implies a valuational content that may or may not comprise the legal norm" (1991, p.10). In such a way that legitimacy itself entails a subjective judgement about who should be in power, and this judgement may be based on legality.

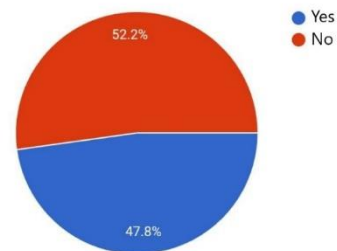
Based on the above, the following two questions from the survey will be addressed. The first question asks whether they consider that the second round of elections provides greater legitimacy to those in power.



Graphic 3 Assessment of the second round of elections as a system that provides greater legitimacy to those in power

Do you think that changing our electoral system to a second round system will eradicate problems such as abstentionism in citizen participation or the lack of acceptance and trust towards the winning candidates?

500 answers



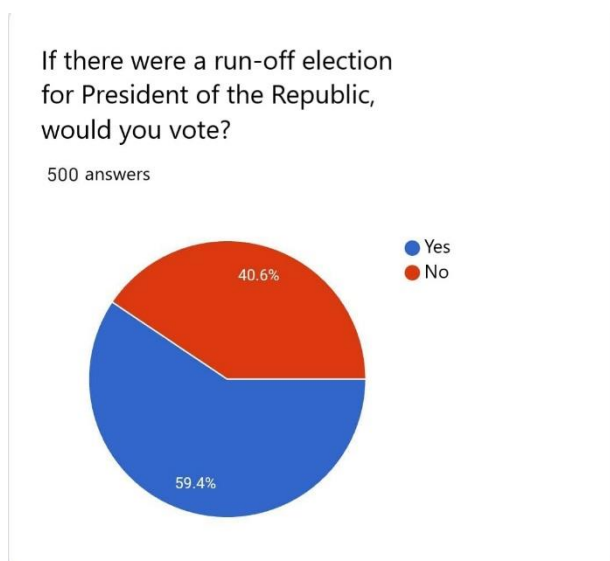
Graphic 4 Second round of elections as a solution to abstentionism, lack of acceptance and trust in the winning candidates

Both responses reveal that the majority do not consider the second round of elections as a system that establishes legitimacy or solves the abstentionism of citizens in the exercise of democracy. However, the percentage difference between those who consider it to be viable under the above conditions is minimal. Therefore, the lack of viability of the ballotage is not decisive.

It is important to note that among the two dominant groups in the sample, those aged 18 to 30 and 31 to 59, the younger group responded that they considered that a second round of voting would lower abstention levels and provide greater confidence in the elected candidates -123 out of 224 people in this group; this is in contrast to the older group, where the majority -131 out of 233 people- responded no. The latter group tended to think that a second round of voting would lower abstention levels and provide greater confidence in the elected candidates -123 out of 224 people in this group.

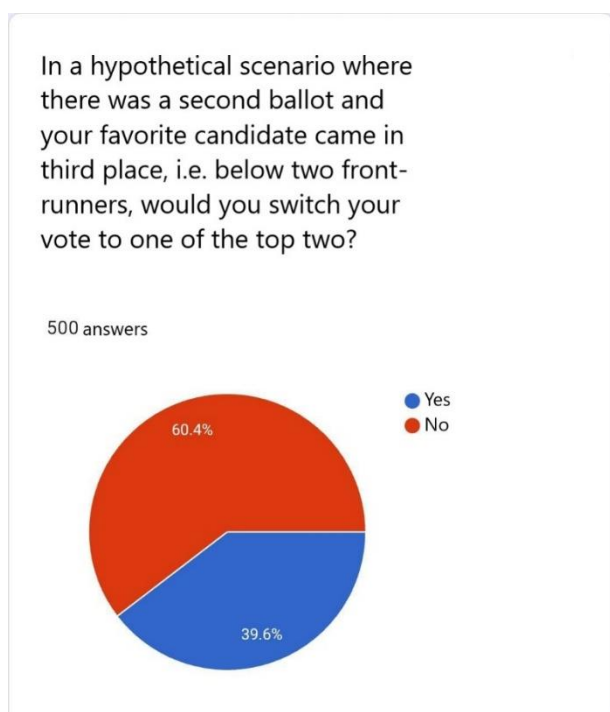
The tendency of this second group to say no is also reflected in the third age group (60 years and older). This allows us to reflect on the fact that it is the new generations of voters who, in order to seek changes in our democracy to improve it, are more open to other proposals in the exercise of the vote.

Even with this very similar panorama in terms of the population's perspective of this system, with a minimal negative outlook, the majority agreed that if there were a second round of elections for President of the Republic, they would vote, in other words, they would exercise their right to vote in a second ballot.



Graphic 5 Percentage of likely voters in a second round of elections for President of the Republic

Based on this, respondents were asked a hypothetical scenario in which a second round was used and in the first ballot their favourite candidate came in third place, in the second ballot would they change their vote to one of the first two places?



Graphic 6 A hypothetical run-off election scenario

Here it is revealed that in a scenario in which their favourite candidate did not make it to the second ballot, the voter would no longer be interested in choosing another candidate. If we consider this in reverse, in a scenario in which their favourite candidate was one of the two highest runners-up, the tendency would probably be that they would vote for him again and that one of the keys to being the winner is to reach that public that was left without a candidate in the last ballot.

This is why academics point out that in run-off election systems there is a tendency for parties to form alliances in the last phase of voting precisely to win over their voters. D. W. Rae states that the second round of elections encourages multipartyism, in the sense that it allows each party to try its luck in a first ballot without the maximised divisiveness of the tendencies leading to its defeat (1971, p. 111). Likewise, Juan Linz points out that the second round also makes it possible to form electoral coalitions with the sole purpose of defeating the candidate with the highest number of votes in the first round (n.d., p. 67).

However, Juan Linz himself points out that because every regime - be it presidential or parliamentary - depends on the support of society as a whole (p. 81), it allows voters and candidates to reflect and make more intelligent decisions by recognising which alliances are more convenient for them to establish for the second round. In other words, it is not as arbitrary a decision as it might appear to be.

Proposals

Although the survey does not substantially indicate that the second round of elections is the answer to consolidating democracy in Mexico, it does at least indicate that the Mexican population is open to options that would, above all, give legitimacy to those in power and thus lower the levels of social discontent.

To achieve this, changes are proposed to some articles of the Political Constitution of the United Mexican States:

- Reform section A of Article 41 to read as follows:

1. When in the ordinary or extraordinary elections held for President of the Republic and the formulas for senators and deputies, none of the contenders obtains an absolute majority of the valid vote cast in the country and federal entity or district in question, the following will take place:

- a. The electoral authority shall pronounce the declaration of the election for President of the Republic or in the federal entities or electoral districts in which a second ballot shall be held.
- b. In the same act, it shall summon the political parties that nominated candidates for President of the Republic or the formulas of candidates for Senators or Deputies or independent candidates that have reached the two highest percentages of the valid vote cast, so that in the same act they are considered formally registered to contest in the second ballot.
- c. If none of the second-place candidates declines to participate in the second ballot, the National Electoral Institute shall consider them to be legally registered to contest the second ballot. Likewise, in the event that they expressly withdraw, the National Electoral Institute shall declare the candidate or candidate formula that obtained the highest number of votes in the first ballot to be elected.
- d. The date on which the election day corresponding to the second ballot shall be held shall not exceed ten days from the date of the declaration referred to in subparagraph a) of this section. This election day, in all cases, shall precede the date on which the President of the Republic or Senators or Deputies begin the constitutional term for which they are elected, and shall include the period within which the last of the appeals that have been lodged must be heard and resolved.

The National Electoral Institute shall publish the above-mentioned date and the names of the candidates and the contending formulas in the Official Journal of the Federation.

Furthermore, none of the candidates or members of the competing formulas may be replaced, except in the case of death, disqualification or incapacity.

2. A second ballot shall not be held in the following cases:

- a) When in the country, entity or district concerned more than fifty per cent of the electors registered on the respective nominal list have voted.
- b) When the candidate or ticket in first place has obtained at least forty percent of the valid vote cast in the country, entity or district in question, and there is a difference of five or more percentage points between the winning candidate for President of the Republic and the second place candidate in relation to the vote obtained by each.
- c) When none of the candidates for President of the Republic or of the contending formulas for senator or deputy have obtained at least forty percent of the valid vote cast, but the difference in votes between the candidates for President of the Republic or the formulas for senators or deputies in first and second place is greater than ten percentage points in relation to the valid vote obtained by each of the candidates or formulas.

Conclusions

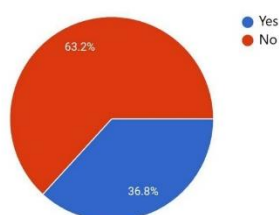
The above is just a reform, an exercise in approaching the second round of elections as a viable proposal that people know about and are well informed about how it works, as well as its advantages and disadvantages, but above all, the possibility of changing our way of electing our rulers to respond more to the opinion of the majority and not to the interests of parties that make use of reaching the necessary points to win, not to really have the support of the citizenry.

Although there is still work to be done in terms of informing, analysing and proposing, the opening is already in place and both non-conformity and distrust - a growing tendency towards representatives - are exceeding the limits of those who seek to consolidate Mexican democracy and thus attack problems such as abstentionism, weak governments, and improve the image of the president of the Republic, as well as the terms of legitimacy, governability and governance.

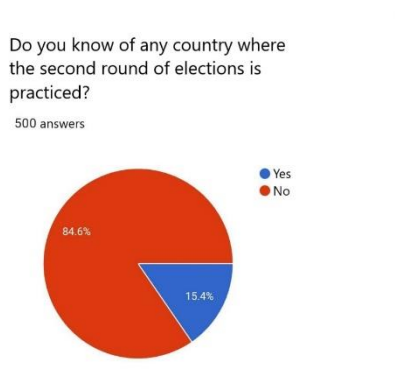
Annexes

A week before voting, if you had the opportunity to change or rethink your vote, would you change it?

500 answers



Graphic 7 Rate of vote change within a week of the election



Graphic 8 Percentage of people who know and do not know of any country in which a second round of elections is held

25	Masculine	Bachelor's Deg	Yes	Yes	No	Yes	No
60	Feminine	Bachelor's Deg	No	No	Yes	Yes	No
59	Feminine	Middle School	Yes	Yes	No	No	No
59	Feminine	Master's Degre	Yes	No	No	Yes	No
38	Feminine	Postgraduate	Yes	Yes	No	Yes	Yes
59	Feminine	Master's Degre	Yes	Yes	Yes	Yes	No
59	Feminine	High School	Yes	Yes	No	Yes	No
32	Feminine	Bachelor's Deg	Yes	Yes	No	No	No
41	Feminine	Bachelor's Deg	Yes	Yes	Yes	Yes	Yes
59	Feminine	High School	Yes	Yes	No	Yes	Yes
63	Feminine	Bachelor's Deg	Yes	Yes	No	Yes	Yes
53	Feminine	Bachelor's Deg	Yes	Yes	No	No	No
53	Feminine	Bachelor's Deg	Yes	Yes	No	Yes	No
59	Feminine	Bachelor's Deg	Yes	No	No	Yes	No
59	Feminine	Bachelor's Deg	Yes	No	No	Yes	Yes
61	Feminine	Bachelor's Deg	Yes	Yes	No	Yes	Yes
59	Feminine	Technical caree	Yes	Yes	No	Yes	No

Table 1 Excel table with answers from the survey conducted

Acknowledgements

The research for this work by Noé Quevedo was carried out through the support for the promotion of research PROFAPI 2022 of the Autonomous University of Sinaloa under the project number PRO_A6_068.

References

Gaceta Parlamentaria del 18 de marzo del año 1998.

Gaceta Parlamentaria de 22 de agosto del 2002.

Gaceta Parlamentaria del 22 de febrero de 2005.

González López, Gemi José, (s.f.). El Sistema Electoral Mexicano, México, Editorial Porrúa.

Linz, J. (s.f.). "Los dos rostros de la democracia. Todos los regímenes, presidenciales o parlamentarios, dependen del apoyo de la sociedad en su conjunto".

Martínez-Sicluna y Sepúlveda, Consuelo, (1991). Legalidad y legitimidad: La teoría del poder, Madrid, Actas.

Nava Treviño, Félix Ponce, (1999). Democracia y Representación en el Umbral del Siglo XXI, México, memoria del III Congreso Internacional de Derecho Electoral I, Tomo I, Tribunal Electoral del Poder Judicial de la Federación, Instituto Federal Electoral, Universidad Autónoma de México.

Rae, D. W., (1971). The Political Consequences of Electoral Laws, New Haven, Yale University Press.

Rousseau, Juan Jacobo. (1969). El Contrato Social. México. Editorial Porrúa.

QUEVEDO, Noé. Second round of elections or ballottage: an option for president of the Mexican Republic. Journal-Law and Economy. 2022

Sistema de Consulta de la Estadística de las Elecciones Federales. En Atlas de Resultados de las Elecciones Federales 1991-2015. Instituto Nacional Electoral.
<http://siceef.ine.mx/campc.html?p%C3%A1gina=1> (ine.mx)

Sistema de Consulta de la Estadística de las Elecciones del Proceso Electoral 2017-2018. Instituto Nacional Electoral.
<https://siceen.ine.mx:3000/#/participacion-ciudadana>.