

THE
CARTER CENTER



International Seminar

**Electoral Campaigns:
A Comparative Look at the Hemisphere**

Caracas, November 15, 2012

CONTENTS

I. INTRODUCTION	3
II. PROGRAM AND PARTICIPANTS	3
III. PRESENTATION SUMMARIES	4
a) Presentations on situations abroad	
Héctor Díaz Santana: The situation in Mexico	4
Torquato Jardim: The situation in Brazil	4
Juan Fernando Londoño: The situation in Colombia	5
Marcia Rivera y José Ariel Nazario: The situation in Puerto Rico (via Skype)	6
Richard Bainter: The situation in the United States (delivered by Jennifer McCoy)	7
b) Presentations on the situation in Venezuela	
José Virtuoso (Andrés Bello Catholic University-UCAB)	7
Luis Salamanca (Central University of Venezuela-UCV)	8
Maryclen Stelling (Global Media Observatory-OGM)	9
Carlos Medina (Venezuelan Electoral Observatory -OEV)	9
IV. PRESENTATION OF THE CARTER CENTER'S STUDY MISSION	10
V. CLOSING REMARKS	11

APPENDICES

APPENDIX I. Photos from the event

APPENDIX II. Brief bio statements of national and international guests

I. INTRODUCTION

The Carter Center has been monitoring the electoral process in Venezuela since February 2012, when it sent a Study Mission there to witness the opposition parties' primary elections, held on the 12th of that month. It then sent a similar mission later on that same year to observe the presidential election, held on October 7. The latter evaluated the perceptions of social and political actors engaged in the Venezuelan electoral process and their reactions to the results, focusing on issues such as governance and electoral legitimacy, the quality of the voting system and campaign conditions.

Concerning this last point, the Final Report of the Study Mission confirmed the impressions outlined in advance by the Pre-Election Report (published on October 5, 2012), which called attention to the use of state resources for campaign purposes, the unequal conditions contended with by all candidates attempting to convey their message to voters over the mass media, scant regulation and the absence of legislation governing the origin of resources allocated to funding campaigns.

Aiming to contribute to the discussion over conditions that, ideally, should govern how electoral campaigns are run, the Carter Center held an international seminar on the topic. The seminar, entitled "Electoral Campaigns: A Comparative Look at the Hemisphere" provided an overview on regulation of conditions for the electoral campaigns in a selected group of countries in the hemisphere.

II. PROGRAM AND PARTICIPANTS

Participating at the Seminar were leading national and international experts who gave their presentations on and discussed the conditions under which electoral campaigns are run in their respective countries. Among the international presenters were **Torquato Jardim** (Brazil), **Juan Fernando Londoño** (Colombia), **Héctor Díaz Santana** (Mexico), **Marcia Rivera** and **José Ariel Nazario** (Puerto Rico), delivering his presentation via Skype, and **Richard Bainter** (United States), delivered by the Carter Center's Americas Program Director, **Jennifer McCoy**.

The situation in Venezuela was discussed by a panel comprised of **José Virtuoso** (Rector of the Andrés Bello Catholic University-UCAB), **Maryclen Stelling** (Executive Director, Venezuelan Chapter of the Global Media Observatory), **Luis Salamanca** (Associate Professor, Central University of Venezuela-UCV) and **Carlos Medina** (Coordinator General, Venezuelan Electoral Observatory-OEV).

The event was sponsored by the German Embassy and was opened by the German Ambassador to Venezuela, **Walter Linder**. The Carter Center's representative in Venezuela, **Hector Vanolli**, organized the event and moderated the discussions. The seminar also served to officially present the Executive Summary of the Final Report of the Carter Center's Study Mission sent to Venezuela to study the presidential elections held on October 7. This was delivered by **Jennifer McCoy**.

III. PRESENTATION SUMMARIES

a) Presentations on situations abroad

The situation in Mexico, by Héctor Díaz Santana

Scholar Héctor Díaz Santana began his presentation by describing the evolution of Mexico's electoral system, beginning with the crisis in the hegemonic system established by the PRI in 1977 which acknowledged opposition parties by granting them small participation shares, moving on to the introduction of public funding under the "great electoral reform" of the 1990s, to the constitutional reform of 2007, which established the regulation of conditions under which electoral campaigns are run.

Among the changes articulated in the 2007 constitution, Díaz pointed the rules stipulated in Article 41 prohibiting political parties from broadcasting in the mass media, restricting airspace granting power to the state. The 2007 reform also prohibited incumbents from using the mass media to publicize their administration's governance and limited public officials from issuing statements in support of candidates during election campaigns.

Thus, the new provisions expressly established nonintervention by the government in electoral matters, in an attempt to ensure fairness in political competition, but a new provision was also included to prevent public officials from using the electoral publicity to enhance their image. Moreover, Article 134 provided for a ban on use of State resources for campaign purposes. The reform also instituted greater capacity for regulation by the Federal Electoral Institute (IFE) to deal with rule breakers, including among its powers preventing the registration of candidates or revoking their candidacy, suspending elections and fining media outlets. According to Díaz, such measures have leveled the conditions under which candidates compete in elections in Mexico, reducing conflict and making Mexico's one of the world's most sophisticated electoral systems.

At present, the foundation for institutionalization of the electoral system rests on seven pillars: plurality, arbiter impartiality, a functional regulatory framework, electoral organizational efficiency, funding and spending limits, monitoring of political parties, transparency and legitimacy.

The situation in Brazil, by Torquato Jardim

On the topic of current conditions for electoral campaigns in Brazil, Torquato Jardim pointed out that two major challenges still persist there: a) monitoring sources of campaign funds and b) and monitoring or regulating the political and administrative actions of public servants running for reelection in order to ensure equal conditions and opportunities for candidates during campaigns.

As for the first challenge, Jardim posed this question: "What amount of resources does a stakeholder furnish to a candidate and for what purpose?" In Brazil, one of the prerequisites with which candidates must comply is demonstrating the origin of funds used in their campaigns. These funds, which must be reported to the electoral court, cannot come from foreign agencies or authorities, etc. Thus public and private contributions are subject to a

series of limits. Nonetheless, Brazilian law allows candidates to use their own resources to finance their campaigns, within limits established by their respective parties.

Additionally, while reelection to executive positions at all three levels of government was forbidden in 1991, a constitutional amendment restored this possibility in 1995. Jardim added that the law provides a number of regulations to prevent abuse by candidates for reelection. The law forbids, for example: a) involvement of public servants in campaigns during working hours; b) donation of charitable assets by the State to electoral campaigns, c) nationwide simulcasting by sitting leaders and incumbents up for reelection during electoral campaigns outside scheduled free electoral airtime (unless, in the opinion of the Electoral Court, urgent, matters relevant to government functions are involved). It also prohibits candidates from buying promotional airspace in the media for campaign purposes, allowing only the print media to express a preference for one candidate or another.

Jardim concluded by pointing out three challenges facing Brazil in establishing a level playing field for political campaigns. The first is diversification of economic activity in the country, roughly two-thirds of which directly or indirectly depends on benefits provided and opportunities created by the central government. This exerts pressure on private companies, tempting them to support specific candidates in exchange for various benefits. The second is that of devolving central power, since its existence alone limits the opposition's activity in the country. Public servants in the executive branch (the president, governors and mayors) concentrate vast legal authority to discretionally decide over appropriateness and timeliness in public spending. The third and last involves initiating debate over mandatory voting and penalties to be imposed for not voting. As of October 2012, Brazil's electorate will number roughly 140 million voters.

The situation in Colombia, by Juan Fernando Londoño

Juan Fernando Londoño began his presentation by noting the importance of laws enacted in recent years in Colombia to regulate campaigns, so as to ensure transparency and fairness in elections. In his presentation, Londoño focused on the Electoral Guarantees Law (Law 996), to establish a specific regulatory framework for presidential campaigns now that presidential reelection was approved (the possibility for Presidents to run for one consecutive term) in 2004.

Among other things, this legal instrument establishes caps on donations and spending, along with equitable access to the media for candidates so that they can all broadcast their own political agendas. This law also prohibits the President from attending groundbreaking ceremonies for public works during the campaign period, personally granting State assets or resources, making reference to other candidates while performing his/her functions as head of state or government, using images, symbols or slogans from the presidential campaign in government publicity and using state assets, other than those intended for his/her own personal safety, in campaign activities. This law also prohibits the government from using the State's institutional channel to broadcast government activities during the campaign period. It also forbids candidates from broadcasting journalistic programs.

Among this law's weaknesses, Londoño underscored the absence of an entity responsible for oversight and enforcement of penalties for violations of the above-mentioned

regulations. According to Londoño, this shortcoming, which fosters the impression of impunity, essentially serves as an incentive to act outside the rules.

Londoño closed his presentation by pointing out that while Law 996 has improved campaign conditions in Colombia, there are still some outstanding issues that need improvement in order to ensure fairer, more equitable campaign conditions, such as boosting electoral advances as a mechanism for deterring personality politics in campaigns, raising allowable spending caps and matching them with actual caps to prevent the use of funds from questionable sources, regulating the engagement of public officials in political campaign activities and, ultimately, creating an Electoral Crime Unit at the Attorney General's Office as the body responsible for implementing the regulations.

The situation in Puerto Rico, by Marcia Rivera y José Ariel Nazario (via Skype)

Marcia Rivera and José Ariel Nazario stated that, in terms of electoral campaign regulation, the situation in Puerto Rico represents a case of regression in the hemisphere. In this regard, Rivera and Nazario indicated that Puerto Rico, up to 2011, could be considered exemplary in that the electoral system effectively ensured considerable conditions of equity in use of resources and access to the media by candidates engaged in electoral campaigns. However, following approval in 2011 of what is referred to as The Electoral Code of Puerto Rico for the Twenty-First Century, the country witnessed a significant breach of the fundamental principles upon which the former electoral system was based.

The presenters stated via Skype that the new code neglects regulation of three important matters: inequitable distribution of resources for running campaigns, advantages afforded to incumbent candidates in the use of public resources to convey their message to the general population, and absence of regulatory mechanisms to prevent the use of State publicity for campaign-related matters. Altogether, this has transformed Puerto Rican electoral contests into grossly unfair events.

Rivera and Nazario emphasized that work is needed on design of a system that will respond to citizens' interests and protect the enfranchisement of individuals as a means to assert their rights, and not as is currently the case in Puerto Rico, where priorities are reversed, placing partisan interests above the fundamental rights of citizens.

The situation in the United States, by Richard Bainter (delivered by Jennifer McCoy)

Richard Bainter's presentation on the situation in the United States, delivered by Jennifer McCoy, pointed out that while there is a tradition in the U.S. of privately funded electoral campaigns, revealed the presence of a movement that, for several years now, has been promoting enactment of more campaign funding regulation, placing limits on the amount of money that can be accepted, and on the origins of this funding.

Although this movement dates from the early 1900s, public funding of campaigns was not introduced until 1974. The intent of this regulation was to offer a public subsidy to presidential candidates to fund their campaigns. In return, candidates agreed to restrict private fundraising and to limit total expenditures for their electoral campaigns. These regulations have worked, overall. Nevertheless, beginning in 2000 some candidates began to

reject state funding in the aim of raising more in private funds (George W. Bush was the first to do so in the 2000 primaries and Barack Obama was the first candidate to do so in a presidential election in 2008). This trend led to a significant upturn in campaign spending. In the most recent presidential campaign (2012), both major candidates turned down public funding, spending two billion dollars altogether. Adding up the total cost of all campaigns, i.e., both congressional and presidential, the sum total comes to six billion dollars.

Regarding use of public funds by the State, the presenter noted the enormous efforts made in the United States to create a legal barrier separating the incumbent's official duties from those involved in carrying out campaign-related activities and thus minimize the advantage afforded by access to these funds. Most observers in the United States believe that the work of the Federal Election Commission-FEC (the body with exclusive jurisdiction over civil enforcement of laws governing federal campaign financing) is ineffective due to the impasse owing to the individuals who serve on it (three members each from the two major parties). Finally, the presenter noted other important control mechanisms, such as safeguards to prevent use of state resources to "buy" votes and financial checks on expenses established by governmental agencies.

b) Presentations on the situation in Venezuela

José Virtuoso's Presentation

José Virtuoso, Rector of the Andrés Bello Catholic University (UCAB), delivered the presentation prepared by the Presidential Election Monitor, a project run by the UCAB to monitor the 2012 presidential elections. He noted that the Election Monitor was designed to serve as a means to monitor the entire electoral process. To this end, the initiative was organized around four main themes: a) critical analysis of candidate discourse, b) analysis of electoral behavior (for the purpose of studying participation), c) analysis of women's electoral behavior; d) and analysis of the "fear of voting."

This being a seminar on campaign conditions, Virtuoso limited his presentation to the variable dealing with analysis of the media in election campaigns. The Election Monitor's main findings on this matter were: a) from the onset of the campaign (July 1), opposition candidate Henrique Capriles had amassed higher visibility than his opponent, President Hugo Chávez (measured in the number of news reports in the standard journalistic media sample), b) the issue of the election was given more coverage in the written press than on television; with the radio still being the platform that devoted the least number of news segments to the topic, c) in audiovisual media the frequency, duration and rating of informational segments clearly reflected each medium's political stance, d) concerning violations of electoral law, 60 percent of all cases pertained to Chavez's bid as opposed to 37 percent for the opposition candidate.

Capriles' repeated violations were: disrespectful criticisms to his opponent, in addition to using the colors of the Venezuelan flag in his electoral propaganda. Accordingly, Chávez's most frequently repeated transgressions were: offensive remarks to his opponent; violent, threatening, discriminatory discourse even calling for war; using public resources for his campaign; using the national colors in his electoral propaganda; using children and adolescents for propaganda purposes; and the intervention of public officials to promote his

candidacy. Virtuoso noted that 85 percent of all media publicity was devoted to promoting the candidacy of Hugo Chávez, 13 percent for Capriles and 2 percent for the National Electoral Council (CNE).

Luis Salamanca's Presentation

Faculty of Law and Political Sciences Professor at the Central University of Venezuela Luis Salamanca noted that conditions characteristic of the political system in Venezuela are quite strikingly different from those prevailing in other countries. First, in Venezuela the figure of the “candidate/president” behaves almost like an independent variable, with no significant campaign limitations, though virtually appearing to be “just another candidate.” If these circumstances are coupled with a lack of public funding for electoral campaigns (with the exception, as provided by law, allowing the CNE to fund propaganda), the situation in Venezuela is conducive to powerful temptations on candidates up for re-election to use public resources for campaign purposes.

President Chávez, said Salamanca, is not a conventional president. The President, he said, is aiming to consolidate a political agenda, of which he is the commander and leader; which is why his hold on power is considered indispensable. To achieve these goals, the Chávez administration has employed the introduction of indefinite reelection, thereby exceedingly increasing incentives for holding on to presidential power. In this sense, says Salamanca, for Venezuela the campaign for president is a problem of State requiring thorough strategic planning to secure victory by garnering the people’s support and opponents losing votes.

Dr. Salamanca recalled that in the process leading up to the beginning of the electoral campaign, a series of judicial and political/electoral decisions were made to undermine support for the opposition candidate. Another strategy brought into play was Chávez’s presence in the media for over 60 hours versus only three hours for Capriles, using various tactics which allowed the candidate for reelection to capitalize on his natural advantages. Additionally, absence of regulation on national networks and the furnishing of goods to the general public for propaganda purposes during the electoral campaign made a mere ritual of the last election.

Maryclen Stelling's Presentation

Global Media Observatory (OGM) Executive Director Maryclen Stelling began her presentation by stressing the crucial role played by the media in Venezuelan politics. The media, said Stelling, are the main players during the country’s current state of political polarization, which began during the 1998 elections. Chávez is the country’s sole leader, toward whom both his supporters and his detractors gravitate, being the chief focus of this polarization.

Stelling pointed out that the confrontation is taking place only in the realm of the media and electoral campaigns. The media in Venezuela are not “information brokers” but rather “initiators of political events.” They constitute the turf over which power is either won or lost. In this context, Stelling outlined the political communications milestones that, in her view, have characterized the process of confrontation in the Venezuelan media since 1998.

According to Stelling, Venezuela is in the midst of a “media war.” Venezuelans are suffering widespread violations to their right to information and neither the media associated with the National Public Media System or private opposition media serve as channels of communication, but instead act as initiators of political events. In her presentation, Stelling quoted from an article by the Director of the Daily Newspaper *Últimas Noticias*, Eleazar Díaz Rangel (published on 07/15/2012) in which he asserts that, at the time, the majority of the media in Venezuela were pro-opposition, “contrary to what opinion polls want to convince you to believe.”

Carlos Medina’s Presentation

Venezuelan Electoral Observatory (OEV) Coordinator General Carlos Medina pointed out that observation of the electoral process by the OEV concentrated on two issues: a) CNE performance/electoral process organization and b) how the electoral campaign was run. Regarding his first point, Medina noted that monitoring focused on analysis of reinforcement of the right to vote and on issues involving changes in nominations and formulation of drills and audits. Medina said that all aspects evaluated in these areas were assessed as positive, except two: a) use by some political spokespersons of the mock election area to campaign for their candidate and b) limited information provided at polling stations about last-minute changes in nominations made by some political parties.

Regarding the issue of observing the electoral campaign, the OEV reported a significant number of negative elements such as: a) use of state media to cover allegedly official activities in which the President performed the role of candidate; b) unrestricted display of quasi electoral government propaganda; c) use of public resources expressly prohibited by Organic Law on Electoral Processes (LOPRE) to transport participants to campaign rallies, to place banners and to display posters in government offices; d) unequal use of National Public Media System airspace; e) inordinate use of public resources to promote the incumbent’s candidacy; f) poor quality of discourse dealing with government proposals; and h) use of offensive speech by both candidates.

The OEV also conducted a monitoring process on election day to observe how the voting process would unfold throughout, inspecting compliance with general regulations governing the electoral process through a statistically designed sample to obtain reliable, representative results. Among the main findings noted, some of the problems encountered with the Integrated Authentication System (SAI) and voting machines (which were, for the most part, resolved in time), the presence of certain propaganda making elements during the voting process to promote the government as well as the opposition, and undue extension of the poll center closing time at roughly 30 percent of the polling stations (without any voters there waiting to vote). Medina stated that elections in Venezuela were conducted on the basis of a technical and organizational platform guaranteeing ballot secrecy and vote count accuracy (votes are counted just as they are freely cast by voters). However, the conditions under which the electoral campaign was conducted still leave much to be desired in terms of the safeguards necessary to ensure fairness that should be inherent in any electoral process held within a democratic framework.

IV. PRESENTATION OF THE CARTER CENTER'S STUDY MISSION

Speaking on the Carter Center mission sent to Venezuela during the October 7 presidential election, Jennifer McCoy presented the executive summary of its final report. Since the nature of this mission was that of a "Study Mission," McCoy stated that the report did not include a comprehensive assessment of the overall quality of the electoral process (as it would, had an "observation mission" been sent). The mission's findings, she said, are therefore based on interviews, reports from national observation organizations, analysis of Venezuelan electoral rules and regulations and a compendium of personal observations made over a nine-month monitoring period in the country.

Referring specifically to electoral campaign conditions observed in Venezuela, McCoy particularly stressed the effects of so-called "opportunism," highlighting the use of state resources for campaign purposes. This advantage, she said, is difficult to assess in Venezuela since campaign spending is not publicly disclosed there. The various types of use of State resources can be divided into at least three categories: a) lawful public spending to deliver government services, b) use of State media, and c) unlawful use of State resources for campaign activities and voter mobilization. McCoy concluded by saying that it is important to regulate these conditions to ensure an environment conducive to competitiveness and equality among the different candidates.

V. CLOSING REMARKS

In her closing remarks, the Carter Center's Americas Program Director Jennifer McCoy emphasized the relevance to Venezuela of a broad consensus on the electoral road as the only path toward access to power and the importance of social inclusion. Debate centers on how to attain it, the extent of redistribution needed and what the economic and political model should be to achieve it. McCoy noted that democrats agree on the principal that these decisions depend on the will of the people, but it is necessary to reformulate an agreement on the ground rules.

APPENDIX I
Photos from the event



Walter Linder, German Ambassador to Venezuela



Torquato Jardim, Former Justice of the Superior Electoral Tribunal of Brazil



Héctor Vanolli, representative of the Carter Center in Venezuela



Juan Fernando Londoño, former Vice Minister of Political Affairs, Colombia



Jennifer McCoy, together with Torquato Jardim, Héctor Díaz Santana and Fernando Londoño



*Héctor Díaz, Advisor,
Institute Federal Electoral, Mexico*



*Jennifer McCoy, Director of the
Carter Center's Americas Program*



*Carlos Medina, Coordinator General,
Venezuelan Electoral Observatory*



José Virtuoso, Rector, Andrés Bello Catholic University



Luis Salamanca, Associate Professor, Central University of Venezuela



Maryclen Stelling, Director of the Global Media Observatory



View of seminar participants



Jennifer McCoy, Director of the Carter Center's Americas Program



Walter Linder, German Ambassador to Venezuela



View of seminar participants



View of seminar participants



Maryclen Stelling, Carlos Medina, Jose Virtuoso and Luis Salamanca

APPENDIX II

Brief bio statements of national and international guests

Jennifer McCoy holds a Ph.D. in Political Science from the University of Minnesota. She currently serves as Director of the Carter Center's Americas Program and Associate Professor of Political Science at the Georgia State University in Atlanta.

Héctor Vanolli holds a Licentiate in Social Communication, and a Master's in International Relations and Communication from Boston University. He currently serves as representative of the Carter Center in Venezuela and Coordinator General of the Media Program.

Héctor Díaz Santana is a lawyer who graduated from the University of Guadalajara and holds a Ph.D. in Law from the Complutensian University of Madrid, Spain. He served as Director General of the Office for Special Prosecution for Electoral Crimes (2005-2009) and consultant to the Federal Electoral Institute (IFE).

Torquato Jardim is a lawyer who served as a judge on the Superior Electoral Court of Brazil. Currently he is Director of International Cooperation at the Brazilian Institute of Electoral Law and a member of the Friends of the Inter-American Democratic Charter.

Juan Fernando Londoño is a specialist in Constitutional and Parliamentary Law. He served as Colombian Vice-Minister of the Interior between 2011 and 2012, as well as Vice-Minister of Participation and Equal Rights (2011) and Vice-Minister of Political Affairs (2012).

José Ariel Nazario is a lawyer and holds a Licentiate in Political and Social Sciences from the University of Puerto Rico (UPR), specializing in Public Law. He is President of the MG Strategies Corporation and private consultant to the Puerto Rican Senate.

Marcia Rivera Hernández is an economist and a sociologist. She serves as Executive Secretary of CLACSO, headquartered in Buenos Aires. Currently she is coordinator of the Area of Social Policy of the Latin American Center for Human Economics of Uruguay.

Richard Bainter is a lawyer and member of the Board of Directors of Common Cause, an organization that promotes best practices in government in the United States, and of the San Diego Diplomacy Council. He is also a member of the Country Bar Association (International Law).

José Virtuoso holds a Licentiate in Political Sciences and a Ph.D. in History. Currently, he serves as Rector of the Andrés Bello Catholic University (UCAB). He has served as Executive Director of Ojo Electoral, one of the oldest national electoral observation organizations in Venezuela.

Maryclen Stelling is a sociologist and Coordinator General of the Venezuelan Chapter of the Global Media Observatory. Currently, she serves as Executive Director of the Rómulo Gallegos Center for Latin American Studies (CELARG).

Luis Salamanca holds a Ph.D. in Political Sciences and serves as Director of the Institute for Political Studies at the Central University of Venezuela (UCV) and is a former Deputy Rector of the National Electoral Council (CNE). Currently he is an Associate Professor in the Faculty of Legal and Political Sciences at the UCV.

Carlos Medina holds a Licentiate in Statistical Sciences and a Master's in Finance from the Institute of Higher Education and Administration (IESA) in Caracas. Currently he serves as Coordinator General of the Venezuelan Electoral Observatory (OEV) and as Director of the CFC Consulting Group and the Center for Research on Statistics, Marketing and Opinion (CIEMO).