

ELECTION REPORT ☆

Study Mission of The Carter Center 2013 Presidential Elections in Venezuela

Final Report

April 14, 2013

Venezuela

THE
CARTER CENTER



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Contents

| | | | |
|--|----|---|----|
| Foreword | 4 | The Special Elections of April 14, 2013 | 22 |
| Acknowledgements | 4 | Analyzing the Electoral Outcomes of April 14, 2013 | 22 |
| Executive Summary | 5 | The Candidates' Reactions to the Vote | 24 |
| Election Outcome | 5 | International Actors' Reactions | 27 |
| Electronic Voting in Venezuela | 5 | Capriles' Demands and Response of the National Electoral Council | 28 |
| Disputed Results | 6 | Controversy on the Electoral Registry | 29 |
| Audit and Legal Challenges | 6 | Other Demands of the Democratic Unity Roundtable | 30 |
| Legal Controversies Over the Candidature | 6 | The Expanded Phase 2 Citizen Verification Audit | 31 |
| Campaign Conditions | 7 | New Petitions | 32 |
| Quality of Election-Day Voting | 8 | The Election Campaign | 34 |
| Postelection Audits | 8 | Campaign Legislation | 34 |
| Legal Questions Over the Presidential Election | 9 | Changes in Election Regulations | 36 |
| Conclusions | 9 | Notable Events During the Pre-election Period | 36 |
| Recommendations | 10 | Use of Government Resources | 39 |
| An Extraordinary Interlude: Chávez's Health Crisis, Regional Elections, and a Controversial Succession of Power | 14 | Access to the Media | 40 |
| Moving Forward: Responses to the Oct. 7 Results | 14 | Monitoring of Campaign Regulations by the National Electoral Council | 41 |
| The Gubernatorial Elections of Dec. 16, 2012 | 15 | Administrative Inquiries by the National Electoral Council | 45 |
| Conditions of the Campaign and Election Day on Dec. 16 | 16 | Candidate Monitoring of Campaign Conditions | 45 |
| The Supreme Court's Controversial Ruling for Administrative Continuity | 18 | A Campaign Without Content | 47 |
| Chávez's Funeral | 20 | | |

| | | | |
|---|----|--|-----|
| Media Monitoring by The Carter Center | 48 | Capriles' Challenge | 78 |
| <i>Cadenas</i> and Mandatory Official Messages . . | 50 | Democratic Unity Roundtable Challenge | 78 |
| Postelection Dialogue Between the Government and Private Media | 53 | Jurisdiction Over the Case | 79 |
| Voting-Day Conditions | 55 | The Supreme Court's Ruling | 80 |
| The Efficient Visit to the Polls | 56 | Reactions to the Ruling | 81 |
| Fingerprint Identification, Contingencies, and Consistency. | 57 | Conclusion | 83 |
| Transparent Vote Tabulation. | 58 | Observations and Recommendations | 84 |
| Data on Poll Station Conditions | 58 | Team of Experts From The Carter Center | 88 |
| Additional Irregularities Reported. | 60 | Accompaniment Delegation for the April 14, 2013, Election. | 88 |
| The Quality of Voting | 62 | Terms and Abbreviations | 89 |
| The Postelectoral Audit | 64 | Appendix A: List of Electoral Audits | 90 |
| Expanded Phase 2 Citizen Verification | 65 | Appendix B: Letter From Capriles to the National Electoral Council | 91 |
| The Nonduplicate Fingerprint Audit | 66 | Appendix C: Letter From Mario Torre (Democratic Unity Roundtable) to the National Electoral Council | 94 |
| Data Withdrawal | 67 | Appendix D: Letter From Ramón Guillermo Aveledo (Democratic Unity Roundtable) to the National Electoral Council | 99 |
| Beginning of the Process | 68 | Appendix E: Program for the International Seminar on the Fingerprint Duplicity Audit . . | 102 |
| The Conflict. | 69 | | |
| Outcome of the Data Withdrawal | 70 | | |
| Duplicate Fingerprint Audit | 71 | | |
| Audit Results | 73 | | |
| The International Seminar of Sept. 11-13 . . . | 74 | | |
| Conclusions | 74 | | |
| Legal Questions Over the Presidential Election | 76 | | |
| Legal Framework and Precedents. | 76 | | |
| The Capriles Legal Challenge of the Election | 77 | | |

| Foreword

This final report addresses the presidential elections held in Venezuela on April 14, 2013. It includes an analysis of the antecedents to the special elections, the conditions of the vote, and the disputed outcome based on extensive interviews with Venezuelan party officials, election experts, and election authorities in Venezuela; the reports of Venezuelan national observer organizations; and the observations of the Carter Center's electoral accompaniment delegation and field office staff.

The introduction discusses the antecedents of the election—the extraordinary interlude between the Oct. 7, 2012, presidential elections and the April 14, 2013, special elections that built on the Carter Center's report on the October 2012 elections. Chapters analyze the outcome and reactions to the vote; campaign conditions; the quality of voting conditions on election day; processes corresponding to the postelection audits, with special emphasis on the crucial nonduplicity fingerprint audit; and the official complaint presented by the opposition to nullify the election results. The report concludes with recommendations for electoral reform.

The Carter Center mission was conducted in accordance with the Declaration of Principles for International Election Observation and Code of Conduct for International Observers that were adopted at the United Nations in 2005 and have been endorsed by more than 40 intergovernmental and nongovernmental organizations.



Jennifer McCoy
Director, Americas Program
The Carter Center
March 18, 2014

| Acknowledgements

The report was a collaborative effort of Michael McCarthy, Dimitris Pantoulas, Griselda Colina, Hector Vanolli, and Jennifer McCoy. The 2012 regional election data was provided by Michaela Sivich. Eva Zamarripa coordinated the production of the report.

The Carter Center appreciates the participation of former president Martín Torrijos of Panama, Horacio Serpa of Colombia, and Rodrigo Alberto Carazo of Costa Rica in the high level accompaniment delegation. Hector Vanolli, Carter Center representative in Venezuela, coordinated the mission in Venezuela, with assistance from Griselda Colina, Maria Esther Marquez, and Francisco Alfaro. Jennifer McCoy directed the project from Atlanta, with assistance from Eva Zamarripa and Ana Caridad.

We appreciate the collaboration of the CNE and especially its president, Tibisay Lucena; the political campaign teams; and the many Venezuelan organizations and individuals who conceded interviews to our team.

I Executive Summary

This report is based on information and perspectives gathered from a variety of Venezuelan actors as well as the personal observations made by the Carter Center’s field office staff and election experts based in Caracas throughout the series of electoral events (February 2012–September 2013) and the small accompaniment delegation that traveled to the country at the invitation of the National Election Council (CNE) April 12–17, 2013. It builds on and adds to the Center’s “Report on the Study Mission to the October 7, 2012, Presidential Elections in Venezuela.” The Carter Center did not deploy a comprehensive observer mission and, therefore, is unable to give a comprehensive evaluation of the presidential elections of April 2013 as a whole.

Election Outcome

On April 14, 2013, after an extraordinary interlude with the illness and passing of President Hugo Chávez, Venezuelans turned out in great numbers to vote in special elections for a new president to fulfill Chávez’s six-year term. The results announced by the CNE that evening declared interim President Nicolás Maduro as the victor, defeating Gov. Henrique Capriles by only 224,268 votes (7,587,532 to 7,363,264)—a difference of only 1.49 percentage points. The results threw the country into turmoil as the Capriles’ campaign demanded an audit before accepting the results and then submitted an official petition to the Supreme Court (TSJ as acronym in Spanish) on May 2 to annul the elections completely.

Electronic Voting in Venezuela

In Venezuela, citizens vote on touch-screen voting machines and receive a paper receipt to confirm their electronic vote. In slightly more than half of the voting tables, they deposit the slip in a ballot box to be available for a “citizen verification” or “hot audit” of the electronic vote after the poll closing on election night. This audit, with the participation of voters and party poll-watchers, counts the paper receipts and compares results to the electronic tally of votes for each candidate. The audit is meant to provide confidence in the vote and stems from agreements between the CNE

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and the political parties in 2006. The legal votes that the council counts for the official electoral results are those transmitted electronically to CNE headquarters, rather than sending the paper receipts printed out by the machine.

Disputed Results

Candidate Henrique Capriles initially demanded a full recount of the paper receipts before accepting the results. A controversy about the meaning of “audit” and “recount” in Venezuela’s automated voting system, the intricacies of the electoral law, and imprecise communication from political actors contributed to a protracted debate over the nature of the audit demanded by the opposition.

Responding to Capriles’ original petition, the CNE announced on April 18 that it would expand the citizen verification from the 53 percent already audited on election night to 100 percent of the voter tables, and Capriles accepted. Nevertheless, after the council announced the protocols for a citizen verification (phase 2) on April 26, Capriles rejected it, saying it did not include the manual voter logs needed to check the identity of voters nor the additional electoral materials requested in writing by his campaign on April 17 and April 22. The review of these materials, Capriles alleged, was essential to determine the existence of cases of identity theft or multiple voting, circumstances which in the opinion of the opposition campaign could have improperly tipped the results to favor Maduro.

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Audit and Legal Challenges

From May 6–June 10, 2013, the CNE conducted citizen verification (phase 2), comparing the paper receipts with the electronic tally sheets from all of the voting machines, and it found a 99.98 percent match.

Meanwhile, the Capriles campaign dismissed the results of the audit as irrelevant and entered two legal challenges to the Supreme Court, the first on May 2 requesting to annul the entire election and the second, more detailed challenge on May 7, requesting to partially annul the results. The May 7 challenge had three requests: to nullify 5,279 tables affecting some 2.3 million voters; to nullify some 21,000 tally sheets; and to nullify the *actas de totalización, adjudicación y proclamación* (acts of totalization, adjudication, and proclamation). For the first component, the Democratic Unity Roundtable (Mesa de la Unidad Democrática; MUD as acronym in Spanish) focused on serious shortcomings in the quality of voting, some of which may have affected the results or could be considered offenses that legally nullified those voting tables. In its challenge, the MUD also noted the unequal campaign conditions prior to election day.

According to Venezuelan law, the Supreme Court should have announced within five days after the petition was presented whether it admitted the petition. On May 14, 2013, after this deadline had passed without a decision, the opposition submitted a complaint against the Supreme Court about this delay.

Legal Controversies Over the Candidature

Two months after Chávez’s victory in the Oct. 7, 2012, presidential elections, the announcement of the reappearance of the president’s illness plunged Venezuela back into political uncertainty. On Dec. 8, 2012, President Chávez named then-Vice President Nicolás Maduro his desired successor as the head of the *chavista* political coalition and presidential candidate should Chávez himself be unable to continue in office. Then on Jan. 9, 2013, one day before the constitutionally established date for the start of the 2013–2019 presidential term of office (and while the president was still in a hospital in Cuba), the Supreme Court made a controversial ruling allowing Chávez’s new term to continue from the previous one without a formal inauguration. The decision permitted the vice president to be named interim president when the

58-year-old Chávez passed away March 5, 2013. Following the state funeral on March 8, 2013, Maduro was formally sworn in as interim president, and the CNE called a special election for April 14, 2013, to fulfill the remainder of Chávez’s six-year term.

Although legal scholars and opposition political leaders challenged these constitutional interpretations, the Supreme Court confirmed that upon becoming interim president, Maduro would cease as vice president and not be obligated to separate himself from the presidency to run in the special elections. The MUD decided to move forward to present Henrique Capriles Radonski as their candidate for the special elections.

Campaign Conditions

Although conditions for electoral competition are never perfectly equal, it is particularly important that the electoral authority of a country regulate those conditions to assure a competitive environment. The reach and strength of the regulatory mechanisms and the determination of the authorities in charge of enforcing them determine, to a great degree, the ability to counter the natural advantages of incumbency and to ensure a sufficiently level playing field to guarantee an equitable competition, particularly in contexts of re-election.

In the case of the 2013 presidential elections in Venezuela, the campaign itself lasted only 10 days, though pre-election campaigning began immediately following Chávez’s funeral. The Venezuelan Constitution requires governors who run as presidential candidates to step down from that position before inscribing as candidates, although presidents running for re-election need not do so. Thus, Capriles, as a sitting governor, stepped down from that position during the campaign, while Maduro, confirmed as interim president, did not.

The theme of *ventajismo*—use of government resources for electoral advantage—became a campaign theme on the same scope that The Carter Center noted in its report on the October 2012 elections. While campaign events were generally held without problems, Venezuelan nongovernmental organizations documented

the use of public vehicles and public buildings for campaign activities and the participation of public officials in campaign activities, contrary to Venezuelan laws.

Venezuelan electoral law defines paid electoral propaganda narrowly, as “express calls to vote for a determined candidate or for a partisan group.” The CNE thus interpreted government ads promoting official government policy and social programs to fall outside the category of campaign publicity and did not limit them. At the same time, the council proscribed media spots paid for by opposition-affiliated nongovernmental organizations that did not specifically express calls to vote for a candidate, thus reinforcing the view of inconsistent enforcement of the rules in favor of one candidate.

Although legal scholars and opposition political leaders challenged these constitutional interpretations, the Supreme Court confirmed that upon becoming interim president, Maduro would cease as vice president and not be obligated to separate himself from the presidency to run in the special elections.

One advantage of the incumbent in Venezuela is the use of obligatory presidential radio and television broadcasts for national messages (*cadenas*). In contrast to the extensive use of *cadenas* by President Chávez in the 2012 campaign, interim President Maduro did not use *cadenas* during the 10-day April campaign. Immediately following the election, however, a marked increase in *cadenas* occurred in response to the opposition’s questioning of the election results.

Both campaigns complained of media bias. A Carter Center television monitoring exercise from March 28–April 16 showed that state television station VTV broadcast more electoral coverage (excluding paid campaign ads) than the three largest private television stations combined. In the total coverage monitored, the Maduro campaign

received 58 percent of the coverage of all outlets monitored, the Capriles campaign 33 percent, and the National Election Council 9 percent.

The polarization of Venezuelan media is reflected in the breakdowns of coverage and the tone of coverage. On the private television stations, Capriles received nearly three-quarters of the coverage, though two of those stations provided equal time for the two candidates. News channel Globovisión, which provided by far the most electoral coverage, devoted most of it to Capriles. On the contrary, on state station VTV, Maduro received 90 percent of the coverage time. The difference in tone of coverage was also striking: Maduro received 91 percent positive coverage in state media but only 28 percent positive coverage in private media; Capriles received 0 percent positive coverage in state media and 60 percent positive coverage in the private media.

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Quality of Election-Day Voting

Five Venezuelan national observer organizations monitored the election, although only two of them (Asamblea de Educación and Observatorio Electoral de Venezuela) produced public reports. Both characterized the efficiency of the vote as improved over the October elections, with shorter lines and efficient use of the biometric identification system and the voting machines. Party witnesses from each campaign were present in 90 percent of the voting tables observed by the two organizations, with a small number (0.8 or 1.7 percent, respectively) of party witnesses reportedly excluded from the vote count and verification process. Both organizations also expressed concern about the environment of voting, observing an intimidating climate surrounding 6 percent of observed tables. This climate was mostly created

by groups of motorcyclists associated with the governing party circling polling centers around the close of voting day when citizens are normally allowed to enter to view the vote count and citizen verification.

Postelection Audits

Because of the MUD's accusations of serious irregularities (such as identity fraud and/or multiple ballots) that could have affected the election results, the so-called duplicate fingerprint audit following the election took on significant added value in the Venezuelan political-electoral process. According to statements by election officials, the audit was specifically designed to determine whether such irregularities had occurred and, if so, whether they had the potential to affect the election results.

Unfortunately, although the audit was performed, it did not have the intended effect of publicly clearing up the doubts and questions raised by the MUD. For various reasons—and in contrast with the tradition developed in recent years between the technical teams of the electoral regulatory body and political parties—the procedure was carried out between Aug. 5 and Sept. 10, 2013, without the presence of witnesses from political organizations or representatives of national observation organizations and amid a rupture between the CNE and the MUD. In addition, although the CNE convened a small group of international organizations for a seminar Sept. 11–13 to explain the methodology used for the audit, as of this writing the electoral body had not formally announced the results of the procedure.

During the seminar, the results expressed that 0.4 percent of the fingerprints of the Registrar of Voters could present some sort of technical or legal “defect” and that a maximum total of 1,454 votes (corresponding to 0.07 percent of all registered fingerprints) could have been affected by multiple voting, while 9,272 votes may have been negatively affected by problems of identity and/or other technical problems.

The completion of the nonduplicate fingerprint audit by the CNE demonstrated that the biometric system used in Venezuela apparently has the

ability to identify post hoc multiple voting or usurped voting and that the occurrence of these was relatively low according to the information provided by the CNE. However, the absence of observers and political parties in the audit as well as the lack of information on the process of the audit and its results to the public meant the loss of an important opportunity for the CNE to increase confidence in the process and limited the possibility for third parties to corroborate both the procedures performed and their results.

Legal Questions Over the Presidential Election

On Aug. 7, 2013, the Constitutional Chamber of the Supreme Court of Justice issued a unanimous ruling declaring all of the challenges filed over the April 13, 2013, presidential elections as inadmissible—including the main ones that came from the Capriles campaign committee and the MUD.

The court ruled that the plaintiffs did not provide solid evidence in the cases they presented. The documentation, the ruling said, lacked “specificity,” did not use “clear reasoning,” and was based on “generic arguments.” In the court’s view, therefore, the “alleged irregularities” were not backed by evidence based on specific events: for example, that there was coercion at the polling places, that the free will of voters was inhibited by violent actions, or that regulations related to “assisted voting” for senior citizens and people with disabilities had been violated, with details about specific polling places. The general lack of detail, the ruling argued, undermined the validity of the plaintiffs’ arguments, making the conclusion that the number of polling places involved could have affected the overall election outcome inappropriate.

Therefore, the Constitutional Chamber concluded that the complaints did not meet the requirements for a hearing, as established by Articles 133 and 180 of the Organic Law of the Supreme Court and Article 206 of the Organic Law of Electoral Processes.

The court also ruled that the complaint filed by the Capriles campaign committee was disrespectful to the Constitutional Chamber and state

institutions in general. Based on that, the court issued a sanction against Capriles, ordering him to pay a fine of 100 “tax units,” equivalent to 10,700 bolívares.

Capriles reacted strongly against the court’s decision, stating that the ruling had made it clear that national venues for addressing the opposition’s complaints were closed. The MUD, he said, therefore, reserved the right to turn to international bodies.

Constitutional experts consulted by The Carter Center indicated that the ruling was unusual, because decisions about whether to hear a complaint generally are based on an examination of procedural processes (such as the technical presentation) rather than consideration of the evidence presented or the quality of the arguments. They also said it was unusual that the Constitutional Chamber, rather than the Electoral Chamber, considered the complaint, as the latter usually has jurisdiction over that type of case.

In and of itself, no system of voting can guarantee the confidence of the population in the process and outcomes. Whether manual or automated, confidence in elections is built by clear rules, transparency in all aspects of the process, impartial institutions to administer elections and adjudicate disputes, and monitoring by citizens and political parties.

Conclusions

In and of itself, no system of voting can guarantee the confidence of the population in the process and outcomes. Whether manual or automated, confidence in elections is built by clear rules, transparency in all aspects of the process, impartial institutions to administer elections and adjudicate disputes, and monitoring by citizens and political

parties. Elections are, by their nature, divisive, but in a democracy possessing all of the characteristics just indicated, the loser accepts based on the knowledge she/he will have another chance to compete in regularly scheduled elections, the winner governs in the name of all citizens and counting on a constructive opposition, and the society moves forward with the knowledge that elections are but a means to make periodic decisions on programs and leadership for a specified period of time. When one or more of these characteristics are weakened or missing, however, elections can become contentious affairs and can disrupt national harmony and governability.

Assuring free and equitable access to public and private media to all competing parties could greatly help to level the present inequalities and enhance the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.

In the case of Venezuela, a 14-year effort to carry out fundamental change led by the Bolivarian Revolution has been accompanied by deep divisions and polarization. In this context, the extremely close election results on April 14 presented an electoral and political conflict not seen since the 2004 recall referendum. Accompanied by divisive public discourse on all sides, the electoral dispute interrupted not only an incipient national consensus on the reliability of the electoral outcome but also the ability to move forward with constructive debate and dialogue on other issues of import to the country.

Recommendations

As the high turnout and many opinion polls demonstrate, the Venezuelan population, and the political parties and candidates in general, had confidence in the performance and integrity of

the automated touch-screen voting machines in accurately counting the votes cast on April 14. There was not agreement, however, about the quality of the voting conditions and whether every registered voter was able to vote one time and only one time. In addition, inequities in campaign conditions—in terms of both access to financial resources and access to the media—diminish the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.

In this context, The Carter Center respectfully offers the following observations and suggestions for consideration by the pertinent authorities, National Assembly, and people of Venezuela.

- 1. Clarify the regulations governing the participation of public officials and civil servants in campaign activities.** Election law and regulations prohibit Venezuelan public officials and civil servants from conducting campaign activities in the exercise of their public duties. However, The Carter Center noted an extensive participation of public officials and civil servants in campaign activities. In order to limit and eradicate these practices, the regulations governing these matters should be clarified to determine whether such activity is allowed off-duty (with “off-duty” defined) or not at all. The electoral authority, in turn, should determine ways to strictly enforce the agreed regulations.
- 2. Ensure greater campaign equity.** Although the constitution requires elected officials below the rank of president to step down from their positions in order to declare their candidacy for president, it does not require a president running for re-election to do so. This gives an unequal incumbency advantage to a person running for re-election to the highest office in the land. In addition, Venezuela (alone in the region) provides no direct or indirect public financing for electoral campaigns or political organizations. Drawing on comparative experiences within the region, Venezuelan legislators and election authorities could consider several options:
 - a) Provide free and equitable access to public and private media for campaign messages.

Given the regulations allowing unlimited government obligatory broadcasts (*cadenas*) and limited institutional advertisements (public service announcements)—while simultaneously imposing strict limits on candidate and civic organization political advertising—Venezuelan campaigns have demonstrated a marked inequity in the ability of candidates to conduct a fundamental element of the electoral process: to inform the voters of their political platforms. Assuring free and equitable access to public and private media to all competing parties could greatly help to level the present inequalities and enhance the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.

- b) Regulate and enforce equally campaign messages in the pre-election period. Presently, there are no clear norms to regulate campaign messages during the so-called “pre-election” period from the convocation of elections to the official start of the campaign. A clear regulation on that subject would help reduce the numerous conflicts that commonly arise during this period due to the absence of norms.
- c) Limit or prohibit the use of *cadenas* and inauguration of public works in a specified period prior to the elections. Mexico, Colombia, and Brazil are some examples of countries with such regulations.
- d) Limit the right of public officials to campaign for members of their own party or coalition. Mexico provides an example of strict limits on the president to speak on behalf of candidates from his/her own party.

3. Better enforce the regulation of the use of state resources for political purposes.

Venezuela law prohibits the use of public resources for political campaigns; yet national observer organizations and other nongovernmental organizations have documented the use of public resources for political purposes, including public vehicles to transport voters

to rallies and to voting stations and use of public buildings for campaign propaganda. In addition, local organizations and parties have complained that public officials have improperly used government offices and personnel to encourage or to threaten public employees to participate in political activities and voting. As noted in the Carter Center’s “Report on the Study Mission to the Oct. 7, 2012, Presidential Elections in Venezuela,” safeguards to prevent the abuses of *ventajismo* or to make violations of the law costly—not just financially but politically, in terms of imposing sanctions against the perpetrating campaign—are crucially missing. A more active role in investigating and enforcing the norms on the part of the electoral authorities would contribute to eliminating this type of practice.

A more active role in investigating and enforcing the norms on the part of the electoral authorities would contribute to eliminating this type of practice.

4. Clarify the role of the paper receipts.

Extensive pre- and postaudits have demonstrated the accuracy of the automated voting machines. Nevertheless, election regulations that provide for verification of the electronic results through a count of the paper receipts emitted by the machines for purposes of “transparency and confidence in the system” do not specify contingencies should there be a significant discrepancy in this verification. (See the Carter Center’s report on the 2006 Venezuelan elections at http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/venezuela_2006_eng.pdf.)

5. Carry out the fingerprint audit in the presence of witnesses from all parties and make the audit’s results public in a timely manner.

The integrated authentication system (SAI) was introduced in the October 2012 elections at least in part to authenticate that the

voter casting the ballot is the voter properly registered at that voting table and to prevent multiple voting or usurpation of identity. Given the postelectoral controversy surrounding the results and the accusations made by the opposition about cases of identity theft and multiple voting, incorporating the nonduplicity fingerprint audit into the regular schedule of audits of the CNE—in the presence of witnesses from the opposition parties and with a timely dissemination of results—will help not only to inform all Venezuelans about the extent to which the new system serves its intended purpose but also to strengthen citizen confidence in the electoral system.

Over time, the CNE has achieved a very inclusive voters list, with 97 percent of the population inscribed. Questions about the list in Venezuela have tended to focus more on the possibilities of over-inclusion (unremoved deceased people, homonyms, and foreigners not eligible to vote) than on exclusion of citizens from the list.

6. Improve the quality of the voting experience on election day.

A number of observations by national observer organizations indicated serious issues of influence or pressure on voters. Provisions to improve the quality of the voting experience and ensure that each citizen is able to vote freely and voluntarily could include:

- a) Instruct the security and election officials tasked with ensuring the security and conduct of the elections to ensure that all accredited party witnesses, and national observers properly accredited by the CNE are guaranteed access to the voting centers the entire election day, according to the norms.
- b) Instruct voting table volunteer workers on the proper procedures for assisted voting,

including the specified limits for each assistant to help only one person.

- c) Examine ways to better enforce the electoral regulations regarding limits on campaign propaganda and the guarantees of free access, without intimidation, of voters to the voting centers to vote and to participate in the citizen verification afterward.
- d) Define the criteria for receiving CNE credentials as a party witness and consider providing witnesses with pins or apparel that identify them as such. The Carter Center delegation observed cases in which people unaffiliated with a registered political party identified themselves as working party witnesses. Clarifying the roles of the various people performing service at the voting table can help improve the climate of the voting conditions.

7. Audit and update the electoral registry.

Over time, the CNE has achieved a very inclusive voters list, with 97 percent of the population inscribed. Questions about the list in Venezuela have tended to focus more on the possibilities of overinclusion (unremoved deceased people, homonyms, and foreigners not eligible to vote) than on exclusion of citizens from the list.

Although the campaigns received a copy and participated in and signed off on a review of the electoral registry used for both the October and April presidential elections, continuous updating of electoral registries poses a persistent challenge, particularly when removal of deceased people requires action by a family to provide a death certificate to the civil registry and, in turn, to update the electoral registry. A study by the Andres Bello Catholic University produced an estimate of 49,000 deceased people on the registry prior to the October elections, while the Capriles' campaign variously estimated between 191,000 and 300,000 deceased still on the rolls, in addition to some 20,000 cases of homonyms. Clearing up these issues, perhaps with a regular schedule of updates and audits, will help to increase confidence and transparency of the electoral registry.

8. Examine the legal framework. January–March, 2013, the Venezuelan Supreme Court made several interpretations of the constitution that were subsequently questioned by the opposition, including some individual suits presented to the court. The disputed interpretations arose in part because the constitution does not clearly specify every contingency for the temporary or permanent absence of a re-elected president. Given the constitutional modification in 2009 to permit indefinite re-election of the president, governors, and mayors, examination of the implementing laws to clarify these issues may be warranted.

9. Normalize the appointment of election authorities. Article 296 of the Venezuelan Constitution provides for the appointment of the rectors of the National Election Council for seven-year terms by a two-thirds vote in the National Assembly, from nominations made by civil society, law faculties of national universities, and the citizens' branch of government known as Poder Ciudadano. It further specifies

that these rectors should be people without ties to political organizations. The terms of three of the current five rectors expired at the end of April 2013. Yet given the current standoff in the National Assembly, it is highly unlikely the necessary two-thirds vote will occur. Agreements between the parties to ensure the election of an independent and impartial electoral authority would help strengthen confidence in the electoral system.

10. Promote maximum transparency. The levels of conflict during elections are intrinsically related to levels of openness and transparency concerning the operation of the electoral system and its rules and procedures. The higher the barriers for political forces to access information about electoral procedures, the higher the levels of distrust, resulting in a greater likelihood of conflict. The CNE, in its capacity as the highest electoral authority of the country, should promote a general philosophy of the broadest possible policies of transparency regarding all of its procedures.

An Extraordinary Interlude: Chávez's Health Crisis, Regional Elections, and a Controversial Succession of Power

Two months after Chávez's victory in the Oct. 7 presidential elections, the announcement of the reappearance of the president's illness plunged Venezuela back into political uncertainty. During what would turn out to be the final chapter of Chávez's health crisis, Dec. 8, 2012–March 5, 2013, four campaign-shaping events took place.

The Supreme Court decision permitted the vice president to be named interim president when the 58-year-old Chávez passed away March 5, 2013.

On Dec. 8, 2012, President Chávez announced the reappearance of his illness and named then-Vice President Nicolás Maduro his desired successor as the head of the *chavista* political coalition and presidential candidate should Chávez himself be unable to continue in office. Shortly after, in the Dec. 16 gubernatorial elections, Chávez's hand-picked candidates from the United Socialist Party of Venezuela (PSUV) won 20 out of 23 state governorships, with Henrique Capriles' re-election victory in Miranda representing an important bright spot for the opposition.

Then, on Jan. 9, 2013, one day before the constitutionally established date for the start of the 2013–2019 presidential term of office, while the president was still in a hospital in Cuba, the Supreme Court made a controversial ruling allowing Chávez's new term to continue from

the previous one without a formal inauguration. The Supreme Court decision permitted the vice president to be named interim president when the 58-year-old Chávez passed away March 5, 2013.¹ Unlike the requirements of other elective offices, the president is not obliged to temporarily abandon his duties if he is running as a candidate for re-election.

Finally, after the death of President Chávez at the age of 58, a state funeral and a mourning period that lasted seven days were called for; Maduro was instated as interim president on March 9, 2013; and the National Electoral Council called a special election for April 14, 2013, to fill the remainder of Chávez's six-year term. These events created an extraordinary interlude of political fluidity and uncertainty between presidential elections, and this chapter discusses the reactions of political and society actors to each event as it shaped the special election on April 14.

Moving Forward: Responses to the Oct. 7 Results

The 11-point margin of victory in the Oct. 7, 2012 elections, in which Chávez received 8,191,132 (55.07 percent) votes and Capriles received 6,591,304 (44.31 percent)², contrasted with the opposition's anticipation that Capriles' last-minute

1 Bolivarian Revolution Constitution (CBR), Articles 231 and 233, 1999

2 CNE, "Presidential Results 2012," Nov. 19, 2012. http://www.cne.gob.ve/resultado_presidencial_2012/r/1/reg_000000.html

surge in the polls would create a photo finish. After an aggressive campaign, Chávez headed a joyous victory rally from the Balcony of the People at Miraflores Presidential Palace and included some gestures toward the opposition. Earlier in the night, Capriles had accepted the results in a short, subdued address half an hour after official announcement of the outcome. The candidates' reactions to the results, coupled with news reports of a polite exchange of words two days later during a phone call between the contenders, seemed to bring a form of closure to the heated electoral contest, which registered a record turnout of 80.49 percent.³

Most of the opposition accepted the results with a mixture of resignation and depression. Yet, this quick end to the political battle over the election disappointed some who felt their candidate let them down by swiftly accepting the results rather than publicly complaining about the problems of *ventajismo*, including state-financed voter mobilization drives on election day.⁴

In a second speech delivered two days after the election, on Oct. 9, 2012, a much more animated Capriles emphatically dismissed fraud rumors, called for an end to “antipolitical” behavior within the opposition, and offered a rallying cry by calling for the opposition to “stand up” and prepare for the upcoming gubernatorial elections in which he would stand for re-election in the state of Miranda. According to political analysts, by focusing the opposition on the next electoral task at hand, Capriles demonstrated real political leadership.

The Gubernatorial Elections of Dec. 16, 2012

When Chávez announced the severity of his health crisis to the public on Dec. 8, 2012, he also announced that if “unexpected circumstances” developed, then his vice president, Nicolás Maduro, should be the PSUV candidate to succeed him in special elections. The very next day, Chávez departed for Cuba to receive a fourth round of chemotherapy treatment.

On Dec. 16, 2012, while the president was being treated in Cuba, the country held elections

for governors. Given that the election closely followed the presidential ballot and came one week before Christmas, the low turnout of 54 percent did not catch analysts by surprise.⁵ The results, in which candidates affiliated with the PSUV-led Great Patriotic Pole (GPP) won 20 out of the 23 states, constituted a major triumph for *chavismo*.

The candidates' reactions to the results, coupled with news reports of a polite exchange of words two days later during a phone call between the contenders, seemed to bring a form of closure to the heated electoral contest, which registered a record turnout of 80.49 percent.

The PSUV emerged with a net gain of three governors—compared to the 2008 elections in which the opposition won six states.⁶ The total results did not reveal a change in overall patterns of support, however. The state-by-state popular vote, when aggregated into a national total, revealed the same proportion of support registered Oct. 7, 55 percent for *chavismo* and 44 percent for the opposition.

3 Ibid.

4 David Smilde and Hugo Perez Hernaíz, “Mobilizing Supporters on Oct. 7,” Venezuelan Politics and Human Rights, Nov. 7, 2012. http://venezuelablog.tumblr.com/post/35156902716/mobilizing-supporters-on-october-7_

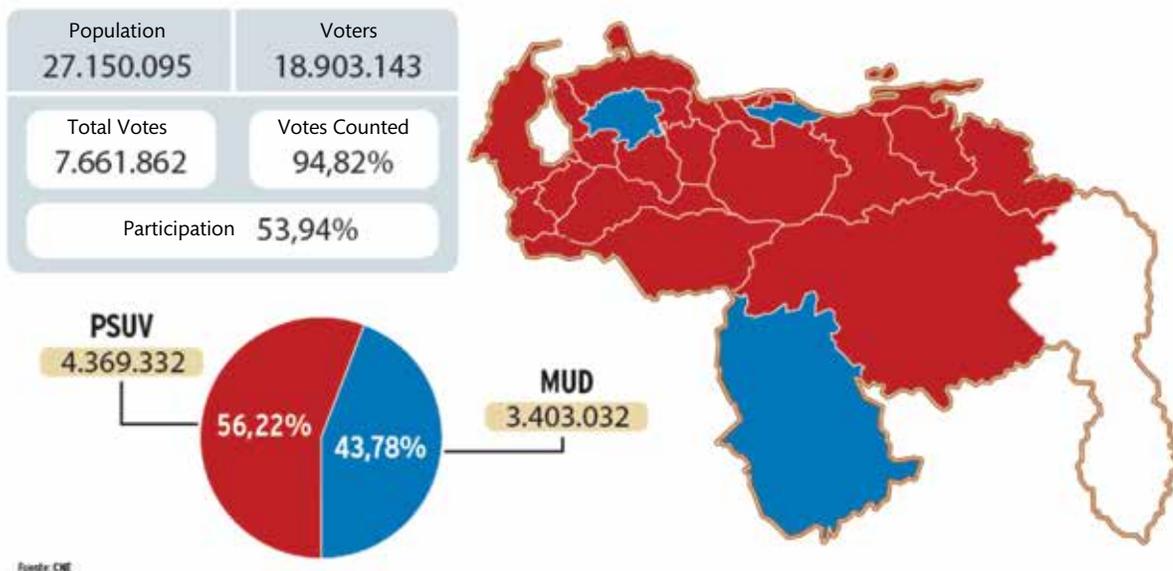
5 According to the Red de Observación Electoral of the nongovernmental Asamblea de Educación (AEV), which participated as a nationally accredited observer group, participation of volunteer election workers and party witnesses was also much lower than in the presidential elections. In 28 percent of the 264 voting tables AEV observed, the polling station had to be set up without the citizens randomly selected by the CNE to serve as volunteer polling station workers. In 11 percent of the tables AEV observed, the polling stations did not have adequate staffing from party witnesses representing both political parties. AEV, “Regional Elections Observation Report of Dec. 16, 2012, page 4.” Dec. 21, 2012, page 4

6 CNE, “Regional Elections Results, 2008,” Nov. 23, 2008. http://www.cne.gob.ve/divulgacion_regionales_2008/

Results of Gubernatorial Elections, December 2012

The Map of Venezuela looks like this.

Only Amazonas, Lara and Miranda remain in hands of the opposition.



Of the 20 PSUV party member governors, all of whom Chávez had chosen as his candidates, 10 were retired military.⁷ The most significant victory for the governing party was Francisco Arias Cardenas' narrow defeat of Pablo Perez, 52.22 percent against 47.68 percent, in populous and oil-rich Zulia state.⁸

Most importantly for the opposition, Henrique Capriles Radonski won re-election as governor of Miranda, 51.83 percent against 47.82 percent, over former Vice President Elias Jaua.⁹ Opposition candidates also were victorious in Lara and Amazonas states, and in the latter case, opposition parties won a majority in the local state legislature, their only such triumph.

Analysis of the reasons for the widespread victory of GPP–PSUV candidates boiled down to three factors:¹⁰ the positive coattail effect of candidates' affiliation with the ill Chávez, for whom the vice president asked voters to demonstrate their affection by going to the polls on Dec. 16; the national-level vote-mobilizing infrastructure assembled by the PSUV since 2006; and state-level characteristics associated with evaluations of governors' performance. For example, the opposition governor of Tachira state, Cesar Pérez Vivas,

lost by nine points to Jose Vielma Mora (45.49 to 54 percent)¹¹, despite Capriles carrying the state by 13 points in the presidential elections (56.24 to 43.29 percent).¹²

Conditions of the Campaign and Election Day on Dec. 16

Opposition and pro-government technicians participated in pre- and postaudits of the electronic voting system and verified its smooth

7 "Half of the Governors in Venezuela Are Chávez Loyalists," *El País*, Dec. 17, 2012. http://internacional.elpais.com/internacional/2012/12/17/actualidad/1355775991_861203.html

8 CNE, "Regional Report 2012," Dec. 16, 2012. http://www.cne.gob.ve/resultado_regional_2012/r/1/reg_000000.html?

9 *Ibid.*

10 Jennifer McCoy and Michael McCarthy, "Despite Uncertainty, Venezuela's Political Scenario Not All Bleak," *World Politics Review*, Dec. 20, 2013. <http://www.worldpoliticsreview.com/articles/12587/despite-uncertainty-venezuelas-political-scenarios-not-all-bleak>.

11 CNE, "Divulgación Regionales 2012," Dec. 16, 2012. (Regional Report 2012) http://www.cne.gob.ve/resultado_regional_2012/r/1/reg_000000.html?

12 We also note that unlike in October, the MUD did not have a unified ballot symbol for the coalition but rather many individual party symbols that varied by state. Some voters appeared to have trouble identifying the opposition candidates on the ballot. Source: personal communication from journalist observers

function. National observer groups Venezuelan Electoral Observatory (OEV) and the Electoral Observation Network from the Education Assembly (AE) participated as observers formally accredited by the CNE. Each ratified that the technological-organizational platform for the administration of the electronic vote functioned adequately.¹³

OEV's final report on these regional elections indicated three general weaknesses of the voting process that affected the election's quality.¹⁴ First, OEV described the CNE as not adequately promoting the election's importance with a communications strategy equal to the task of encouraging participation. Second, it criticized the CNE's decision to give voters the choice of voting by party bloc or coalition instead of individual candidate, which OEV claimed was at cross-purposes with the principle of "personalizing the vote" established in Article 63 of the constitution. Third, OEV voiced concern regarding the decision by the CNE to grant six PSUV candidates for governors (and their family members) the special privilege of changing the addresses of their voting centers to states in which they were running for office. This decision was made long after the April 15, 2012, cutoff date for modifying the country's electoral registry.

The Venezuelan Electoral Observatory and the Education Assembly concentrated the bulk of their criticism on the issue of *ventajismo*, noting the problematic nature of then-Vice President Maduro's national *cadena* broadcast during voting day to urge voters to support pro-government candidates as well as media access imbalances that favored government candidates, governors inaugurating public works projects, and candidates campaigning on voting day.

OEV and AE monitors reported quantitative and qualitative findings regarding voting conditions on election day.¹⁵ AE noted irregularities regarding the practice of "assisted voting" in 7 percent of its observed stations, candidates not respecting the prohibition of using public resources to stimulate voting in 6 percent of the cases, and the placement of partisan propaganda within the 200-meter boundary surrounding the voting center in 17.8 percent of the cases.¹⁶ AE also reported

that its observers encountered problems carrying out their work at the poll station, with some of them being forcefully removed without cause or explanation.¹⁷

OEV and AE concentrated the bulk of their criticism on the issue of ventajismo, noting the problematic nature of then-Vice President Maduro's national cadena broadcast during voting day to urge voters to support pro-government candidates as well as media access imbalances that favored government candidates, governors inaugurating public works projects, and candidates campaigning on voting day.

OEV's data on the total number of irregularities found at the voting tables also broke down infractions by party.¹⁸ For example, OEV found that in 20 percent of the voting tables it observed, monitors noted the mobilization of voters with public resources.¹⁹ Analyzed by party, in 38 percent of the

13 OEV, "Final Report: Regional Elections Observation," December 2012 <http://www.oevenezolano.org/2012/12/16/elecciones-regionales-16-diciembre-2012/>. AE, Dec. 23, 2012. Informe Elecciones Regionales Diciembre 2012. <http://redobservacionelectoral.info/wp-content/uploads/2013/04/Reporte-3-rev21.pdf>

14 OEV, "Final Report: Regional Elections Observation," December 2012 www.oevenezolano.org/2012/12/16/elecciones-regionales-16-diciembre-2012/

15 OEV constructed a sample based on monitoring 276 voting tables; AE monitored 264.

16 AE, Regional Elections Report, December 2012, page 4. For the CNE's notification of this norm, see "What Must Take Place During Election Day," April 13, 2013. http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3156

17 AE, *Ibid.*, 6–7

18 OEV calculated the frequency with which infractions occurred by party by taking the number of infractions by party as a fraction of the total number of centers observed. Thus, if observers noted opposition personnel mobilizing voters with public resources in eight places, then the percentage is based on $8/276=2.8$ percent.

19 At a single polling place, it is possible for pro-government and opposition personnel to both utilize public resources, such as vehicles, to mobilize voters when one party controls the mayor's office and the other the governor's office.

tables, personnel affiliated with MUD mayors or governors utilized public resources; in 89 percent of the tables, personnel affiliated with PSUV mayors or governors utilized public resources; and in 38 percent, official personnel used national government resources to mobilize voters.²⁰ In 3 percent of the tables observed, OEV found evidence of voters receiving pressures from both parties to vote for a particular candidate, though the PSUV did it more often.²¹

The court's decision — coupled with an announcement from the vice presidency that President Chávez would remain in Havana and not travel to Caracas to be sworn in on Jan. 10, 2013 — suggested the absolute severity of Chávez's health situation.

The Supreme Court's Controversial Ruling for Administrative Continuity

On Jan. 9, a day before the constitutionally mandated date for the start of the new term, the Supreme Court ruled that “administrative continuity” allowed the sitting government to remain in place.²² The court's decision — coupled with an announcement from the vice presidency that President Chávez would remain in Havana and not travel to Caracas to be sworn in on Jan. 10, 2013 —²³ suggested the absolute severity of Chávez's health situation. Yet while Chávez remained largely out of public sight in a highly secure Cuban hospital, the government continued to insist the president was in full control of his faculties and exercising the power of office in consultation with his ministers.²⁴ The Supreme Court decision would, in effect, determine whether Vice President Maduro or the president of the National Assembly, Diosdado Cabello, would head the government while Chávez remained physically unable to participate in this act.²⁵

The constitution declares that if a president-elect becomes incapacitated before his inauguration, the president of the National Assembly becomes interim president, and a new election is called within 30 days. If a president becomes permanently incapacitated in the first four years of the six-year term, the vice president (an appointed position in Venezuela) becomes interim president, and a new election is called within 30 days to fulfill the remainder of the presidential term.²⁶

The Supreme Court thus had two issues to decide: a) if the president was incapacitated (determined by a court-appointed medical team) and b) if he had to be physically present for his inauguration. The court did not appoint a medical team or rule on the first issue. On the second, it decided that in the case of a re-elected president, the succeeding term was simply an “administrative continuity” rather than a separate mandate, and thus the same appointed officers (vice president and ministers) would continue in their roles and the president need not be physically present for a formal swearing-in. The opposition disputed the ruling, arguing that the language of administrative continuity is not in the constitution.

To understand the controversy over the court's ruling, two points need to be taken into

20 OEV, “Informe Final: Observación Elecciones Regionales,” (Final Report: Regional Election Observation). December 2012, page 22. <http://www.oevenezolano.org/2012/12/16/elecciones-regionales-16-diciembre-2012/>

21 OEV, *Ibid*, 21

22 “TSJ: There is No Need for Inauguration Because There Is Continuity,” *El Universal*, Jan. 9, 2013. <http://www.eluniversal.com/nacional-y-politica/salud-presidencial/130109/tsj-no-es-necesaria-la-toma-de-posesion-porque-hay-continuidad>

23 CNN en Español, “Chávez Will Not Attend the Inauguration,” *CNN*, Jan. 8, 2013. <http://cnnespanol.cnn.com/2013/01/08/chavez-no-acudira-a-la-toma-de-posesion/>

24 AVN, “Flores Reiterates the President Is Fully Exercising his Functions,” Jan. 6, 2013. <http://www.avn.info.ve/contenido/flores-reitera-que-presidente-ch%C3%A1vez-est%C3%A1-pleno-ejercicio-sus-funciones>

25 Jennifer McCoy, “Constitutional Debates Amidst An Absent President,” *Venezuelan Politics and Human Rights Blog*, Jan. 10, 2013. <http://venezuelablog.tumblr.com/post/40177039917/constitutional-debates-amidst-an-absent-president>

26 Bolivarian Republic Constitution (CRB), Article 233. <http://venezuela.justia.com/federales/constitucion-de-la-republica-bolivariana-de-venezuela/titulo-v/capitulo-ii/#articulo-233>

consideration: The Venezuelan Constitution is not completely clear on what should be done if the elected president is not inaugurated on Jan. 10, and it does not specify the scenario if a re-elected president (as opposed to a newly elected candidate) becomes incapacitated in the time period between the election and the inauguration.²⁷

In its Jan. 9 decision, the court made a distinction between the importance of the new constitutional period beginning on Jan. 10, 2013, and the ceremonial act of the National Assembly formally swearing in the president of the republic.²⁸ The court argued that since Chávez was a re-elected president of the republic, administrative continuity of the government without the swearing-in ceremony did not present a problem, since the president was exercising the powers of office from his sickbed and, thus, such continuity did not presuppose the interruption of the popular mandate.²⁹

Based on this crucial distinction between the substantive importance of administrative continuity as a way to effectively recognize the popular mandate and the ceremonial formalism of inaugurating a re-elected president, the decision laid the groundwork for Article 233's provision for replacing an incapacitated president rather than president-elect. Thus, Vice President Maduro was named interim president rather than Diosdado Cabello. When Foreign Minister Elias Jaua declared Chávez's "absolute absence" immediately following his death on March 5, 2013,³⁰ Maduro was continuing in the office of vice president for a presidency that had begun a new constitutional term of office.³¹ Therefore, he could step in as the interim president while new elections were organized.³²

If the Jan. 9, 2013, Supreme Court sentence had not nullified the importance of the inauguration to make the actual start of a new constitutional period, declaring Chávez's "absolute absence" would have yielded a different procedure established in Article 233: that of appointing the president of the National Assembly, Diosdado Cabello, as interim president since the absolute absence would have occurred prior to the inauguration.

After the installation of Maduro as interim president, the opposition made an additional legal argument: Accepting the Supreme Court's logic that Maduro was still vice president under administrative continuity, the constitution stipulated

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that the vice president would be in charge of the presidency. They argued that Maduro was still the vice president and was simply fulfilling the duties of the presidency. Under those circumstances, he would have to step down from the vice presidency in order to run for president in the special elections³³ and would avoid all of the advantages that

27 Hernández, "And What Will Happen on Jan. 10, 2013?" Prodavinci, Dec. 28, 2012. <http://prodavinci.com/2012/12/28/actualidad/y-que-va-a-pasar-el-10-de-enero-por-jose-ignacio-hernandez-g/?output=pdf>

28 Sala Constitucional Ponencia Conjunta, "Expediente No 13-0196," (Constitutional Chamber Initiative), El Tribunal Supremo de Justicia, March 6, 2013. <http://www.tsj.gov.ve/decisiones/scon/marzo/141-8313-2013-13-0196.html>

29 Ibid.

30 "Maduro Assumes the Presidency and Calls for Elections," El Diario, March 6, 2013. <http://www.eldiario.ec/noticias-manabi-ecuador/255650-maduro-asume-la-presidencia-y-llamara-a-eleccion/>

31 "Flores: Because of Absolute Absence, Maduro Will Be In Charge of the Country," El Norte, March 6, 2013 <http://www.elnorte.com.ve/index.php/component/k2/item/6499-flores-por-falta-absoluta-ser%C3%A1-maduro-quien-se-encargue-del-pa%C3%Ad>

32 For further discussion of this debate over the constitution's bearing on the succession of power, review the Dec. 28, 2012, and Jan. 5, 2013, essays of Jose Ignacio Hernández on prodavinci.com. <http://prodavinci.com/2012/12/28/actualidad/y-que-va-a-pasar-el-10-de-enero-por-jose-ignacio-hernandez-g/?output=pdf>; and <http://prodavinci.com/2013/01/05/actualidad/es-constitucional-la-tesis-de-la-continuidad-por-jose-ignacio-hernandez-g/?output=pdf>

33 Bolivarian Republic Constitution (CRB), Article 233. <http://venezuela.justia.com/federales/constitucion-de-la-republica-bolivariana-de-venezuela/titulo-v/capitulo-ii/#articulo-233>



Michaëla Sivich

Images found in the areas surrounding Fuerte Tiuna show devotion to the recently deceased president.

the trappings of the presidency provided in the context of *ventajismo* in Venezuela. This argument was not heeded by the government or the Supreme Court.

Chávez's Funeral

After Maduro officially announced Chávez's death at 4:50 p.m. on March 5, 2013, officials immediately scheduled two events for March 8: a state funeral attended by foreign dignitaries and a swearing-in ceremony for Vice President Maduro to assume the position of interim president. The government also announced seven days of national mourning.

small delegation from the United States that consisted of two Congressmen (one current and one former) who had experience as members of dialogue processes between the United States and the Chávez governments. Maduro gave the eulogy at the state funeral, praising Chávez's contributions to the country and highlighting the path to socialism. He concluded with the slogan, "Chávez lives; the battle continues," that became one of the main slogans in the campaign.³⁴

Hours after the state funeral, Maduro was sworn in as interim president by National Assembly President Diosdado Cabello, who placed the presidential sash on the newly minted head of state. The symbolism of Cabello swearing in Maduro helped *chavismo* communicate an important lesson of unity. Of all the types of divisions within the party identified by various analysts, the personal tensions between Maduro and Cabello were thought to be the most intense and significant. Throughout the mourning period for Chávez, the two political figures took special care to show signs of friendship and fraternity.

If the opposition mostly kept quiet during the events surrounding Chávez's passing, then it drew a line about holding back during Maduro's swearing-in on the afternoon of March 8.³⁵ With the exception of deputies from the Political Electoral Independent Organization Committee (COPEI), a Christian democratic party, opposition congressmen and women boycotted the swearing-in session and Capriles called Maduro's ceremony "spurious."³⁶ In the same vein, Capriles pointed out that Maduro, as a vice president and former

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The official state funeral on Friday, March 8, was well-attended by foreign dignitaries from all over the globe as well as local officials, artists, and civil society's leaders. It also included a

34 William Neuman, "Dignitaries Pay Chávez Tribute, as Venezuelans Express Grief and Misgivings," New York Times, March 8, 2013. http://www.nytimes.com/2013/03/09/world/americas/chavez-funeral.html?_r=0

35 Capriles did, however, publicly question whether Chávez died on March 5, 2013. This prompted a swift response from Chávez's daughter, Maria Gabriela, who released a public statement condemning Capriles' declarations ("Capriles: Maduro Seeks Chávez Death Gain," UPI, March 11, 2013. http://www.upi.com/Top_News/World-News/2013/03/11/Capriles-Maduro-seeks-Chavez-death-gain/UPI-30361362985200/ and "Maria Gabriela Chávez Asks Capriles Not To Play Dirty," Noticiero Digital.com, March 12, 2013. <http://www.noticierodigital.com/2013/03/12/maria-gabriela-chavez-le-pide-a-capriles-no-ser-tan-sucio/>

36 William Neuman, "Dignitaries Pay Chávez Tribute, as Venezuelans Express Grief and Misgivings," New York Times, March 8, 2013. http://www.nytimes.com/2013/03/09/world/americas/chavez-funeral.html?_r=0

foreign minister, had not been elected to the presidency. The vice presidency is an unelected position, and Capriles, in a sign of the aggressive campaign to come, observed that the people did not vote for him.³⁷

When the funeral and swearing-in ceremony finished on March 9, 2013, Venezuela's National Electoral Council announced it would organize a special presidential election to be held on April 14.³⁸ Under the shadow of Hugo Chávez's political legacy, interim President Nicolás Maduro, age 50, and opposition Gov. Capriles, age 42, would compete in a special election to fill the 2013–2019 term of office that Chávez never began to fill.

In between the official pomp and circumstance for remembering the president and the start of preparations for new elections, thousands of ordinary citizens made their way to see Chávez's body as he lay in state in the Fort Tiuna military compound.³⁹ On March 15, thousands accompanied the transfer of Chávez's coffin from Fort Tiuna, walking with the motorcade as it progressed through the streets of Caracas to a military academy museum renamed to commemorate Chávez's Feb. 4, 1992, failed coup in the January 23 neighborhood—the final resting place for the coffin. People continued to pay their respects at the military museum.

The outpouring of grief for the deceased president, which one analysis described as tantamount to a popular expression of "civil religion,"⁴⁰ came mostly from supporters of Chávez. Opponents of the government offered varied reactions but also felt muzzled by the circumstances. They mostly

Michaela Swich



Images remembering Hugo Chávez were posted near Forte Tiuna.

withheld making public judgments that could have been viewed as incendiary given the moment.

37 A review of the debate over Maduro's swearing-in (Tom Watkins, "Venezuela's Vice President Sworn in as Interim President," CNN, March 9, 2013. <http://edition.cnn.com/2013/03/08/world/americas/venezuela-maduro-capriles>)

38 CNE. "Elección Presidencial 2013-14 de Abril de 2013" (Presidential Election of April 14, 2013), April 14, 2013. http://cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/index_principal.php

39 William Neuman, "Dignitaries Pay Chávez Tribute, as Venezuelans Express Grief and Misgivings," New York Times, March 8, 2013. http://www.nytimes.com/2013/03/09/world/americas/chavez-funeral.html?_r=0

40 Hugo Pérez Hernaiz and David Smilde, "Civil Religion and the Transfer of Charismatic Authority in Venezuela." *Venezuelan Politics and Human Rights Blog*, March 8, 2013. <http://venezuelablog.tumblr.com/post/44855774508/civil-religion-and-the-transfer-of-charismatic>

The Special Elections of April 14, 2013

In a surprising outcome, the special presidential elections following the death of President Hugo Chávez Frías produced a very close election, with the interim President Nicolás Maduro defeating Gov. Henrique Capriles by only 224,268 votes (7,587,532 to 7,363,264), a difference of 1.49 percent.⁴¹ Chávez had previously defeated Capriles in the Oct. 7, 2012, presidential elections by 11 points, and most polls had predicted that Maduro would defeat Capriles by seven to 11 points. The unexpected results set the stage for a contentious electoral outcome when Capriles rejected the results and refused to recognize the victor without a complete audit of the elections. In both October and April, record high turnout rates of 80 percent of eligible voters demonstrated intense interest of Venezuelans in the elections.⁴²

Analyzing the Electoral Outcomes of April 14, 2013

The narrowing of the margin of victory for the government's candidate reflected both a reduction in absolute votes from October for the governing coalition and an increase in the opposition's votes. Nationally, Maduro received 603,600 fewer votes than Chávez had in October—8,191,132 to 7,587,532—while Capriles increased his vote share by 771,960, bumping up from 6,591,304 to 7,363,264. In terms of rural versus urban geographic-demographic cleavages, Maduro, on average, dropped 4.44 percent in rural states and 4.47 percent in urban states, though he

maintained *chavismo's* historic advantage over the opposition in rural states.⁴³

Maduro won a majority of votes in 15 out of 23 states and received a majority of the vote share in the populous Capital district. Capriles won in eight states, a significant increase from the previous October's contest against Chávez when he won a majority in only two Andean region states, Tachira and Mérida.

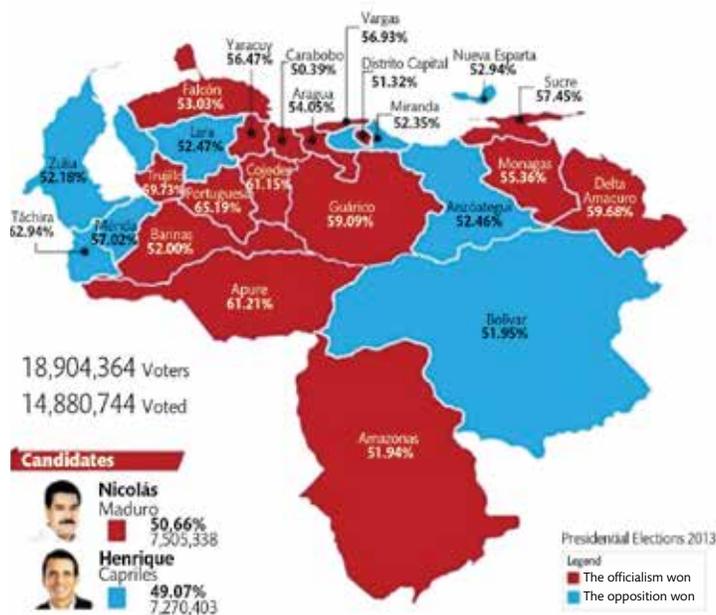
As a result, the electoral map for April 14, 2013, looked a lot different than the one for Oct. 7, 2012. In October, Capriles' vote total against Chávez was a record for the opposition, but it projected a weak image of opposition support, with only two small "blue" blotches in Táchira and Mérida on the electoral map. Against Maduro, Capriles won the popular vote in states

41 The CNE announced the first results at 11:15 p.m. on April 14, with a difference of 1.6 percent. Between April 16 and April 29, Capriles received a final surge from votes cast abroad in embassies and consulates that narrowed the margin by a little more than 0.1 percent. The CNE website's last update as of June 25, 2013, was May 24, 2013, with 99.94 percent of the voting tables counted. (There were 21 of 39,376 voting tables not included in that tabulation.) CNE, "Divulgación Presidenciales 2013," April 14, 2013. http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html

42 Participation was 80.49 percent in October 2012 and 79.68 percent in April 2013.

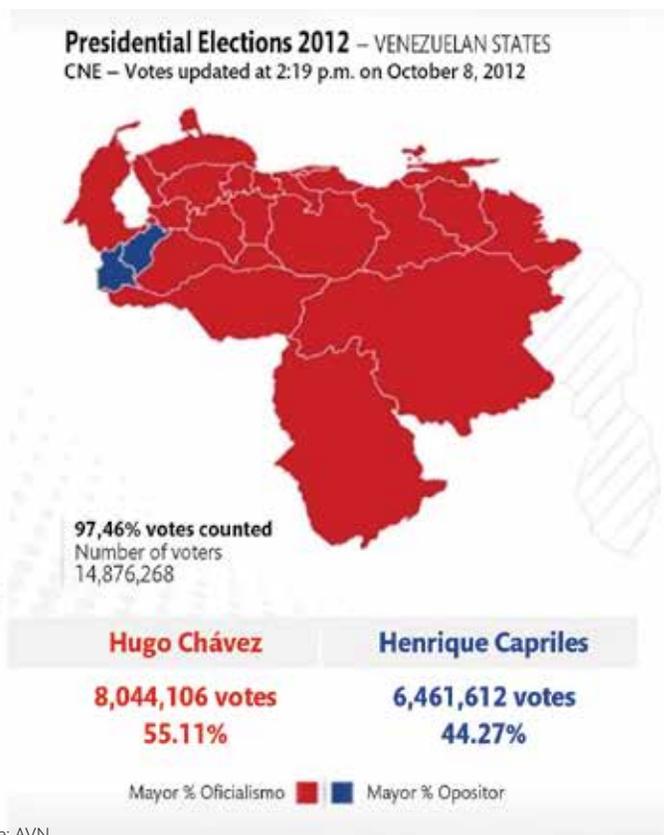
43 Typically, pollsters and analysts use the following rural-urban breakdown as a rule of thumb for depicting tendencies of the electorate on a Venezuelan electoral map. Rural states: Amazonas, Apure, Barinas, Bolívar, Cojedes, Delta Amacuro, Guárico, Monagas, Portuguesa, Yaracuy; Urban states: Anzoátegui, Aragua, Carabobo, Distrito Capital, Falcón, Lara, Miranda, N. Esparta, Sucre, Vargas, Zulia; Urban subdivision in the Andes: Mérida, Táchira, and Trujillo. (Dorothy Kronick and Javier Rodríguez Rivas, "Nicolás Maduro Elected President with 50.78 Percent of the Vote." <http://stanford.edu/~dkronick/vz-elections2013/#>)

Election Results April 2013



Source: El Tiempo

Election Results October 2012



Source: AVN

he hoped to win in October but did not, such as important economic states Zulia and Bolívar, and important political states Miranda and Lara, his home state and that of one of his campaign chief's, respectively. Capriles also won in smaller states Anzoátegui and Nueva Esparta. Thus, in comparison to Oct. 7, 2012, when the map appeared almost all red, Capriles' blue broke up Maduro's blocks of red.⁴⁴

In the Andean region—the three states of Mérida, Táchira, and Trujillo—Maduro dropped an average of 5.3 percent. He actually dropped the largest percent in Chávez's home state of Barinas, 7 percent, despite winning a majority there. Maduro's losses of 5.8 percent and 5.7 percent of the votes in Bolívar and Zulia stand out as important examples where he lost significant ground and ceded a majority in the state to Capriles.⁴⁵

Interpreting the potential voter realignment is not easy; however, Maduro himself gave a clue

when he announced on May 16, 2013, that nearly 900,000 voters who had supported Chávez in October did not vote for Maduro in April.⁴⁶ He implied that these voters stayed home rather than switching their votes and complained that it could have made the difference. The most radical sectors of the governing coalition, however, tended to point accusing fingers at Maduro himself.

44 "Presidential Elections 2013," El Universal. <http://www.eluniversal.com/nacional-y-politica/mapa-de-resultados-electorales/> Dorothy Kronick and Javier Rodríguez Rivas, "Nicolás Maduro Elected President with 50.78 Percent of the Vote," Stanford University. <http://stanford.edu/~dkronick/vz-elections2013/#>

45 Dorothy Kronick and Javier Rodríguez Rivas, "Nicolás Maduro Elected President With 50.78 Percent of the Vote," Stanford University. <http://stanford.edu/~dkronick/vz-elections2013/#>

46 "Maduro Notes That He Has Identified 900,000 Who Didn't Vote for Him," El Universal, May 17, 2013. <http://www.eluniversal.com/nacional-y-politica/130517/maduro-senalo-que-tiene-identificados-a-900-mil-que-no-votaron-por-el>

The divergences between these sectors and Chávez's successor were made explicit for the first time during the campaign. Referring to the growing use of artists and musicians in Maduro's campaign acts, a political analyst from Miranda International Center, a *chavista* think tank, urged the presidential candidate to leave aside the "show" and focus the campaign on themes central to the movement.⁴⁷ For a successful campaign, he wrote, it is not necessary for the candidate to be surrounded by "Bolivarian sifrinos."⁴⁸ The campaign, in his judgment, should have been focused on the legacy of Chávez, Bolivarian socialism.⁴⁹

Interviews conducted by The Carter Center corroborated the thesis that a large portion of the drop in the government's vote was due to abstention, while Capriles' gain in votes reflected better mobilization of opposition voters as well as attracting new voters. In addition, the sizable decrease of voters for the smaller parties in the government coalition affected the outcome.⁵⁰

Surrounded by family and supporters, Maduro gave a mixed-message victory speech, sprinkling in conciliatory language with a confrontational tone.

The Candidates' Reactions to the Vote

At 11:15 p.m. on April 14, the CNE declared interim President Nicolás Maduro elected with 7,505,338 (50.66 percent) votes to Capriles' 7,270,403 (49.07 percent) after the electoral authority tabulated 99.12 percent of the votes and determined the outcome was irreversible. The announcement of the razor-thin edge by CNE President Tibisay Lucena came four hours after Vice Rector Sandra Oblitas announced that voting centers should be closed unless there were

voters in line.⁵¹ After Lucena announced the results, while also noting the intensity of election-day activities and calling on each campaign to orient its supporters toward peaceful recognition of the outcome, she and the other three rectors affiliated with the government left the dais while Vice Rector Vicente Diaz stayed seated and made unexpected remarks.⁵² Diaz called on the CNE to amplify the citizen verification process, regularly conducted for 53 percent of the polling tables, to 100 percent in the name of creating "tranquility for the Venezuelan family."⁵³

47 Nicmer N. Evans, "Nicmer N. Evans (Official): Reflections and Propositions." <http://evansnicmer.blogspot.com/2013/03/carta-publica-nicolas-maduro-dejemos.html?pref=tw>

48 "Sifrino" is a term popularly used in Venezuela to describe people who belong—or aspire or pretend to belong in an ostentatious manner—to a wealthy social class. In some cases, the term is used contemptuously to describe opposition sectors.

49 Foreign minister Elias Jaua responded forcefully by Twitter: "We're facing an enemy. I invite you to dedicate your pen to confront it." This will be "the only time that I dedicate time to this issue," he added warningly.

50 In the October 2012 elections, the PSUV received 6.4 million votes, and the small parties grouped under the umbrella coalition La Gran Polo Patriótico (GPP) received 1.8 million (12.13 percent of the total votes). During the elections of April, the PSUV received 6.2 million and the small parties 1.4 million (9.6 percent of the total votes). In six months' time, then, the PSUV lost about 200,000 votes (3 percent) while, as a combined force, the small parties lost 400,000 votes, more than 20 percent of their power (23 percent). For instance, the second biggest party of the coalition and historical party of the left, the Communist Party, reduced its forces by 43 percent (lost almost 200,000 votes), and only four of 14 parties passed 100,000 votes. (Seven of 12 coalition parties did in October.) Meanwhile, the decision by the Democratic Unity Table (MUD) to run their candidate under a single party ticket—with only one symbol appearing on the ballot (*la tarjeta unica*), reflected well on the message of Unidad projected by the MUD. In contrast, in October, the ballot contained the symbols (with Capriles' picture) of 21 different opposition parties, including Capriles' own party, First Justice (Primero Justicia), as well as a MUD symbol that included the Acción Democrática and COPEI parties—a decision that some felt hurt the candidacy's message of unity and change. This decision also means that we cannot compare the performance of various parties in the MUD in the October and April elections.

51 The vote is officially open from 6 a.m.–6 p.m., but the law allows all voters in line as of 6 p.m. to vote. As it did in the Oct. 7 elections, the CNE announced the close of the voting day well past the 6 p.m. deadline. The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012, page 13. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf. During the announcement of the first bulletin, Lucena estimated turnout to be 78.1 percent.

52 "Tibisay Lucena Announced Nicolás Maduro as President," Últimas Noticias, April 14, 2013. <http://www.youtube.com/watch?v=dDsFrZeJv0g>

53 Vicente Diaz's announcement: https://www.youtube.com/watch?v=G_wD4xUNdxs

Maduro made his victory speech immediately after the CNE announced results, speaking to a subdued crowd of supporters from a platform mounted adjacent to Miraflores Palace instead of from the palace's "balcony of the people" that Chávez often used. Surrounded by family and supporters, Maduro gave a mixed-message victory speech, sprinkling in conciliatory language with a confrontational tone. He said that the opposition's request for an audit would be welcome, but, referring to a phone call with Capriles beforehand, rejected waiting for such an audit before confirming the results. He did not want to leave the country in uncertainty, and while he recognized and respected the opposition voters, he also asked for their respect for his supporters.⁵⁴ He closed by inviting opposition supporters to work together for "true democracy" and noted that political dialogue could take place in the National Assembly or directly, but he promised to advance socialism.

Accompanied by MUD leaders, Capriles spoke just after midnight, and he, too, started on a tough line, telling the audience he would speak "firmly."⁵⁵ In his first few lines, Capriles said the campaign had compiled reports of 3,200 incidents regarding irregular activities on election day and that he would not recognize the results until every vote was counted and each ballot box opened.⁵⁶ Capriles called on Maduro to liberate "political prisoners," arguing the country had changed and that this meant his supporters deserved respect. In his third and final cluster of messages, he went a step further in their critical tone. Capriles claimed his campaign staff held a vote count different from the one offered by the CNE, so the results did not reflect the reality of the country. Capriles said that his results suggested that Maduro and his government were the defeated ones, that Maduro "enjoyed more illegitimacy" than before, and that if he had to, he would exhaust all the constitutional mechanisms available to help change the country.⁵⁷ He concluded by saying that the peace of the country was in the hands of the CNE.

The CNE's formal act of proclaiming Maduro the winner took place the day following the election in the late afternoon at 4 p.m. Although the Organic Law on Electoral Processes (LOPRE), in

Article 153, gives the CNE discretion to schedule this act of accreditation, holding the ceremony less than 24 hours after the results contrasted with the Oct. 7 elections when the CNE proclaimed Chávez the winner three days later on Oct. 10.⁵⁸

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In a speech made prior to the act of proclamation, Capriles protested holding the proclamation so soon and termed Maduro's presidency "spurious."⁵⁹ He asked Venezuelans to permit him to manage the crisis and to avoid violence, saying the fight was not "people to people" but "people against an illegitimate government." If the CNE

54 "Maduro: I Recognize and Respect the Votes of the Opposition." *Ultimas Noticias*, April 14, 2013. <http://www.ultimasnoticias.com.ve/noticias/tuvoto/noticiaselectorales/maduro-reconozco-y-respeto-los-votos-de-la-oposici.aspx>

55 Capriles R., "We Will Not Recognize the Results Until Every Ballot Box Is Open." *Ultimas Noticias*, April 14, 2013. <http://www.ultimasnoticias.com.ve/noticias/tuvoto/noticiaselectorales/capriles-r-no-vamos-a-reconocer-resultados-hasta-q.aspx>

56 *Ibid.*

57 *Ibid.*

58 The fact that this was a special election to fill a presidential void may have entered into the CNE's decision on the timing. The opposition, on the other hand, argued that Maduro could have continued as interim president until the audit was conducted. For some analysts, the speed with which the CNE acted to confer the presidency to Maduro sought to close the door to eventual hierarchical recourse by the MUD.

59 *Ibid.*

An injured protester in the Altamira neighborhood of Caracas was interviewed on April 15, 2013.



Michaela Swich

would not agree to delay the proclamation, he called on Venezuelans to express their indignation and rage with a *cacerolazo* (the banging of pots and pans), and the next day to go to offices of the CNE around the country to demand the audit. He convoked a march in Caracas for Wednesday, May 17, that he would lead to the CNE to formally ask for the vote recount.⁶⁰ In the evening, after the proclamation act, Capriles made a second, more emotional speech. He reiterated the call for a *cacerolazo*, imploring Venezuelans to let out their furor (*arrechera*) through the banging of pots and pans.⁶¹

On Monday after the elections, the country awoke to a tense calm. At first, the disruptions

in the streets of Caracas involved forceful civil disobedience that security forces seemed to have under control.⁶² By the afternoon, tensions in Caracas deteriorated into violent skirmishes between protesting Capriles supporters and public security forces.⁶³ Reportedly, security forces wanted to contain the protest to sectors of the city far from government buildings in the center of the city.⁶⁴ Government representatives denounced attacks on government health clinics as well as some of the government officials' homes.⁶⁵ According to official government reports, skirmishes throughout the country left nine dead, 107 injured, and 28 incarcerated.⁶⁶ The opposition emphatically denied accusations that it coordinated the protests or had orchestrated the violence that broke out.⁶⁷

On Tuesday, April 16, Maduro and Capriles held back-to-back afternoon press conferences. Maduro spoke at 3:30 p.m., beginning by saying

60 "Henrique Capriles Will Call for a Cacerolazo If Nicolas Maduro Is Proclaimed President." Caracol News, April 15, 2013. http://www.el-nacional.com/politica/Capriles-convoca-marcha-miercoles-CNE_2_172802722.html

61 Noticias Caracol & EFE, April 15, 2013. <http://www.noticiascaracol.com/mundo/articulo-291690-henrique-capriles-llama-a-cacerolazo-si-nicolas-maduro-se-proclama-presidente>

62 "Protests and Cacerolazos in Caracas While Maduro Is Proclaimed President," El Nuevo Herald. <http://www.elnuevoherald.com/2013/04/15/1454717/protestas-y-cacerolazos-en-caracas.html>

63 "Attack of Palo Verde CDI Was With Molotovs," Ciudad CCS, April 21, 2013. <http://www.ciudadccs.info/?p=413472>. Telesur, 18 de abril de 2013, <<http://www.youtube.com/watch?v=zDMwSfjounM>

64 Ciudad CCS, *Ibid*

65 "Opositores atacan sedes oficiales y residencias de funcionarios." Ciudad CCS, April 15, 2013. <http://www.ciudadccs.info/?p=413472>. Rector Diaz criticized such behavior by pointing out there is a clear line between "antidemocratic harassment" and legitimate "protest" action. <https://twitter.com/VicenteDz>. To view a copy of the specific tweet, please see <http://www.twitlonger.com/show/livgjk>

66 PROVEA, International Newsletter, May 2013. According to Provea, "In this context of political conflict, there were several forms of human rights violations by the state." According to the nongovernmental organization, these violations were "prohibitions and restrictions on the exercise of the right to peaceful protest; there were repression, arbitrary and illegal arrests against demonstrators, and also reports of cases of torture in places where they were detained." Also the nongovernmental organization denounced the arbitrary detention of the opposition leader Antonio Rivero. http://www.derechos.org/ve/pw/wp-content/uploads/boletin_provea-FINAL-ESPA%C3%91OL.pdf

67 See video of the statements by Henrique Capriles on Telesur: Telesur, April 18, 2013. <http://www.youtube.com/watch?v=zDMwSfjounM>

he would radicalize the revolution if the violence continued. He then rejected Capriles' proposal for a Wednesday march, saying that he had denied the opposition permission to march in Caracas in order to prevent another "April 11"—a reference to the opposition march that prompted the 48-hour removal from power of Chávez in 2002.⁶⁸

Maduro's remarks generated much anticipation about Capriles' press conference. Capriles first announced that campaign staff had, in fact, delivered complaints to the CNE offices but that he was calling off the march for Wednesday. There existed, he said, real risks that high levels of political violence would break out during the march and that he feared the government would infiltrate the march to provoke violence. In the interests of maintaining the peace, Capriles said it would be better to hold another *cacelorazo* in the evening. He underscored, "He who leaves the peaceful line is not with this project."⁶⁹ Capriles' remarks seemed to pull Venezuela back from the brink, and fortunately Wednesday, April 17, unfolded almost as it if were a regular workday.

International Actors' Reactions

International organizations and foreign governments began to offer reactions the day after the election. The electoral accompaniment mission of the Union of South American Nations (UNASUR), led by former Argentine Vice President Carlos "Chacho" Alvarez, saluted the civic and democratic spirit demonstrated by Venezuelans at the polls, called on actors to respect the results emitted by the CNE, and pointed out the importance of following constitutionally established processes for submitting complaints about the electoral process.⁷⁰

The Organization of American States (OAS), which organized a small accompaniment delegation at the last minute, issued a press release in a different tone. OAS Secretary-General Jose Miguel Insulza noted the official results but also underscored "the announcement by the representatives of the government and the opposition on the need to conduct an audit and a full recount of the vote."⁷¹ In this vein, Secretary-General Insulza expressed his support for this initiative and made

available to Venezuela the OAS team of electoral experts, of recognized prestige and long experience in the field, to assist in this effort.⁷²

From the United States, the White House spokesman, rather than the State Department, offered his support for proposals for a 100 percent audit, observing, "This seemed a prudent and necessary step to ensure that all Venezuelans have confidence in the results."⁷³ Spain opted for essentially the same position as the United States, although later it formally recognized the Maduro victory.⁷⁴ Governments throughout Latin America and the Caribbean recognized the Maduro victory

68 "Maduro Threatens to Radicalize the Revolution in Venezuela," CNN en Español, April 16, 2013. <http://cnnespanol.cnn.com/2013/04/16/maduro-amenaza-con-radicalizar-la-revolucion-en-venezuela/>

69 "Henrique Capriles, 'Whoever Is Outside of Pacific Means Is Not a Part of Our Project,'" CNN en Español, April 16, 2013. <http://cnnespanol.cnn.com/2013/04/16/henrique-capriles-el-que-se-salga-del-tema-pacifico-no-esta-con-este-proyecto/>

70 "UNASUR Electoral Misión Declaration," UNASUR, April 15, 2013. <http://www.unasursg.org/inicio/centro-de-noticias/archivo-de-noticias/declaracion-de-la-mision-electoral-de-la-unasur> The Union of Inter-American Electoral Organizations (UNIORE), an organization with a lower profile than UNASUR, also sent a CNE-accredited "electoral accompaniment" mission. On April 15, UNIORE's mission in Caracas issued a press release and final report on the elections. The press release's central message was to salute the Venezuelan people for demonstrating their commitment to democracy through their massive voting. The final report document noted improvement in civic education and applauded assisted voting to help those who otherwise would not be able to vote. It suggested improving the infrastructure for handicapped voters to access polling sites and removing the indelible ink as redundant with the automated system and called on the CNE to better regulate campaign propaganda. The mission also participated in many of the technical audits of the system. "Informes Elecciones Venezuela." UNIORE. 2013. <http://www.uniore.org/Documentos/EleccionesVenezuela.aspx>

71 "Insulza Salutes Civic Spirit of Venezuelans and Supports Recount Proposals," Organization of American States, April 15, 2013. http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-138/13

72 Ibid.

73 "Press Briefing by Press Secretary Jay Carney, 4/15/2013," The White House. April 15, 2013. <http://www.whitehouse.gov/the-press-office/2013/04/15/press-briefing-press-secretary-jay-carney-4152013>. The U.S. government reiterated this position throughout the week, with Assistant Secretary of State Roberta Jacobson and then-Secretary of State Kerry calling for a recount and abstaining from congratulating or recognizing the victory of the Maduro government. William Neuman, "Kerry Encourages Venezuela Recount," New York Times, April 17, 2013. <http://www.nytimes.com/2013/04/18/world/americas/kerry-encourages-recount-in-venezuela.html>

74 "Spain Recognizes Maduro as Elected President of Venezuela," El Universal, April 17, 2013. <http://www.eluniversal.com/nacional-y-politica/elecciones-2013/130417/espana-reconoce-a-maduro-como-presidente-electo-de-venezuela>

after his proclamation on Monday, April 15, though they were more cautious than in October.⁷⁵

On April 18, The Carter Center sent out a press release calling for mutual recognition and dialogue while exhorting “all Venezuelans to express their differences peacefully, respecting the legal order and the constitutional rights of all citizens.” The Center recognized the changes in the country and the need for new agreements to guarantee conditions of fair play during electoral campaigns, saying, “The narrow difference in electoral results, coupled with strong societal polarization, calls for the initiation of a new political dynamic characterized by a frank and sustained national dialogue to facilitate democratic coexistence.” This dialogue should include “the mutual recognition of the political actors [and] the discussion about the minimum agreements needed to find solutions to the major challenges Venezuela faces” as well as “[ways] to define the rules and institutions that guarantee conditions of fair play during electoral campaigns.”⁷⁶

Governments throughout Latin America and the Caribbean recognized the Maduro victory after his proclamation on Monday, April 15, though they were more cautious than in October.

In the wake of the electoral conflict, UNASUR took further action. The government of Ollanta Humala in Peru, the country exercising the president pro tempore role, called an emergency UNASUR meeting to discuss the Venezuelan election on Thursday evening, April 18. Along with heads of state from other member nations (except Ecuador’s Rafael Correa who was in Europe), Maduro attended the session in Lima, which, according to Foreign Minister of Colombia María Ángela Holguín, would provide a forum for a good discussion about the election.⁷⁷ Peru’s foreign minister at the time, Rafael Roncagliolo, pointed out that UNASUR governments had recognized Maduro’s victory but also felt it necessary to analyze the situation as a regional bloc.⁷⁸

Early on the morning of April 19, the UNASUR summit meeting concluded, and an eagerly awaited statement was issued. The statement, dated April 18 but disseminated in the press on April 19, reiterated the message of congratulations offered in the UNASUR electoral mission’s April 15 press release, called on political actors to accept the official results offered by the CNE on April 14, and applauded the electoral board’s decision to amplify the audit while also calling for dialogue and tolerance.⁷⁹

Capriles’ Demands and Response of the National Electoral Council

Capriles’ public statements following the election alternated between the terms “audit” and “recount,” while the international press and the U.S. government used “recount,” and they all referred to counting the votes one by one. The National Electoral Council and Supreme Court head rejected the calls for a recount, explaining how such a process would mean a return to the previous manual voting method discarded amid suspicions of fraud 15 years ago. In turn, many outsiders interpreted that position as rejecting Capriles’ demands, when actually Lucena was explaining the legal basis of Venezuela’s automated voting system. Thus, interpretation of semantics contributed to the confusion that overlay a serious

⁷⁵ The Canadian government of Stephen Harper issued a statement praising the high levels of participation in the elections, called for a peaceful resolution to the tensions, and noted the importance of Venezuela following an appropriate process to build citizen confidence in the results “Canadá Solicita ‘Resolución Pacífica y Debido Proceso’ tras las Elecciones,” *El Universal*, April 18, 2013. <http://www.eluniversal.com/nacional-y-politica/elecciones-2013/130418/canada-solicita-resolucion-pacifica-y-debido-proceso-tras-las-eleccion>

⁷⁶ “The Carter Center Calls for Mutual Recognition and Dialogue in Venezuela,” *The Carter Center*, April 18, 2013. <http://cartercenter.org/news/pr/venezuela-041813.html>

⁷⁷ “Is the UNASUR Meeting Necessary?” *La Republica*, April 18, 2013. <http://www.larepublica.pe/18-04-2013/es-necesaria-la-reunion-de-emergencia-de-la-unasur>

⁷⁸ “The UNASUR Meeting About Elections in Venezuela to Take Place in Lima,” *Noticias Caracol*, April 18, 2013. <http://www.noticiascaracol.com/mundo/articulo-292045-avanza-lima-reunion-de-unasur-sobre-elecciones-venezuela>

⁷⁹ “Declaration From the Council of Heads of State of Union of South American Nations (UNASUR),” UNASUR, April 19, 2013. <http://www.unasursg.org/inicio/centro-de-noticias/archivo-de-noticias/declaracion-de-los-jefes-de-estado>

dispute about how to address election complaints of the opposition.

Though initially Capriles' public comments had called for a "recount vote by vote" that would open all of the ballot boxes of paper receipts to count each one, he then added a request to examine the manual voter logs, comparing voter signatures and thumbprints to ensure there was no impersonation of voters, dead or alive. On April 17, the campaign formally requested in writing an audit of the larger system, including a comparison of the paper receipts and electronic tally sheets—along with the number of voters recorded in the manual voters log and an audit of all of the remaining "voting instruments," including the fingerprint registration machines.⁸⁰ These technical requests, including the audit of the fingerprint registries, were not explained publicly until a press conference by MUD officials on April 24.⁸¹

On the evening of April 18, after Capriles submitted this request formally, the CNE agreed to amplify its audit of the citizen verification process to 100 percent of the ballot boxes, without mentioning the additional requests.⁸² This decision, announced by CNE President Lucena while the UNASUR meeting in Lima was going on, appeared to move the electoral tribunal in line with the position Rector Diaz indicated on April 14, 2013.⁸³ Dr. Lucena emphasized that this was not a vote recount but a technical audit that would be done to preserve the state of harmony among Venezuelans and to isolate violent sectors. She noted that a request for a new automated vote count must be made through the court system.

In spite of his previous request about a more comprehensive audit, Capriles immediately accepted the CNE proposal to amplify the recount, saying that the problems with the voting process could be found in the new 12,000 voting boxes to be opened as a result of the audit's amplification and that through this process the campaign could show the truth about what happened on April 14.⁸⁴ Over the next week, however, the apparent accord unraveled as the CNE and the MUD attempted to discuss the procedures for the amplified citizen verification.

The CNE responded in a resolution dated April 22 and published in the *Gaceta Oficial* on

April 29 to the written request dated April 17 from Henrique Capriles and the MUD soliciting an audit broader than citizen verification to assure that the "principle of transparency that should guide every electoral process" and to "resolve in a climate of confidence and peace the currently existing differences with regard to the electoral results." The CNE explained in its response that according to Article 196 of the LOPRE, it was required to respond within 15 working days to requests or complaints that were not intended to impugn or nullify election acts. In contrast, petitions with the intent to impugn or nullify any act emanating from the CNE must be made to the Supreme Court of Justice and based on the reasons for nullification provided in the LOPRE.⁸⁵

Controversy on the Electoral Registry

The Carter Center reported in its October 2012 study mission final report, "Some are concerned that the voter registration list is inflated and has not been sufficiently purged of dead people and noncitizens."⁸⁶ Indeed, these concerns became part of the official document that Capriles presented in the Supreme Court on May 2 in order to annul

80 See the Carter Center report on the October 2012 elections for a full discussion of the automated system and the biometric identification system (fingerprint registry machines). The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012. <http://www.noticiascaracol.com/mundo/articulo-292045-avanza-lima-reunion-de-unasur-sobre-elecciones-venezuela>

81 "Comando Simon Bolívar Clears Up the Nature of Its Requests for a CNE Audit," *Globovision*, April 24, 2013. <http://www.elsiglo.com.ve/article/49737/Comando-Simon-Bolivar-aclaro-solicitudes-ante-CNE-sobre-auditoria>

82 The CNE had indicated to The Carter Center that it could not respond to a political request made during speeches but that complaints should be submitted through the formal channels.

83 AVN, "CNE Amplifies the Citizen Verification Audit to 100 Percent," *SIBC*, April 18, 2013. <http://www.avn.info.ve/contenido/cne-ampliar%C3%A1-auditoria-verificaci%C3%B3n-ciudadana-para-aislar-sectores-violentos>

84 "Capriles Accepts Audit of the Totality of the Votes," *Tuteve Actualidad*, April 18, 2013. <http://www.youtube.com/watch?v=9MTEkLn9qSs>

85 The letter cites Article 202 of the LOPRE and Article 179 of the Organic Law of the Supreme Tribunal of Justice.

86 The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012, page 33. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

the April 14 election.⁸⁷ Rector Socorro Hernandez expressed in a televised interview that dead people were likely to have existed in the registry during the April elections, as the voters list used for this election was the same one used for October's elections. (Voter registration closed on May 15, 2012.)⁸⁸ She reiterated that the CNE did not have any knowledge that dead people voted in Venezuela; nonetheless, she did not discard the possibility that some could intend to usurp the identities of deceased people in order to affect the electoral result.⁸⁹

In a democracy, the results are the results.

In order for deceased people to be removed from the electoral registry, a relative must submit a death certificate in the CNE (within a maximum of two days after the death took place), a requirement that is not always met.⁹⁰ According to a study conducted by the Andres Bello Catholic University before the October 2012 election, only 0.3 percent of the total registered voters, about 49,000 voters, were included in the category of "deceased, but not removed" from the registry.⁹¹ As the Carter Center's Venezuelan Elections October 2012 report states, "No voter registry is perfect, and a certain level of inaccuracies is accepted by international organizations as long as these inaccuracies are not prejudicial to the electoral result." The Carter Center and other international electoral observers have repeatedly recommended a comprehensive audit of the voters list.

Regarding this matter, the CNE noted that the request to clean the electoral registry of deceased and homonyms came after the close of the period and the audit of the same.

Other Demands of the Democratic Unity Roundtable

The CNE letter responded to the specific points made by Capriles with these arguments:

a. The request for a recount does not make sense in a completely automated election in which a

new count would simply rerun the computerized count and produce the same results.

- b. With regard to the request to audit the totality of election materials because the results were narrow, it is not the competence of the CNE to determine whether results are narrow or wide, nor is there a juridical base that requires some action based on the results. In a democracy, the results are the results. The council listed 17 audits of software and hardware that took place prior to and on election day and one postelection audit, all with the participation of the party representatives and their signature on each audit act as well as the citizen verification (audit) the night of the election.
- c. With respect to the accompanying photos and denunciations provided by the candidate, the council responded that it could only investigate specific complaints that referred to violations of the law and specified voting tables where such violations occurred.
- d. The CNE noted that at the request of Capriles it added an audit and the presence of party witnesses in two additional centers of the council on election day.
- e. The council noted that the request for the audit of duplicity of fingerprints had been planned after the October and December 2012 elections, but that with the knowledge of the MUD experts, there had not been enough time to conduct the lengthy tests, given the rapidity of the subsequent elections. In the meantime, the

87 Henrique Capriles Radonski. "Appeal before the Supreme Court Electoral Chamber," May 2, 2013, page 67. <http://untinternacional.org/wp-content/uploads/RecursoTSJ.pdf>

88 "Socorro Hernández Reiterates That There Are Dead People in the RE, but 'No Proof That They Voted,'" Noticias 24/Venezuela, June 5, 2013. <http://www.noticias24.com/venezuela/noticia/172285/hernandez-informo-que-en-la-auditoria-solo-669-comprobantes-han-arrojado-diferencias/>

89 Noticiero Digital 3. "Socorro Hernández: The Fact That Dead People Vote Is Not a Cause for Scandal," June 2013. <http://nd6.noticierodigital.com/forum/viewtopic.php?t=970548&highlight=&sid=006472b2e4e99d01d1a21ba2a7bb5bd9>

90 CNE. "Death Certificate Registers." http://www.cne.gob.ve/registrocivil/index.php/informacion_defunciones

91 The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012, page 29. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

council had agreed to provide the parties with the status of biometric authentication of the voters for the April 14 election.

- f. With regard to new requests not included in audits previously agreed to for election processes—such as the provision of the list of voting machines that failed to transmit, the use of the unblocking keys in the SAI, and the registers of transmission—the CNE would evaluate the juridical and technical bases of these requests.

The Expanded Phase 2 Citizen Verification Audit

The same day, April 22, the Capriles campaign submitted to the CNE another, more detailed written request, reiterating their requests for a review of the registers of the voter identification fingerprint machines and the manual voters logs to check their concerns about impersonation and multiple voting.⁹²

Carter Center interviews with election authorities revealed that election regulations do not provide for review of the manual voters logs, and other experts noted that it would be highly challenging from a technical perspective to review the physical signatures and thumbprints of nearly 15 million voters.

Instead, the CNE decided on April 26 to reaffirm the protocol for expanding the audit to follow the citizen verification procedures begun the night of the election, as Rector Diaz had requested the night of the election: that is, comparing the paper receipts with the electronic tallies, neglecting the rest of the MUD's petitions. The postelection audit was, therefore, focused on comparing the paper receipts with electronic records at the polls that had not been audited on election day.⁹³ Capriles tweeted to reject the terms of the auditing process announced by the CNE, using a local vernacular term, *chimba*, to describe it as a false audit. He announced he would take his case to the world and that, sooner rather than later, Venezuela would have new elections.⁹⁴

Two days before on April 24, ugly events on the floor of the National Assembly brought into focus the gravity and the reach of the electoral

dispute. Exercising arbitrary powers as the National Assembly president, Diosdado Cabello denied opposition lawmakers their *derecho a la palabra* or right to speak. Cabello argued they had no legitimate rights to address the Congress until they recognized the legitimately elected head of state, President Maduro. A fracas, which left a handful of opposition lawmakers visibly injured, followed the sharp exchange of words elicited by Cabello's controversial move.⁹⁵ Later in the evening, President Maduro announced he had phoned Cabello and instructed him to take measures so that violence would not break out in the National Assembly again.⁹⁶

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The audit, officially called the expanded phase 2 of the citizen verification process, thus began on May 6 without the participation of the Capriles campaign. Based on experiences with previous elections when the CNE conducted a

92 "Administrative Request of an Audit to the CNE," CSB, April 22, 2013. <http://venezuelasomostodos.com/descargas/solicitud-administrativa-de-auditoria-ante-el-cne/>

93 Given that 71 percent of the polls were audited on election day, it was agreed during the "extended" phase that the audit would be expanded to cover the remaining 29 percent of polls.

94 "Capriles Fears That the Audit Is Fake," *El Espectador*, April 26, 2013. <http://www.elespectador.com/noticias/elmundo/articulo-418653-capriles-teme-auditoria-chimba-venezuela>

95 PROVEA, Human Rights International newsletter, edition no. 2 (May 2013). PROVEA < http://www.derechos.org/ve/pw/wp-content/uploads/may_2013.pdf

96 Alejandra M. Hernández, "Maduro Encourages Cabello to Take Measures to Avoid Violence in the NA," *El Universal*, April 30, 2013. <http://www.eluniversal.com/nacional-y-politica/130430/maduro-exhorta-a-cabello-a-tomar-medidas-para-evitar-violencia-en-la-a>

citizen verification audit for more than 50 percent of the voting tables on a random basis,⁹⁷ few actors expected the expansion of the process to 100 percent of the electoral tables to show a significant number of errors.⁹⁸

With Capriles announcing his campaign would not participate in the CNE-organized citizen verification phase 2 audit, the opposition articulated the view that for an audit to validate the outcome it needed to be broader than a technical review of whether the electoral machines functioned correctly.

With Capriles announcing his campaign would not participate in the CNE-organized citizen verification phase 2 audit, the opposition articulated the view that for an audit to validate the outcome it needed to be broader than a technical review of whether the electoral machines functioned correctly. The Partido Socialista Unido de Venezuela (United Socialist Party of Venezuela, PSUV) and aligned pro-government parties articulated the view that the opposition, by not participating in the electoral authority's citizen verification audit that they had originally requested, was acting like a sore loser and behaving irresponsibly.

The continuing dispute centered on the nature of the suspicions of the Capriles campaign and the various interpretations of the commitments made by the CNE before the elections for sharing of information. In the days and weeks following the election, the Capriles campaign's analysis narrowed to the processes of voter identification rather than the performance of the voting machines as potential problems. They identified concerns about possible impersonation of voters through the usurpation of voter identity or voting for deceased people still on the voters list, in addition to other issues affecting the quality of voting such as the intimidation of voters outside or inside the polling place.

These concerns were explained publicly by the MUD on April 24 and detailed in the formal complaint to the Supreme Court on May 7.⁹⁹ The CNE, on the other hand, argued that they were responding to the requests made by both Rector Diaz and Capriles himself the night of the election—and agreed to again on April 18 by Capriles—to expand the citizen verification to the near totality of the voting tables.

New Petitions

In the midst of these disputes and the initiation of citizen verification phase 2, the Capriles campaign prepared to pursue legal avenues and began to claim more openly their conclusion that fraud had occurred. Whereas Capriles' initial statements simply demanded a 100 percent audit of the voting machines before accepting the results, by April 25 the message shifted to a clearer rejection of the results, with Capriles quoted as saying they robbed him of the elections and later, they robbed him of victory.¹⁰⁰ These comments, along with the lack of early public explanation from the CNE as to their written responses to the Capriles campaign requests for information and widened audits, amplified discussion of fraud within the opposition, made a protracted dispute much more likely, and created difficult conditions for dialogue. Bearing in mind the political context of this dispute, public opinion surveys

97 The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

98 Indeed, the final results announced June 9 showed only a 0.02 percent error rate.

99 On April 24, the Capriles campaign explained publically that they viewed the audit differently than the CNE and had different expectations. They wanted an inclusive audit and not a *chacuta* (lame or a fake) one. A proper audit, they said, would include review of the electoral acts (electronic record of all the votes submitted to the CNE from each polling station), paper voting receipts, the electronic system of voters recognition (SAI), and the manual voters logs. They insisted that the review of the manual voters log would help them to identify whether any deceased persons are presented as voters in these elections and also if usurpation of identity took place. "Comando Simon Bolívar Clears Up the Nature of Its Requests for a CNE Audit," *El Siglo*, April 24, 2013. <http://www.elsiglo.com.ve/article/49737/Comando-Simon-Bolivar-acclaro-solicitudes-ante-CNE-sobre-auditoria>

100 "On April 14, They Stole the Victory From Me," *El Pais*, May 9, 2013. http://internacional.elpais.com/internacional/2013/05/09/actualidad/1368053936_825898.html

from respected pollsters¹⁰¹ Datanálisis and the Venezuelan Institute for Data Analysis (IVAD) provided a favorable climate for Capriles to pursue this critical line.¹⁰²

The CNE responded again in a letter dated May 17 to a request from Capriles dated April 30 asking for certified copies of all of the physical and technological data and instruments of the electoral process of April 14. With regard to the request for the voters logs, with signatures and fingerprints, the council responded that the right to information in this case conflicted with the right to privacy of citizens (about whether they voted or did not) and that such a request would need a judicial order. The council agreed to provide the certified copy of the Totalization Act as well as

any acts of vote tallies (*actas de escrutinio*) from the voting machines that the MUD might be missing, since the party witnesses already received signed copies of these acts at each voting table.

For other requests, such as the audit of the fingerprint registries, the CNE's letter repeated the responses already provided in the April 22 resolution, in the sense that the implementation of the activities corresponding to the duplicity audit involved longer time periods and that these periods were affected by different events that the council should have prioritized. Finally, the letter stated that the CNE was evaluating the request for the certified copy of the electronic signature of the archive of the fingerprint status and the fingerprint database.

101 Datanálisis and IVAD

102 David Smilde, "Recent Poll Numbers Favor the Opposition," Venezuelan Politics and Human Rights, May 8, 2013. <http://venezuelablog.tumblr.com/post/49950200081/recent-poll-numbers-favor-venezuelan-opposition>

I The Election Campaign

The general parameters of the campaign for the April 2013 presidential election were not substantially different from those of the October 2012 election. As the Observatorio Electoral Venezolano (Venezuelan Electoral Observatory, OEV) noted,¹⁰³ it was the third time in a row that the incumbent president was also a presidential candidate. Because of that, and because of what the OEV called the “weak regulation” of that situation by the CNE on prior occasions, the campaign was characterized by complaints related to *ventajismo* (the use of government resources for gaining an electoral advantage) and the unequal use of media space and airtime.¹⁰⁴

The general parameters of the campaign for the April 2013 presidential election were not substantially different from those of the October 2012 election.

As the short campaign evolved, public opinion polls shifted from a wide gap in favor of Maduro to a narrower one closer to the election date. In mid-March, all polling firms gave Maduro the lead, though the gap ranged from nine points (DatinCorp) to 23 points (IVAD). By the week before election, the gap had closed to 7–11 points, with one firm, DatinCorp, predicting a statistical tie.

Campaign Legislation

Although Venezuelan electoral legislation defines an official campaign period, in practice campaigning begins long before the dates officially established by the electoral management body. This unofficial campaign period is known as the pre-campaign, although that concept does not exist in the Organic Law of Electoral Processes (Ley Orgánica de Procesos Electorales, LOPRE) or its implementing regulations.

The official campaign period for the April 2013 presidential election was just 10 days long, April 2–11, 2013.¹⁰⁵ It was the shortest electoral campaign in the country’s political history. The pre-campaign, however, began immediately after the CNE called elections on March 9.¹⁰⁶ Some

103 To see the statement, visit Observatorio Electoral Venezolano, “El OEV ante la “pre-campaña,” (OEV Reviews Precampaign.) March 18, 2013. <http://www.oevenezolano.org/2013/03/18/el-oev-ante-la-pre-campana/>

104 Because elections involving an incumbent presidential candidate are poorly regulated in electoral legislation, the OEV believes it crucial that the electoral management body exercise strict oversight “so that this circumstance does not lead to *ventajismos* and asymmetries in the electoral competition (caused, in particular, by the use of public resources) that are inappropriate for a democratic electoral process.”

105 Consejo Nacional Electoral, “Reglamento Especial sobre la Campaña Electoral para la Elección Presidencial 2013,” (Special Regulations About Electoral Campaigns for Presidential Elections). March 9, 2013. http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/reglamento_especial.pdf

106 Both the Comando Simón Bolívar, in its monitoring of campaign conditions, and the OEV took this date as the starting point for documenting the electoral process.

commentators said the campaign actually began just after the funeral of President Hugo Chávez on March 5, which provided the government with a timely opportunity to position interim President Nicolás Maduro as the candidate chosen by his predecessor.

Although the OEV's final report on the 2013 presidential election acknowledged the CNE's ability to respond in complying with the law and calling elections within the stipulated time frame after the president's absolute absence, it also noted that the process by which that election date was chosen contributed to the perception that the choice was motivated by "the electoral convenience of the official candidate."¹⁰⁷

Because the LOPRE general regulations¹⁰⁸ govern the publication of advertising only during the official campaign period, there is no regulation for the pre-campaign period. The law's regulations only prohibit the publication of electoral propaganda outside the time frame established by the electoral management body. Because of that loophole, —the fact that the electoral campaign actually began before that period despite the provisions of the law—some analysts, including CNE Rector Vicente Díaz, argue there is a need to establish clear norms for that period.¹⁰⁹ As the OEV indicated in one of its statements, the candidates and their campaigns routinely violate the CNE prohibition, calling on their followers to vote for them long before the campaign officially begins.¹¹⁰

Venezuelan law regulates the participation of government functionaries in party activities; Article 145 of the constitution states that those functionaries are at the service of the state and not of any partisan interest. This principle is repeated in Article 221 of the general regulations for LOPRE, which outlines prohibitions for functionaries. Section 5 of that article specifically prohibits government functionaries from acting electorally for the benefit or to the detriment of a candidate, political organization, or group of voters.

Therefore, government functionaries are prohibited from using government facilities for political campaigning and from "using or allowing another person to use public property for the benefit of any organization with political goals,

group of voters, communities or indigenous organizations, or candidate, or using his or her position for the electoral benefit or to the electoral detriment of a candidate." Article 222 of those regulations also establishes that national public agencies and offices cannot engage in electoral advertising and propaganda or "disseminate messages aimed at promoting, sponsoring, or favoring a candidacy or organization with political goals" or use public property. Article 223 establishes that information about government works

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and official speeches and messages "cannot contain propagandistic or publicity content and symbols of an electoral nature." Despite those provisions, the participation of government functionaries in campaigns for candidates of their parties without stepping down from their posts is very common in Venezuela. Several such cases occurred during the April 2013 presidential election. Mayor Jorge Rodríguez of Libertador, for example, served as chief of the Comando Hugo Chávez (CHC)

107 Observatorio Electoral Venezolano, "Informe Final: Observación Elecciones Presidenciales 14 de Abril de 2013," (Final Report: Presidential Elections Observation), May 2013, page 8. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>

108 Consejo Nacional Electoral, "Reglamento General de la Ley Orgánica de Procesos Electorales," (Organic Law for Electoral Processes: General Regulations), Aug. 1, 2012. http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf

109 Although Díaz presented a proposal to this effect in 2006, it was not approved by the CNE board of directors.

110 OEV statement, March 23, 2013. www.oevenezolano.org/2013/03/23/oev-deplora-actos-de-violencia-y-reitera-llamado-a-bajar-el-tono-del-discurso-politico/

campaign, as he did in October 2012, while still acting as mayor. One notable exception was the governor of the state of Lara, Henri Falcón, who temporarily stepped down from his post before becoming a coordinator of candidate Henrique Capriles' campaign.

Changes in Election Regulations

Because of the tight time frame and the special conditions under which the April 14 presidential elections were held, the CNE authorized an increase in paid electoral advertising compared to that established for the October 2012 campaign. Airtime for paid electoral advertising increased from three to four minutes per candidate daily for each over-the-air and cable television station.¹¹¹ On the radio, the increase was from four to five additional minutes daily per station. In print media, candidates and parties were allowed to present a page a day for standard-size editions and one-and-a-half pages in tabloid-size publications.

The electoral management body's decision sparked a heated debate, with critics saying that no one questioned that regulation and that the ad under discussion was not published during the campaign period.

According to Article 202 of LOPRE,¹¹² electoral propaganda is defined as “the set of advertising elements and pieces disseminated and presented in all available media by organizations with political purposes, voter groups, communities or indigenous organizations, and their candidates, which expressly call to vote for a particular candidate or partisan political interest.”

The law also requires authorized people or organizations to register formally with the CNE. According to that norm, those actors' names must be made public on the official CNE website.¹¹³ Nevertheless, the list of groups authorized to issue propaganda was not published on the site.

Another modification to the regulations was that in comparison to the October presidential campaign, election advertising via fixed or mobile telephone was eliminated, except for text messages. The latter were limited to a maximum of three messages per week, which could not be carried over from week to week.¹¹⁴

Notable Events During the Pre-election Period

Leading up to the presidential election, both in the pre-campaign period and during the campaign, a series of significant events marked the period.

Suspension of advertising by nongovernmental organizations

On March 25, seven days before the CHC campaign formally began, four of the five CNE officials announced the immediate suspension of a series of ads published in the daily newspapers *El Nacional*, *2001* and *Tal Cual* by the nonprofit organization *Mujeres por la Libertad* (Women for Freedom), which questioned the government's handling of information about President Chávez's illness.¹¹⁵ CNE President Tibisay Lucena argued that nonprofit organizations were not authorized to place electoral advertising and that only political organizations participating in the election could publish such notices.¹¹⁶ The electoral

111 Consejo Nacional Electoral, “Reglamento Especial sobre la Campaña Electoral para la Elección Presidencial 2013,” (Special Regulations About Electoral Campaigns for Presidential Elections), March 9, 2013, Articles 2-4. http://www.cne.gov.ve/web/normativa_electoral/elecciones/2013/presidenciales/resoluciones/reglamento_especial.pdf

112 LOPRE: Consejo Nacional Electoral, “Reglamento General de la Ley Orgánica de Procesos Electorales” (National Electoral Council: Organic Law for Electoral Processes), Aug. 1, 2012. http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf

113 Ibid, LOPRE Article 203

114 As part of their strategy for the October election, the main candidates used voice messages via fixed and mobile telephones. Beginning with the December 2012 elections, only text messages were permitted.

115 “CNE Realizará Averiguación Administrativa a Asociación Civil *Mujeres por la Libertad* por Hacer Propaganda Electoral,” (CNE Will Investigate Administratively the Women Civil Association for Freedom to Make Electoral Propaganda), *El Universal*, March 25, 2013. <http://fam.eluniversal.com/nacional-y-politica/elecciones-2013/130325/cne-suspendio-propaganda-de-la-organizacion-mujeres-por-la-libertad>

116 “CNE Prohibe Propaganda Electoral de ONG,” (CNE Prohibits Nongovernmental Organization Electoral Campaigning), *El Carabobeño*, March 25, 2013. <http://el-carabobeno.com/portada/articulo/54842/cne-prohbe-propaganda-electoral-de-ong>

management body's decision sparked a heated debate, with critics saying that no one questioned that regulation and that the ad under discussion was not published during the campaign period.

More importantly, critics said that because the ads did not explicitly call for voting for any candidate,¹¹⁷ categorizing them as “electoral advertising” was complicated and hazardous.¹¹⁸ They argued that because the ads expressed the opinion of members of civil society about certain government policies, the prohibition in fact amounted to undue restriction of freedom of expression.¹¹⁹ The electoral authority's decision, therefore, had a direct impact on the possibility of “pluralistic and independent discussion of ideas and thoughts” during election campaigns.¹²⁰

CNE Rector Vicente Díaz called the CNE's ruling a political decision, indicating that it had not been made by consensus among the five council officials but by majority. Díaz said it was unfortunate that the electoral management body did not take the same strong stand on complaints about the use of the presidential media *cadena* (obligatory broadcasts).¹²¹ Díaz had made a similar comment earlier, when he criticized the CNE's passive stance on a paid advertisement published in the pro-government daily, *Vea*, which linked opposition sectors, including the opposition presidential candidate, to an alleged criminal plot behind the death of President Chávez on March 5.¹²²

Later, on April 5, during the formal campaign period, the CNE began an administrative inquiry into Globovisión for broadcasting two spots prepared by the nongovernmental organization Ciudadanía Activa (Active Citizenship), which called for people to vote without pressures.¹²³ On that occasion, the council reiterated that the broadcast of those media spots constituted electoral advertising, which was prohibited by law for nongovernmental organizations. Critics of the measure insisted that the purpose of such media spots was to promote the free exercise of voting rights and that the sanctions amounted to direct censorship, with the risk of creating an “inhibition” in civil society about the free debate of ideas, out of fear of punishment.¹²⁴

In the period leading up to the elections, the CNE also sanctioned pro-government nongovernmental organizations, such as the Fundación Cultural 23 de Enero Simón Bolívar (Barrio Alerta), for taking out space or airtime in the pro-government media *Ciudad Caracas*, *Diario Vea*, and *Venezolana de Televisión*, in which they called directly for voters not to trust the opposition candidate.¹²⁵

Statements by the defense minister

On March 6, the day after President Chávez's death was announced, Defense Minister Diego Molero Bellavia called publicly for the armed forces to back the governing party's candidate, saying that the armed forces must “be united

117 This was the argument used before the CNE by Carlos Vecchio, representative of the Comando Simón Bolívar, who said, “If the notice said, ‘On April 14, vote for Henrique Capriles Radonski,’ then the suspension would have been justified.”

118 Article 202 of the LOPRE implementing regulations defines electoral advertising in limited, rather than broad, terms. The Carter Center, “Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela,” October 2012, pages 40 and 41. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

119 The CNE subsequently opened administrative proceedings against the dailies 2001 and *Tal Cual* for publishing the ads again, violating the suspension that had been ordered days earlier. (Consejo Nacional Electoral, “CNE Retira Avisos que Contravienen Medida Cautelar Impuesta,” March 31, 2013. http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3139

120 Instituto Prensa y Sociedad (IPYS), “Poder Electoral Prohibe Difusión de Propagandas de Organizaciones Civiles en Medios de Comunicación,” (Electoral Power Prohibits the Electoral Campaigning of Civil Organizations Through the Media). April 1, 2013. <http://ipys.org.ve/alerta/poder-electoral-prohibe-difusion-de-propagandas-de-organizaciones-civiles-en-medios-de-comunicacion/>

121 “I wonder why my colleagues don't act this quickly in the cases of other serious scandals that jeopardize electoral equilibrium, which is the basic principle of a democracy; for example, political chains, electoral chains,” *El Diario de Caracas*, June 9, 2013

122 Antonio Aponte, “Un grano de maíz,” (*A Grain of Corn*), *Diario Vea*, March 25, 2013. <http://ungranodemaiz.com/index.php/granos>

123 The administrative inquiry also involved the nongovernmental organization itself.

124 “Espacio Público Rechaza Suspensión de Mensajes por el CNE,” (*Espacio Público Repudiates the Suspensión of the Media Spots by the CNE*), *Espacio Público*, April 15, 2013. <http://www.espaciopublico.org/index.php/noticias/1-libertad-de-expresi/2589-espacio-publico-rechaza-suspension-de-mensajes-por-el-cne#.ftn2>

125 The advertising piece was identified as “Por qué desconfiar del burguesito” (*Why Distrust the Bourgeois*).

to elect Maduro to be the next president of all Venezuelans.”¹²⁶

The defense minister’s statements were criticized by various sectors of society for violating Article 330 of the constitution, which states that members of the country’s armed forces are not allowed to participate in advertising, active party membership, or political proselytizing. According to the OEV, the statements of the defense minister were doubly serious because, by law, the military is charged with safeguarding voting materials under the so-called Republic Plan (Plan República).

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Use of party symbols by election officials

During the funeral of Hugo Chávez on March 8 at the Caracas Military Academy, CNE President Tibisay Lucena wore an armband identified with *chavismo*, raising questions from many representatives of civil society. Critics considered the use of that symbol by the head of the Venezuela election management body to be a violation of Articles 293 and 294 of the constitution, which emphasize the independence, impartiality, and “de-partisanizing” of electoral bodies.

Voter registry address changes after the deadline

On March 12, CNE President Lucena revealed that for security reasons the CNE had approved then-interim President Nicolás Maduro’s request to vote in the capital district instead of in the state of Carabobo, where he was registered.¹²⁷ The OEV considered that an “absolutely illegal” act that sent “a message that could be interpreted as favoritism that undermined the rights of other voters.”

Aggression against journalists

According to the nongovernmental organization Institute for Press and Society (IPYS), 48 attacks on freedom of expression were registered during coverage of the April 2013 campaign and election. These attacks targeted journalists from private, state-run, and community media as well as nongovernmental organizations and state institutions and, the organization said, revealed the degree of polarization in the country. “Political polarization has led to physical aggression against reporters who are considered to favor one side or the other,” the organization stated.¹²⁸

Participation of public officials in the campaign

Both candidates chose public officials for their campaign managers: Maduro repeated Chávez’s campaign manager from October, the Libertador Mayor Jorge Rodríguez; and Capriles chose the Lara governor, Henry Falcon. Along with the debate over the constitutionality of Maduro running while interim president, one aspect of Venezuelan campaigns commented on less frequently concerns public officials working on campaigns while simultaneously continuing in their official capacities.

Venezuelan electoral law does not permit public officials to campaign while they are exercising their public duties, although various interpretations exist as to whether that applies only during working hours and what working hours are for each public official. Falcon stepped

¹²⁶ Minister Diego Molero Bellavia Calls on Votes for Maduro to “Beat the crap out of fascists”. El Universal. March 6, 2013. <http://buscador.eluniversal.com/nacional-y-politica/hugo-chavez-1954-2013/130306/ministro-molero-llamo-a-votar-por-maduro-para-dar-en-la-madre-a-fascis>

¹²⁷ According to media accounts, the change was apparently made in October, after the presidential elections. Eugenio G. Martínez, “Cambio de Nicolás Maduro Contradice Argumento del CNE,” (Nicolás Maduro’s Change Contradicts CNE’s Arguments), El Universal, Oct. 27, 2012. <http://www.eluniversal.com/nacional-y-politica/121027/cambio-de-nicolas-maduro-contradice-argumento-del-cne>

¹²⁸ According to the Institute for Press and Society (Instituto Prensa y Sociedad, IPYS) in Venezuela, coverage of the campaign and election was marked by an increase in the number and aggressiveness of attacks on journalists registered in recent years. The organization’s monitoring showed an increase of more than 400 percent in the number of cases reported between 2004, the year of the presidential recall referendum (44 attacks on journalists) and the 2012 presidential elections (200 incidents).

down temporarily from his position as governor to serve as Capriles' campaign manager. Co-campaign manager Mayor Carlos Ocariz did not, however, nor did Maduro's campaign manager, Mayor Jorge Rodríguez. Many ministers and other public officials accompanied Maduro on the campaign trail as well.

Inconsistencies/ incompatibilities

The Venezuelan Constitution stipulates that no person can be elected president who was in the office of vice president, minister, governor, or mayor at the initiation of their candidacy. Capriles complied by turning over his governorship to his second in command during the campaign. Maduro considered himself to be a president running to be re-elected rather than a vice president who would have been forced to step down to run.¹²⁹

Use of Government Resources

Besides the issue of access to the media, the use of government resources for electoral purposes was a defining characteristic of the election campaign.

The Electoral Observation Network (Red de Observación Electoral) of the Education Assembly (Asamblea de Educación, AE) specifically monitored the use of public resources for campaign activities. The organization's observers documented a series of cases in which public buildings and official vehicles were used for campaign purposes as well as the participation of government functionaries in campaign activities.¹³⁰ Based on the provisions of LOPRE, the AE observation network classified the cases observed into four categories: a) existence of billboards and holding of campaign activities in public institutions; b) use of public vehicles to distribute election material or transport party members to campaign activities; c)

Michaela Swich



participation by public officials, identified as such, in campaign activities; and d) participation by members of the armed forces and security forces in political campaign activities.

Four days before the election, Transparencia Venezuela filed a complaint with the CNE's Political Participation and Financing Commission in which it presented 16 videos showing PSUV tents—where campaign materials referring to Nicolás Maduro were distributed—at the main entrances to some government buildings.¹³¹ The

Banners supporting the candidacy of Nicolás Maduro are displayed on the main tax administration office building.

129 Constitution of the Bolivarian Republic of Venezuela. Article 229. <http://www.enorientec.com/constitucion/articulo229.htm>

130 The Education Assembly documented with pictures cases in which public buildings in the Metro Station La Rinconada, Medida's cable car, and a school zone in Maracay were used—along with other cases where PDVSA official vehicles were used in Tigre and Altamira. <http://redobservacionelectoral.info/wp-content/uploads/2013/04/informe-uso-de-fondos-publicos.pdf>

131 See the complaint by Transparencia Venezuela: María de las Mercedes de Freitas Sánchez, "Letter to the President of the Political Participation and Financing Commission of the CNE," Transparencia Venezuela, April 9, 2013. <http://transparencia.org.ve/wp-content/uploads/2013/05/Ratificaci%C3%B3n-CNE-09-05-13-sellada-.pdf>

organization's director, Mercedes de Freitas, pointed out that such acts not only violate election law but could also constitute the crime of misuse of property as described in Article 54 of the Anticorruption Law.

As the OEV report noted, the irregularities observed in this area were even more serious because one of the candidates was serving as interim president of the country at the time. Because Venezuelan law does not establish clear parameters for differentiating between times when the president acts as such and when he or she acts as candidate, the "taking advantage of this lack of precision" was obvious during the campaign, both in the use of the media and the use of government resources. Referring to the latter, the OEV highlighted the use of public resources to transport demonstrators to campaign rallies and to hang banners and posters in public offices, among other things.¹³²

The Venezuelan Constitution stipulates that no person can be elected president who was in the office of vice president, minister, governor, or mayor at the initiation of their candidacy.

Access to the Media

General Context

Because of the media's influence in shaping public opinion, it plays an important role during election campaigns not only by providing information about the electoral process but also in publicizing platforms of candidates.

In Venezuela, media coverage has been the subject of heated public debate, both during and outside of election periods. The government has traditionally accused the private media of inadequate coverage of government actions and governing-party candidates' campaigns. Leaders of the opposition coalition, meanwhile, repeatedly noted the almost exclusive use of media

in the Bolivarian System of Communication and Information (Sistema Bolivariano de Comunicación e Información, SIBCI) to promote governing-party candidates, with little or no space or airtime devoted to coverage of opposition candidates' activities.

Characteristics of audiovisual media

Television is the medium with the greatest penetration in Venezuelan households, with 92.2 percent of the market.¹³³ Although official figures for TV audience behavior are unknown, ratings during recent key newsworthy events¹³⁴ (during the October 2012 presidential election, the December 2012 regional elections, and the funeral of President Hugo Chávez in March 2013) show Venevisión as the undisputed national leader for news, with an average of 35 percent of the market. It is followed by the public channel Venezolana de Televisión, with 25 percent, and Televén and Globovisión, in third and fourth places, with 22 and 15 percent, respectively.

A ranking by AGB Nielsen between January and June 2013, at all hours from Monday through Sunday, generally confirmed the trends observed during these periods. The private Venevisión channel led nationwide at all hours with 22.9 percent, followed by Televén with 16.2 percent, and VTV in third place with 8.4 percent. Globovisión remained in fourth place with 6.7 percent.¹³⁵

132 Observatorio Electoral Venezolano, "Informe Final: Observación Elecciones Presidenciales 14 de Abril de 2013," (Final Report: Presidential Election Observation, April 14 2013), May 2013, page 12. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>

133 Estudio Pulso Consumidor 2012. (Consumer Pulse Study 2012) Data Company

134 Ratings measurements by AGB Nielsen, courtesy of Venevisión, during the October 2012 presidential election, the December 2012 regional elections, and the funeral of President Hugo Chávez in March 2013.

135 Ranking of channels for January–June 2013 by AGB Nielsen for Venevisión

Another important factor in media impact is the coverage or reach of each medium. Although all of the channels mentioned are over-the-air channels, not all of them broadcast nationwide. The channels with nationwide coverage are the public channel Venezolana de Televisión (VTV), which, thanks to the SIBCI scheme, reaches a wider audience via joint broadcast on six system channels,¹³⁶ and the private channels Venevisión and Televisión. The privately owned news channel Globovisión broadcasts only in Caracas and Valencia; it expands its signal through cable transmission.

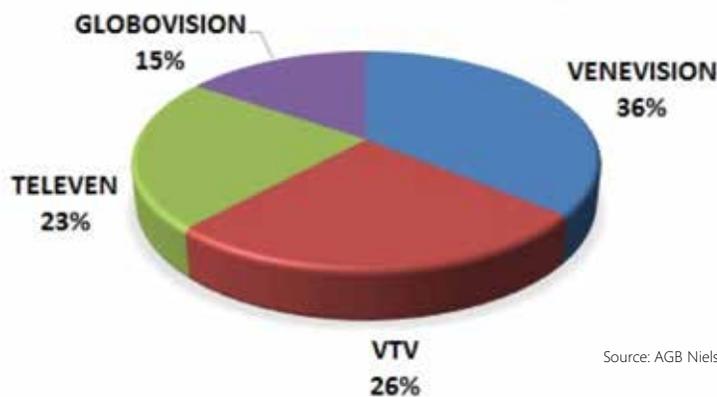
Given this scenario, it is noteworthy that Venezuela's two main informative media are VTV and Globovisión. The programming on Venevisión and Televisión, in contrast, is oriented more toward entertainment formats.

Access to the media during the electoral process

Access to the media by the various political forces during the period prior to the elections was relatively equal to that observed during the October 2012 presidential elections, when there was a strong imbalance in coverage of the main candidates, especially in public media, where coverage of the president was overwhelmingly positive.

According to media-monitoring by several organizations during the pre-campaign and campaign periods, the imbalance in news coverage was mainly observed in the two main Venezuelan audiovisual media: the state-run Venezolana de Televisión (VTV) channel and the private TV channel Globovisión. According to the OEV report, time on VTV was almost completely devoted to promoting the governing party's candidate, barely mentioning the others in the race, while Globovisión showed a marked bias in favor of the opposition candidate. According to this report, Globovisión justified the imbalance in its news coverage as a response to the predominance of the governing party's candidate in the National Public Media System (Sistema Nacional de Medios Públicos).¹³⁷ Neither channel responded to "what an election campaign should be, according to the rules governing the democratic system," the report concluded.¹³⁸

Market Share Trend for Venezuelan Television



Source: AGB Nielsen

Discretionary use of the so-called "presidential *cadenas*" and institutional messages (which private media are required to broadcast or publish at no charge)¹³⁹ to disseminate partisan messages during campaigns raised a series of questions from both opposition parties and various national civil society organizations.

Monitoring of Campaign Regulations by the National Electoral Council

During the October 2012 presidential elections, in compliance with regulations for television, radio, and print media,¹⁴⁰ the CNE's Political Participation and Financing Commission

¹³⁶ TV channels ANTV, Vive TV, Telesur (whose signal is broadcast in several countries in the region), Avila TV, Tves, and Colombia TV are part of SIBCI.

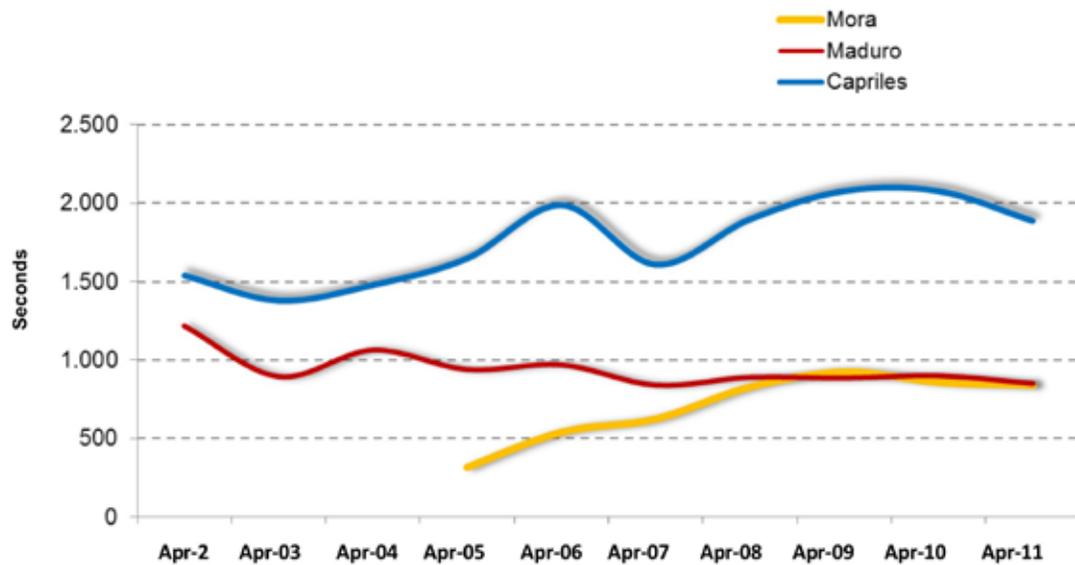
¹³⁷ Observatorio Electoral Venezolano, "Informe Final: Observación Elecciones Presidenciales 14 de Abril de 2013," (Final Report: Presidential Election Observations April 14, 2013), May 2013, pages 12 and 13. www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/

¹³⁸ Ibid, page 13

¹³⁹ Article 10 of the Law of Social Responsibility in Radio, Television, and Electronic Media establishes that the broadcasting of official messages or speeches is "mandatory and at no charge," upon "valid notification" by the national executive branch. The broadcast and duration of those messages are at the discretion of the executive branch. Article 10 of the law also establishes that the government can require the broadcast of "public service" messages, also at no charge, on radio and television, for up to 10 minutes a day per station. The time cannot be carried over to another day.

¹⁴⁰ Established in Article 66, numbers 2, 5, and 6 of the Ley Organica del Poder Electoral (Organic Law of Electoral Power). http://www.cne.gob.ve/web/normativa_electoral/ley_organica_poder_electoral/indice.php

Total Publicity Air Time per Candidate on the Six Main Over-the-Air Channels



implemented a pilot media-monitoring study to perform “systematic and continuous monitoring of the behavior of the media in coverage of the electoral campaign.” The CNE’s monitoring included news coverage and electoral propaganda contracted by “candidates, political organizations, voter groups, communities, or indigenous organizations.” The main goal was “to corroborate compliance with the Organic Law of Electoral Processes, the General Implementing Regulations of the Organic Law of Electoral Processes, and the Special Regulations on the Electoral Campaign for the 2012 Presidential Election.”¹⁴¹ The results of the monitoring were announced weekly by the CNE president.

The electoral management body repeated this exercise for the April presidential elections. Unlike October, this time the results were continuously announced on three screens installed in the main CNE office. They included, in real time, the results of monitoring of electoral propaganda on television, campaign advertising in the print media, and violations of regulations by organizations not authorized to engage in election campaigns.¹⁴²

According to information sheets provided by the CNE,¹⁴³ the main findings of the monitoring

of electoral advertising on television included the fact that the total time for the opposition candidate exceeded the time for the governing party candidate in the overall sum of the six over-the-air channels chosen for this study (Globovisión, Venevisión, Televén, TVES, VTV, and MeridianoTV).

The CNE’s monitoring was based on the “appearance of spots for each political camp,” in cumulative seconds for each media outlet. The main actors were identified as *chavismo*, “opposition,” and “candidate Mora.”¹⁴⁴ According to the results provided by the CNE, the *chavismo* parties only contracted advertising on TVES, VTV, Televén, and Venevisión, excluding Globovisión and Meridiano TV (a channel specializing in sports).

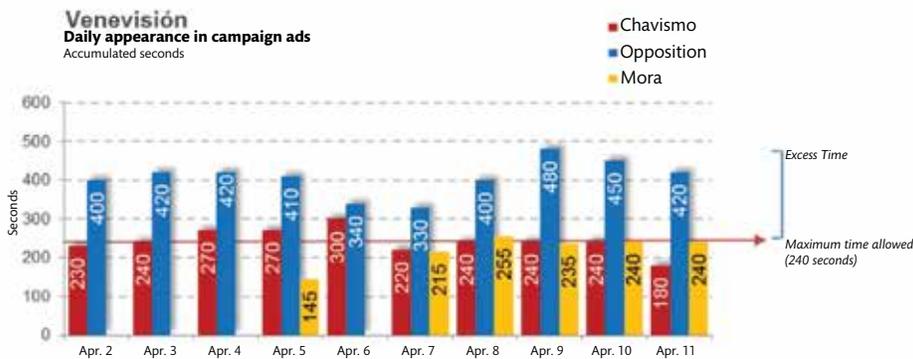
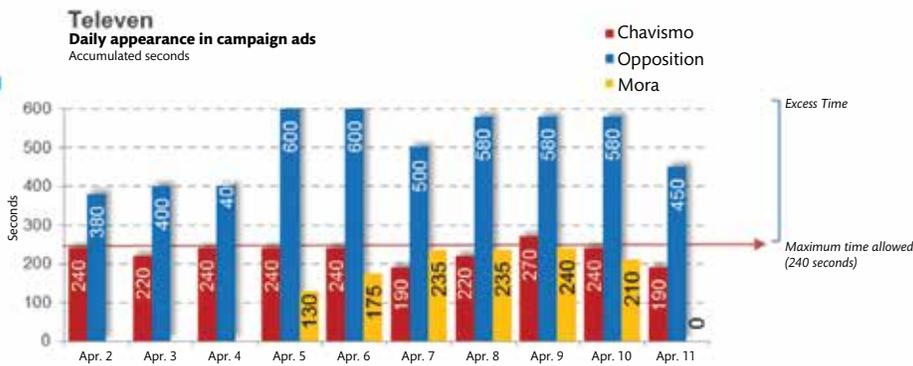
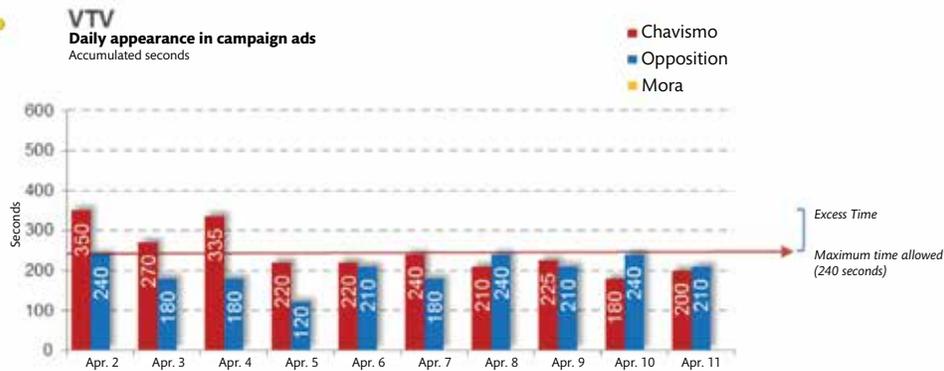
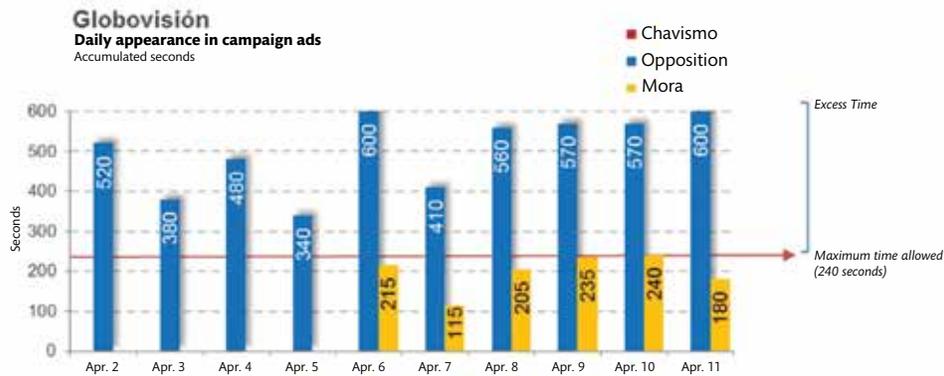
141 2012 Annual Report, CNE

142 Results of the monitoring of news coverage were not included in this system.

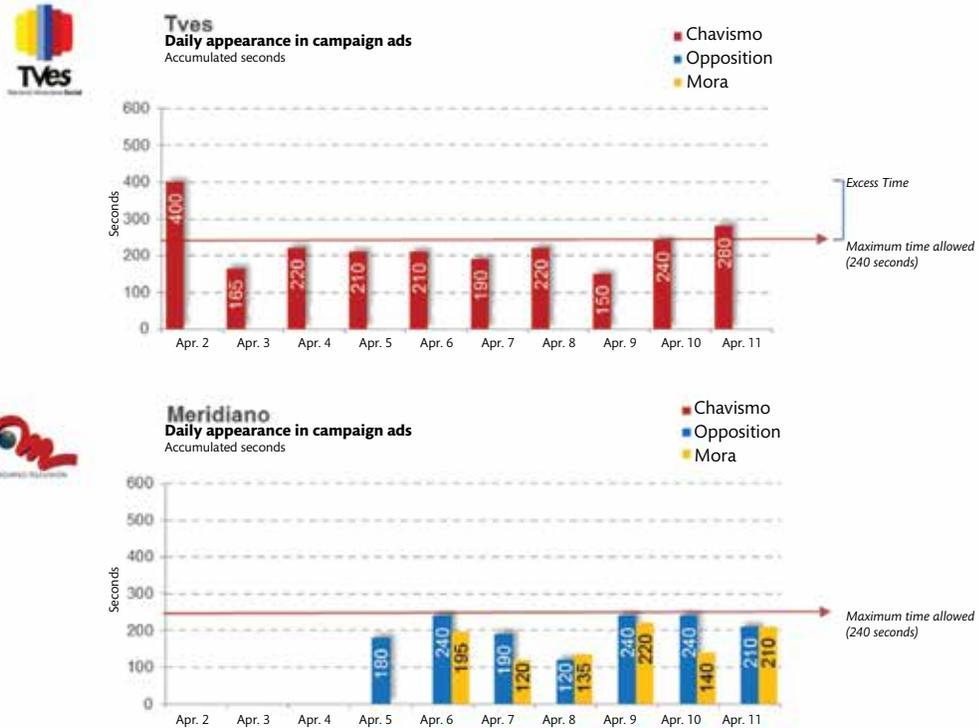
143 The information sheets were provided to The Carter Center by the people who carried out the study. They have not yet been published by the electoral management body.

144 The category “candidate Mora” corresponds to advertising placed by the candidate of the Unidad Democrática party, Julio Mora.

Daily Appearance of Campaign Ads by Political Party



Daily Appearance of Campaign Ads by Political Party



Parties in the opposition category contracted on both private over-the-air channels (Venevisión, Televisión, and Meridiano TV) and the public

electoral advertising and news coverage is laudable, various observers criticized the fact that the initiative did not take into account government advertising contracted by the state agencies which, in most cases, had an obvious electoral slant.¹⁴⁵ The council's monitoring also did not include institutional messages that private media are required to broadcast or publish at no charge, which were also propagandistic. The fact that the CNE has not yet announced the overall results of either the 2012 or 2013 study also has been criticized.¹⁴⁶

According to CNE's monitoring, both chavismo and the opposition exceeded the maximum time allowed per candidate, which is set at four minutes daily in the special regulations for the campaign.

station VTV, excluding TVES, the second-largest public channel in the sample.

According to CNE's monitoring, both *chavismo* and the opposition exceeded the maximum time allowed per candidate, which is set at four minutes daily in the special regulations for the campaign. Nevertheless, there are no published reports of sanction or administrative investigation by the council regarding cases of noncompliance.

Although the council's decision to monitor compliance with electoral norms related to

145 Observatorio Electoral Venezolano, "Informe Final: Observación Elecciones Presidenciales 14 de Abril de 2013," (Final Report: Presidential Election Observations April 14, 2013), May 2013, page 12. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>

146 The results of the monitoring carried out during the campaign period leading up to the Oct. 7, 2012, election are in the electoral branch's annual report to the National Assembly. That report records 1,732 "oversight reports accepted," including 394 murals, 276 signs, 594 posters, 354 billboards, and 97 print ads allegedly in violation of electoral advertising regulations. Of those reports, 25 cases were substantiated for alleged violation of electoral campaign regulations, and 21 draft resolutions referring to violation of campaign regulations were processed for submission to the CNE. In addition, although the report refers to a series of news reports and editorials in print and electronic media, it provided no detailed information about their balance.

Administrative Inquiries by the National Electoral Council

At the close of the electoral campaign, the CNE began a series of administrative investigations into violations of electoral regulations related to campaign advertising. They included the cases of ads published by a group of nongovernmental organizations as well as other cases involving the use of children in political advertising (Primero Justicia party); unauthorized use of the image of another candidate (Unidad Democrática party); political proselytizing while in office (registrar of the Municipality of San Francisco in the state of Zulia); publication of electoral advertising without a fiscal information register (Registro de Información Fiscal, RIF) number (Diario Ve a Ciudad Caracas); and other violations.

On April 8, the CNE announced that as part of its monitoring it would open administrative inquiries into both campaigns for “excesses” as well as into the daily *Últimas Noticias* for publishing an advertisement without a tax identification number. The electoral management body also reported on the approval of administrative inquiries with an injunction of suspension against nongovernmental organizations not authorized to contract electoral advertising. Among them, it mentioned the Fundación Hannah Arendt (Hannah Arendt Foundation), Voto Joven (Youth Vote), Fundación Comunidades Ciudadanas (Civic Communities Foundation), Frente García Ponce (García Ponce Front), Barrio Alerta (Alert Neighborhood), and Fashion.¹⁴⁷

Candidate Monitoring of Campaign Conditions

Henrique Capriles campaign (Comando Simón Bolívar)

For this election, the campaign of candidate Henrique Capriles Radonski, known as the Comando Simón Bolívar (CSB), established a formal group to monitor equality of conditions during the campaign, assigning a group of active party members to the task. The CSB monitored radio, television, and print media during both the pre-campaign period and the campaign.¹⁴⁸ The

Michaela Swich



An opposition supporter distributes fliers. She is wearing a shirt that shows Henrique Capriles' campaign slogan.

sample of radio stations included YVKE Mundial, Venezuelan National Radio, and Alba Ciudad Caracas, while the print media sample consisted of the national dailies *Últimas Noticias*, *Ciudad Caracas*, *Correo del Orinoco*, and *Diario Ve a* and the regional dailies *El Norte* (Anzoátegui), *Nuevo Diario* (Falcón), and *La Voz* (Guarenas).¹⁴⁹ The television sample was limited to the state-run channel, *Venezolana de Televisión*, including joint broadcast of signals belonging to the Bolivarian System of Communication and Information (Sistema Bolivariano de Comunicación e Información, SIBCI).

At the close of the electoral campaign, the opposition campaign headquarters filed a total of

147 Consejo Nacional Electoral, “Candidatos Podrían Firmar Acuerdo de Reconocimiento de Resultados” (Candidates Could Sign an Accord to Recognize the Results), April 8, 2013. http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3144

148 As of March 9, 2013, when elections were called. (Allegations Chronicle Comando Simón Bolívar, April 2013, page 1). <http://fraudevenezuela2013.tumblr.com/post/48268216276/incidencias-del-proceso-electoral-del-14-de-abril>

149 The regional dailies were only followed for two days during the campaign period.



Michael McCarthy

A Nicolás Maduro supporter participates in one of the candidate's campaign marches in Caracas.

222 complaints about violations of electoral regulations. They were divided into nine categories:¹⁵⁰ a) suspension of nongovernmental organizing advertising (while other groups, in similar cases, were not sanctioned); b) advertising without tax identification; c) presence of children in electoral propaganda; d) unauthorized use of citizens' images; f) propaganda in public buildings and on public property; g) destruction of electoral propaganda; h) unbalanced news coverage (*cadena*s, coverage of government activities and coverage in the print media);¹⁵¹ and i) cases of "dirty war."¹⁵²

In the view of the opposition campaign, the ventajismo in favor of the governing party's candidate affected the right of candidates to participate in the electoral process on equal terms.

The time frame for monitoring was March 9 to April 12. Of the total complaints filed, 36 were from the pre-campaign period, and 186 from the campaign. The report was submitted to the CNE's Political Participation and Financing Commission.¹⁵³ In the view of the opposition campaign, the *ventajismo* in favor of the governing party's candidate affected the right of candidates to participate in the electoral process on equal terms.

On April 12, the day after the end of the official campaign period, opposition campaign staff

members appeared before the CNE to demand an end to what they called "illegal broadcasts" on the state-run channel. According to the organization's monitoring, the channel had so far broadcast propaganda for four hours and 18 minutes more than the time allowed by the electoral management body.

Nicolás Maduro campaign (Comando Hugo Chávez)

Although the governing party's campaign, the Comando Hugo Chávez, filed no formal complaints with the CNE's Political Participation and Financing Commission, some leaders and spokesmen talked during public appearances or campaign events about a preference of private media outlets for the opposition candidate. Venezuela's ambassador to the Organization of American States, Roy Chaderton, referred to the "media dictatorship of the big transnational corporations."¹⁵⁴ Campaign chief Jorge Rodríguez denounced the difference in the coverage given to candidate Capriles in comparison to candidate Maduro on the Globovisión television channel as well as the difference in propaganda on TeleVén and Venevisión.¹⁵⁵ Candidate Maduro spoke about this during some of his public appearances, saying

150 Dossier Comando Simón Bolívar, "Electoral Abuses," April 14, 2013. <http://fraudevenezuela2013.tumblr.com/post/48268216276/incidencias-del-proceso-electoral-del-14-de-abril>

151 According to the Comando Simón Bolívar, between April 2 and April 9 the joint SIBCI broadcast covering candidate Maduro's campaign events totaled 47 hours and 35 minutes. It also denounced unbalanced news coverage on the state-run channel, Venezolana de Televisión, between April 2 and April 10, in favor of Nicolás Maduro. According to its sources, Maduro received news coverage totaling 65 hours, 10 minutes, and 29 seconds compared to 5 hours, 44 minutes, and 56 seconds for candidate Capriles.

152 Comando Simón Bolívar, "Final Presentation of Complaints Filed with the CNE, 2013 Presidential Campaign," April 12, 2013. <http://www.scribd.com/doc/136499833/Incidencias-Del-Proceso-Electoral-14A-1>

153 During the October 2012 election, candidate Capriles' Comando Venezuela filed 106 similar complaints with the CNE, only two of which received a response. (Comando Simón Bolívar, "Allegations Chronicle" April 2013, page 1)

154 Noticias 24, April 3, 2013. <http://www.noticias24.com/venezuela/noticia/161718/chaderton-sostiene-que-exdiplomaticos-que-apoyan-a-capriles-carecen-de-credibilidad/>

155 Lagranciudad.net, April 13, 2013. <http://lagranciudad.net/home/jorge-rodriguez-llama-a-votar-en-paz-y-denuncia-ventajismo-por-parte-de-la-oposicion/>

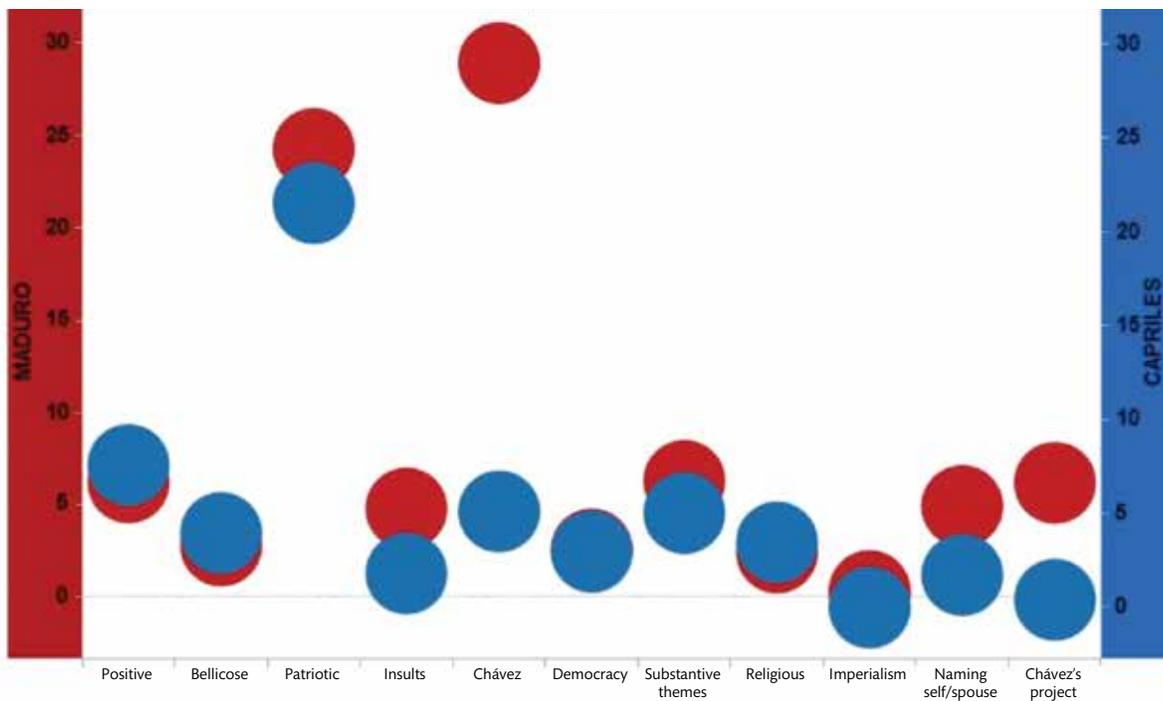
that 80 percent of the news and programs on private media were dedicated to promoting candidate Capriles.¹⁵⁶

A Campaign Without Content

After the CNE convoked the elections, the MUD announced that they had nominated Capriles to be their candidate. Capriles took a day to decide whether to accept the nomination, but when he

did he began a new discourse to separate Maduro from Chávez’s legacy.¹⁵⁷ Meanwhile Maduro launched his campaign on March 11, invoking the image and endorsement of Chávez as a spiritual father.¹⁵⁸ Thus began a short, intense campaign in which Capriles aimed to separate the terrestrial man Maduro from the “heavenly figure” of Chávez, while Maduro aimed to invoke the image and endorsement of Chávez as often as possible.¹⁵⁹

Word Groups of Content Analysis of Candidate Speeches



Source: Carter Center Content Analysis of Candidate Speeches

Word Groups of Content Analysis of Candidate Speeches

| | Word Group | | | | | | | | | | |
|----------|------------|-----------|-----------|---------|--------|-----------|--------------------|-----------|-------------|--------------------|----------------|
| | Positive | Bellicose | Patriotic | Insults | Chávez | Democracy | Substantive themes | Religious | Imperialism | Naming self/spouse | Chávez project |
| CAPRILES | 7.59 | 3.96 | 21.53 | 1.81 | 5.11 | 2.97 | 5.03 | 3.46 | 0.00 | 1.73 | 0.41 |
| MADURO | 6.21 | 2.79 | 24.27 | 4.79 | 28.92 | 2.58 | 6.29 | 2.42 | 0.32 | 4.92 | 6.18 |

156 Daily La Verdad, “Maduro Complains of Ventajismo of the Opposition in the Media,” April 10, 2013. <http://www.laverdad.com/politica/24968-maduro-denuncia-ventajismo-de-la-oposicion-en-los-medios-de-comunicacion.html>

157 Capriles’ words: “Nicolás, I’m not going to give you an open path. You will have to defeat me with votes.” Nicolás no es Chávez. (Nicolás, you are not Chávez.)

158 Maduro said: “I ask our father redeemer of this land, Bolivarian commander Hugo Chávez, to give me strength...to complete his instructions...I am not Chávez but I am his son and all of us together, the people, are Chávez.”

159 Luis Vicente León, “Qué Esperar del 14 de Abril?” (What to expect April 14), Luis Vicente León, Pro Davinci, March 10, 2013. <http://prodavinci.com/blogs/que-esperar-del-14-de-abril-por-luis-vice-leon/>

The substance of the campaign was much lighter even than the October campaign. A content analysis of speeches by each candidate at the launch of their campaigns, during the official campaign period, and at their closing rallies showed both the lack of substantive discussion and surprising similarities between them. The most frequent themes by far were references to Chávez by Maduro, comprising nearly 30 percent of themes mentioned in his speeches, and patriotism, comprising nearly a quarter of Capriles' speech theme mentions as well as over 20 percent of Maduro's. Substantive discussions constituted a mere 5–7 percent of each candidate's speech themes.¹⁶⁰

A content analysis of speeches by each candidate at the launch of their campaigns, during the official campaign period, and at their closing rallies showed both the lack of substantive discussion and surprising similarities between them.

Media Monitoring by The Carter Center

Because of the critical role played by the media in electoral processes, The Carter Center, as part of its media program,¹⁶¹ monitored news coverage by some of the country's largest media outlets during the October 2012 presidential election. Preliminary results of this monitoring were included in the report by the Carter Center study mission.¹⁶² That report confirmed a pronounced imbalance in news coverage by public and private media, especially on television and radio, with less imbalance in the print media. That lack of balance was evident not only in the time dedicated to a particular candidate but also in the assessment of those candidates.¹⁶³ Although private media tended to favor the candidate of the opposition coalition (the study registered more than 50 percent positive articles for Henrique Capriles Radonski and less than 45 percent positive for Hugo Chávez Frías), public media showed the

opposite tendency in a more pronounced manner (more than 90 percent of articles in favor of the incumbent candidate). As well, the little coverage received by the opposing candidate had a markedly negative tone in more than 80 percent of the public media monitored.

For the April 2013 presidential election, The Carter Center repeated the monitoring, focusing only on audiovisual media March 28–April 16. It emphasized coverage of campaign activities attended by the presidential candidates, members of their campaign committees, CNE officials or international observers, and broadcasts by the main national television stations—three private (Venevisión, Televén and Globovisión) and one public (Venezolana de Televisión). The presidential *cadena* addresses broadcast between March 28 and April 16 were also monitored, as was the content of the institutional messages broadcast in a period of 10 days previously agreed upon.¹⁶⁴

A total of 180 hours, seven minutes, and six seconds of electoral information broadcast outside regular newscast times were analyzed. Of that total time, 54 percent was coverage by VTV, while the remaining 46 percent was the result of the sum of information broadcast by the three private stations, illustrating the emphasis placed by the state-run channel on electoral matters.¹⁶⁵

Candidate Nicolás Maduro, his campaign, and his followers received the most coverage in all media monitored. Overall, the coverage amounted to 104 hours, 58 minutes, and 30 seconds (58 percent).¹⁶⁶ Coverage of candidate Henrique Capriles, his campaign, and his followers

160 Content analysis conducted by The Carter Center, with weighted averages of the substantive themes

161 The Carter Center has been sponsoring a program to strengthen journalism in Venezuela since 2008.

162 The Carter Center, "Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela," October 2012. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

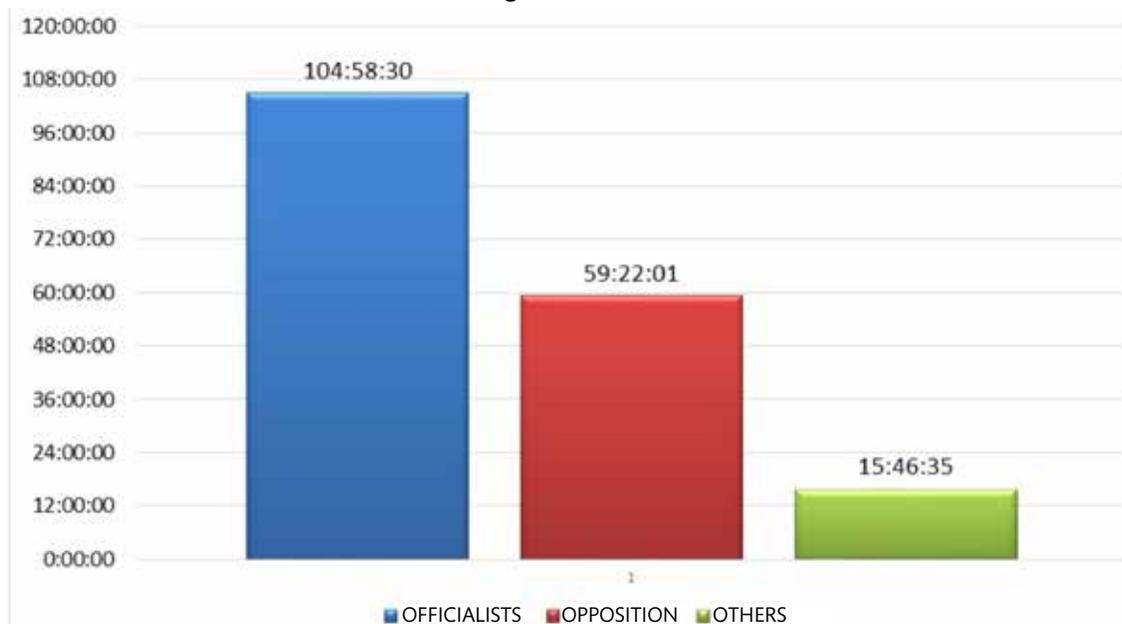
163 *Ibid.*, 38

164 Institutional messages were monitored March 28–29 and April 9–16.

165 Although Carter Center monitoring included only the public station VTV, the programs analyzed were broadcast jointly by all television stations in the Bolivarian System of Communication Media (Sistema Bolivarianos de Medios de Comunicación).

166 Eighty-five percent of this time corresponds to VTV's coverage.

Coverage of Main Actors



Source: Carter Center Media Monitoring March-April 2013

totaled 59 hours, 22 minutes, and one second (33 percent). The CNE and international observers received the least coverage, totaling 15 hours, 46 minutes, and 35 seconds (9 percent).

A breakdown by channels shows that private stations devoted a greater proportion of coverage to candidate Henrique Capriles Radonski, his campaign events, and his followers (73 percent), with a much smaller percentage (19 percent) devoted to the governing party's candidate, Nicolás Maduro, his campaign events, and his followers. The imbalance in coverage on the state-run channel, however, was even more pronounced. Ninety percent of the public station's coverage focused on the government candidate, while his opponent's campaign activities received barely 1 percent.¹⁶⁷ Coverage of CNE activities or statements by council officials were more balanced in both private media (8 percent) and public media (9 percent).

Analysis of each channel's coverage found the greatest imbalance on VTV and Globovisión. Coverage of the main candidates on Venevisión and Televisión was more balanced. Although both stations covered more of the opposition candidate's activities, a comparison of the time devoted to each candidate by Venevisión and Televisión showed a nearly exact balance.

Regarding the tone of the coverage in public media, the monitoring found 91 percent positive coverage of candidate Nicolás Maduro. Candidate

Ninety percent of the public station's coverage focused on the government candidate, while his opponent's campaign activities received barely 1 percent.

Capriles had no positive coverage in those media (91 percent of the items registered were negative, while the remaining 9 percent were neutral).¹⁶⁸ In private media, candidate Henrique Capriles received 60 percent positive coverage (with 23

¹⁶⁷ In the analysis of electoral content, criteria were defined to distinguish between coverage of "government activities" and the "candidate in campaign activities." Of the 64 electoral units registered on VTV, only 11 corresponded to the category of coverage of the interim president. In three of those 11 units, however, there were elements of the electoral campaign, so they were considered both government activities and candidate activities.

¹⁶⁸ In order to assess the actors, we identified the use or presence of adjectives, sentences, or expressions on the part of journalists or news anchors that labeled the main candidates and the CNE. Those expressions were included in positive, negative, or neutral categories.

percent negative and 17 percent neutral), while candidate Maduro had 28 percent positive (with 54 percent negative and 18 percent neutral).

One variation between the monitoring in October and April was the assessment of the CNE. While in October 2012, private media registered 50 percent positive coverage of the CNE and only 14 percent negative, in April 2013, positive coverage on private TV stations decreased

to 38 percent, and the negative increased to 30 percent. The opposite was true for public media. During the October 2012 electoral process, 50 percent of their coverage was positive (with 14 percent negative and 36 percent neutral), while in the April 2013 process, the percentage of positive coverage rose to 60 percent (with only 4 percent negative and 36 percent neutral).

Cadenas and Mandatory Official Messages

The special regulations issued by the CNE for the April 2013 election campaign established a series of norms aimed at balancing the candidates' access to media space and airtime.¹⁶⁹ Those regulations, however, did not take into account the media access enjoyed by an incumbent president who is also a candidate, such as nationally televised presidential *cadena* addresses and institutional messages, which all electronic media are required to broadcast.

The Carter Center's monitoring in April included the *cadena* presidential broadcast between March 28 and April 16. The results of that monitoring showed that although presidential *cadena*s were not broadcast during the official campaign period (April 2–11), a total of six (five presidential and one official message from the electoral branch) were registered during the monitoring period. The former totaled four hours, 19 minutes, and 25 seconds. One was before the formal launch of the campaign, while the other four were just after the election, on April 15 and 16.

Although the decision not to broadcast *cadena*s during the election campaign was seen as a positive response by the government to the opposition's requests and complaints about the advantage-granting *ventajista* use of that tool, the content of the presidential broadcasts in the days just after the election targeted Henrique Capriles and other opposition figures.

¹⁶⁹ The regulations set limits on paid air time on television and radio and paid space in print media for each candidate.

Source: Carter Center
Media Monitoring March-
April 2013

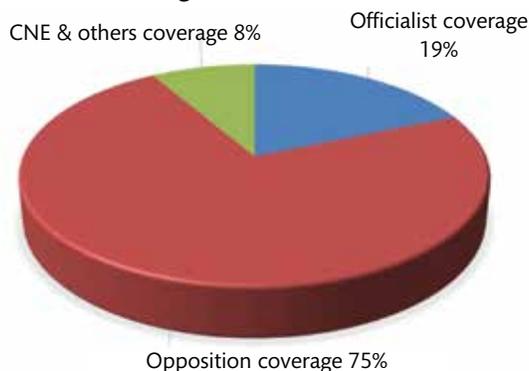
Space Devoted to Electoral Coverage



Coverage on Public Station VTV

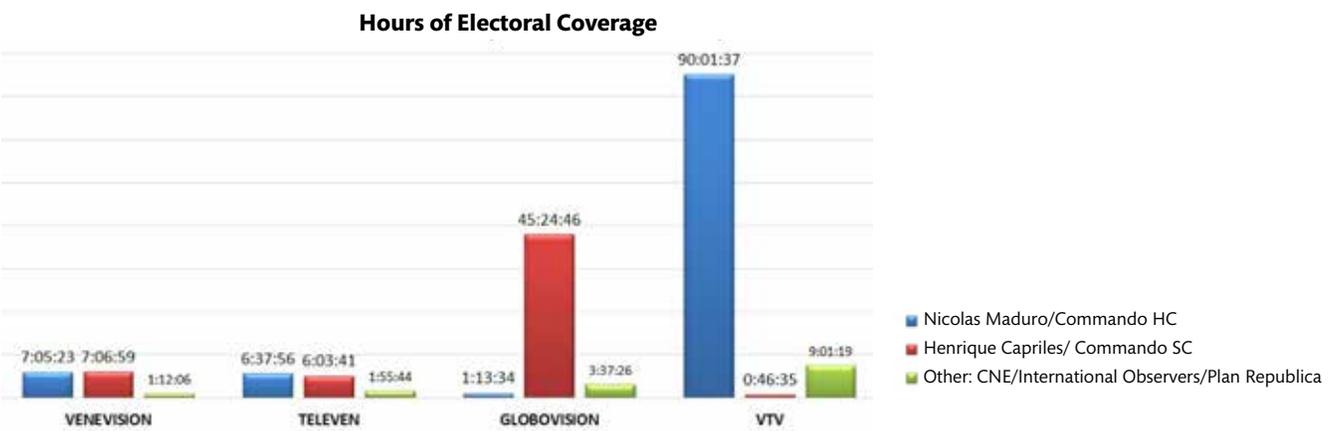
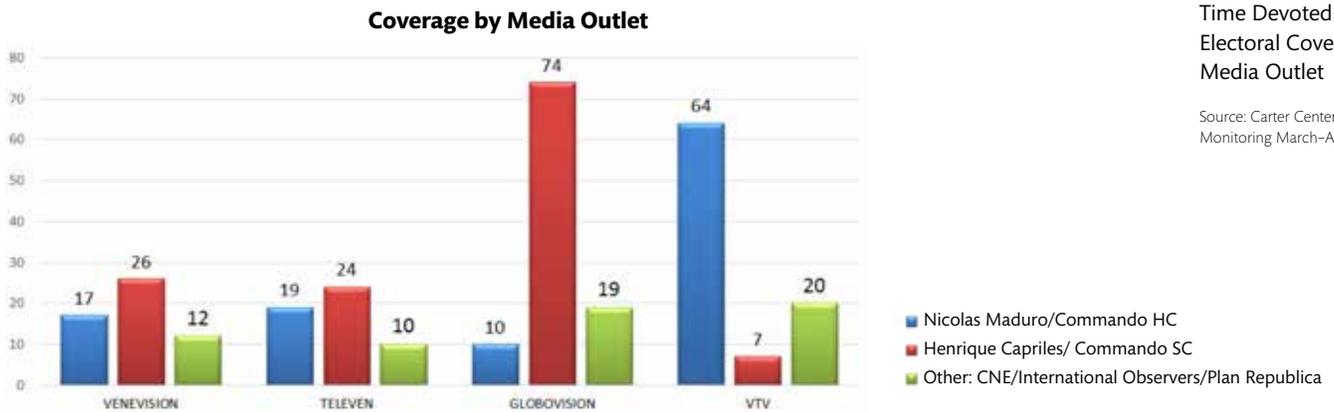


Coverage on Private Stations

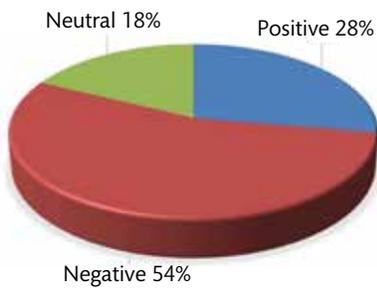


Time Devoted to Electoral Coverage by Media Outlet

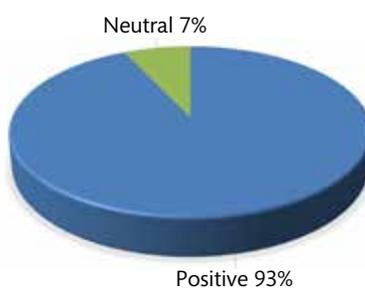
Source: Carter Center Media Monitoring March-April 2013



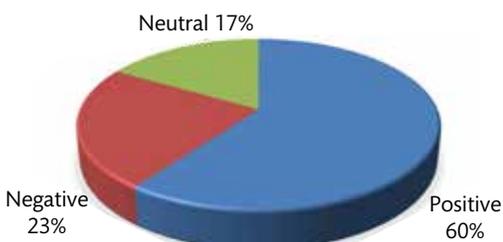
Maduro Tone: Private Media



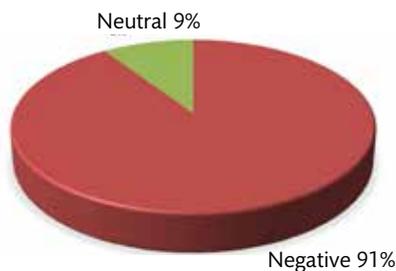
Nicolas Maduro Tone: Public Media



Capriles Tone: Private Media



Henrique Capriles Tone: Public Media



Public and Private Media Assessments of the Candidates

Source: Carter Center Media Monitoring, March-April 2013

Of the four hours, 19 minutes, and 25 seconds occupied by the presidential *cadenas*, only 9 minutes and 20 seconds (4 percent) referred to the CNE and the electoral process. The rest were

Of the four hours, 19 minutes, and 25 seconds occupied by the presidential cadenas, only 9 minutes and 20 seconds (4 percent) referred to the CNE and the electoral process.

devoted to opposition protests over the election results and the acts of violence that occurred on April 15 (one hour, 47 minutes, and three seconds, or 41 percent), financing of the opposition campaign and its leaders (15 minutes and 52 seconds, or 4 percent),¹⁷⁰ and the specific topics

for which the *cadenas* were called (two hours, six minutes, and 34 seconds, or 49 percent).

It is worth noting that the policy of broadcasting presidential *cadenas* increased substantially after the presidential elections, making them an important part of the government's communications strategy. Although the law allows this use of official messages, the content was used to respond to accusations from the opposition, sometimes impeding live coverage of press conferences by candidate Henrique Capriles.

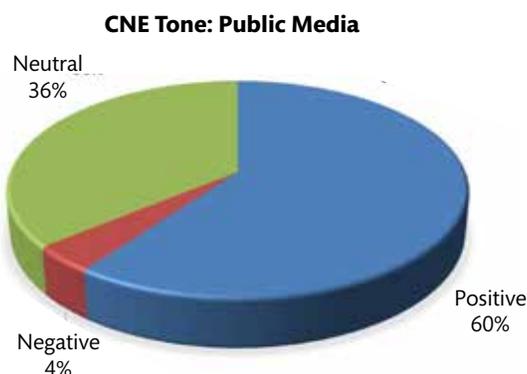
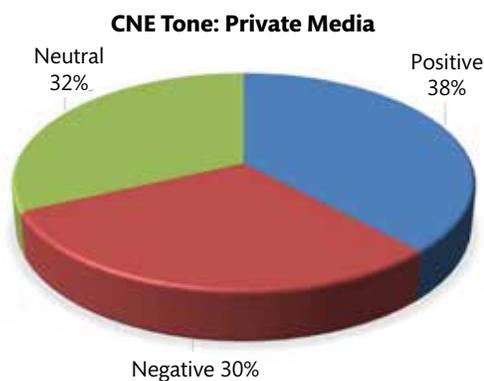
Institutional messages

The Law of Social Responsibility in Radio, Television, and Electronic Media gives the executive branch the power to disseminate official messages or "spots" via private media. The broadcast is mandatory and free, and the law allows for duration of up to 10 minutes a day.¹⁷¹ In all, 117 messages were analyzed. Televén was the channel with the highest broadcast of institutional messages (44 percent), followed by Venevisión (32 percent), Globovisión (20 percent), and VTV, with just three institutional messages in the 10 days of monitoring (2 percent).

During the monitoring, four types of messages were identified, based on the content of the broadcast. The first extolled the legacy of President

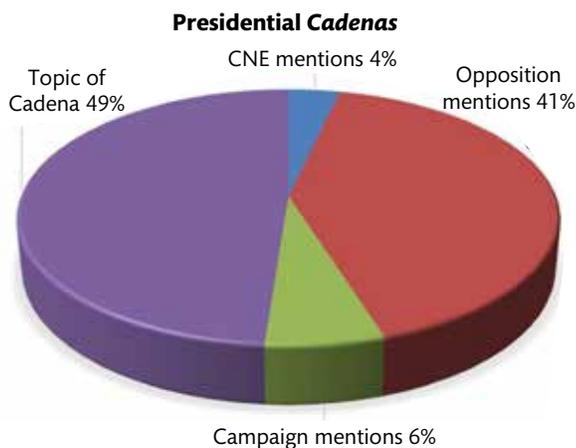
Public and Private Media Assessment of the CNE, April 2013

Source: Carter Center Media Monitoring, March–April 2013



¹⁷⁰ In the monitored messages, the following phrases were identified as part of the subjects of "opposition protests," "acts of violence," and "campaign financing": demons of intolerance/plan for a coup; strikes by the right failed/groups prepared to engage in violence/attacks on the headquarters of CDI/PSUV/Urbanismos de Misión Vivienda/Fascist hordes/Capriles responsible for the yellow bourgeoisie/orchestrated plan/We defeated the coup/What would have happened if I had called the people to come down/Yellow leader responsible for deaths/We cannot be blackmailed/In the face of violence, peace, and love/I condemn attacks on the homes of Tibusay Lucena and William Izarra/We have proof/He resembles Hitler/He is worse than Pinochet/There is a *chavista*, Christian democracy here and violence and death there/Bourgeois, Little bourgeois/Televén and Venevisión call them; To sensibility, to take a stand, either they stand with peace or with fascism and violence/The bourgeoisie's hatred of the poor people/End the violence, the hatred, the intolerance/I am surrounded by the opposition rabble/The people came out in defense of the CDI/Small groups of hatred/Pure fascism/Worse than the hunting of Pinochet/The fascist will pay/Xenophobic campaign against the Cuban people, just like the campaign of hatred against the Jewish people/Structure of class contempt is the same here to justify attacks on Cubans/The assassinations that did not happen/They vaccinated with hatred/Worse than Pinochet/That person (HC) attacked the Cuban Embassy/Hatred against Cuba.

¹⁷¹ The Carter Center monitored institutional messages on March 28 and March 29 and between April 9 and April 16, from 6 p.m. to 10 p.m.



Source: Carter Center Media Monitoring March–April 2013

Hugo Chávez, the second praised President Nicolás Maduro’s work during the interim administration, the third promoted the work of national government agencies or missions, and the last, sponsored by the CNE, encouraged people to vote. The largest proportion of messages consisted of those promoting the government’s work (46 percent), followed by those sponsored by the CNE (23 percent). Messages extolling President Chávez were in third place (20 percent), followed by those praising President Nicolás Maduro’s interim government administration (11 percent).

Another outcome of the analysis of the institutional messages monitored was that the issues and programs most promoted by those messages were aligned with the key issues and programs of the incumbent candidate’s campaign platform.¹⁷² The messages broadcast most often addressed issues such as the number of pensioners in the social security system, the delivery of computers to children in the Venezuelan school system, measures to strengthen the country’s electricity system, and training for the new Bolivarian National Police to address problems of violence in the country.

Postelection Dialogue Between the Government and Private Media

During a national *cadena* broadcast on April 16, two days after the election, the newly proclaimed president questioned the live coverage of Henrique Capriles’ press conference the previous day by

Televén and Venevisión, the country’s two largest private television stations. President Maduro said statements made during the broadcast set off the violent acts that occurred after the election results were announced.¹⁷³ “Televén and Venevisión, I call you to your senses, to decide if you stand with peace or with fascism and violence,”¹⁷⁴ Maduro said. The president’s words were among a series of similar statements directed at private media, a fact which was criticized by nongovernmental organizations connected with the defense of freedom of expression.¹⁷⁵

Another outcome of the analysis of the institutional messages monitored was that the issues and programs most promoted by those messages were aligned with the key issues and programs of the incumbent candidate’s campaign platform.

The government’s criticism of those media led to a series of private meetings between high-ranking government officials (the president and vice president) and owners of the largest private television stations (Venevisión, Televén, and Globovisión) between May 20 and May 23 at the government’s initiative. “I am going to have a very serious talk with the owners of those television stations,” the president said before the meetings, emphasizing that the goal was to promote “a new model of TV and disinfect the

¹⁷² During the campaign, President Maduro referred to government programs, both to ensure their continuity and to warn about their elimination if there were a change of government.

¹⁷³ See analysis of topics addressed in the *cadenas*.

¹⁷⁴ “Comments by Nicolás Maduro During the Presidential Cadena,” April 16, 2013. <http://www.notitarde.com/Pais/Maduro-a-Venevision-y-Televen-Definanse-con-quien-estan-Video/2013/04/16/179553>

¹⁷⁵ IPYS warned in a statement that repetition of this type of message by top government officials only helped solidify “messages of hate and criminalization of the work of the free, pluralistic, and independent press.” Assessment of the State of Freedom of Expression and Information in Venezuela (IPYS, “Balance sobre la Situación de la Libertad de Expresión e Información en Venezuela”), April 25, 2013. <http://ipys.org.ve/2013/04/25/balance-sobre-la-situacion-de-la-libertad-de-expresion-e-informacion-en-venezuela-abril-2013/>

country of fascism.”¹⁷⁶ After the meetings, Vice President Jorge Arreaza said they had been a forum for analyzing the implementation of “a new communications model,” which would lead to “peace and stability,” so children “can watch these channels without fear, and we parents won’t have to worry.”¹⁷⁷

Against this backdrop came the news of the sale of Globovisión and the Cadena Capriles chain, the largest media conglomerate in Venezuela, which publishes the country’s largest-circulation daily paper (Ultimas Noticias). Subsequently, these transactions had a direct impact on the editorial lines of both media outlets. In the case of Globovisión, the change of ownership brought the gradual elimination of a number of flagship political commentary programs, which were critical of the government, and led to the dismissal

or resignation of a large group of journalists who denounced the imposition of a series of restrictions that obstructed the free exercise of the profession. For Cadena Capriles, the change of ownership was seen in the incorporation of an editorial consultant, a public militant of officialism who had broad powers in setting the editorial line of the newspaper Ultimas Noticias.¹⁷⁸ In regard to the coverage of electoral politics, the changes in Globovisión resulted in a dramatic cutback of reports on the activities of Henrique Capriles as leader of the opposition sectors.

This situation has raised red flags for both opposition sectors and media experts, who fear that the changes tilt the current news balance more definitively toward the political interests of the governing party.

176 “President Maduro Met with Venevisión and Televisión Owners,” *Venezuela al Día*, May 20, 2013. <http://www.venezuelaaldia.com/2013/05/presidente-maduro-se-reune-con-los-duenos-de-venevision-y-televen/>

177 “Venezuelan Government Analyzed the ‘New TV Model’ with Media Owners,” *La Nación*, May 21, 2013. <http://www.lanacion.com.ve/nacional/gobierno-de-venezuela-analizo-nuevo-modelo-de-tv-con-duenos-de-medios/>

178 “Venezuela’s President Tightens Grip on Media,” *Associated Press*. <http://bigstory.ap.org/article/venezuelas-president-tightens-grip-media>

I Voting-Day Conditions

The Carter Center's accompaniment delegation consisted of six CNE-accredited members and four private-study mission members.¹⁷⁹ The teams visited a handful of voting centers in both eastern and western neighborhoods of the Caracas metropolitan area. To give the delegation a broad view of voting-day dynamics, teams visited the polls throughout the day and were present during the vote count as well as the hot audit.

The two most experienced CNE-accredited national observer groups, Observatorio Electoral Venezolano (OEV) and the Red de Observación Electoral de la Asamblea de Educación (AE), stationed volunteers according to a nationally representative sample of voting centers throughout the entire voting day and observed the voting process from the center's opening to the closing activities. They assembled observer missions with much greater breadth and depth than the Carter Center's accompaniment delegation or any other international organization's accompaniment mission. As a result, OEV and AE produced rigorous reports on voting-day conditions.¹⁸⁰ Each group submitted their final report to the public and to the CNE.¹⁸¹

AE, which has participated as an accredited national observer in 10 elections beginning with the 2006 presidential elections, had observer presence in 439 voting tables. OEV, the successor organization to the electoral observation group Ojo Electoral (Electoral Eye) and a CNE-accredited observer in the October 2012 election, had observer presence in 391 voting tables. The OEV teams covered 22 out of the

Marcelo Varela



country's 24 states.¹⁸² None of the international accompaniment delegations had the breadth or depth of the missions deployed by these two organizations.

A public official of the Republic Plan (Plan República) helps an elderly voter enter his polling station in Caracas.

179 For the press release announcing the accompaniment delegation headed by former president of Panama, Martín Torrijos; former governor of Colombia, Horacio Serpa; and former ombudsman of Costa Rica, Rodrigo Carazo, see the Carter Center Web page <http://www.cartercenter.org/news/pr/venezuela-040813.html>

180 For a detailed review of Venezuela's electoral system, its scope of governance, and the way its voting system works, consult The Carter Center, Final Report, Study Mission to the October 7, 2012, Presidential Election in Venezuela, November 28, 2012, pages 24-31 and 41-49. http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf

181 Each is available on their websites.

182 Counted as political units, Venezuela has 24 states, including the Capital district. For logistical reasons, OEV could not manage to assemble observer missions in Delta Amacuro or Amazonas, two border states with low population densities.



Marcelo Varela

Horacio Serpa, a Colombian lawyer and politician (left), and former Republic of Panama President Martin Torrijos (middle) speak with voters at a polling station.

Even though the CNE accredited three other organizations as national observers—Proyecto Social, Asamblea Fundación por un Pueblo Digno, and Red de Observadores Electorales¹⁸³—The Carter Center is unaware of any published reports by these three observer groups.

The Efficient Visit to the Polls

Both AE and OEV reported positive developments regarding the overall efficiency of the vote. By and large, polling places opened on time, and voters encountered few examples where the poll

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workers and CNE officials had difficulties getting the voting machines ready. With few exceptions, the citizens selected by the CNE to work as voting center officials performed their jobs in a way that permitted an efficient voting experience.



Marcelo Varela

A voter looks to Rodrigo Alberto Carazo of Costa Rica, a member of the Carter Center's election mission, for information.

According to CNE Rector Vicente Diaz, interviewed by The Carter Center, the technical issues did not present significant problems for voters.¹⁸⁴ Five hundred machines were substituted nationwide with new ones due to malfunctioning, and only 39 voting machines had to be switched to manual voting systems. These numbers are within the normal range of error for the voting machinery.¹⁸⁵

Moreover, in this election, the system of electoral information (SIE), in which voters stop at CNE-manned laptops to check their designated voting table and place on the voters list, generated far fewer bottlenecks at the voting center entrance than in the October elections. As a result, the OEV report indicated that the length of lines outside the voting centers decreased. Also, the

183 CNE, "3,435 National Observers and 240 International Accompanying Delegations Presented in the Presidential Elections," April 13, 2013. http://www.cne.gov.ve/web/sala_prensa/noticia_detallada.php?id=3155

184 Interview with Carter Center representatives

185 The CNE maintains approximately 8,000 voting machines on standby reserve so these can be sent to voting centers if there are problems. (Vicente Diaz, Carter Center Interview. May 5, 2013)

number of smaller lines increased significantly, from 30 percent to 71.1 percent¹⁸⁶—a positive sign since these are instances in which 15 people or less stood in line outside the voting center.

All these efficiency factors can be seen as having a salutary effect on Venezuelans' willingness to turn out to the polls and contributing positively to the overall civic spirit on election day. For all these reasons, and considering the short time frame, the effective organizational work undertaken by the CNE deserves underscoring.

Fingerprint Identification, Contingencies, and Consistency

Venezuela began creating a database of fingerprints of voters in 2004 to be able to prevent multiple voting by one person or impersonation of voters. Prior to the 2012 elections, the database was nearly complete, except for 7 percent of registered voters not entered or with poor quality prints.

To initiate the voting process, the poll worker enters the voter's ID number into the remote sensor activator,¹⁸⁷ known as the *captahuella* or fingerprint ID machine. The voter places his thumb on the machine to determine if there is a match: that is, the voter should have been registered in that particular precinct, and the ID number and fingerprint should match. If the ID number or the thumbprint has already been detected that day, the person is blocked from voting. If the system simply cannot detect a good match, the person is still allowed to vote as long as the ID card matches. If the fingerprint does not match (or voters without fingers or both hands in casts appear), the president of the table can initiate the voting machine with a code up to seven (or five for voters without fingers) times in a row. If a table president exceeds this limit, the machine is automatically blocked, and the president of the table must call the National Support Center (Centro Nacional de Soporte, CNS) to get a new code and unblock the voting machine. Rector Lucena reported the center as receiving zero calls from voting table presidents on election day.¹⁸⁸

The quality of the fingerprints in the CNE database is not perfect.¹⁸⁹ Thus both parties

Marcelo Varela



anticipated that a significant portion of voters' prints would not match with the recorded copy at the database. Both parties also knew the council would permit voters whose fingerprints did not match to vote if their photo identification matched with records inside the SAI, as long as the system did not indicate that fingerprint or that ID number had already voted.

When the voter's fingerprint is validated by the system, it automatically generates an *incidencia* or ticket that remains recorded in the memory or logbook of the SAI. The body of these incidents is transmitted on election day to the Sala de Totalizacion (the national center for vote tallying) of the CNE, after the table members have released information corresponding to the vote count.

Workers at the entrance to a polling station check voter information.

186 OEV final report, May 2013, page 44. www.oenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/

187 In the October elections, the machines were modified to add remote session activators to each voting machine. The activator is the tool for biometrically authenticating or "reading" the identity of the voter. Each activator reader contains the ID number, name, and fingerprints of the voters assigned to the voting table. In practice, the reader, which is connected to the voting machine, is referred to as the Sistema Auto-Identificación Integrado (Integral System for Auto Identification) or SAI.

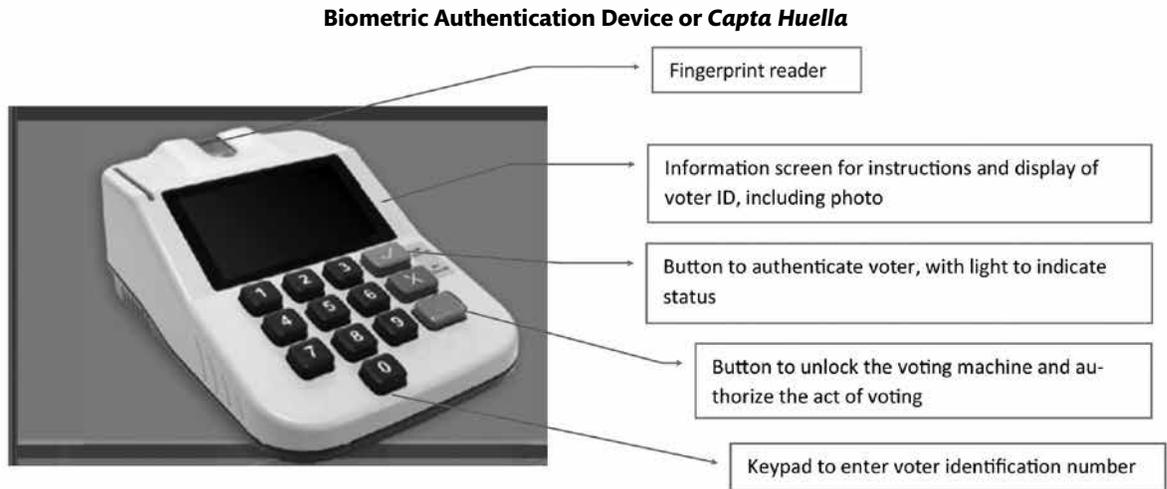
188 Ibid.

189 The fingerprints vary in quality depending on their origin: higher-quality prints gathered in the SAI machines in previous elections or through the passport system; lower-quality prints from the ID card system.

Source: CNE

| Authentication Scores | |
|-------------------------|-------------------|
| Reporting Codes: | |
| ↑ No match = 7 | ↑ Grey Zone = N/A |
| ↑ No registry = 20% | ↑ No members = 5 |

Source: Smartmatic



As it did in October, the CNE erred on the side of inclusive voting (not disenfranchising legal voters) rather than implementing a strict fingerprint-match setting in the machines that would have prolonged the time necessary to verify, with high accuracy, the fingerprints of voters.¹⁹⁰ Thus it was determined that voters only were prevented from voting if a) their fingerprints did not match those recorded in the CNE, and b) the machine detected that their fingerprints or identity number had already been utilized the day of the elections at the same polling table.

Transparent Vote Tabulation

The CNE maintains and operates four important centers for monitoring different developments at the polls on voting day. Those are the Sala de Totalización, the national center for vote tallying; the Sala de Sistema Información Electoral, the national center for tracking turnout, SIE; the Sala de Centro Nacional Soporte, the national center for technical support to voting centers; and the Sala de Contingencia de Miembros de Mesa, the

center that receives information about whether volunteer poll workers fulfill their duties.

According to Carter Center interviews, opposition and government representatives both had presence in the four *salas*. However, some MUD sources said they were not permitted access to the SIE and the Sala de Contingencia de Miembros de Mesa for the whole day.¹⁹¹

Data on Poll Station Conditions

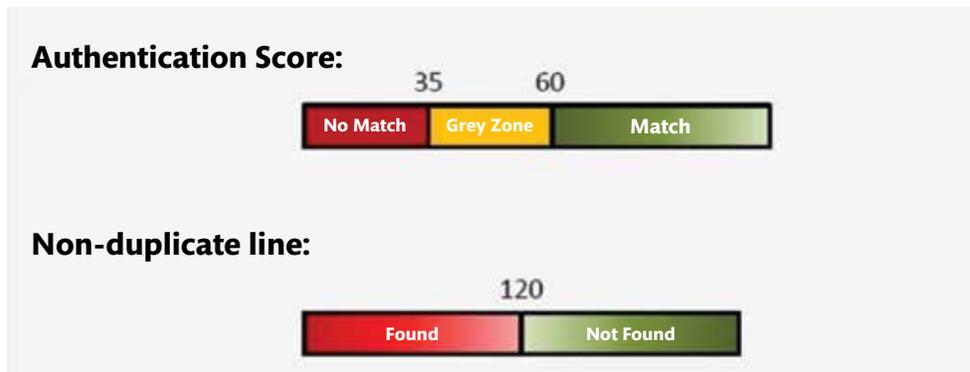
The Venezuelan Electoral Observatory and AE produced a series of data regarding conditions at the polls, based on the absolute number of reported cases and then converted into an

¹⁹⁰ The implementation of strict matching criteria has also increased the time required for the machine to check fingerprints.

¹⁹¹ In the last election, the Capriles campaign complained it did not receive credentials to have access to the SIE and Sala de Contingencia de Miembros de Mesa. In this election, those requests were granted ahead of time, according to CNE President Lucena. (CNE, "Cadena Nacional," April 18, 2013). <http://albaciudad.org/wp/index.php/2013/04/tibisay-lucena-anuncia-que-se-hara-auditoria-sobre-46-de-cajas-que-no-fueron-abiertas-el-14-de-abril/>

Authentication Work Flow

Source: CNE



estimated percentage with each particular incident category.¹⁹²

According to OEV, the presence of *testigos* (party witnesses) during April 14, 2013, elections reached 92.6 percent. Maduro's candidacy had coverage in 90.5 percent of the tables it observed, and Capriles 90.8 percent (alternative party candidates had *testigos* also).¹⁹³ OEV reported very few cases where coercion against *testigos* became an issue (.8 percent), while AE found the problem of coercion to be a bit bigger, with 1.7 percent of the voting tables they observed being closed at 6 p.m. without the presence of *testigos*. AE reported that in these cases, *testigos* were forcibly removed from voting centers.¹⁹⁴

AE also found irregular situations related to violent climates developing in 6 percent of the centers it monitored.¹⁹⁵ In most of the reported cases, groups of *motorizados* (people on motor-bikes) affiliated with government parties were involved.¹⁹⁶ Typically, they circled around the voting center or on the perimeter with loud-speakers and/or shouting party slogans, potentially impeding citizens from participating in the public viewing of the vote tally and citizen verification.¹⁹⁷ In 9.3 percent of the tables AE observed, the legally public *acta de escrutinio*, the act of scrutinizing the ballot's accuracy, did not in fact take place publicly.¹⁹⁸

In 3.5 percent of the cases, voting centers were not closed after the CNE announced they should be closed.¹⁹⁹ At approximately 6:30 p.m. —

30 minutes after the official close of the electoral day—CNE Rector Sandra Oblitas announced that polls should close unless voters were still in line to vote.²⁰⁰

AE reported that electoral propaganda was placed either inside the voting center or within the limit of 200 meters outside the voting center in 17.8 percent of its cases. In 7.3 percent of its cases, the norm of prohibiting the use of public

192 This method produces a general estimate of how often the incident might have occurred on a national level. As a result, the percentages reported contain a margin of error, which varies based on the number of observed cases. In the case of very narrow results, this could cause some changes to be statistically insignificant.

193 OEV report. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>

194 OEV report, page 41. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>; AE, page 8. <http://redobservacionelectoral.info/wp-content/uploads/2013/04/Reporte-3-rev21.pdf>

195 One of the Carter Center's mission teams observed an incidence where a violent climate developed outside the voting center and impeded the public *acta de escrutinio* from taking place under optimal conditions.

196 During the elections, groups of motorcyclists dressed in red to identify with the governing party, appearing in the areas surrounding the polling stations as a form of voter intimidation, especially with opposition sectors.

197 Carter Center teams personally witnessed such motorized groups at the close of voting.

198 AE, *Ibid*.

199 AE, *Ibid*, 8

200 This EFE news wire story reported on the website of El Comercio, a daily in Peru, at 6:15 p.m. local time. Time in Lima is 30 minutes behind Caracas. "CNE Announced Closure of Schools Throughout Venezuela Unless There Are Still Long Lines," El Comercio, April 14, 2013. <http://elcomercio.pe/actualidad/1563802/noticia-venezuela-mesas-votacion-comienzan-cerrar-se-esperan-primeros-resultados>

resources by candidates or mobilizing voters was not respected. It also reported that in 4.7 percent of the cases, the norms for *voto asistido* (assisted voting) were not respected, meaning that the assistant did more than help the elderly or physically disabled person get behind the voting station shield. To illustrate, AE noted qualitative examples where the *parabanes* (cardboard shields that protect the secrecy of the ballot) were taken down completely while electors used the *voto asistido*.²⁰¹ However, the organization did not break down its data regarding these problems by party.

OEV reported that in 15.1 percent of the centers it observed, public resources mobilized voters to the polls. In the cases where OEV observed this phenomenon, personnel from the national government (or affiliated agencies) were involved in 6.4 percent, personnel from mayoral or gubernatorial administrations affiliated with the PSUV or allied parties were involved in 11.8 percent, and personnel from mayoral or gubernatorial administrations affiliated with the MUD were involved in 3.1 percent of the centers.

According to OEV observation data, illegally placed electoral propaganda was noticed in 5.1 percent of the centers. In 4.9 percent of the centers they found pro-Maduro electoral propaganda, and in 0.8 percent they found pro-Capriles

propaganda. CNE Rector Vicente Díaz denounced the presence of the so-called *puntos rojos* near voting centers (red tents of mobile PSUV offices) on April 14. Carter Center delegation members also observed *puntos rojos* within the boundary of a 200-meter limit from the voting center. Public announcements calling for voters to support Maduro dotted the radio airwaves in Bolívar state where the governor, Francisco Rangel Gómez, took over the broadcasting of 60 radio stations to transmit electoral propaganda for Maduro.²⁰²

A small percentage—but overall significant number—of complaints about voters experiencing pressure or being induced to vote for one candidate or another by verbal or physical action from other people inside the voting centers have been made in past elections. OEV observed fewer cases of voters being pressured to vote for one candidate or the other, from 3.0 percent to 1.3 percent, with the partisan breakdown showing that in 1.0 percent of the cases electors were induced to support Capriles and in 0.5 percent of the cases electors were induced to support Maduro. Voter pressure, according to OEV’s methodology, does not include a citizen calling out the slogan of one candidate or another in the voting place. For example, a citizen saying “*viva Chávez*” or “*Hay un camino*” (a Capriles slogan) did not count as pressuring or inducing voters, but stronger exhortations or physical intimidation did.

A mobile unit of the *puntos rojos oficialistas* (government proselytism centers) parks in the vicinity of polling stations in Caracas.



Michaela Sivich

Additional Irregularities Reported

At about 6 p.m. on election day, press accounts of reported cyber-attacks and interruptions of Internet service from the national communications company CANTV were published. In the reports, just as voting centers began to close and the system began processing voting data, the government suddenly interrupted the CANTV broadband Internet service for more than 20 minutes. Hours earlier, the campaign chief of the Hugo Chávez Command, Jorge Rodríguez, reported that official Twitter accounts of President

201 AE, *Ibid.*, 7

202 Joseph Poliszuk, “Doubts About April 14,” *El Universal*, April 21, 2013. <http://www.eluniversal.com/nacional-y-politica/130421/las-dudas-del-14-a>

Nicolás Maduro and the United Socialist Party of Venezuela were “hacked by subversive groups.” After the re-establishment of the broadband service, Vice President Jorge Arreaza wrote on his Twitter account that the government had taken the measure to “impede more conspiratorial hacking from abroad.” The incident should not have affected the transmission of the electoral data given that, according to the CNE, vote machines encrypt the transmission of the votes via a secure network operated by CANTV, which, in turn, functions in total isolation from the Internet. Nonetheless, the interruption of the CANTV service raised suspicions among some sectors of the population.

In another issue, the press reported an incident in which two members of the UNASUR electoral accompaniment mission observed an incident of erroneous voter authentication in Santa Rosa de Lima, a large voting center in Miranda state. There, a person accidentally placed her finger on the voting machine, and the machine positively authenticated her identity even though a different person—her mother, a senior citizen—had been the one identified at the entrance station and cleared to vote by the poll worker. Given the assumptions on which the system is based, this person should not have been positively identified because the fingerprint did not belong to the person whose identity number was previously entered. Poll workers at the voting center wrote up a formal report about the incident. In it, they noted that the voting system was not totally protected from the problem of usurpation of identity, given that there were not sufficient guarantees to prevent one person voting for another.²⁰³ The integrated system of authentication was designed to authenticate the identity of the voter and also to record possible identity theft. Therefore, for this case, two minimum requirements would have to be met: a) that all witnesses and poll workers had agreed to allow identity theft, and b) that the very memory of the *capta huellas* voting machine, which stores all fingerprint records, had been altered to avoid this registry.

Separately, a coalition of Venezuelan nongovernmental organizations, the Citizen Election Network, reported an incident involving

transportation of voters with public vehicles and suspected manipulation of identity documents in voting center el Liceo Aplicación (located in the Montalban sector of Caracas) that has since garnered significant attention.²⁰⁴ A group of voters who also are members of the government social program Misión Negra Hipolita arrived at the voting center in a bus accompanied by a group of motorcyclists supportive of *chavismo*, including PSUV party lawmaker Robert Serra. Misión Negra Hipolita is a government program for helping the homeless and the disabled. One of the pro-government people was visibly holding a bundle of ID cards that supposedly belonged to the voters on the bus.

The interruption of the CANTV service raised suspicions among some sectors of the population.

This situation raised suspicions among some voters waiting in line outside the polling place to vote, and they complained to the CNE voting center coordinator about the irregular nature of what seemed to be unfolding. The CNE coordinator did not respond to the complaints of the voters, and the ensuing commotion around the center prompted officials to temporarily close the center. Later in the day, CNE Rector Sandra Oblitas spoke about the incident, indicating the council sent a group of technicians to the center to look for a solution in a situation in which “people were impeding the voting of people who wanted assistance to exercise their right to vote.”

Through an interview with a member of the CNE team dispensed to address this irregularity, The Carter Center learned that the motorcyclist group did try to frighten those citizens who had asked for the CNE to intervene. But the Center

²⁰³ The fact was well-documented through social networks, including a video, which apparently showed the allegations made. “UNASUR Presenció Irregularidades con Uso de Máquinas Capta-huellas,” *El Nacional*, April 19, 2013. http://www.el-nacional.com/politica/Unasur-presencio-irregularidades-maquinas-captahuellas_0_175182486.html

²⁰⁴ Liceo Aplicación

also learned from the interview that the *cedulas* in the hands of the motorcyclists in fact belonged to a group of voters identified with the social mission *Negra Hipolita*, that these disabled people did request help exercising the vote, that the number of *cedulas* in the hands of the pro-government person matched the number of voters, that the CNE verified these people were voting in the correct voting center, and that the disabled people exercised their right to an assisted vote without violating the norms created specifically for that process.

Wilmer Barrientos, the head of Venezuela's Bolivarian Armed Forces and the person who supervised Plan República, announced that public security forces detained 43 people on charges of committing electoral crimes on election day. Two of the cases involved identity usurpation attempts and inappropriate use of the vote.²⁰⁵

The AE report on the presidential elections concluded that the quantity and nature of the occurred incidents were such that, in the judgment of the organization, "they could compromise the integrity of the electoral process and potentially lead toward an alteration of the election results announced to the country by the CNE."

The Quality of Voting

For the voting process to take place in an orderly and efficient manner, a number of conditions must be in place. Among others, the voting centers should be located in publicly accessible places, and they must be safe and properly set up so that voting is conducted in secret. Equally important are that the polling place has the staff necessary for its proper functioning and that the voting machines are managed competently so that voters can exercise their right to vote throughout the day, until all citizens in line have voted.

Regarding the quality of voting conditions observed by the two main national observers, the AE report noted that for the first time they detected "a number of very significant irregular situations." Those irregularities included campaign conditions issues as well as voting-day irregularities such as "elimination of the shields that protect the secrecy of the ballot in voting centers" and problems with Plan República officials' behavior, both in "protecting observers and party witnesses" and in overstepping the bounds of their roles. For example, representatives of the Plan República could have entered a voting center.²⁰⁶

In the extreme cases, military personnel engaged in excesses, such as military intelligence detaining some youth members of the *Un Nuevo Tiempo* political party for having made calls to vote in the Chacao municipality of Caracas.²⁰⁷ In Barinas state, Plan República officials detained citizen Carlos Enrique Azuaje for demanding that the size of the *parabán* vote machine shield be increased to effectively guard ballot secrecy in the voting center of Las Veguitas.²⁰⁸

AE could not complete as comprehensive an observation mission as it did for the Oct. 7 elections. On the afternoon of April 14, 2013, around 4 p.m., an armed group headed by Universidad Central de Venezuela student leader Kevin Avila disrupted the activities of the coordinating team working at their Caracas headquarters.²⁰⁹ The group, identified with *chavismo*, not only demanded to see the credentials of the observers

205 Wilmer Barrientos, "Forty-Three People Detained for Presumed Electoral Crimes in Venezuela," *El Correo del Orinoco*, April 14, 2013. <http://www.correodelorinoco.gob.ve/nacionales/43-personas-detendidas-por-presuntos-delitos-electorales-venezuela/>

206 According to current legislation, Plan República members must remain outside the polling place.

207 Among them was the student leader Diego Scharifker. (Diego Scharifker Voted After Being Detained), *Noticias 24/Venezuela*, April 14, 2013. <http://www.noticias24.com/venezuela/noticia/162517/diego-scharifker-informa-que-la-dim-lo-tiene-detenido-estabamos-invitando-a-votar-fotos/>

208 "Rain Did Not Impede Barinas' Citizens From Voting," *El Universal*, April 15, 2013. <http://www.eluniversal.com/nacional-y-politica/elecciones-2013/130415/luvia-no-impidio-que-los-ciudadanos-votaran-en-barinas-imp>

209 See the press release published by AE on its website. "The Assault's Evidence," *El Universal*, April 29, 2013. <http://redobservacionelectoral.info/nota/824>

but also hit some members of the observer teams and robbed one of the computers and a personal cell phone. Because the group threatened to come back in the evening, and some of the group remained in the vicinity, the coordinators of AE decided to suspend their observation activities on election day at their central headquarters.²¹⁰

The AE report on the presidential elections concluded that the quantity and nature of the occurred incidents were such that, in the judgment of the organization, “they could compromise the integrity of the electoral process and potentially lead toward an alteration of the election results announced to the country by the CNE.”²¹¹

In its final report, OEV also increased the critical tone of its analysis, as compared with its analysis of the October elections.²¹² Regarding conditions on April 14, 2013, OEV stated that, once again, the organization had identified “various irregularities during the course of the voting day.” Those irregularities, they added, “show that the Venezuelan electoral system still has some pending tasks, which are necessary to complete in order to improve the system.”²¹³ Placed in the comparative context of the Oct. 7, 2012, presidential elections, the OEV reported that in the April 14 elections “both the unequal conditions that characterized the campaign and the faults detected during the voting-day process became notably stronger, both in terms of their importance and their repercussions considering the narrow margin that separated candidates Nicolás Maduro and Henrique Capriles in the results announced by the CNE”.²¹⁴

Michaela Svich



A Venezuelan voter marks her finger with permanent ink as a sign of completing her vote.

210 Watch the video “Attack on Electoral Observers in Venezuela 4/14.” RED, April 14, 2013. <http://www.redobservacion.org/redobservacion/>

211 AE final report, April 14, 2013, pages 10–11. <http://redobservacionelectoral.info/wp-content/uploads/2013/04/Reporte-3-rev21.pdf>

212 OEV’s final reports for the Oct. 7, 2012, presidential elections and for the Dec. 16, 2012, gubernatorial elections are available on its website: <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>. OEV makes its final reports public and submits them to the CNE.

213 OEV final report, May 2013, page 48. <http://www.oevenezolano.org/2013/04/20/elecciones-presidenciales-14-abril-2013/>

214 Ibid, page 49

I The Postelectoral Audit

The semantic imprecision in the use of terms related to Venezuela's automated vote-counting system, combined with the complexities of the electoral law and confusing comments about the topic by Capriles and other international figures, led to widespread discussion about the scope of and characteristics necessary for postelectoral auditing.

The votes that the CNE tabulates in the official election returns are those transmitted electronically to CNE headquarters, not the paper receipts printed by the voting machines in the polling stations.

In Venezuela, voters cast ballots using touch-screen machines. After voting, they receive a printed receipt (confirming the electronic vote), which must be deposited in a ballot box.²¹⁵ Those receipts are later used for a civic verification or “hot audit,” which is done on election day in slightly more than half of the polling places after the polls close.²¹⁶ During the audit, which involves both voters and party poll watchers, the paper receipts are compared to the official vote tally record on which the electronic votes are recorded. This audit, the citizen verification, phase 1 (*verificación ciudadana fase 1*), is designed to increase voter confidence in the voting process and stems from a series of agreements between the CNE and political parties beginning in 2006.²¹⁷

In addition, as part of the regular series of audits of the system by the CNE, a similar procedure is carried out using a statistical sample of 0.5 percent of the polling places. That procedure is known as citizen verification, phase 2 (*verificación ciudadana fase 2*).²¹⁸

Despite the role of paper receipts in the Venezuelan electoral system, the votes that the CNE tabulates in the official election returns are those transmitted electronically to CNE headquarters, not the paper receipts printed by the voting machines in the polling stations.²¹⁹

215 According to information provided by the CNE on its official Web portal, in 2004 Venezuela became the first country in the world to use machines that printed voter receipts.

216 CNE, “Ley Orgánica de Procesos Electorales-LOPRE” (Organic Electoral Processes Law), Articles 160 and 161. http://www.cne.gov.ve/web/normativa_electoral/ley_organica_procesos_electorales/titulo11.php CNE. “Reglamento General de la Ley Orgánica De Procesos Electorales” (General Implementing Regulations for the Organic Electoral Processes Law) of Aug. 1, 2012, Articles 437–442. http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf

217 According to Venezuelan electoral law, an audit verifies the resources used to carry out the electoral process to promote trust in and the transparency of elections. (CNE, “Ley Orgánica de Procesos Electorales-LOPRE”), Aug. 1, 2012, Articles 152 and 162. http://www.cne.gov.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf

218 For a complete analysis of the audit schedule, see the Carter Center's report on the October 2012 elections (The Carter Center, “Final Report of the Carter Center Study Mission to the October 7, 2012, Presidential Election in Venezuela,” October 2012) http://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf). The technical postelection audit of the April 14 elections was scheduled for April 19. (AVN, “Auditoría del 54 Percent de los Votos Se Efectuó con Aval de Testigos,” SIBCI, April 15, 2013) <http://www.avn.info.ve/contenido/auditor%C3%ADa-del-54-votos-se-efectu%C3%B3-aval-testigos>

219 Article 336 of the LOPRE, General Implementing Regulations

Before the results are transmitted to the CNE, the chairman of the polling station must ensure that the machines print an original and several copies of the electronic vote tally sheet. The copies are divided among those to be submitted to CNE headquarters and those to be distributed among poll workers, the party poll watchers.²²⁰ The tally sheets manually record the number of voters who signed the voter notebooks. The tally sheets also carry the signatures of the chairman and other poll workers and the party poll watchers.²²¹

Article 437 of the General Implementing Regulations for the Organic Electoral Processes Law (Ley Orgánica de Procesos Electorales, LOPRE) establishes that under no circumstances can citizen verification audits be considered a vote count or part of a vote count. Those procedures, therefore, are insufficient to declare the validity or invalidity of the election, even if irregularities are detected through them. Nevertheless, interested parties can use the results of citizen audits as evidence if they decide to challenge the election results through the legal system. For the April elections, “hot” citizen verification (or a phase 1 citizen verification audit) was planned for 52.98 percent of the polling places (equivalent to 20,672 polling places).

Expanded Phase 2 Citizen Verification

The final results of the audit of 100 percent of the voter receipts, the expanded phase 2 citizen verification, were announced by the CNE president during a nationally televised speech on the afternoon of June 11.²²² Lucena said the expanded audit was the CNE’s only legal option for responding to candidate Capriles’ doubts about the election results. She repeated that the audit did not constitute a vote recount but was “an audit of the functioning of the system” and that it had been designed only to certify the functioning of the platform. If the CNE had changed the nature of the audit from the one stipulated by law, she added, it would have committed an illegal act. She also noted that opposition forces had not participated in the audit, although they had

agreed to the terms of its nature and scope from the beginning.

According to Lucena, in 99.98 percent of the cases, the audit corroborated consistency between the electronic vote record and the paper receipts. The irregularities detected in the remaining percentage, she said, were fully justified in the reports.²²³ “The expansion of the citizen verification allows us to reconfirm to the country that

“The expansion of the citizen verification allows us to reconfirm to the country that Venezuela’s electoral system is transparent, robust, and inviolable and that it precisely reflects the will of the electorate as expressed in their votes,” Lucena said.

Venezuela’s electoral system is transparent, robust, and inviolable and that it precisely reflects the will of the electorate as expressed in their votes,” Lucena said. Capriles, however, called the audit a farce, saying it was not necessary to be an expert on electoral technology to know that if the receipts were compared with the vote count, the results would be the same.²²⁴

²²⁰ Article 337, LOPRE

²²¹ Unfortunately, poll workers do not always record the number of voters on the tally sheet, as the MUD noted in the challenge it filed with the supreme tribunal. Otherwise, verification of the record of the number of voters could have been included in phase 2 of the citizen verification audit.

²²² CNE, “100% of April 14 Polling Stations Audited.” June 11, 2013. http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3210

²²³ During the first phase of the audit, 71 percent of the ballot boxes were audited, well above the 54 percent defined by the law. The remaining 28.44 percent were audited during the expanded (or phase 2) civic verification. A small sample of 0.56 percent of the polling places was also scheduled for verification a few days after election day.

²²⁴ AFP, “Audit Finds No Flaws in Venezuela Vote,” Channel News Asia, June 12, 2013. <http://gulfnnews.com/news/world/other-world/audit-finds-no-flaws-in-venezuela-vote-1.1196065>

In her remarks, Lucena responded to other concerns raised by the opposition.²²⁵ Responding to concern over the electoral registry, she said that representatives and experts from the opposition had participated actively in the audit of the voters lists before the October 2012 elections and had approved them without objections. (The same registry was used in April.) An additional audit had also compared the database of fingerprints with the fingerprints on the voters lists to verify the number of voters whose fingerprints were not registered in the biometric identification system. That audit, she said, had been performed in September 2012 and had also been approved by representatives of the opposition.

One means to settle doubts on the identity of voters is to conduct the “fingerprint duplicity audit,” an audit of the fingerprints registered by the SAI machines attached to the voting machines.

The CNE president also said there had been no significant incidents related to the biometric identification system that could have affected the elections. Lucena repeated that the polling station voters logs are not part of the audit, because including them would violate the voters’ right to privacy (as the audit would require making public who voted and who did not). She cited a 2009 ruling by the Supreme Court of Justice that ordered the CNE to protect the data in the voters logs unless the Supreme Court ordered otherwise. Finally, she announced that the CNE would extract information from the memory of the voting machines and would perform the announced audit of duplicate fingerprints (the “nonduplicate fingerprint audit”), although she did not specify a date.

The Nonduplicate Fingerprint Audit

One means to settle doubts on the identity of voters is to conduct the “fingerprint duplicity

audit,” an audit of the fingerprints registered by the SAI machines attached to the voting machines. Images of the voters’ fingerprints, along with the identification card numbers, were captured in the memories of the voting machines. While each SAI fingerprint machine only contained the prints of the voters registered at that voting table (and thus checked for duplicity only within that subset), by downloading all of the fingerprints registered in all of the memory cards, it would be possible to conduct a universal test of all those who voted on April 14 in the country to determine if the same fingerprints appeared more than once.²²⁶

Another means to examine the identity issue is through the “incidences” recorded by the fingerprint machine about the quality of fingerprint “matches” and “no matches.”²²⁷ That is why the Capriles campaign included the list of such incidences, by voting table, in its formal request to the CNE for electoral materials.²²⁸

Even though the CNE had not agreed to delivery of the requested list of incidences, the nonduplicate fingerprint audit was finally carried out between Aug. 5 and Sept. 10. It was the last of the 18 audits carried out by the CNE during the various phases of the electoral process.²²⁹ Although the audit had been planned since October 2012 as part of the public guarantees offered by the

225 Regarding opposition criticism of the CNE, Lucena said, “It is not a matter of individuals but an attack on the political model established in the constitution, whose means of expression is the electoral system,” SIBCI, June 11, 2013. <http://www.avn.info.ve/contenido/cne-reiterates-april-14-election-results-transparency>

226 These points were confirmed by Carter Center interviews with CNE officials, Capriles campaign technical experts, and voting machine experts. The estimated amount of time needed to conduct the duplicity test varied from four to eight weeks in the interviews.

227 In an interview with the directors of the CNE, The Carter Center confirmed that information related to incidents of the biometric system is transmitted from the fingerprint capture machines called “capta-huellas” to the CNE on the day of the elections. Thus, the only instances in which a voter with a “no match” would be prevented from voting would be those where the machine detected that either that fingerprint or that ID number had already voted at that voting table on the day of the election.

228 The results of the SAI incidents are explained in detail in this chapter.

229 According to Venezuela’s governing authority, the fingerprint auditing process has two stages: The first consists of replicating data, and the second stage compares the replicated biometric data. For the complete list of audits, see Appendix A.

election authorities, it was implemented for the first time with the April 14 elections.

Because of accusations of serious irregularities from the MUD, which claimed the outcome of the elections could have been affected by cases of identity fraud and/or multiple ballots, the audit would have significant added value in the Venezuelan political–electoral process. The procedure would determine whether such irregularities had occurred. According to information provided to The Carter Center by CNE officials, the ultimate purpose of the audit was to “rule out the possibility that multiple ballots might have affected the outcome of the elections.”²³⁰

Unfortunately, the audit did not have the expected effect of publicly clearing up any doubts or questions raised by the MUD about the possible impact of cases of identity fraud and/or multiple ballots on the election outcome. For various reasons—and contrary to the tradition that has developed in recent years between the CNE’s technical teams and those of the political parties—the audit was carried out without witnesses from political organizations or representatives of national observation organizations²³¹ and amid a rupture between the CNE and the MUD. In addition, although the CNE convened a seminar Sept. 11–13 with a small group of international electoral experts from two international organizations (UNASUR and the Inter-American Union of Electoral Organizations, UNIORE) to explain the audit methodology, as of Feb. 1, 2014, the electoral oversight body still had not formally and publicly announced the audit results.

Data Withdrawal

The nonduplicity fingerprint audit took place in two stages: the withdrawal of the data from the voting machines, followed by the audit of the universal set of fingerprints themselves. The purpose of the data withdrawal was a) to recover information stored in the voting machines after the election and back up the recovered information and b) to send it to a platform specially designed for this process, the Integrated Citizen Authentication Platform (Plataforma Integrada de Autenticación de Ciudadanos). The data extracted

from the voting machines should then be stored in a storage area network, from which it should later be transmitted to the CNE data center at the Bolivarian University of Venezuela (Universidad Bolivariana de Venezuela) in Los Chaguaramos for the actual audit of duplicate fingerprints.

The information to be recovered was classified as follows: electoral data (ballots, ballot markings); biometric data (fingerprints, session marks, and session summary); and other (the machine’s log and information about the poll workers).

Unfortunately, the audit did not have the expected effect of publicly clearing up any doubts or questions raised by the MUD about the possible impact of cases of identity fraud and/or multiple ballots on the election outcome.

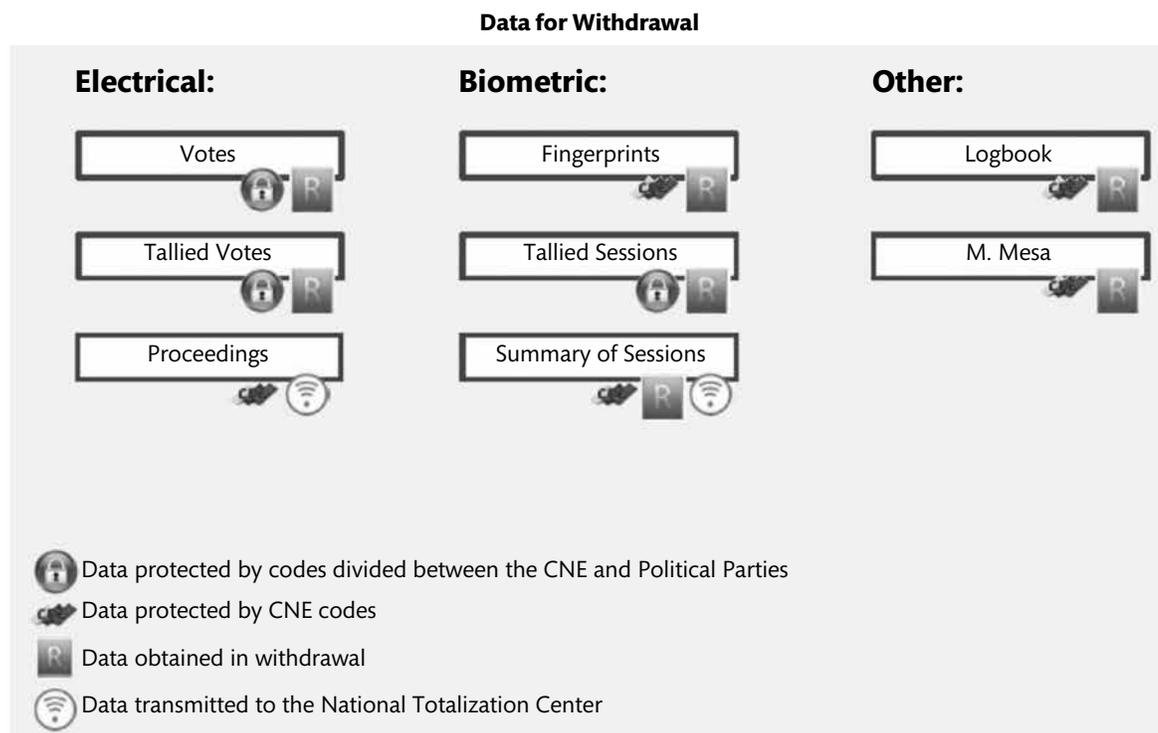
The system designed to carry out this procedure was developed by Smartmatic and consists of four applications, to be executed on different devices. According to information provided by the CNE’s technicians, the four applications should perform the following tasks: a) extract, read, and package the data from the memory of the voting machines; b) transmit the data to data-collection servers; and c) process and store the data in the mass storage unit.

According to the CNE, and in accordance with audit rules, all parties participating in the electoral process, including the MUD, were invited to send witnesses.²³² The MUD named

230 The Carter Center received this information during the seminar held by the CNE.

231 There also were no witnesses from parties of the governing coalition.

232 Representatives of the Partido Socialista de Venezuela (PSUV), Partido Comunista de Venezuela (PCV), Organización Renovadora Auténtica (ORA), PPT, and Redes participated as witnesses for the Gran Polo Patriótico (GPP). The independent party Nuvipa also had a witness. The political parties’ participation in the process varied considerably. The MUD only participated in two sessions. Of the parties in the GPP, PSUV and Redes participated most frequently. There is no record of witnesses from voter groups or indigenous communities or organizations, which have the right to participate under Article 157 of the Organic Electoral Processes Law.



Mario Torre, an engineer, as a witness for the opposition coalition.²³³

The Comando Simón Bolívar and its leader, Henrique Capriles Radonski, had expressed a series of concerns about the process in letters to the CNE. In one of those letters, the opposition campaign committee had asked the CNE “to preserve and not to alter the electoral material, including the physical and electronic material,” since that, according to the MUD technical staff, was crucial in the face of various requests presented to the CNE, particularly “the electoral dispute proceedings before the Electoral Chamber of the Supreme Court of Justice.” The letter also asked that the contents of the voting machine pen drives (removable memory devices) “be preserved intact, without being handled.” The MUD technical staff thus requested that steps be taken to avoid transferring the content of those devices to any other electronic backup device.

The letter also proposed that a procedure be developed and “agreed to by the representatives of the candidates who participated in the elections and in the presence of the aforementioned

representatives, so they can audit and validate the results of that operation.”²³⁴

Beginning of the Process

The first phase of this process, the data withdrawal, began on June 17 and continued until July 17. On the first day, CNE officials repeated to those present the procedures designed for that stage of the process, which were originally explained on June 14. Those present were also informed that observation of the procedure by the witnesses would be limited to a few hours a day, instead of continuing throughout the entire work session, as the MUD representatives had expected.²³⁵ The party witnesses, therefore, could only validate and verify the hash from

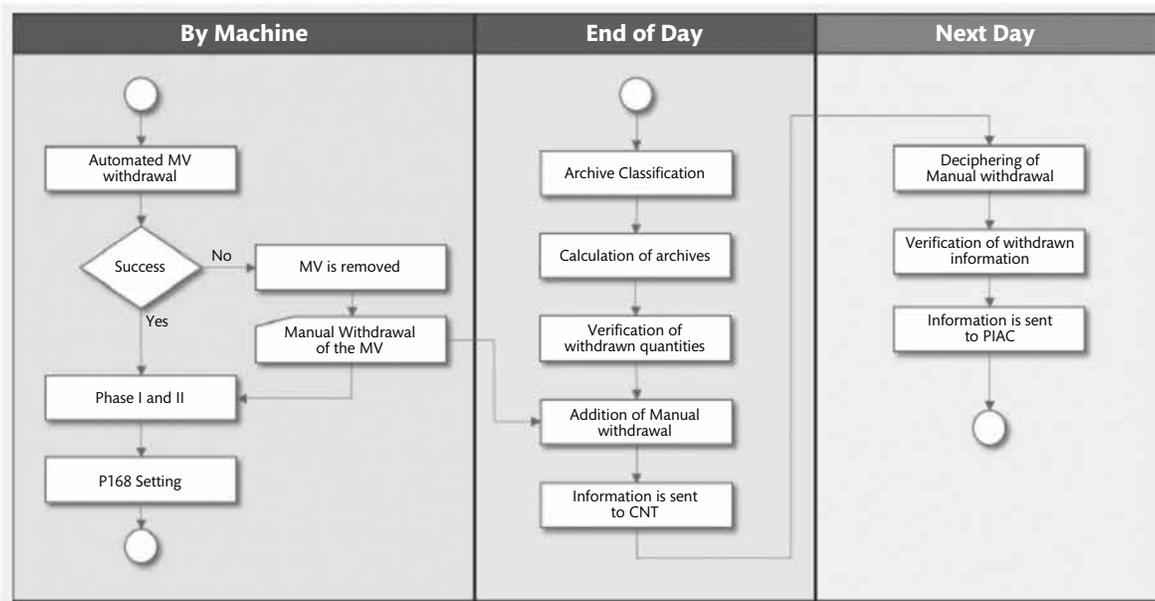
233 Although the MUD brought numerous parties together in a coalition, the rules allowed only one witness per political grouping or party to participate in the electoral process. Article 449 of the General Implementing Regulations of LOPRE

234 See also letter from MUD Executive Secretary Ramón Guillermo Avelledo to the CNE, June 11, in Appendix D.

235 See Appendix C. Letter from Mario Torre in response to Luis Emilio Rondón of the CNE, June 28

Data Withdrawal Procedure

Source: CNE



this procedure²³⁶ between 7 a.m. and 9 a.m. and between 5 p.m. and 6:30 p.m. in the CNE offices in Mariches.²³⁷

According to the information gathered by the Carter Center team, observation of the process went as expected during the initial sessions. During the first session, the system for extracting fingerprints from the machine was reviewed according to the procedure explained by the CNE in the June 14 information session. The first component was also reviewed on the first day and that review included both software and hardware. All witnesses, including the MUD representative, approved the actions and signed the minutes of the session.

On the second day, the second component was reviewed, and the witnesses again agreed and signed the minutes. That day, however, they were told that they could not have access to the software package corresponding to the third component because the source code for that application was unavailable.²³⁸ They were also told that they could not have access to the transmission of data to the storage area network, where all of the fingerprints extracted from the machines would be deposited for subsequent auditing of duplicate fingerprints.

Those announcements led to a series of conflicts that resulted in the MUD technical representative withdrawing from the audit on June 21. That meant that this critical process would not include all of the political groups, making validation by the opposition sectors impossible. The conflict that arose out of the MUD's questioning of the election results was never formally resolved, deepening the divisions that emerged after the election.

The Conflict

The MUD technical representative reported that CNE staff denied him entry to the third session because at the previous session, he had refused to sign a minutes of the session in which the

²³⁶ A hash is an algorithm that creates fixed-length alphanumeric output based on the content of a given input (text, password, or file, for example). In other words, based on the input data, a chain is created that can only be recreated with those same data (CNE, audit book, page 111, glossary). <http://www.genbetadev.com/seguridad-informatica/que-son-y-para-que-sirven-los-hash-funciones-de-resumen-y-firmas-digitales>

²³⁷ In the industrial zone of Mariches, east of Caracas, in the Sucre district of the state of Miranda.

²³⁸ According to information gathered by The Carter Center, this source code was unavailable because the expert from Smartmatic had traveled to Panama and the company had no one in Venezuela who could provide the code. See letter from the MUD to the CNE dated June 28 in Appendix C.

Log of SAI Incidents

| LOG OF SAI INCIDENTS | | | | |
|--|--------------------------------------|------------|---|--------|
| S A I I N C I D E N T S | Match | 11.803.903 | citizens successfully authenticated within the set score | 80,58% |
| | NoPrint/New Registries | 986.067 | citizens without fingerprint images in the database | 6,73% |
| | Grey Zone | 732.050 | citizens validated by the integrated authentication system (SAI) within the range defined as the gray zone for the authentication score | 4,90% |
| | No Match | 1.125.130 | those who failed to obtain a satisfactory SAI authentication were listed within the range for no match | 7,68% |
| | Elegible to vote without upper limbs | 2.329 | citizens were able to vote without authentication when they did not possess upper limbs, making it impossible to establish fingerprint identity | 0,02% |

witnesses should express their agreement with the announcements made by the CNE technical personnel. The MUD representative argued that he was not able to sign the proposed minutes because he could not “support or sign any minutes that guaranteed the immunity of the system and the cleanliness of the process without having witnessed the review of all the components.” Although he finally agreed to sign the minutes under protest, with express mention of his disagreement with the electoral body’s proposal, that possibility was not accepted by the CNE.²³⁹ According to Torre, he, on behalf of the MUD, was the only person who complained about the exclusion of the third and fourth components from the review process. None of the other witnesses (who belonged to PSUV and parties allied with the governing parties) did the same.²⁴⁰

Data withdrawn from the machines and memory devices used on April 14 made it possible to obtain biometric information for a total of 14,649,539 voters.

In the view of the governing party, the reasons for the opposition’s withdrawal from the audit were entirely political and the arguments raised by the MUD representative were simply an excuse to withdraw from the process. For the CNE, the

lack of observation of any of the components of the process did not jeopardize the final validation, because all of the procedures were designed with a strict chain of confidence that ensured the protection of the data.

Outcome of the Data Withdrawal

The data withdrawal was finally completed on July 17, after a month of work, without the opposition representative in attendance. According to information from the CNE, data corresponding to 39,018 voting machines were withdrawn during the process.

Data withdrawn from the machines and memory devices used on April 14 made it possible to obtain biometric information for a total of 14,649,539 voters. This total was later differentiated based on the type of “session marks” (defined by the electoral authority as “SAI occurrences”). The recovered fingerprints were divided into: a) match fingerprints (11,803,903, which represented 80.58 percent of all of the fingerprints registered); b) nonmatch fingerprints (1,125,130, equivalent to 7.68 percent of all fingerprints registered); and

²³⁹ See letter from Mario Torre in response to Luis Emilio Rondón, Appendix C.

²⁴⁰ The MUD representative told The Carter Center that his understanding was that the CNE’s refusal to allow MUD witnesses access to the review of those components should not necessarily be interpreted as attempted fraud. According to Torre, that decision could have been due to the fact that it was a new procedure that had never been carried out before, and there was a great deal of uncertainty about it.

Fingerprints Selected for Audit

| FINGERPRINTS SELECTED FOR AUDIT | |
|-----------------------------------|------------------|
| No fingerprint / New Registration | 985,808 |
| Gray Zone | 727,707 |
| No Match | 873,113 |
| Total Sample | 2,586,628 |

Electoral Fingerprints Selected for the Duplicate Fingerprint Audit

Source: CNE

c) fingerprints that fell into a gray area (732,050, equivalent to 4.90 percent).²⁴¹ There were also 986,067 people who did not have fingerprint images registered in the database and whose fingerprints were added during the election process (equivalent to 6.73 percent) and 2,389 voters who did not have hands (equivalent to 0.02 percent).

According to the available information, in 2.33 percent of the withdrawn machines (864 machines), it was impossible to recover the biometric data automatically for various reasons, such as damages to the internal memory of the voting machines or the corrupting of the logs (files).²⁴² In such cases, CNE technicians managed to recover some of the data, although the quality of the information extracted varied.²⁴³ In all other cases (97.8 percent, equivalent to 38,154 machines), the data was successfully extracted automatically.

Duplicate Fingerprint Audit

The audit of the withdrawn fingerprints was performed in the CNE data center, located in the Bolivarian University of Venezuela building in the Los Chaguaramos neighborhood. It began on Aug. 5, 2013, 13 days after the data withdrawal phase ended and continued until Sept. 10. According to data provided by CNE technicians, to conduct the audit of the total universe of fingerprints, the images of those obtained during the extraction corresponding to the categories “no match,” “gray area,” and “no print” or “new record” were selected. In total, 2,586,628 fingerprints were evaluated.²⁴⁴

Given the novelty of the procedure, and in order to provide additional guarantees of transparency in the process, the CNE compared the fingerprints in two instances. First, the CNE

randomly selected a sample of 0.5 percent of the fingerprints included in the “gray area” and “no match” categories, which were sent to fingerprinting specialists hired by the CNE,²⁴⁵ whose job it was to review the quality of the prints and confirm whether they corresponded to the imprint of the owners legally registered with the CNE. The result of this initial evaluation resulted in a total of 29 cases of “no match” fingerprints where the image did not correspond with the print the CNE had for the assigned voter and only one case in the “gray area” category.²⁴⁶ Finally, CNE technicians made a projection based on these results that allowed them to conclude that 0.4 percent of voter registration marks could present some sort of technical or legal defect. However, it must be emphasized that this fingerprint assessment did not focus on the case of duplicates but rather

241 The Integrated Authentication System (Sistema de Autenticación Integrado or SAI) could not determine whether the voter’s fingerprint and the registered fingerprint were within the match range established by the CNE.

242 The problems presented in the 864 machines are categorized as follows: a) partial comparison score transferred on the day of the aggregation of votes – 780 machines (2.2 percent), b) no biometric information captured – 39 machines (0.01 percent), and c) voting machines that were counted manually and, therefore, did not have any type of biometric information – 45 (0.12 percent).

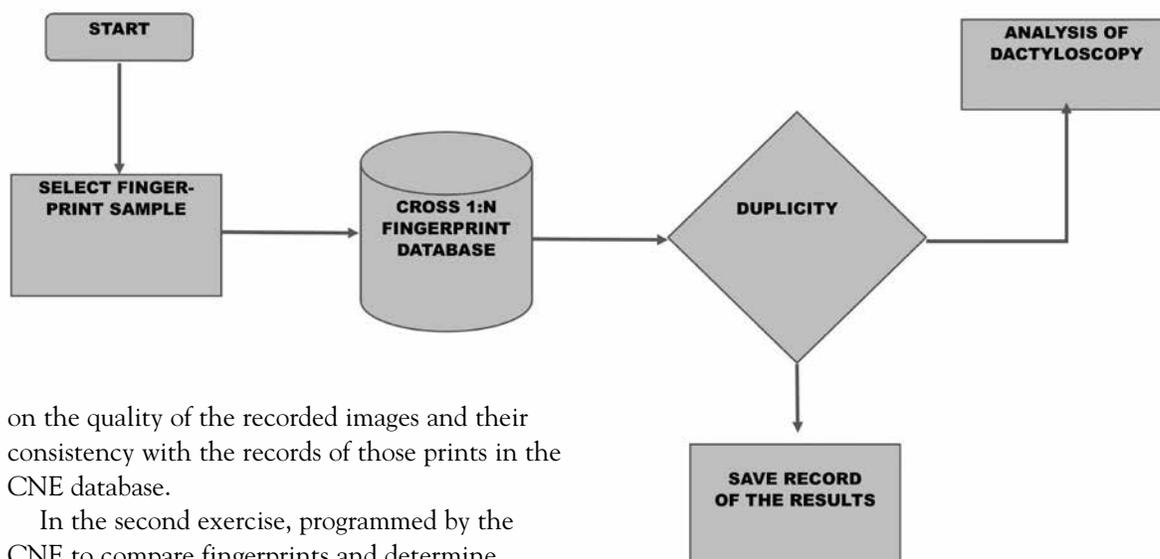
243 In the manual extraction process, the quality of the extracted fingerprints was not as good as the fingerprints extracted automatically as manual extraction only allows partial recovery of the biometric information.

244 According to the explanation the technicians of the CNE gave The Carter Center, the set of fingerprints with “match” status were used in the exercise of duplicity, but they are not part of the set of fingerprints “tested” because the pre-electoral biometrics audit guaranteed that fingerprints were only recorded once in the database.

245 The CNE hired 45 fingerprint experts who worked double and triple shifts. As a result, the assessment was carried out in approximately three weeks.

246 According to the CNE technicians, the inconsistencies in the recorded prints were due to reasons such as older voters’ registration or scanner problems during the voting day.

Methodology of the Nonduplicate Fingerprint Audit



on the quality of the recorded images and their consistency with the records of those prints in the CNE database.

In the second exercise, programmed by the CNE to compare fingerprints and determine nonduplicity of the same selected fingerprints, these prints (2,586,628) were evaluated and compared with the universe of registered CNE prints (14,647,150). This evaluation was performed in two steps, in which first 1:N was compared, namely 2,586,628 versus 2,586,628 and a second assessment where the selected 2,586,628 prints were compared versus the prints in the “match” category 11,803,903.²⁴⁷

developed by a company called Ex-Clé especially for the process, which allowed the process of comparing fingerprints to be carried out in just one week.²⁴⁸

According to the explanation offered by the CNE, the fingerprint comparison consisted of two stages: a) an initial, automated stage, in which the operations were classified according to the score reported by the MegaMatcher Accelerator, and b) a second stage, consisting of manual verification of first-stage results that were considered “inconclusive”; this was done by dactyloscopy experts specially contracted by the CNE.²⁴⁹ The results of the data comparison were classified into five categories:

- 1) Operations in which the score was greater than or equal to 400, which were considered automatic duplicates;
- 2) Operations in which the score was greater than or equal to 300 but less than 400, a total that should be verified by an expert as duplicates;

According to the explanation offered by the CNE, the fingerprint comparison consisted of two stages: a) an initial, automated stage, in which the operations were classified according to the score reported by the MegaMatcher Accelerator, and b) a second stage, consisting of manual verification of first-stage results that were considered “inconclusive”; this was done by dactyloscopy experts specially contracted by the CNE.

All transactions were executed by a technology known as MegaMatcher Accelerator of the Neurotechnology firm, with applications

²⁴⁷ This comparison was made with the full universe of registered images in the CNE database.

²⁴⁸ For this process, the CNE has a “mega-accelerator” developed by the firm Neurotechnology (MegaMatcher Accelerator), capable of processing more than 100 million comparisons per second. The Argentina subsidiary of Ex-Clé SA, meanwhile, developed a pool of relevant applications according to the procedures required by the governing body.

²⁴⁹ The CNE hired 45 dactyloscopy experts, who worked double and triple shifts. As a result, this “wave of analysis” took approximately three weeks.

Results of the Nonduplicate Fingerprint Audit

| RESULTS OF THE NON-DUPLICITY FINGERPRINT AUDIT | | | | |
|--|---|------------------------------------|---|---------------------------|
| Comparison Score | Number of Cases (population) / % evaluated (sample) | Percentage of Population Evaluated | Number of Cases Found (To be evaluated by specialits) | Number of Confirmed Cases |
| Score ≥ 400 | 94 /100% | 0.002 % | 94 | 94 Automatic Duplicate |
| 400 > Score ≥ 300 | 153 /100% | 0.003 % de casos | 153 | 131 Confirmed Duplicate |
| 300 > Score ≥ 200 | 7,776 / 10% | 0.176 % del universo | 778 | 20 Confirmed Duplicate |
| 200 > Score ≥ 150 | 167,062 /1% | 3.785% del universo | 1671 | 1 Confirmed Duplicate |
| 150 > Score ≥ 100 | 4,238,248/ 0.5% | 96.033 % del universo | 21.192 | 1 Confirmed Duplicate |
| | | | Duplicates confirmed post expert report | 247 Total |

Source: CNE

- 3) Operations in which the score was greater than or equal to 200 but less than 300, which should be verified by an expert in a random sample of 10 percent of the total number encountered;
- 4) Operations in which the score was greater than or equal to 150 but less than 200, which should be verified by an expert in a random sample of 1 percent of the total number encountered; and
- 5) Operations with a score greater than or equal to 100 but less than 150, which should be verified by an expert in a random sample of 0.5 percent of the total number encountered.

The CNE technical staff explained that for one fingerprint to be considered identical to another, it should have a “comparison score” of 800 points; to classify the results, therefore, the CNE chose a “relatively low” range of 400 for considering one record identical to another (automatic duplicate).

Audit Results

A total of 94 cases were found in the first category (greater than or equal to 400). These cases were considered automatic duplicates. There were 153 cases in the second range (300 to 400), and they were all evaluated manually by experts confirming 131 as duplicates. In the third category (200 to 300), 7,776 cases were recorded, and 10 percent were evaluated by the experts who confirmed 20 duplicates. In the fourth category (150 to 200), 167,062 cases were found, and 1 percent were selected for manual review by the experts who found one duplicate. Finally, in the last category (100 to 150), there were 4,238,248 cases, of which only 0.5 percent were sent for expert examination, which also confirmed one duplicate.

After obtaining the proper outcome of the evaluation by experts, the electoral body concluded that a total of 247 fingerprints were considered as real and proven cases of duplicate voting.

Based on a statistical projection that took into account the universe of recorded tracks, the technical staff of the CNE expressed the final results of the nonduplicate fingerprint audit as follows: a maximum of 1,454 ballots (corresponding to 0.007 percent of the total registered fingerprints) could have been affected by cases of multiple ballots.²⁵⁰

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The 94 cases that were not examined by experts (corresponding to the first category) were considered real and proven cases of duplicate ballots, as were as the 153 cases verified as duplicates in the other categories reviewed.²⁵¹ All of those cases would merit submission to the Public Ministry for investigation of an electoral crime. With regard to the other projections and statistical inferences of the CNE, the total records with possible identity

²⁵⁰ According to information explained by CNE technicians during the seminar, this number represents 0.007 percent of the population of voters with biometric data registered by the CNE and is equal to 14,649,539.

²⁵¹ In these cases, the CNE determines that one case is equal to one ballot.

problems in the SIA database were 9,272. This number, when added to the maximum 1,454 possible cases of duplicate votes cast, equals a total of 10,726 maximum votes affected by negative identity or multiple voting.

The International Seminar of Sept. 11–13

The seminar held Sept. 11–13 was directed mainly at experts from UNASUR and UNIORE.²⁵² During the event, top CNE officials explained the methodology and procedures used during the audit as well as the outcome (see Appendix E). When this report was published, the CNE had yet to release the UNASUR/UNIORE report. The Carter Center participated in this seminar as a guest, with one representative.

The first part of the seminar consisted of an explanation of the nature and functioning of the Venezuelan electoral system, the makeup of the fingerprint database, the implementation of the data withdrawal process and the functioning of the software, and the biometric technology used. The second part was devoted to analysis of the results of the fingerprint audit, including an explanation of the work of the dactyloscopy expert.

The seminar held Sept. 11–13 was directed mainly at experts from UNASUR and UNIORE.

At the end of the seminar, the delegations of international experts submitted a report in which they concluded that the methodology used by the CNE during the audit was “appropriate for the process described.” The report also indicated that the sample used for the audit was consistent and that the number and quality of fingerprints in the CNE database were “sufficient to perform the audit.” The report also certified the hash-based “chain of confidence” implemented by the CNE and concluded that the information used during the audit was not altered.

The report recommends measures that the CNE could implement to expand the database and

enhance the quality of the fingerprints it contains. It also suggests improving the compatibility of the software involved in the various phases of the electoral process and, to the extent allowed by the software, increasing the percentage of samples selected for auditing. Finally, the UNIORE/UNASUR report recommends implementing legislation and regulations related to electoral crimes.

Conclusions

Compared with other audits performed by the CNE since the automated voting system was implemented, the nonduplicate fingerprint audit had a series of unique characteristics. First, the political parties did not participate in the audit. Because of that, the audit did not have the expected effect of helping to clear up the doubts raised by the opposition about the outcome of the elections. The opposite was true. The MUD technical representative’s withdrawal from the audit process exacerbated doubts about the results among opposition sectors, contributing to an increase in the level of postelectoral conflict. Through Enrique Naime, first vice president of the social Christian party COPEI, opposition sectors characterized the audit as a sham.²⁵³

Unlike the other audits of the system, this procedure was not announced in advance. Information about the formal performance of an audit was not made public on the CNE’s institutional Web page or in the country’s media. The first formal announcement came from CNE President Lucena at a UNASUR event held Aug. 25–26, when she formally invited UNASUR experts to participate in the procedure. UNASUR (and UNIORE and The Carter Center) participated only in the explanatory seminar after the technical audit had finished.

Also, unlike previous electoral processes, as of Jan. 1, 2014, the audit results had not been made

252 They also were originally invited to observe the audit by CNE President Tibisay Lucena during the first ordinary meeting of the Union of South American Nations Electoral Council in Peru, Aug. 25–26. <http://www.ultimasnoticias.com.ve/noticias/actualidad/politica/tecnicos-de-unasur-acompanaran-auditoria-de-huella.aspx#ixzz211qIGxLL>

253 “Nonduplicity Fingerprint Audit Is a ‘Falsehood,’” Sept. 13, 2013. <http://www.notitarde.com/Pais/Auditoria-de-no-duplicidad-de-huellas-es-una-falsedad/2013/09/13/261416>

public by the CNE, even though the conclusions of the international seminar indicated that the problems encountered would not have altered the outcome of the April 14, 2013 election. There

also was no announcement of the start of criminal proceedings against those identified during the audit as casting multiple ballots and/or using a false identity.

Legal Questions Over the Presidential Election

Legal Framework and Precedents

In Venezuela, the Supreme Court is the only institution authorized to impugn, either fully or partially, election results. The court itself is composed of three chambers for political-administrative, electoral, and constitutional matters.²⁵⁴ Of these three, the constitutional chamber exercises maximum authority.

According to Venezuela's Organic Law on Electoral Processes, contestants have 15 working days after the electoral event takes place in order to file their motion to annul the election.

According to the Organic Law of the court, Article 25.16, the court has the exclusive competence for claiming jurisdiction over lawsuits that pertain to the violation of the public constitutional order, including those heard in other Supreme Court venues as well as in any other tribunals in the republic, as long as they have not issued a definitive sentence.²⁵⁵ Article 297 of the constitution states, "The contentious electoral jurisdiction shall be exercised by the electoral chamber of the Supreme Tribunal of Justice and any other courts established by law."²⁵⁶ To have standing, the request must be accompanied by documents that prove any fraud. According to

Venezuela's Organic Law on Electoral Processes, contestants have 15 working days after the electoral event takes place in order to file their motion to annul the election.²⁵⁷

Previously, gubernatorial, but not presidential, elections have been legally challenged in Venezuela. For example, in the decade of the 1990s, when Venezuela was governed by a different constitution and had a differently structured electoral authority that oversaw manually tabulated elections, challengers successfully annulled partially or entirely some electoral processes in the country. The Supreme Court of Justice (SCJ, predecessor of the TSJ) annulled the 1992 Barinas and Sucre gubernatorial (regional) election and called for new elections in May 1993.²⁵⁸ New elections were held, but the result

254 When these three courts convene together, they make the plenary chamber, *sala plenaria*.

255 TSJ, Sala Constitucional, June 20, 2013. <http://www.tsj.gov.ve/decisiones/scon/junio/795-20613-2013-13-0538.html>

256 CBR, 1999, Article 297. <http://www.enoriente.com/constitucion/articulo297.htm>

257 Article 213. According to sentence 196/2005 of the Electoral Chamber of the Supreme Court, the electoral event concludes with the proclamation; thus, challenges to the results can be filed only after the proclamation. However, Article 205 of the Organic Law of Electoral Processes, LOPRE, states that a legal petition regarding the eligibility of an elected or unelected candidate may be submitted at any time. Constitutional law experts informed The Carter Center that such a petition can be filed as an administrative appeal (*recurso jerárquico*) via the CNE or as a lawsuit (*recurso contencioso*) via the court system.

258 "New Elections in Barinas and Sucre," *Vida Nacional*, May 1993. http://gumilla.org/biblioteca/bases/biblo/texto/SIC1993554_184-186.pdf

did not change.²⁵⁹ In 1996, the SCJ ordered the repetition of the elections in 32 voting tables of Zulia's state gubernatorial elections (1995) affecting 10,000 voters. Again, the same candidate won. However, the result changed in the governors' elections of Amazonas state in 2000 when the court decided to repeat the election in seven electoral tables.

Since the electoral process became automated with direct recording devices (the touch-screen voting machines) in 2004, challengers have attempted to annul electoral processes without success.²⁶⁰ Two recent cases provide some instruction. In Táchira state (2008), the candidate of PSUV challenged the electoral result that declared as winner the opposition candidate; nonetheless the Supreme Court dismissed the petition.²⁶¹ The latest case was in the regional elections of December 2012 in the state of Bolívar. The opposition's candidate, Andrés Velázquez, announced that fraud took place in the state's election and that he would challenge the elections through legal mechanisms. As far as The Carter Center is aware, his petition to the CNE to impugn the election was declared inadmissible,²⁶² and he did not present a petition to the court.

The April 14 election results were the subject of several legal petitions presented by María Soledad Sarría Pietri, Sonia Hercilia Guanipa Rodríguez and others, Iván Rogelio Ramos Barnola, Oscar Eduardo Ganem Arenas and others, Adriana Vigilancia García, Theresly Malavé and others, Adolfo Márquez López, Gilberto Rúa, María de las Mercedes de Freitas Sánchez (representative of Transparencia Venezuela), Antonio José Varela, Carlos Guillermo Arocha y Fernando Alberto Alban, Henrique Capriles Radonski, and representatives from the MUD.

The Capriles Legal Challenge of the Election

The complaints submitted by Capriles lacked precedent. They marked the first time a campaign sought to legally challenge and annul presidential election results in Venezuelan history. In spite of the fact that Capriles said he was not optimistic about the Supreme Court accepting his challenge

of the electoral result—the opposition argues the court is staffed by magistrates overtly sympathetic to the government—the opposition formalized its claim by submitting two petitions to the court.²⁶³ The first, submitted on May 2 by the candidate Henrique Capriles Radonski, called for annulling the entire election. The second, submitted on May 7, was presented by the MUD with more specific evidence, and it requested partial annulment.²⁶⁴ Furthermore, two civil society organizations submitted their formal request to annul the entire election on May 7.²⁶⁵

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259 "Cartay: If There Is a True Leadership, These Fraud Allegations Should Not Demoralize Voters," *Barinas* 2012, Oct. 31, 2012. <http://www.barinass2012.net/2012/10/31/cartay-si-existe-un-verdadero-liderazgo-las-denuncias-de-fraude-no-desmoralizan-a-los-electores/>. CNE, "Comparative Diagram of Elected Governors by Entity 1989-1992-1995-1998-2000." <http://www.cne.gov.ve/web/documentos/estadisticas/e004.pdf>

260 During the MUD primaries in 2012, elections repeated in two electoral voting tables, but those episodes were related to MUD's internal norms and not to CNE's regulations. (Carlos Subero, "CNE Has a Golden Rule to Repeat Elections"). *Ultimas Noticias*. April 17, 2013. <http://www.ultimasnoticias.com.ve/noticias/tuvoto/noticiasselectorales/cne-tiene-regla-de-oro-para-una-repeticion-de-las-.aspx>

261 Presiding Judge Fernando Vegas Torrealba, "File No AA70-E-2008-000089," *El Tribunal Supremo de Justicia* December 10, 2008. <http://www.tsj.gov.ve/decisiones/selec/Abril/46-2409-2009-08-000089.html>

262 CNE, "Resolution N° 130315-0036," March 26, 2013. <http://www.cne.gov.ve/web/gaceta_electoral/gaceta_electoral_detallado.php?tg=1&num_gac=667>.

263 Associated Press, "Venezuela Opposition to Boycott Vote Audit," *USA Today*, April 25, 2013. <http://www.usatoday.com/story/news/world/2013/04/25/venezuela-opposition-protest-election/2113113/>

264 MUD, "Letter to the President and Other Supreme Court Judges of the Electoral Chamber," May 7, 2013. <http://www.unidadvenezuela.org/wp-content/uploads/2013/05/Recurso-Contencioso-Electoral-de-Impugnaci%C3%B3n-Parcial-MUD.pdf>

265 Alex Vásquez S. Yamis Urbano Valencia, "TSJ Electoral Chamber Received Four Motions to Nullify the Elections," *Última Hora*. May 8, 2013. http://www.el-nacional.com/politica/tu_decides/adriana-aveledo-bolivar-civil-comando-electoral-guillermo-impugnacion-oposicion-ramon-recurso-simon-sociedad-tsj-vigilancia_0_185981693.html

Capriles' Challenge

The document presented by Capriles describes the irregularities that took place before, during, and after the voting day.²⁶⁶ President Maduro denied these allegations and argued that Capriles tried to challenge the electoral process with false allegations.²⁶⁷ In the legal document, Capriles argued that his case would have been fortified had he been given access to all the electoral material he requested from the CNE and to which he was denied.²⁶⁸ The challenge asserts the partiality of state institutions that benefited Maduro through questionable decisions and acts during the period beginning with President Chávez's departure for Cuba for medical treatment on Dec. 9, 2012. For instance, the challenge argues that the CNE permitted the political party Podemos to nominate Maduro as its candidate while claims to the party's leadership were under legal dispute after internal splits occurred in 2012. Capriles argued that the decision of the CNE to allow Podemos to postulate Maduro as its candidate could have affected the voting results, since Maduro's votes on the Podemos ticket totaled 210,452 votes.²⁶⁹

The challenge further noted that on voting day Capriles' campaign received more than 5,000 complaints from citizens regarding abuses and irregularities committed by Maduro sympathizers, such as intimidation of voters or electoral propaganda close to the electoral centers.

The challenge further noted that on voting day Capriles' campaign received more than 5,000 complaints from citizens regarding abuses and irregularities committed by Maduro sympathizers, such as intimidation of voters or electoral propaganda close to the electoral centers. The challenge claimed that the Capriles campaign did not present those complaints to the CNE, as its prior experience with the CNE showed that their requests normally remained unattended.

(Before the election day, they presented 200 complaints to the CNE, and none got a formal reply.)²⁷⁰ According to the opposition data, these complaints could have affected up to 3,389 voting centers that add up to more than 8 million voters.²⁷¹

In general, the document's aim was to present the conditions under which the Venezuelans exercised their right to vote, arguing that these conditions were not favorable to the opposition candidate.²⁷² Legal experts were divided as to whether the document could serve its cause, with some questioning the extent to which the content and evidence provided supported the allegations made in it.

Democratic Unity Roundtable Challenge

The second challenge, presented formally by the MUD, had three parts: a request to nullify 5,279 tables under Article 217 of the LOPRE; to nullify some 21,000 tally sheets under Article 219 of the LOPRE; and a request to nullify the *actas de totalización, adjudicación y proclamación* (totalization, adjudication, and proclamation). For the first component, the MUD focused on serious shortcomings in the quality of voting (some of which may have affected the results or that could be considered offenses that legally nullify those tables). The MUD also noted the unequal campaign conditions prior to election day in their challenge.

Under Article 219, the complaint reported that 21,563 of 39,018 voting tables presented some

266 Henrique Capriles Radonski, "Appeal before the Supreme Court Electoral Chamber," May 2, 2013. <http://untinternacional.org/wp-content/uploads/RecursoTSJ.pdf>

267 AFP, "Maduro Criticizes Capriles for Filing a Motion to Nullify the Presidential Elections," *El Diario de Caracas*, May 3, 2013. <http://diariodecaracas.com/politica/maduro-critica-capriles-impugnar-eleccion-presidencial>

268 Henrique Capriles Radonski, "Appeal Before the Supreme Court Electoral Chamber," May 2, 2013, page 4. <http://untinternacional.org/wp-content/uploads/RecursoTSJ.pdf>

269 *Ibid*, page 17

270 *Ibid*, page 25

271 *Ibid*, page 34

272 *Ibid*, page 47

kind of problem with the tally sheets (*actas*). The vast majority of these (20,277) were missing the hand-written transcription of the number of voters from the manual voters list to the *actas*, thus preventing the MUD from knowing whether an offense legally meriting nullification had occurred under Article 219 of the electoral law—a discrepancy between the number of voters and the number of votes. The MUD additionally reported that 720 tally sheets showed a different result from the count of paper receipts in the citizen’s verification the night of the election, but they did not indicate the extent of that inconsistency.²⁷³

Perhaps more relevant to the MUD’s complaint was the request to nullify 5,279 voting tables (affecting 2.3 million voters) based on Article 217, which includes as nullifiable offenses the use of violence against voting table officials that could affect the vote, intimidation or coercion of voters that force them to vote or not vote against their will, or actions by voting officials that would infringe on voting guarantees.²⁷⁴

Complaints about the quality of voting on election day listed in the official challenge included the ousting of opposition party witnesses from 2 percent of voting centers, government campaigning near voting centers, and intimidation of voters by government-affiliated motorcycle groups. These are serious charges, though it is difficult to assess their impact on the vote count. Finally, complaints filed before the election pertaining to the competitiveness of the election, such as unequal campaign financial resources or media access, were also included in the formal complaints to the Supreme Court.

Jurisdiction Over the Case

According to electoral law, the Supreme Court must announce if it admitted, or not, a petition within five days after the petition is presented.²⁷⁵ Due to the court’s delay in issuing a response as to admit or not, the opposition submitted a complaint on May 14, 2013.

On June 20, the Constitutional Chamber of the Supreme Court announced it had jurisdiction regarding all the complaints submitted in relation to the April 14, 2013, elections. In its

ruling asserting jurisdiction, the court claimed the chamber had authority over the case because the Constitutional Chamber is responsible for resolving cases where situations of “national transcendence” (that is, those pertaining to public disorder and citizens’ fundamental rights) are at stake.²⁷⁶ With jurisdiction moving from the Electoral to the Constitutional Chamber, the possibility for appealing the to-be-rendered decision was eliminated. The Electoral Chamber decisions can be appealed but not those of the Constitutional Chamber.

On June 20, the Constitutional Chamber of the Supreme Court announced it had jurisdiction regarding all the complaints submitted in relation to the April 14, 2013, elections.

On June 27, the Constitutional Chamber received the case material from the Electoral Chamber. On July 17 and 23, the Constitutional Chamber made requests to the CNE that the electoral authority provide it with a report on the contents of the results from the April 14 election citizen’s verification audit, including the amplification of the citizen verification, also known as phase 2 of the citizen verification, as well as any other information the authority deemed pertinent regarding the requests.

It is worth noting that a day after the MUD submitted its petition (May 8, 2013), two

273 The postelection CNE audit, with the participation of the MUD and Gran Polo Patriótico technicians, of a small statistical sample as well as the phase 2 audit conducted by the CNE, reported, in effect, zero errors, i.e. no more than one vote discrepancy per table and, in exceptional cases, two to three votes, but with justification.

274 Unfortunately, the electoral law does not specify how to certify those types of offenses.

275 Fundamental Law of the Supreme Court, article 151 El Tribunal Supremo de Justicia, <http://www.derechos.org/ve/wp-content/uploads/Ley-Org%C3%A1nica-del-Tribunal-Supremo-de-Justicia.pdf>

276 Supreme Court, 795, June 20, 2013, <http://www.tsj.gov.ve/decisiones/scon/junio/795-20613-2013-13-0538.html>

personnel changes rearranged the leadership of two Supreme Court chambers. Gladys Maria Gutierrez Alvarado replaced Luisa Estella Morales as president of the court. In the Electoral Chamber, Fernando Vegas Torrealba replaced Jhannett Madriz as the head.²⁷⁷

The Supreme Court's Ruling

On Aug. 7, 2013, the Constitutional Chamber issued a unanimous ruling, declaring inadmissible the petitions made about the April 14, 2013, presidential election, including the principal ones from the Capriles campaign and the MUD.²⁷⁸ As a result of the Constitutional Chamber's decision to issue one ruling on all the submitted petitions, the document reviews the different arguments of the petitioners together, rather than one by one.

The court ruling argued that the claimants failed to make a solid evidentiary-based case, as the briefs lacked "specification," used "unclear reasoning," and made "general arguments."

The court ruling argued that the claimants failed to make a solid evidentiary-based case, as the briefs lacked "specification," used "unclear reasoning," and made "general arguments."²⁷⁹ The ruling noted that complaints about alleged irregularities were not backed up with specific fact-based expositions of, for example, how coercion took place in voting centers, how violent actions actually inhibited electors' free choice, or how, on a detailed vote-center-by-vote-center basis, norms for the assisted voting process for elders and disabled people were violated.

The general lack of detail, the ruling went on to argue, hobbled the validity of the arguments presented in the petitions. In the eyes of the court, the lack of detail made it inappropriate for the claimant to make a counterfactual assertion that the number of affected centers could have affected the overall vote outcome. That is, if there was no hard evidence of wrongdoing in these centers,

then there was no value in considering suggestions that the results could have been different.

Claims that vote tally sheets lacking the signatures or thumbprints of the voting center members would nullify the validity of those sheets were dismissed, as the court argued that the Venezuelan electoral jurisprudence established that the "lack of signatures does not affect their overall validity."²⁸⁰ In a similar vein, the court argued that demands by the petitioners that the CNE make available for review the voting register books, the paper receipts, and other voting materials—because poll workers did not sign the tally sheets or the sheets were not submitted exactly according to the rules—lacked standing since Venezuela's electoral system functions according to an automated voting process.

In broader terms, the court found that Venezuelan jurisprudence favors the "principle of conserving the electoral act" as the "free decisions of the citizens and the electoral institutions" determined it. In this sense, the Constitutional Chamber concluded that the petitions failed to meet the requirements for admissibility, as established by Articles 133 and 180 of the Organic Law of the Supreme Court and Article 206 of the Organic Law of Electoral Processes.

Additionally, the court determined that the petition submitted by the Capriles campaign disrespected the Constitutional Chamber and the public institutions of the state more broadly. The

277 Capriles criticized Magistrate Vegas as an impartial judge, pointing out he is a relative of the minister of interior and justice and a person with close ties to the government. The Simon Bolivar Command, on May 14, asked the Supreme Court also to exclude Magistrate Vegas from the case. "Capriles: We Hope that Judge Vegas Inhibits Himself," El Universal, May 17, 2013. <http://www.eluniversal.com/nacional-y-politica/130514/interponen-ante-tsj-tres-nuevos-escritos-a-expediente-de-impugnacion>. The court did not accept this criticism as valid, and it also ruled against two other objections made by the opposition as to the suitability of two judges on the TSJ Electoral Court. AVN, May 8, 2013. The TSJ Electoral Court is under the leadership of Fernando Vegas Torrealba. <http://www.avn.info.ve/contenido/sala-electoral-del-tsj-queda-cargo-fernando-vegas-torrealba>

278 The Aug. 7, 2013, ruling added that any pending or under-review petitions regarding the elections submitted to affiliates of the TSJ institution would not be admitted either. <http://www.tsj.gov.ve/decisiones/scon/agosto/1120-7813-2013-13-0570.html>

279 Joint Presentation of the Supreme Court. August 7, 2013. <http://www.tsj.gov.ve/decisiones/scon/agosto/1120-7813-2013-13-0570.html>

280 Ibid.

court issued a sanction against Capriles, ordering him to pay a fine of 100 “tributary units” — the equivalent of 10,000,700 bolivares.²⁸¹

Reactions to the Ruling

Capriles reacted to the decision strongly, announcing at a public rally for opposition mayoral candidates that the ruling convinced “us that we won on April 14.” He went on to note that he did not fear the state institutions, despite the Supreme Court’s sanction, and that with the national avenues for addressing his claims closed, he would defend the rights of the people wherever they were at stake, including defending the people in “international venues.”²⁸²

Ramon José Medina, deputy secretary of the MUD and the lawyer coordinating the petitions submitted to the Supreme Court, criticized the judicial body as violating “the human rights of all Venezuelans.” Medina said the court had “denied us access and the right to debate, through a judicial process, the evidence that demonstrates how the international norms for a free and fair election were eliminated.” Like Capriles, he said that the court’s decision exhausted the domestic avenues for the opposition to make its case and that, therefore, “we will turn to the United Nations, the Organization of American States, the European Union, the Latin American Parliament, and all the organizations with which Venezuela has signed conventions.”²⁸³

Venezuelan constitutional law professor Dr. José Ignacio Hernandez described the ruling of inadmissibility as very surprising since, regularly, procedural processes evaluate questions of technical presentation, rather than evidence presented, in deciding whether to admit cases for hearing.²⁸⁴ In other words, as long as the filed petition complies with the formatting and technical requirements of the court, the case usually proceeds to be heard. Hernandez noted further that it is unusual for a court ruling regarding admissibility to focus on the quality of the arguments submitted by the petitioners. On this point, he added that most court decisions regarding procedural matters are very short (two–four pages) while in this instance this ruling was 59 pages

long. In his view, the petitions presented by the Capriles campaign and the MUD, in comparison to previous petitions regarding elections, were reasonable and suitable for admission.

In this sense, the Constitutional Chamber concluded that the petitions failed to meet the requirements for admissibility, as established by Articles 133 and 180 of the Organic Law of the Supreme Court and Article 206 of the Organic Law of Electoral Processes.

In terms of precedents created by this decision, Hernandez reiterated that the case itself was unprecedented and that it was therefore difficult to pinpoint what specific impact it might have on Venezuelan jurisprudence. For example, he suggested that if the court holds future petitions about election results to the same threshold as utilized in the Aug. 7, 2013, ruling, then it would be hard to imagine the court admitting complaints in the future. At the same time, he noted this was an exceptional case and that normally the Electoral Chamber, rather than Constitutional Chamber, has jurisdiction over such petitions and the claims do not address presidential elections contested under the circumstances surrounding April 14, 2013. This raised the question of whether the

281 El Mundo, “TSJ Fines Capriles R 100 UT,” Aug. 8, 2013. <http://www.elmundo.com.ve/noticias/actualidad/judicial/tsj-multa-a-capriles-radonski-con-100-unidades-tri.aspx>

282 El Universal, “Capriles: Decision of the Supreme Court Made It Clear and Convincing That We Won on April 14,” Aug. 8, 2013. <http://www.eluniversal.com/nacional-y-politica/130808/capriles-decision-del-tsj-nos-dejo-claro-y-convencidos-que-ganamos-el->

283 Noticias Venezuela, “Unidad: The Supreme Court Violates the Human Rights of Venezuelans,” Aug. 8, 2013. <http://noticiasvenezuela.info/2013/08/unidad-el-tsj-viola-los-derechos-humanos-de-los-venezolanos/>

284 Carter Center interview with Dr. José Ignacio Hernandez, Sept. 10, 2013, Caracas. The writings of professor Hernandez regarding this election and other matters bearing on Venezuelan electoral and constitutional law can be found at the news website <http://www.prodavinci.com>.

Constitutional Chamber will continue to assert jurisdiction over the Electoral Chamber. More broadly, Hernandez noted the decision continues a trend of Venezuelan electoral law privileging the electronic data material over the manual materials

(such as voting center logbooks and the paper receipts), even though the voting process is still a mixed one in that it consists of both human and automated dimensions.

| Conclusion

This report is based on information and perceptions gathered from a variety of Venezuelan actors as well as on the personal observations made by the Center's field office staff and election experts based in Caracas during the entire electoral series of events (February 2012–September 2013) and the small accompaniment delegation that traveled to the country at the invitation of the CNE between April 12 and April 17, 2013. The Carter Center did not deploy a comprehensive observer mission and, therefore, it is unable to give a comprehensive evaluation of the presidential election process as a whole.

As the high turnout and many opinion polls demonstrate, the Venezuelan population, and the political parties and candidates in general, have confidence in the performance and integrity of the automated touch-screen voting machines. As the postelection citizen verification audits of 100 percent of the voting machines demonstrated, the automated system functioned as expected in recording the votes cast, transmitting, and counting them on April 14.

There was not agreement, however, about the quality of the voting conditions and guarantees that every registered voter is able to vote one time, and only one time. In stark comparison to the October election, when the Capriles campaign and the MUD opposition coalition questioned the conditions of competition, after the April election they also questioned the conditions of voting, a heightened criticism that went to the heart of the system's legitimacy.

During the seminar, the results expressed that 0.4 percent of the fingerprints of the Registrar of Voters could present some sort of technical or legal defect and that a maximum total of 1,454 votes (corresponding to 0.07 percent of all registered fingerprints) could have been affected by multiple voting, while 9,272 votes may have been negatively affected by problems of identity and/or other technical problems.

The completion of the nonduplicate fingerprint audit by the CNE demonstrated that the biometric system used in Venezuela apparently has the ability to identify post hoc multiple voting or usurped voting and that the occurrence of these was relatively low according to the information provided by the council. However, the absence of observers and political parties in the audit as well as the lack of information on the process of the audit and its results to the public meant the loss of an important opportunity for the CNE to increase confidence in the process and limited the possibility for third parties to corroborate both the procedures performed and their results.

Widespread complaints about inequities in campaign conditions in terms of both access to financial resources and access to the media were similar to those from the October election. Consequently, the theme of *ventajismo* (use of government resources for electoral advantage) became a theme in the April elections as in the October and December elections.

Finally, there was a heated controversy over the legal context of the extraordinary period from

December 2012 to April 2013, requiring a number of decisions by the Supreme Court to interpret the constitution in the wake of President Chávez's illness and death. While the decision to permit Nicolás Maduro to serve simultaneously as interim president and candidate for the presidential elections was challenged by legal scholars, Henrique Capriles Radonski, supported by the MUD, nevertheless decided to participate in the April 14, 2013, presidential elections.

Whether manual or automated, confidence in elections is built by clear rules, transparency in all aspects of the process, impartial institutions to administer elections and adjudicate disputes, and monitoring by citizens and political parties.

No system of voting in and of itself can guarantee the confidence of the population in the process and outcomes. Whether manual or automated, confidence in elections is built by clear rules, transparency in all aspects of the process, impartial institutions to administer elections and adjudicate disputes, and monitoring by citizens and political parties. Elections are by their nature divisive, but in a democracy possessing all of the characteristics just indicated, the loser accepts based on the knowledge s/he will have another chance to compete in regularly scheduled elections, the winner governs in the name of all citizens and counts on a constructive opposition, and the society moves forward with the knowledge that elections are but a means to make periodic decisions on programs and leadership for a specified period of time. When one or more of these characteristics are weakened or missing, however, elections can become contentious affairs and can disrupt national harmony and governability.

In the case of Venezuela, a 14-year effort to carry out fundamental change led by the Bolivarian revolution has been accompanied by deep divisions and polarization. In this context,

the extremely close election results presented an electoral and political conflict not seen since the 2004 recall referendum. Accompanied by divisive public discourse on all sides, the electoral dispute interrupted not only an incipient national consensus on the reliability of electoral outcome but also the ability to move forward with constructive debate and dialogue on other issues of import to the country.

In this context, The Carter Center respectfully offers the following observations and suggestions for consideration by the authorities, National Assembly, and people of Venezuela.

Observations and Recommendations

- 1. Clarify the regulations governing the participation of public officials and civil servants in campaign activities.** Election law and regulations prohibit Venezuelan public officials and civil servants from conducting campaign activities in the exercise of their public duties. However, The Carter Center noted an extensive participation of public officials and civil servants in campaign activities. To limit and eradicate these practices, the regulations governing these matters could be clarified to determine whether such activity is allowed off-duty (and define "off-duty") or not at all. The electoral authority, in turn, should determine ways to strictly enforce the agreed regulations.
- 2. Ensure greater campaign equity.** Although the constitution requires elected officials below the rank of president to step down from their positions in order to declare their candidacy for president, it does not require a president running for re-election to do so. This gives an unequal incumbency advantage to a person running for re-election to the highest office in the land. In addition, Venezuela (alone in the region) provides no direct or indirect public financing for electoral campaigns or political organizations. Drawing on comparative experiences within the region, Venezuelan legislators and election authorities could consider several options:

a) Provide free and equitable access to public and private media for campaign messages. Given the regulations allowing unlimited government obligatory broadcast (*cadenas*) and free and mandatory institutional advertisements (public service announcements), while simultaneously imposing strict limits on candidate and civic organization political advertising, Venezuelan campaigns have shown a tendency to a marked inequity in the ability of candidates to conduct a fundamental element of the electoral process—to inform the voters of their political platforms. Assuring free and equitable access to public and private media to all competing parties could greatly help to level the present inequalities and enhance the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.

b) Regulate and enforce equally campaign messages in the pre-election period. Presently, there are no clear norms to regulate campaign messages during the pre-election period from the convocation of elections to the official start of the campaign. A clear regulation on that subject would help reduce the numerous conflicts that commonly arise during this period due to the absence of norms.

c) Limit or prohibit the use of *cadenas* and inauguration of public works in a specified period prior to the elections. Mexico, Colombia, and Brazil provide some examples in this area that Venezuela could take advantage of.

d) Limit the right of public officials to campaign for members of their own party or coalition. Mexico also provides an example of strict limits on the president to speak on behalf of candidates from his/her own party.

3. Better enforce the regulation of the use of state resources for political purposes.

Venezuela law prohibits the use of public resources for political campaigns; yet national observer organizations and other

nongovernmental organizations have documented the use of public resources for political purposes, including use of public vehicles to transport voters to rallies and to vote, and use of public buildings for campaign propaganda. In addition, local organizations and parties have complained that public officials have improperly used government offices and personnel to encourage public employees to participate in political activities and voting or to threaten them in case they refuse to comply. As noted in the Carter Center's October report, safeguards to prevent the abuses of *ventajismo* or to make violations of the law costly not just financially but politically, in terms of imposing sanctions against the perpetrating campaign, are crucially missing. A more active role in investigating and enforcing the norms on the part of the electoral authorities would contribute to eliminating this type of practice.

Venezuela law prohibits the use of public resources for political campaigns; yet national observer organizations and other nongovernmental organizations have documented the use of public resources for political purposes, including use of public vehicles to transport voters to rallies and to vote, and use of public buildings for campaign propaganda.

4. Clarify the role of the paper receipts.

Extensive pre- and postaudits have demonstrated the accuracy of the automated voting machines. Nevertheless, election regulations that provide for verification of the electronic results through a count of the paper receipts emitted by the machines for purposes of “transparency and confidence in the system” do not specify contingencies should there be a significant discrepancy in this verification.

(See Carter Center report on the 2006 Venezuelan Elections. http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/venezuela_2006_eng.pdf)

- 5. Carry out the fingerprint audit in the presence of witnesses from all parties and make public the audit's results.** The system of integrated authentication (SAI) was introduced in the October 2012 elections at least in part to authenticate that the voter casting the ballot is the voter properly registered at that voting table and to prevent multiple voting or usurpation of identity. Given the postelectoral controversy surrounding the results, and the accusations made by the opposition of cases of identity theft and multiple voting, incorporating the nonduplicity fingerprint audit into the regular schedule of audits of the CNE—in the presence of witnesses from all political parties and with a timely dissemination of results—will help not only to inform all Venezuelans about the extent to which the new system serves its intended purpose but also to strengthen citizen confidence in the electoral system.

Although the campaigns received a copy and participated in and signed off on a review of the electoral registry used for both the October and April presidential elections, continuous updating of electoral registries poses a persistent challenge, particularly when removal of deceased people requires action by a family.

- 6. Improve the quality of the voting experience on election day.** A number of observations by national observer organizations and political campaigns indicated serious issues of influence or pressure on voters. Provisions to improve the quality of the voting experience and ensure that each citizen is able to vote freely and voluntarily could include:

- a) Instruct the security and election officials tasked with ensuring the security and conduct of the elections to ensure that all accredited party witnesses, and national observers properly accredited by the CNE, are guaranteed access to the voting centers the entire election day, according to the norms.
- b) Instruct voting table volunteer workers on the proper procedures for assisted voting, including the specified limits for each assistant to help only one person.
- c) Examine ways to better enforce the electoral regulations regarding limits on campaign propaganda around the voting places and the guarantees of free access, without intimidation, of voters to the voting centers to vote and to participate in the citizen verification afterward.
- d) Define the criteria for receiving CNE credentials as a party witness and consider providing them with pins or apparel that identify them as such. The Carter Center delegation observed cases in which people unaffiliated with a registered political party identified themselves as working as party witnesses. Clarifying the roles of the various people performing service at the voting table can help improve the climate of the voting conditions.

- 7. Audit and update the electoral registry.** The CNE has achieved a very inclusive voters list, with 97 percent of the population inscribed. Questions about the list in Venezuela have tended to focus more on the possibilities of overinclusion (unremoved deceased people, homonyms, appropriateness of naturalized citizens) than on exclusion of citizens from the list. Although the campaigns received a copy and participated in and signed off on a review of the electoral registry used for both the October and April presidential elections, continuous updating of electoral registries poses a persistent challenge, particularly when removal of deceased people requires action by a family to provide a death certificate to the civil registry

and, in turn, to update the electoral registry. A study by the Andres Bello Catholic University produced an estimate of 49,000 deceased on the registry prior to the October elections, while the Capriles campaign variously estimated between 191,000 and 300,000 deceased still on the rolls, in addition to some 20,000 cases of homonyms. Clearing up these issues, perhaps with a regular schedule of updates and audits, will help to increase confidence and transparency of the electoral registry.

8. Legal framework. January–March, 2013, the Venezuelan Supreme Court made several interpretations of the constitution that were subsequently questioned by the opposition, including some individual suits presented to the court. The disputed interpretations arose, in part, because the constitution does not clearly specify every contingency for the temporary or permanent absence of a re-elected president. Given the constitutional modification in 2009 to permit indefinite re-election of president, governors, and mayors, examination of the implementing laws to clarify these issues may be warranted.

9. Appointment of election authorities. Article 296 of the Venezuelan Constitution provides for the appointment of the rectors of the

National Electoral Council for seven-year terms by a two-thirds vote in the National Assembly, from nominations made by civil society, law faculties of national universities, and the citizen branch of government. It further specifies that these rectors should be people without ties to political organizations. The terms of three of the current five rectors expired at the end of April 2013. Yet given the current standoff in the National Assembly, it is highly unlikely the necessary two-thirds vote will occur. It is urgent that this situation be normalized by reaching interparty agreements to guarantee an independent, impartial election authority.

10. Promote maximum transparency. The levels of conflict during elections are intrinsically related to levels of openness and transparency concerning the operation of the electoral system and its rules and procedures. The higher the barriers for political parties to access information about electoral procedures, the higher the levels of distrust, resulting in a greater likelihood of conflict. The CNE, in its capacity as the highest electoral authority of the country, should promote as its general philosophy the broadest possible policies of transparency regarding all of its procedures.

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Accompaniment Delegation for the April 14, 2013, Election

Martín Torrijos Former President of Panama,
Panama

Horacio Serpa Former Minister of Colombia,
Colombia

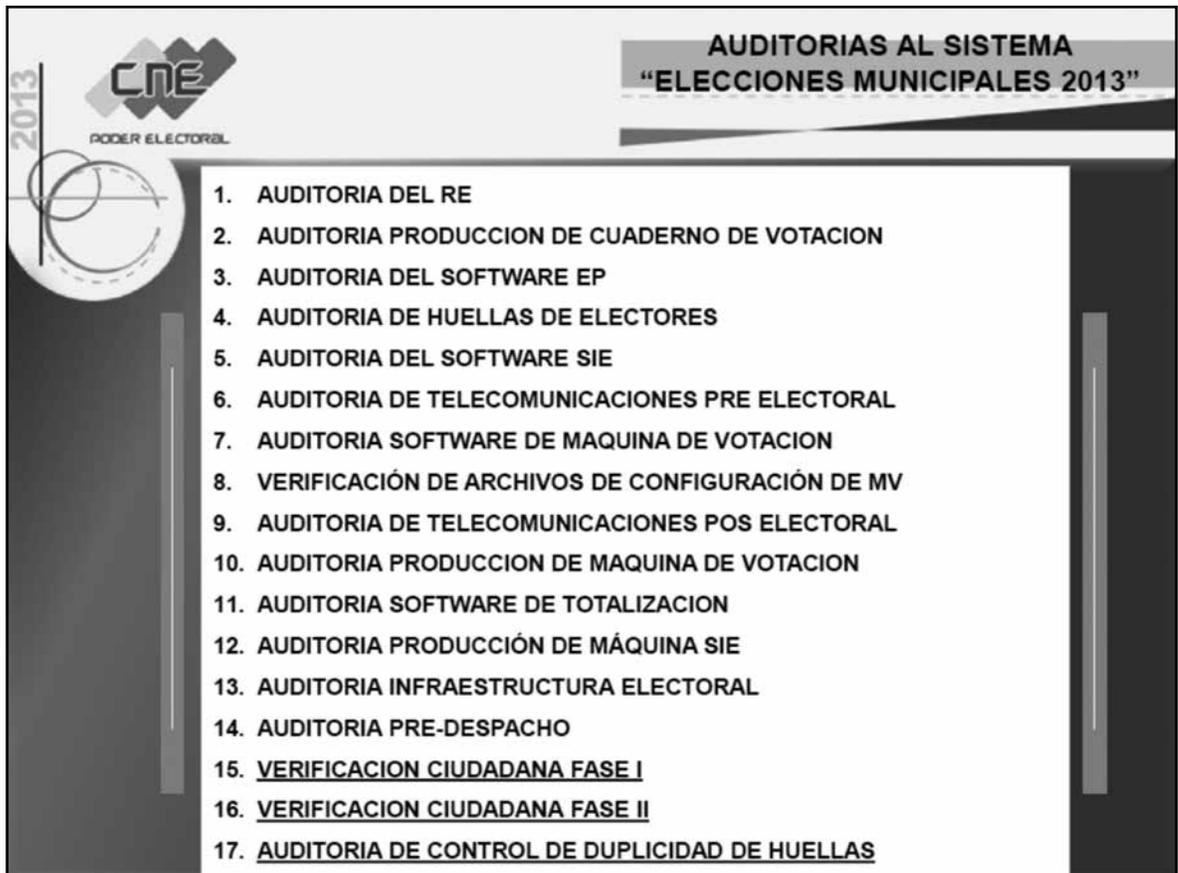
Rodrigo Alberto Carazo Former Defender of the
People of Costa Rica, Costa Rica

| Terms and Abbreviations

| | | | |
|--------------|---|---|--|
| AE | Education Assembly | PCV | Communist Party of Venezuela |
| CHC | Comando Hugo Chávez: Nicolas Maduro's campaign | PDVSA | Petroleum of Venezuela |
| CNE | National Electoral Council | PPT | Fatherland for All |
| CNS | National Support Center | PROVEA | Venezuelan Program of Education |
| COPEI | Political Electoral Independent Organization Committee | PSUV | United Socialist Party of Venezuela |
| CSB | The campaign of candidate Henrique Capriles Radonski, known as the Comando Simón Bolívar | Red de Observación Electoral | Electoral Observation Network |
| GPP | Great Patriotic Pole | SAI | Integrated Authentication System |
| IPYS | Institute for Press and Society | SIBCI | Bolivian System of Communication and Information |
| IVAD | Venezuelan Institute for Data Analysis | SIE | System of Electoral Information |
| LOPRE | Organic Law of Electoral Processes | TSJ | Supreme Court |
| MUD | Democratic Unity Roundtable | UNASUR | Union of South American Nations |
| OAS | Organization of American States | UNIORE | Inter-American Union of Electoral Organizations |
| OEV | Venezuelan Electoral Observatory | VTV | Venezólana de Television |

List of Electoral Audits

Source: CNE



**AUDITORIAS AL SISTEMA
"ELECCIONES MUNICIPALES 2013"**

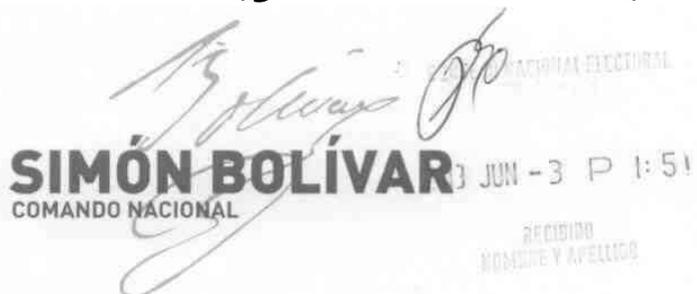
CNE
PODER ELECTORAL

2013

1. AUDITORIA DEL RE
2. AUDITORIA PRODUCCION DE CUADERNO DE VOTACION
3. AUDITORIA DEL SOFTWARE EP
4. AUDITORIA DE HUELLAS DE ELECTORES
5. AUDITORIA DEL SOFTWARE SIE
6. AUDITORIA DE TELECOMUNICACIONES PRE ELECTORAL
7. AUDITORIA SOFTWARE DE MAQUINA DE VOTACION
8. VERIFICACIÓN DE ARCHIVOS DE CONFIGURACIÓN DE MV
9. AUDITORIA DE TELECOMUNICACIONES POS ELECTORAL
10. AUDITORIA PRODUCCION DE MAQUINA DE VOTACION
11. AUDITORIA SOFTWARE DE TOTALIZACION
12. AUDITORIA PRODUCCIÓN DE MÁQUINA SIE
13. AUDITORIA INFRAESTRUCTURA ELECTORAL
14. AUDITORIA PRE-DESPACHO
15. VERIFICACION CIUDADANA FASE I
16. VERIFICACION CIUDADANA FASE II
17. AUDITORIA DE CONTROL DE DUPLICIDAD DE HUELLAS

Appendix B

Letter From Capriles to the National Electoral Council (June 3, 2013)



CIUDADANA
PRESIDENTA Y DEMÁS RECTORES DEL
CONSEJO NACIONAL ELECTORAL
SU DESPACHO.-

HENRIQUE CAPRILES RADONSKI, venezolano, mayor de edad, titular de la cédula de identidad número 9971.631, en mi condición de candidato a Presidente de la República en las pasadas elecciones celebradas el 14 de abril de 2013 acudo ante ustedes a fin de ratificar la solicitud contenida en nuestra comunicación de fecha 14 de mayo de 2013, presentada ante ese organismo, a fin de preservar todo el material electoral, físico y electrónico, de la elección presidencial del 14 de abril de 2013. De manera especial, requerimos la preservación de la información electrónica que reposa en la memoria removible (o “pen drive”) de las máquinas de votación de la elección del 14 de abril, visto que la data contenida en esa memoria es fundamental de cara a las diversas solicitudes que se han formulado ante ese Consejo y, en especial, de cara a los recursos contencioso-electorales que rielan ante la Sala Electoral del Tribunal Supremo de Justicia.

Los fundamentos de esta petición son los siguientes:

1. De acuerdo con el cronograma electoral de la elección del 14 de abril y la práctica administrativa de ese Consejo, próximamente se llevará a cabo la llamada “Auditoría de Repliegue” que, entre otros aspectos, supone borrar la memoria extraíble o “pen drive” de las máquinas de votación empleadas en la elección del 14 de abril.
2. Sin embargo, esa información electrónica, que contiene el registro original del acto de escrutinio según fue registrado por las máquinas de votación, es parte fundamental de las



diversas solicitudes de información que han sido formuladas ante ese Consejo Nacional Electoral. En especial, esa información electrónica es fundamental de cara a los distintos recursos contencioso-electorales que, como conoce ese Consejo, cursan ante la Sala Electoral del Tribunal Supremo de Justicia y en los cuales se impugnan diversos actos relacionados con la elección en referencia. Dentro de esas impugnaciones que cursan ante la Sala Electoral está la impugnación de la elección formulada por el ciudadano Henrique Capriles Radonski (expediente N° AA70-E-2013-000025) y la impugnación de votaciones y actas electorales presentada por la Mesa de la Unidad Democrática (expediente N° AA70-E-2013-000028). Para esas impugnaciones judiciales, el registro electrónico original de la máquina, que consta en las mencionadas memorias removibles, constituye una prueba fundamental.

3. Esa información electrónica es parte del material electoral que, en los términos de los artículos 166 y siguientes de la Ley Orgánica de Procesos Electorales, debe ser resguardado por ese Consejo Nacional Electoral. De acuerdo con el artículo 169 ejusden, en caso de mediar impugnación en sede administrativa o judicial, ese material **no podrá ser destruido o alterado**. Con fundamento en esa norma solicitamos a ese Consejo Nacional Electoral **se sirva preservar, inalterado, todo el materia electoral de la elección del pasado 14 de abril, tanto físico como electrónico, incluyendo por ello la información contenida en la memoria removible de las máquinas de votación.**

4. De manera específica, solicitamos que la información contenida en las memorias removibles sea preservada intacta, sin que se manipule tal elemento, por ejemplo, traspasando su contenido a otro respaldo electrónico. Por ello, requerimos que cualquier procedimiento que pretenda implementarse para trasladar la información de esas memorias a otros soportes, sea suspendido, para dar así cumplimiento al citado artículo 169; y de



hacerse el mismo sea previo a la elaboración de un procedimiento acordado por los representantes de todos los candidatos que participaron en la selecciones presidenciales del 14 de abril de 2013, y en presencia de los mencionados representantes de modo tal que auditen y validen los resultados de esa operación.

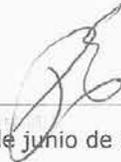
A los fines legales pertinentes, indicamos la siguiente dirección: Avenida Principal de Colinas de Bello Monte, Edificio VIVEL, Piso 3, Oficina 3-B, Municipio Baruta, estado Bolivariano de Miranda, República Bolivariana de Venezuela.

Caracas, a los 03 días del mes de junio de 2013.

Appendix C

Letter From Mario Torre (Democratic Unity Roundtable) to the National Electoral Council (June 28, 2013)



 1/5

Caracas, 28 de junio de 2013

2013 JUN 28 P 3:17

**CIUDADANO
LUIS EMILIO RONDÓN GONZÁLEZ
DIRECTOR GRAL. OFICINA NACIONAL DE PARTICIPACIÓN POLÍTICA
CONSEJO NACIONAL ELECTORAL
SU DESPACHO.-**

Estimado Director,

Sirva la presente, en la oportunidad de saludarle cordialmente, para responder su comunicación dirigida a mi persona en fecha 27 de Junio del presente año.

En su misiva, Ud. me solicita informar mi ausencia de la auditoría de repliegue de datos de las máquinas de votación utilizadas en las Elecciones Presidenciales del 14 de Abril de 2013.

Al respecto deseo informarle que fue el Consejo Nacional Electoral quien impidió mi presencia en dichas auditorías, a partir del viernes 21 de Junio, a las 7:30 am, en el galpón del CNE ubicado en Mariches, desde donde fui expulsado por funcionarios del CNE, en contra de mi voluntad y en presencia de testigos.

Situación que reclamé verbalmente y luego por escrito, firmado por las autoridades de la organización con fines políticos MESA DE LA UNIDAD DEMOCRÁTICA (MUD) en comunicación dirigida al CNE, fechada el 27 de junio del presente año, a quién represento en dichas auditorías.

A fin de esclarecer suficientemente esta situación, considero importante hacer una descripción cronológica de los eventos sucedidos durante la semana del 17 de Junio al 21 de Junio del año en curso.

Las actividades de auditoría de repliegue de datos, comenzaron el día lunes 17 de Junio y continuaron los días 18 y 19 del referido mes y año, se realizó la revisión de todos las aplicaciones de computación (software) que, en su conjunto se encargan del repliegue de los datos almacenados en las máquinas de votación, y su almacenamiento en una unidad de almacenamiento masivo. Se trata de un total de cuatro aplicaciones, que se ejecutan en distintos equipos, y que juntos componen la totalidad del

MUD. Avenida Principal de Bello Monte, Edif. VIVEL, Piso 3. Bello Monte, Caracas.
Telf. 0212-4276294



sistema de repliegue de datos. Este sistema fue desarrollado por la empresa Smartmatic, e instalado para el CNE.

Las cuatro (4) aplicaciones en su conjunto, de acuerdo con la información suministrada por los técnicos del CNE, realizan las siguientes funciones:

1. Extracción, Descifrado y empaquetamiento de la datos provenientes de las memorias de las máquinas de votación.
2. Transmisión de los datos hacia los servidores de recopilación.
3. Procesamiento y almacenamiento en una unidad de almacenamiento masivo (denominado *Storage Area Network* o SAN).

Durante esas auditorías se revisaron los códigos **de solo tres de estas aplicaciones**, con el apoyo y soporte de un técnico de la empresa Smartmatic presente en las auditorías para tal fin.

No obstante, **una de estas aplicaciones**, (justamente la que realiza la función (3) indicada anteriormente) **no pudo ser revisada**. La razón presentada por el funcionario técnico del CNE fue (cito): "...el CNE no posee el código fuente de esta aplicación por lo que no es posible revisarla". Al preguntarle a este mismo funcionario si la empresa Smartmatic tenía acceso al código fuente, este respondió (cito): "La empresa Smartmatic no tiene en Venezuela nadie que pueda explicar adecuadamente este código fuente, por lo que no tiene sentido revisarlo". **En definitiva, esta aplicación, la cual es parte fundamental del proceso de repliegue de los datos contenidos en las máquinas de votación, no pudo ser verificada.**

En otras palabras, los datos son recibidos desde las máquinas de votación y almacenados en la unidad de almacenamiento masivo SAN, utilizando una aplicación **que no pudo ser auditada**, por lo que no existe forma de garantizar que esta aplicación almacene correctamente los datos recolectados y que no puedan realizarse modificaciones o manipulaciones no autorizadas.

Posteriormente, se inquirió sobre los mecanismos de seguridad de los datos depositados en la unidad de almacenamiento masivo SAN. A esta pregunta, los funcionarios del CNE respondieron con lo siguiente:

1. Los únicos servidores que tienen acceso al SAN son los dos que corren la aplicación que no fue auditada.



2. Estos servidores y el SAN se encuentran en una red interna. **Se desconoce si existen otros servidores o computadores conectados a esta misma red, dentro o fuera de las instalaciones de Filas de Mariches.**
3. El usuario que controla estos servidores, tiene libre acceso de leer, escribir, modificar o borrar cualquier archivo o dato contenido en la unidad de almacenamiento SAN.
4. Se desconoce si la unidad de almacenamiento SAN **tiene un sistema de bitácora de control de acceso hacia los discos.** Esta bitácora de acceso nos permitiría auditar, posteriormente qué aplicaciones y qué usuarios hicieron operaciones de lectura o escritura en el SAN, y por ende, podría dar evidencia sobre el acceso a la información contenida en este equipo, como un mecanismo de seguridad adicional.

Ante la falta de evidencias técnicas contundentes que garanticen la integridad de los datos replegados de las máquinas de votación, se reiteró la solicitud de colocar un testigo técnico, debidamente capacitado y acreditado por la MUD, para que vigile, durante todo el día, las operaciones de acceso de los datos procesados por una aplicación que no fue adecuadamente auditada, y las operaciones de almacenado la unidad SAN cuyo acceso no está controlado. Es importante destacar que esta solicitud de presencia durante todo el día en el sitio de repliegue, fue previamente realizada por escrito por la MUD y consignada al CNE por correspondencia con fecha 17 de junio.

El día 19 de junio, a las 5:00 pm, le informé al funcionario del CNE autorizado a elaborar las actas, acerca de las carencias evidentes detectadas en la auditoría. Así mismo le solicité, en calidad de testigo técnico debidamente acreditado, y como lo establece la LOPE, "Artículo 158: Las y los testigos no podrán ser coartados en el cumplimiento de sus funciones por las o los miembros de los organismos electorales subalternos correspondientes. Cada testigo presenciará el acto electoral que se trate y podrá exigir que se incorpore al acta correspondiente sus observaciones de aquellos hechos o irregularidades que observe." colocar estas observaciones en el acta que sería levantada para ese día, lo cual fue negado.

Ante mi insistencia, fui comunicado con el Director General de Tecnología de la Información del CNE, quién **me participó que si no firmaba el acta tal cual estaba escrita (sin modificación alguna de mi parte), simplemente no se me permitiría participar en el resto de la auditoría de repliegue.**

La observación que solicité fuese incluida en el acta decía:

"El testigo técnico acreditado por la Mesa de la Unidad Democrática (MUD), Mario Torre, declara que durante el repliegue de los datos provenientes de las máquinas de votación, se utilizó una aplicación de software que no fue adecuadamente auditada, y que el CNE impidió que los testigos técnicos estuviesen presentes durante todo el día en que se realizó el repliegue. Debido a estas irregularidades técnicas, no existe evidencia demostrable que garantice que los datos almacenados en la unidad de almacenamiento masivo SAN, sean copia fidedigna de los datos replegados a partir de las memorias de las máquinas de votación procesadas durante este día".

En resumen, yo, Mario Torre, en mi calidad de testigo técnico acreditado por la MUD para la auditoría de repliegue de datos de las máquinas de votación, fui expulsado del área de las actividades de auditorías, porque me rehusé a firmar un acta en las que los funcionarios del CNE no aceptaron incorporar observaciones que como testigo tengo pleno derecho.

Por otra parte, deseo ratificar y así lo demuestran nuestras comunicaciones al CNE, presentadas antes y después de esta actividad, que nuestro único interés es el de fortalecer la seguridad y robustez del sistema automatizado.

Esto no supone un cuestionamiento al manejo de los técnicos del CNE sino la reivindicación de nuestro derecho y responsabilidad. Al efectuarse las actividades de esta manera los representantes de las organizaciones políticas no podemos testimoniar la Integridad de la Información frente al país así como tampoco podríamos afirmar que esa información se corresponde en forma fidedigna con la recuperada de las referidas memorias extraíbles.

Profesionalmente debemos estar en capacidad de responder, ante nuestros propios representados, un vasto sector del país, o ante terceros expertos, que las eventualidades del desarrollo de las presentes circunstancias pudiesen convocar, que lo realizado se corresponde con las buenas prácticas de una auditoría correctamente adelantada.



La Mesa de la Unidad Democrática está dispuesta a dar su mejor contribución para el fortalecimiento de la participación electoral, convencidos como estamos, personal y colectivamente, que la salida a las actuales diferencias políticas que nos afectan como nación, es y deben ser constitucionales, pacíficas y electorales.

Espero que esta misiva le permita al CNE ponerse al tanto de lo sucedido y aclare suficientemente la situación planteada, quedando a la entera disposición para contribuir a la búsqueda de alternativas que posibiliten enrumbar con éxito las tareas planteadas. Quedo a sus órdenes para cualquier duda o explicación adicional que Ud. considere conveniente.

Sin otro particular al cual hacer referencia,

Atentamente,



Ing. Mario Torre

C.I. 6.527.125

Auditor Técnico acreditado por la Mesa de la Unidad (MUD)



Letter From Ramón Guillermo Aveledo (Democratic Unity Roundtable) to the National Electoral Council (June 11, 2013)



Caracas, 11 de junio de 2013

CIUDADANA
TIBISAY LUCENA y DEMÁS RECTORES
CONSEJO NACIONAL ELECTORAL
SU DESPACHO.-

Al saludar muy atentamente a la Presidenta y a los rectores electorales, me dirijo a ese máximo organismo electoral nacional, en representación de la **Mesa de la Unidad Democrática (MUD)**, con motivo de la fijación de la fecha para las Elecciones de Alcaldes y Concejales, pues existe un conjunto de requerimientos relacionados, unos con el corte del Registro Electoral que se utilizará para los referidos comicios y otros sobre garantías electorales acordadas por ese Órgano electoral, desde las presidenciales realizadas el 7 de octubre de 2012 que aún no se han cumplido, las cuales incluyen la entrega de informaciones y datos del SAI y la realización de la auditoría de no duplicidad de huellas dactilares.

En relación al Registro Electoral se da la circunstancia de que desde el 30 de abril de 2012 no se realiza una revisión completa, por lo que se han acumulado observaciones y reclamos sobre el mismo que, en nuestra opinión, deben ser procesados lo más pronto posible, sin esperar el lapso para la impugnación del RE que estará contemplado en el cronograma respectivo. Dichos requerimientos, tomando como referencia el corte del RE correspondiente al 15 de febrero de 2013, son:

1. Depuración de 226.609 electores fallecidos, de los cuales anexamos la lista en forma digital, indicando: nombres y apellidos, números de cédula de identidad y centros de votación y mesa donde están ubicados en el RE, información obtenida del Instituto Nacional de Estadísticas (INE) por lo cual no entendemos la razón para que continúen apareciendo en el RE.
2. Depuración de los llamados homónimos, de los cuales igualmente anexamos lista en forma digital de 23.062, la cual debe realizarse en base a las huellas dactilares respectivas existentes en los archivos del SAI.



3. Revisión y solución de los casos que igualmente anexamos, de un conjunto de números de cédulas de identidad, presentes en cortes anteriores del Registro Electoral y que ahora aparecen con nombres, apellidos y fechas de nacimiento total o parcialmente modificados.
4. Inicio inmediato de una campaña para estimular la inscripción de nuevos electores, y promoción de jornadas especiales en centros de estudio de distintos niveles de educación.
5. Impulso de mecanismos que faciliten la reubicación de electores residentes en el extranjero, a los fines de contribuir a que sean depurados del RE correspondiente al interior de Venezuela.
6. Establecimiento de criterios claros para la apertura de Centros de Votación de Una (1) Mesa, en zonas urbanas y donde existen otros Centros de Votación en las cercanías con capacidad para incluir a los electores que se están reubicando. Que es un punto al cual nos hemos referido con anterioridad.

EN CUANTO AL SISTEMA DE AUTENTICACIÓN DE IDENTIDAD (SAI) REQUERIMOS:

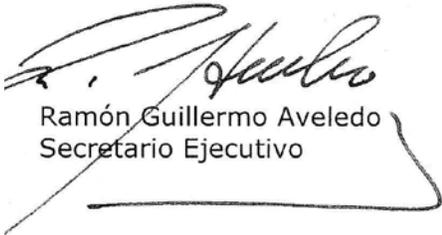
1. La acreditación de Testigos que presencien el repliegue de la información contenida en los Pendrive y memorias de las Máquinas de Votación utilizadas en las elecciones del 14 de abril, a los fines de preservar la integridad de los datos contenidos y garantizar la cadena de confianza de las bases de datos copiadas y guardadas.
2. La actualización de la base de datos de huellas dactilares con la información capturada en las elecciones del 7 de octubre y 16 de diciembre de 2012, así como las capturadas el 14 de abril del presente año.
3. La entrega de las incidencias en la verificación de la identidad de los electores, por Mesa de Votación, correspondiente a las elecciones del 7 de octubre 2012, 16 de diciembre de 2012 y 14 de abril del 2013.
4. El inicio sin más demoras de la auditoría de "No duplicidad", comprometida y no realizada.
5. La entrega de la Bitácora de la conexión y transmisión de datos de las Máquinas de Votación a las Salas de Totalización Nacional (CTN1 y CTN2) el 14 de abril.



Finalmente, consideramos conveniente realizar una reunión de nuestros equipos técnicos con los Directores de las áreas respectivas, para revisar estas situaciones y las alternativas para su solución.

Sin otro particular al cual hacer referencia, me despido,

Atentamente,



Ramón Guillermo Aveledo
Secretario Ejecutivo



Program for the International Seminar on the Fingerprint Duplicity Audit



**Encuentro con Expertos Internacionales
Auditoría de Duplicidad de Huellas. Fase Final
Elección Presidencial del 14 de abril de 2013**

**Delegaciones de UNASUR y UNIORE
Caracas, 11, 12 y 13 de septiembre de 2013**
Sede de la Universidad Bolivariana de Venezuela, Los Chaguaramos.

Miércoles 11 de septiembre

| Hora | Actividad |
|-------------------------|--|
| 09:00 a.m. – 10:00 a.m. | Presentación sobre el Sistema Automatizado de Votación, a cargo del Ing. Carlos Quintero. Director General de Tecnología de la Información. Preguntas y respuestas. |
| 10:00 a.m. – 10:15 a.m. | Receso |
| 10:15 a.m. - 11:15 a.m. | Procedimiento para la conformación de Base de datos de huellas y auditoría de huellas con las organizaciones con fines políticos, a cargo del Ing. Juan Carlos Zambrano. Dirección General de Tecnología de la Información. Preguntas y respuestas. |
| 11:15 a.m. – 12:30 p.m. | Funcionalidad del software de la máquina de votación y repliegue de datos de las máquinas de votación, a cargo del Ing. Angel Elía. Dirección General de Tecnología de la Información. Preguntas y respuestas. |
| 12:30 p.m. – 02:00 p.m. | Almuerzo |
| 02:00 p.m. – 05:00 p.m. | Alcance, metodología y revisión del proceso de Auditoría de Duplicidad de Huellas, a cargo del Ing. Juan Carlos Zambrano. Dirección General de Tecnología de la Información. Preguntas y respuestas. |

Jueves 12 de septiembre

| Hora | Actividad |
|-------------------------|--|
| 09:00 a.m. – 12:00 m. | Análisis de resultados, laboratorio de control de duplicados de huellas, a cargo del Ing. Juan Carlos Zambrano. Dirección General de Tecnología de la Información. Preguntas y respuestas. |
| 12:00 m. – 02:00 p.m. | Almuerzo |
| 02:00 p.m. – 05:00 p.m. | Continuación...Análisis de resultados, laboratorio de control de duplicados de huellas, a cargo del Ing. Juan Carlos Zambrano. Dirección General de Tecnología de la Información. Preguntas y respuestas. |



Viernes 13 de septiembre

| Hora | Actividad |
|-------------------------|--------------------------------|
| 09:00 a.m.-12:00 m. | Conclusiones y recomendaciones |
| 12:00 m. – 02:00 p.m. | Almuerzo |
| 02:00 p.m. – 05:00 p.m. | Conclusiones y recomendaciones |

Participantes:

1. Ruddy Gabriel Chavarria Choque. Dactiloscopista. Consejo Supremo Electoral, Bolivia.
2. Edward Julián Ortegón Serna. Administrador Base de Datos y Plataforma Tecnológica Censo Electoral (Área Electoral). Registraduría Nacional, Colombia.
3. Didier Alberto Chilito Velasco. Coordinador Oficina de Producción y Envíos de Documentos de Identidad (Área Identificación). Registraduría Nacional, Colombia.
4. Edgar Mora. Directivo de Registro Electoral. Consejo Nacional Electoral, Ecuador.
5. Wilson Hinojosa. Asesor Electoral. Dirección de Registro Electoral, Consejo Nacional Electoral, Ecuador.
6. Manuel Rodríguez Rojas. Sub Gerente de Identificación y Grafotecnia. Registro Nacional de Identificación Y Estado Civil (RENIEC), Perú
7. Cesar Roberto Rosales Maquera. Jefe De Proyectos de Biometría - Gerencia de Tecnología de la Información. Registro Nacional de Identificación y Estado Civil (RENIEC), Perú.
8. Vesalio Américo Rodríguez .Director Nacional de Cedulación. Junta Central Electoral, República Dominicana.
9. Elisa Ortiz Asesora Jurídica de la Presidencia. Tribunal Supremo Electoral, El Salvador.
10. Franklin Selva. Asesor de Informática de la Presidencia. Tribunal Supremo Electoral, El Salvador.
11. Marina Urrizola. Asesora Dirección de Información y Capacitación Electoral. Dirección Nacional Electoral, Argentina.
12. Hector Vanolli. Centro Carter.



Apoyo logístico. Dirección General de Relaciones Internacionales (DGRI)

- | | |
|----------------------|---|
| 1. Rosaura Sierra. | Directora General de Relaciones Internacionales |
| 2. Luisa López. | Directora de Cooperación y Asistencia Técnica |
| 3. Eduardo González. | Dirección General de Información y Comunicación |
| 4. Natty Oliva. | Profesional III/Dirección General de Relaciones Internacionales |
| 5. Rony Aquino. | Dirección General de Seguridad Integral CNE |
| 6. Leonardo Ruza. | Dirección General de Seguridad Integral CNE |
| 7. Cristian Clement. | Dirección General de Seguridad Integral CNE |

■ The Carter Center at a Glance

The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University, to advance peace and health worldwide. A not-for-profit, nongovernmental organization, the Center has helped to improve life for people in

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