



## **Carter Center Study Mission Pre-Election Report for the Oct. 7, 2012, Venezuelan Presidential Election**

**Oct. 5, 2012**

On Oct. 7, voters will have the opportunity to choose their next president, either bringing back President Hugo Chávez for a third six-year term, or making a change to Henrique Capriles. Interest is high, with at least 75 percent of eligible voters expected to cast a ballot, and emotions will run deep.

The Carter Center will have a study mission in Venezuela for the Oct. 7 presidential elections and the days following the elections to assess the perceptions of Venezuelan social and political actors of the electoral process, as well as their reactions to the results. The small expert group includes former Peruvian Election Chief Fernando Tuesta, former Bolivian Ambassador Jaime Aparicio, Argentine Constitutional Law Professor and Electoral Advisor to the Buenos Aires Province Carlos Safadi, Mexican Law Professor and Electoral Expert Hector Diaz, and Director of the Carter Center's Americas Program Jennifer McCoy.

In February 2012, The Carter Center sent a study mission to the opposition primaries. Long-term consultants based in Caracas since May have followed the election preparations and campaign conditions, collecting reports from various Venezuelan organizations monitoring the campaign and interviewing officials from both the Comando Carabobo (President Hugo Chávez' campaign) and the Comando Venezuela (Governor Henrique Capriles' campaign), as well as various social and political actors. In addition, the Center is conducting three snapshot media monitoring exercises to assess the news coverage of the campaign – a pre-election baseline in May, a mid-campaign assessment in early August, and a final assessment the last week of the campaign through Oct.10.

Because the Center does not have an election observation mission in Venezuela, it will not provide a comprehensive assessment of the quality of the electoral process as a whole. Instead, the Center plans to issue a report in the weeks following the election based on the interviews it has conducted, reports of national observer organizations, analysis of Venezuelan laws and regulations, and personal observations over the five-month period.

This pre-election report offers information gathered to date about key elements of the electoral process, each of which should be considered when evaluating the overall quality of the process.

These include a reliable voter list, ability of each candidate to get their message to voters, ability of citizens to exercise their vote on election day in secrecy and without intimidation, integrity of the vote count, and a transparent dispute resolution process.

### Voter Registration List

- **Main concerns:** Some are concerned that the voter registration list is inflated and has not been sufficiently purged of dead persons and non-citizens. The Venezuelan government is in the process of shifting responsibility of the civil registry to the National Electoral Council (CNE), along with the voters list. International observer missions have long recommended comprehensive audits of the voter list that would test it in two directions (list-to-field and field-to-list), but we are unaware of any such audits to date. Nevertheless, two studies described below address many of the concerns raised, and no one has reported any bias in the remaining errors on the list. Concerns about citizens not included have also been discarded. The current voter list includes 97 percent of all Venezuelans eligible to vote.
- **Demographic study:** A study of the demographic consistency of the Venezuelan electoral register carried out by the Andres Bello Catholic University (UCAB) found that the relationship between the number of registered voters and the Venezuela population, while high at 97 percent, is consistent with comparable Latin American countries and not a cause for concern. The study found that while there is a small percentage of deaths that have not been removed from the electoral register, this figure represents only 0.3 percent of the total of registered voters by 2012.
- **MUD study:** The coalition that supports the Capriles's candidacy (Mesa de Unidad Democratica-MUD) reported that they have monitored and tested the voters list continuously and find it acceptable. A study they conducted of the evolution of the list since 2010 concluded that the growth was in line with demographic changes in the country: population growth of citizens at least 18 years of age was 4.3 percent, while the voters list grew 7.6 percent. The coverage of the list consequently rose about 3 percent to 96.7 percent of the population.
- **Migration of voters:** In addition, the MUD investigated the "migration" of voters, or change in voting location, and found that 97 percent of voters relocated by the electoral body were aware of their new voting place and satisfied with the change. The study found that although the remaining 3 percent will have difficulties exercising their right to vote as a consequence of said relocations, this percentage is composed both of possible Chavista voters and possible opposition voters (50,000 people).

## Campaign Conditions

- **Media access:** Venezuela media conditions have changed dramatically over the last decade, from a clear predominance of privately-owned television, radio, and print news outlets (mostly in the political opposition to the Chávez government), to the growth of state-owned media outlets now including five television channels and several major radio stations that promote the government's program and ideology. Nevertheless, the market share of the state-owned media, particularly television, is quite small. According to media consultants, Venezuelan state TV channels had just a 5.4 percent audience share; 61.4 percent were watching privately owned television channels; and 33.1 percent were watching paid TV).
- **Campaign publicity:** Venezuela law allows each candidate to buy three minutes of television spots and four minutes of radio spots per station per day. However, the law also allows the government to run free government institutional ads, which look very much like campaign ads, for up to 10 minutes per station per day. The National Electoral Council (CNE) has not defined government ads that defend official governmental policy as campaign publicity. Meanwhile, the CNE has defined opposition-sponsored criticism of government policy as equivalent to campaign publicity, and also banned some opposition-sponsored ads that criticize governmental policy. Furthermore, the president can command obligatory broadcasts of his speeches (*cadenas*), which has resulted in 40 hours and 57 minutes during the official campaign from July 1-Oct. 1. This situation has led opposition MUD to claim repeatedly that there is not equity in campaign publicity.
- **Tone and quality of news coverage:** Venezuelan media remain polarized and tend to report without contrast in coverage, presenting only one political point of view within a single news piece. Some media outlets tend to report only negative views of the candidate they oppose and positive views of the candidate they support. However, other Venezuelan media have made important attempts to present a more balanced view in terms of opportunities for both campaigns to convey their message.
- **Campaign finance equity:** Venezuela remains an outlier in the hemisphere in providing no public financing at all to political parties or candidates. Although campaigns are required to report on donations and expenditures to the CNE, there are no limits on either and the disclosures are not normally made public. Under these circumstances, it has been very difficult to assess campaign finance.
- **Use of state resources:** Use of state resources for an incumbent's campaign is illegal in Venezuela. The CNE has warned the Chávez campaign to remove some posters from government buildings, but NGOs monitoring the campaign have indicated broad use of

government resources to support the Chávez campaign, such as vehicles to transport campaign workers and supporters. Without disclosure of expenditures, it is difficult to assess the extent to which state resources are being used in the campaign. By law, government officials, including elected and unelected authorities at both the national and local levels, cannot engage in campaign activity while exercising the duties of the offices they represent. Government spending on social programs and services is legal though, and a normal advantage of an incumbent running for reelection. This year in Venezuela, the government has taken advantage of high oil prices and public borrowing to greatly accelerate public spending, with a visible increase particularly in housing construction for the poor, leading many analysts to predict an economic reckoning in 2013 for whoever wins the election.

- **Violence:** Violence at campaign rallies has been reported by the Capriles campaign as escalating in September. The most serious incident involved three people shot dead while participating in a closing campaign caravan for Capriles in Barinas State. Other campaign incidents include one involving gunshots (Puerto Cabello), one in which the candidate could not enter a working-class neighborhood in western Caracas (La Pastora), and two others in which the candidate's access to poor neighborhoods was considerably limited by coercive activities (Cotiza and La Vega). The Chávez campaign reported that journalists and photographers from the state media have been harassed and physically assaulted at some opposition campaign events.

### Voting Conditions

- **Voter security:** Historically the Venezuelan military has provided custodial security to the voting materials and physical security to voters on election day through the so called Plan Republica. They will do so again, with logistical support from the police and the so-called citizen or Bolivarian militias. Nevertheless, the opposition MUD has reported concerns that past instances of voter intimidation from pro-government motorcycle gangs surrounding voting centers will be repeated on Oct. 7. In addition, they have expressed concerns that in the past, intimidation of party witnesses have left some voting tables without any opposition witnesses, allowing for potential manipulation, and their fears this could be repeated.
- **Party witnesses (*testigos*):** Venezuelan political parties are allowed to have witnesses at each voting table. Opposition forces claim they will have witnesses in almost all the voting centers of the country. The governing Partido Socialista Unido de Venezuela (PSUV) also plans to have full coverage by witnesses. Witnesses receive training to detect any potential irregularities and thereby provide confidence to the contenders that voting takes place fairly.

- **Pollworkers:** Pollworkers (*miembros de mesa*) are chosen by lottery from the voters list and trained by the CNE. The opposition MUD reported that it received the list in July and that it has determined that there is no partisan bias in the selection.

### Integrity of the Vote

- **General characteristics:** The Venezuelan voting system is one of the most highly automated systems in the world, with every step from candidate registration, to the biometric identification of voters at the voting tables, to the casting of votes on touchscreen machines, to the electronic transmission of the results, to the centralized tabulation of results. This system has been in place for the past five national votes, with one modification this year – the fingerprint identification mechanism. Under this system, both the opposition and the government have won and lost elections, and accepted the results.
- **Security of the voting machines:** Political party and domestic observer technical experts have participated in the 16 pre-election audits of the entire automated system, including hardware and software as well as the fingerprint databases, in the most open process to date, according to opposition technical experts. The MUD experts who have participated in the audits have said they are confident in the security mechanisms and the secrecy of the vote. One of the key aspects of the security control mechanisms involves the construction of an encryption key – a string of characters – created by contributions from the opposition, government, and CNE, which is placed on all the machines once the software source-code has been reviewed by all the party experts. The software on the machines cannot then be tampered with unless all three parties join together to “open” the machines and change the software. In addition, each voting machine has its own individual digital signature that detects if there is any modification to that machine. If the vote count is somehow tampered with despite these security mechanisms, it should be detectable, according to all the experts who have participated in the process, because of the various manual verification mechanisms.
- **Fingerprint identification:** Venezuela started creating a database of fingerprints of voters eight years ago to be able to prevent multiple voting by one person, or impersonation of voters. The database is nearly complete. Only seven percent of registered voters are not entered or have poor quality prints. These voters can enter their fingerprints on election day. (The MUD is satisfied with the data collection process.)

This year the system was modified to add one Remote Session Activator (RSA) to each voting machine. The activator is referred to in Venezuela as the SAI, Sistema Auto-Identificación Integrado. Each reader contains the ID number, name, and fingerprints of the voters assigned to that voting table. The poll worker enters the ID number into the

RSA and 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. This system is intended to address one of the complaints from both the government and the opposition in the past: in places where party witnesses were not present, the president of the voting table could “stuff the ballot box electronically” by repeatedly activating the voting machine him or herself.

- **Secrecy of the vote:** The introduction of the SAI system for the 2012 elections has raised a concern among some voters that their identity can be linked to their vote, thus violating the secrecy of the vote, with the potential for recrimination. This concern has no basis, however. The software of the voting machines guarantees the secrecy of the vote. The software instructs the machines to scramble the order of the votes, scramble the order of the voter identifications, and to keep these scrambled files in two separate archives. It cannot be modified without violating the digital signature of the machines, which detect modifications, and without knowing the three-party encryption key described above. MUD technicians have therefore categorically concluded there is no evidence whatsoever that it is possible to connect or reconstruct the link between fingerprint/ID number and the vote.
- **Fingerprint contingencies:** If the fingerprint does not match, the president of the table can initiate the voting machine with a code up to seven times in a row. If a table president exceeds this limit, the machine gets blocked and the president of the mesa needs to call CNS (Centro Nacional de Soporte) to get a new code and unblock the voting machine.
- **Ballot:** When voting, electors make their selection from an electronic ballot with images of the candidates and party names. For these elections, parties have formed alliances and each party is allowed to have the candidate image and their party name appear on the ballot. Twelve parties proposed Chávez as their candidate and 22 parties proposed Capriles. (Three other candidates were each proposed by a single party (Orlando Chirinos, Reina Sequera, Maria Bolivar). This means up to 12 images of Chávez with different parties and up to 22 images of Capriles appear on the electoral ticket. As is historical in Venezuela, the CNE allows the parties to change or take away their support for a particular candidate up until the last minute. However, such last minute changes in support are not reflected in the ballot voters select from. Four political parties supporting Capriles either removed their support or changed it to another candidate.

It is therefore plausible that a portion of the electorate may not be aware of these changes and either unintentionally annul their vote or inadvertently select a different candidate. Although the CNE procedures are legal, questions have been raised whether this format in fact works to preserve the voters' will. In fact, The Carter Center recommended in its 2006 observation report that last-minute changes of political parties/candidates alliances should not be allowed. This would prevent the introduction of changes in the counting protocol that are not reflected on the ballot, and possible voter confusion.

- **Manual verification:** The voting process permits voters to verify their ballots through a paper receipt generated by the voting machine. A comparison of a count of the paper receipts and the electronic tally at the end of the voting day with the presence of voters, political party witnesses, domestic observers, and the general public is conducted in a large sample of approximately 53 percent of the voting tables, selected at random. Additionally, party witnesses receive a printout of the electronic tally from every machine. The CNE gives the party a CD with the results of each machine and publishes them on the website so that all of these results can be compared. The human element is therefore still important. The voters need to verify their vote and watch the post-election audit, the parties need to have their party witnesses in the polling places and collect the tallies to compare, and the voters need to be able to get the polls without harassment or intimidation.

#### Dispute Resolution

- Both campaigns have made public their fears that the other side will refuse to accept the results.
- Venezuelan law does not provide for a remedy if there are discrepancies between the paper receipts and the electronic tally. The electronic tally is the official result. If both campaigns receive copies of all of the tally sheets, and the CNE continues its practice of publishing results table by table, then all will be able to verify the results or discover discrepancies.
- A political party may file a complaint with the CNE. If the petitioner is unsatisfied with the CNE's decision, he or she may appeal to the Electoral Court of the Supreme Court of Justice Tribunal (TSJ-Sala Electoral) for a second opinion.

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