Elections, Electoral Reforms and Public Trust (I)

Summary of presentations delivered at the international seminar “Democracy and Electoral Processes: Proposals for Debate,” organized by the Carter Center in Caracas, Venezuela, on May 22, 2014
## 1. Lessons learned

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- Political representation, transparency and equity in Argentina  
  Carlos Safadi Márquez (Argentina)
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  Juan Fernando Londoño (Colombia)

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- Unlimited re-election, electoral districts and electoral regulations  
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## 4. Visions from the National Assembly

- The need to build trust  
  Juan Carlos Caldera (Deputy, Justice First-PJ)
- Strengths and weaknesses of the Venezuelan electoral system  
  Pedro Pablo Fernández (Deputy, Committee of Independent Electoral Political Organization - COPEI)

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- The importance of transparency  
  Héctor Vanolli (Carter Center)

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The Carter Center thanks the UK government for its generous contribution to the realization of this international seminar.

**Top Picture:** José Vicente Carrasquero, Juan Fernando Londoño, Carlos Safadi Márquez, Jennifer McCoy, Benigno Alarcón y Héctor Vanollí. **Bottom picture:** Carlos Medina, Franklin Orellana, José Domingo Mujica, Helen Aguiar, Juan Carlos Caldera y Pedro Pablo Fernández. **Pictures:** Humberto Trejo.
The Carter Center has been monitoring the Venezuelan electoral process extensively since 1998. In this context, it sent three consecutive electoral missions to Venezuela between 2012 and 2013 to witness the February 12, 2012 opposition party primary elections, the October 7 2012 presidential elections, and the extraordinary presidential elections held on April 14, 2013.

Members of the two most recent delegations underscored the integrity of the automated electronic voting system as an outstanding feature of the processes they observed. Reports of both missions noted that the system had worked as expected when the votes were transmitted and counted. Representatives from the Carter Center observed, however, a number of major inequities throughout the respective political campaigns, dealing chiefly with the use of state resources and media access on the part of several candidates. Since both elections took place in the context of repeated presidential re-election, members of both missions recommended reviewing the rules governing the periods for waging political campaigns in order to minimize favorability for incumbent presidential candidates under these circumstances.

In the aim of contributing to the debate over critical electoral issues in Venezuela, the Carter Center held an international seminar in Caracas on May 22, 2014. The meeting, entitled “Democracy and Electoral Processes: Proposals for Debate,” offered a comprehensive panorama of the strengths and weaknesses of the Venezuelan electoral system. The activity was attended by leading national and international experts who delivered presentations and discussed their experiences in this field both in Venezuela and in some other countries throughout the Americas. Altogether, they provided a series of proposals and suggestions potentially helpful to Venezuelans deliberating over electoral reform processes. Also participating at the event were representatives of the major national electoral observation organizations in the country, along with scholars, journalists and parliamentarians.

This event also served as the venue for the official release of the Final Report of the Carter Center’s Study Mission, which visited the country during the last presidential elections, held on April 14, 2013.1

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1 The Carter Center’s Study Mission was comprised of ten members: Jennifer McCoy, Director of the Carter Center’s Americas Program (USA); Marcelo Varela, Associate Director of the Carter Center’s Americas Program (USA); Héctor Vanolli, Permanent Representative of the Carter Center in Venezuela (Argentina); Griselda Colina, Program Coordinator of the Carter Center in Venezuela (Venezuela); Michael McCarthy, Johns Hopkins University (USA); Dimitris Pantoulas, University of Bath in England (Greece); and Allison Braden, Georgia Institute of Technology (USA). The mission also included a high-level support group consisting of former President of Panama Martín Torrijos; former Colombian Minister Horacio Serpa; and former National Ombudsman of Costa Rica Rodrigo Alberto Carazo.
Carter Center Americas Program Director Jennifer McCoy presented an assessment of the election observation conducted by various international organizations in Latin America over the last 25 years. Then international presenters Carlos Safadi Márquez (Argentina) and Juan Fernando Londoño (Colombia) discussed elements of the electoral reform processes that have taken place in their respective countries over recent years, focusing specifically on lessons learned from them that are potentially applicable to Venezuela.

Lessons learned over the course of 25 years observing elections: Jennifer McCoy

Jennifer McCoy’s presentation evaluated the experience gleaned in Latin America from 25 years of electoral observation there. Based on what has been observed over that time period in various countries and under diverse circumstances, McCoy pointed out that we may conclude that there is no model or electoral system that can, by itself, guarantee citizen trust, especially in excessively polarized contexts. Trust in electoral system, she said, develops because of five main elements: a) clear rules; b) impartial institutions to run elections and settle disputes; c) perceived fairness and competition; d) transparency in all aspects of the process and e) vigilance on the part of citizens and political parties.

Even though the very nature of elections tends to divide societies, the presence of these five elements helps those who lose elections to accept the results knowing that they will have the opportunity to compete again on a fair, even playing field and that those who won will be governing for all, together with constructive opposition.

Electoral governance and its impact elections. In her presentation, McCoy discussed the results of a study she co-authored which was conducted between 1985 and 2005 addressing the role played by electoral management bodies in the quality of elections and electoral governance in Latin America. According to this expert, with respect to their makeup there are basically three types of electoral management bodies: a) the one-party model, with electoral officials designated by

(2) “La Importancia de la Gobernanza Electoral y la Calidad de las Elecciones en la América Latina Contemporánea” (Electoral Governance Matters: Explaining the Quality of Elections in Contemporary Latin America), published in Issue 51 of the journal América Latina Hoy.
a single party; b) the multiparty model, whereby election officials represent all the political parties participating actively in society and c) the independent electoral authority model, comprised of electoral officials selected based on merit and professional track record.

“... the possibility of holding elections acceptable to international standards increases by 50 percent with an independent electoral authority model in place...”

McCoy noted that according to this study, the possibility of holding elections acceptable to international standards increases by 50 percent with an independent electoral authority model in place, as opposed to when the prevailing electoral authority is appointed by a single party. As for the multiparty model with the electoral authority representing all the political parties, even though this helps improve the quality of elections, it doesn’t do so to the degree that the independent electoral authority model does. In Venezuela, McCoy recalled, the legal system stipulates that the electoral management body must be comprised of independent members.

The legal framework. McCoy stressed the importance of a legal framework to ensure equity and competitive conditions for all candidates during the course of electoral campaigns, and even more so in cases when reelection for positions in the executive branch is allowed. Wide availability of public resources, convenient media access and the possibility of access to institutional advertising affords candidates holding public office a number of unique advantages. Venezuela is one of the few countries in this hemisphere that not only allows re-election but where it is also applicable on a continual, indefinite basis\(^3\). However, it lacks an up-to-date legal framework specifically regulating this particular set of circumstances.

Best practices to enhance electoral competition. In most countries where some form of re-election for executive positions has been instituted, discussion and implementation has begun of a series of regulations to limit the advantages provided by this system to leaders or officials who are also running for office. These regulations tend to promote public financing policies (for parties and candidates alike), provide access to free media airtime, limit the participation of candidates for re-election in the unveiling of public works and restrict the participation of government representatives at political rallies.

Other measures have been aimed at establishing better conditions for electoral competition by publishing a list of individuals or institutions that have contributed to political campaigns (65% of countries in the western hemisphere), setting limits on the amount of contributions (60%), setting mandatory caps on campaign spending (45%), publishing campaign spending (80%) and implementing sanctions for violations of political financing rules (85% economic penalties and 70% political, such as revoking candidates or penalizing parties).

While political parties in Venezuela are required to submit reports of expenses incurred during the campaign to the electoral management body, and while it is true that there are limits on those who can make contributions, the rules make no provision for ceilings on these contributions and public disclosure of their origin is not required. Contrary to current practice in all other countries in the Americas, Venezuela has no direct or indirect public funding in place for parties or candidates.

McCoy stressed that these measures require the existence of an impartial electoral authority capable of offsetting the negative

\(^3\) The other two countries where this occurs are Nicaragua and Cuba.
effects that could stem from enforcing these rules (public disclosure of campaign contributions may leave the losing candidate’s supporters vulnerable to acts of revenge, for example). Imposing limits on campaign spending also requires the existence of an effective electoral authority that can conduct audits.

In Venezuela, where no elections are planned for 2014 and much of 2015, the current situation affords a unique opportunity to push for reforms aimed at strengthening the electoral system. In Panama, explained McCoy, after each election a national committee comprised of scholars and dignitaries is installed that reviews the recently concluded electoral process in order to make suggestions and promote changes and reforms to rectify matters deemed unsatisfactory.

Regarding trust in the electoral system, McCoy emphasized that it is up to the electoral power, political parties and scholars to move the discussion forward concerning control measures required to ensure the holding of fair and equitable elections in order to keep the electorate informed and motivated to turn up at the polls.

Political representation, transparency and equity in Argentina

Carlos Safadi Márquez

The subsecretary for elections of the Supreme Court of the Province of Buenos Aires, Carlos Safadi Márquez, focused his presentation on analyzing the latest electoral reform process carried out in Argentina and its impact on the electoral system as a whole, in the aim of providing some input on the subject to Venezuelans.

Times for review. The electoral cycle, he said, is composed of three stages: the pre-election period, when preparations for elections begin, the actual elections themselves, which is the purely operational phase of the process, followed by the post-election period, which runs from the end of the last election until the beginning of the following pre-election period. The last of these is ideal for review of the regulations and reforming the issues considered to be in need of improvement. Paradoxically, he stressed, this period, which usually lasts three to five years, is typically characterized by a lack of funding and interest in electoral issues, the presence of what has been termed “post-election fatigue” and little motivation. Venezuela, he said, is very unique among other countries in this hemisphere since, due to the large number of elections taking place at once, its post-election periods are very brief, which tends to deter reform processes from being carried out under most favorable conditions.

The case of Argentina: lessons learned. Safadi reminded those in attendance that electoral reform was carried out in Argentina 30 years after democracy was established upon enactment of the “Law for the democratization of political representation, transparency and electoral equity,” regulating political party operations, electoral campaigns and primary elections. The express aim of this law was to strengthen and democratize political parties, ensure effective territorial representation thereof, make political campaigns economically equitable and promote transparency with regard to spending.

Among other things, the law sought to give greater recognition to political parties, stipulating that, in order to be considered as such,
they had to have at least 4 out of every 1000 on the electoral roll as members. Regarding electoral campaigns, the law encouraged public campaign financing, providing resources to political parties to cover the costs of printing ballots, for example. The new legal code also required the media to make ten percent of their airspace available for electoral campaign matters, and to randomly allocate their scheduling for each candidate. The new legislation also stipulated that only physical persons were eligible to make donations, establishing limits on spending and a ceiling on campaign contributions. Furthermore, this law implemented the system of mandatory, simultaneous, open primary elections for all political parties, limiting the nomination of candidates for a party or alliance of parties and one single category. The law also made the designation of party or alliance pre-candidates mandatory, with the endorsement of at least 1.5 percent of the popular support in each district. The aim of this regulation was to filter parties attempting to participate in general elections.

This law, however, failed to achieve its desired effect. Political parties did not end up stronger; equitable, transparent allocation of political advertising was not entirely achieved (the law obviated regulation of government advertising) and political parties were not democratized (allowing all citizens to participate in the primaries violated restriction to political parties). The reform also left out automated voting systems, dodged introducing the single federal ballot system and overlooked the banning of test candidates (candidaturas testimoniales).

Lessons learned. We can glean a number of insights from the electoral reform process in Argentina that may be applicable to other countries in the region. First, it is crucial for electoral systems to inspire trust. There are no good or bad systems. There are only trustworthy or untrustworthy systems, and trustworthiness or untrustworthiness is not based upon levels of technology or investment. Argentina, he explained, has an extremely archaic electoral system. It does, however, enjoy the trust of the Argentine people: stakeholders don’t cast doubts over the legitimacy of an elected candidate’s origin. If electoral systems fail to engender credibility, they can ultimately affect governance, no matter how technologically advanced they are or how costly they may be.

“In Venezuela, where no elections are planned for 2014 and much of 2015, the current situation affords a unique opportunity to push for reforms aimed at strengthening the electoral system...”

Electoral systems should also be capable of ensuring optimum stability in contentious situations. In this sense, he said, it is essential for those administering punishment to be perceived as trustworthy by all parties involved. This trustworthiness can only be earned only when impartial, apolitical electoral institutions are in place which can therefore run elections and settle disputes based on professional, impartial discernment. In Argentina, he said, the authority responsible for running elections is the Judiciary. Since its members are appointed for life by technical authorities, the opinions they hand down are therefore generally accepted by all stakeholders.

Proportionality and single-member constituencies. Reform processes should ideally balance the criteria of proportionality with single-member constituencies when designing the electoral model. In Latin America, he said, it is necessary to strengthen proportional systems more than single-member ones in order to ensure minority representation in collegial bodies. In Venezuela, as we have seen with the “las morochas” system, this has given rise to some dysfunction.
Consultant and political analyst Juan Fernando Londoño focused his presentation on analyzing the electoral reform process that has been carried out in recent years in Colombia, cautioning at the outset that democracy there is still in the process of consolidating the legitimacy of its origin and results amid a series of extraordinary circumstances, such as the historical coexistence of elections with violence, governmental weakness in enforcing laws, the low credibility of the electoral system and allowing re-election of the president since 2004. In this context, Londoño examined several aspects and phases of electoral reform in Colombia, focusing his attention on elements linked directly to perceptions of fairness and competition in the party system, the strengthening of impartial institutions to run elections and settle disputes, and promoting all aspects of transparency in the electoral process.

The electoral reform process in Colombia, he said, has been carried out in three stages, beginning in 1991 when the new constitution was approved and state reform began.

Phase I: Restructuring the branches of government and electoral reform. The first phase of this process was preceded by a process of political reform, motivated by what has been termed a partial collapse of the state in the 1980s. The constitution restructured the branches of government and how they were organized, opened up new political parties to compete in order to restore control established by the National Front through traditional bipartisanship, to liberals and conservatives, and eliminated restrictions on candidates from appearing with other parties. One feature of the process in Colombia is that a consensus had formed right from the outset on what needs to change, so (unlike what is happening in Venezuela) reforms have always enjoyed the support of the various political actors.

Phase II: Strengthening political parties. The second phase of the electoral reform process, carried out in 2003, sought to rectify the unexpected perverse effect of the lack of governability stemming from an excessive opening up of the party system. In this sense, reform created a single party list system, which could only nominate the total number of candidates representing a district (e.g., 100 Senate candidates). As part of this reform the so-called “electoral quotient” (D’Hondt method) was included and a regime of “caucuses” was created to maintain discipline among candidates chosen by parties. Modifications included changes in formation of the electoral branch, ultimately benefitting the ruling parties. As a result, minority parties ended up without representation in the electoral branch.

Phase III: Elimination of “parapolitics” from the electoral game. The third phase of the reform process, carried out in 2009, sought to eliminate the link between politics and crime, in the wake of the emergence of “parapolitics,” first exposed in the 2002 presidential elections. To break this connection, change was sought in the incentive

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(4) “Parapolitics” is the name given to the scandal that ensued following an investigation by the Colombian justice system to determine which members of the Colombian political class had connections to paramilitary sectors, which had been funded by them or had secured their support to intimidate voters or other politicians, and who had paid for these favors by drawing from local, regional or national public budgets. Almost a third of the Congress were eventually implicated and at least 30 congressional representatives had to forfeit their elected office.
and accountability mechanisms of political parties. According to Londoño, political cleansing is not achievable by punishment alone: positive means must also be used. In this regard, he noted that a great deal had been accomplished during this period to remove actors involved in crime from the system, though little was done to bring in those who were not.

In conclusion, Londoño insisted that recent electoral reforms in Colombia, despite the good intentions behind them, have made an extremely weak impact on society’s trust in the system. These reforms, he said, failed to cover all aspects concerned. Sometimes even models from other contexts were applied without ascertaining their applicability beforehand. Moreover, the positive and negative effects of reforms had not been precisely measured. Another obstacle was difficulty in promoting independent institutions technically capable of controlling the electoral process. Unlike Venezuela, where the legal system stipulates that the electoral authority must be comprised of independent members, Colombia employs a method involving the selection of members representing the various political parties in the legislature. Use of this method, however, has proven that despite the intended purpose of getting political parties to control one another, they ended up covering their own backs, consequently the end result is that the electoral management body has looked after the interests of the same parties that they were supposed to be regulating.

Proposals conducive to the public trust. Against this backdrop, Londoño stressed the need to clearly define the institutional nature of the Colombian electoral tribunal by establishing whether it is to perform judicial duties or strictly administrative tasks. Finally, he underscored the need to heighten scrutiny to ensure citizens the opportunity to monitor the electoral power and thereby engender greater trust in the electoral system and democracy overall. Much of the gains toward the surveillance and cleanup of parapoltics in Colombia is due to the active participation of civil society in this process.

“Argentina has an extremely archaic electoral system. It does, however, enjoy the trust of the Argentine people: stakeholders don’t cast doubts over the legitimacy of an elected candidate’s origin...”
From academia, professors Benigno Alarcón and José Vicente Carrasquero discussed several issues affecting public trust in the Venezuelan electoral system. In particular, they emphasized the importance of moving forward toward establishing a genuinely independent electoral body that can effectively fulfill its role as arbiter.

The importance of an autonomous electoral authority: Benigno Alarcón

Benigno Alarcón

Benigno Alarcón, professor and director of the Center for Political Studies at the Andrés Bello Catholic University (UCAB), focused his remarks on recent studies addressing how Venezuelan citizens perceive the performance of their country’s electoral management body. According to Alarcón, current debate in Venezuela doesn’t just deal with the electoral system, but also the future of democracy. In his opinion, Venezuela cannot truly be termed a democracy, stating that it is sort of a hybrid system in which the minimum conditions characteristic to democracy, such as the separation of powers, have been progressively worn down. In this context, the National Electoral Council (CNE) is very weak with respect to autonomy and impartiality, in the eyes of voters. At a time when the potential for a change of scenario is emerging, whereby a ruling party might lose an election, the fact that the electoral referee is not universally trusted by the political players could compromise the country’s governance. This is why it is so important for new members of the CNE to be appointed.5

Public perceptions and electoral participation. Alarcón analyzed a nationwide field study conducted in 2013 by the polling firm Delphos (under the direction of Félix Seijas), at the request of the UCAB Center for Political Studies.6 The survey (with a +/- 2.3% margin of error) gave a negative assessment of the CNE regarding the population’s perception of the institution as neutral and impartial. Comparing this finding with a 2007 opinion poll conducted by Latino-barometer, which measured the perception of

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(5) Last April, following a delay of nearly one full year, the National Assembly began the process of appointing three new officials (rectores). The terms of these officials had expired on April 28, 2013. Since the government does not have the majority vote required to appoint new staff, this process requires the legislature to reach an agreement on the nominees. According to Article 296 of the constitution, the basic requirement for these positions at the CNE is impartiality or independence, so they may not be associated with any political organizations. The appointment process has moved forward rather slowly, having expired several established deadlines.

(6) The study will be conducted once again in the last quarter of this year.
electoral conditions of people in 18 countries region-wide, Alarcón stated that while the effect of polarization on levels of trust in the electoral management body has been clearly observed in Venezuela, this is not the case in other countries, even in those with very severe political polarization. Levels of trust in the electoral authorities in these countries are much greater, thereby legitimizing them as electoral arbiters, in contrast to the situation in Venezuela.

In a polarized country such as Venezuela, the electoral management body should act as the indicator on the scale, the institution to act as the impartial entity to run elections and settle disputes. While 44% of respondents in the Delphos study considered as the CNE as an autonomous institution, 43% disagreed. Even though 82% of citizens considered automating the system as a positive measure, 50% believe that the combination of voting machines and fingerprint capturing machines violates the secrecy of the vote. Furthermore, the study reveals that while 54% of Venezuelans believe the Integrated Authentication System (SAI) prevents fraud, 36% of them disagree. The study also reveals that at least 41% of Venezuelans do not feel free when exercising their right to vote.

The fact that a great deal of the population arrives at the polls to vote (80% participated in the last presidential election) does not necessarily mean that it has a positive outlook on the electoral system. This percentage simply indicates that people view elections as the only avenue open to them to make an attempt to change things. These high levels of participation, though desirable, are simply the most visible end result of a very undesirable reality: a polarized country confronting itself at the polls, but which could take confrontation to other more compromising scenarios for national peace if it loses its confidence in the electoral system.

In this context, those who claim that Venezuela’s is the best electoral system in the world, equating more participation with more democracy, are turning a blind eye to reality in that country. A professional, autonomous, independent electoral management institution, concluded Alarcón, is needed now more than ever to ensure peace and democracy in Venezuela.

The Venezuelan electoral system as a mechanism of partisan domination:

José Vicente Carraquero

José Vicente Carraquero, professor of political science at Simón Bolívar University, focused his presentation on several issues he believes are affecting the quality of the Venezuelan electoral system and public trust in that country. According to Carraquero, these issues should be taken into consideration for electoral reform. Un-
like Colombia, he said, it is impossible to carry out an analysis of shortcomings in the electoral system in Venezuela that could be shared with the entire political establishment. This is why it is much more difficult to move an electoral reform process forward there.

Even though time periods are set aside for carrying out electoral reforms, as stipulated in Article 298 of the constitution, elections are held so frequently that it is hard to come by a reasonable stretch of time to move these reforms forward.

Factors affecting trust. Carrasquero also touched on factors affecting public perceptions of transparency and competition in the system. Introduction of the automated system in 2004, he said, was not made gradually but rather quite suddenly, triggering a great deal of distrust among the population. This distrust manifested itself in the opposition leadership when it hastily termed the results of the 2004 referendum fraudulent. That complaint, he said, was an “original sin” of sorts, stigmatizing the automated electoral system as untrustworthy.

The government, he concluded, does not inspire trust in the electoral system. Quite the opposite: distrust is promoted by the electoral branch as a state policy. Moreover, while the laws assigning the CNE the authority to organize a great many elections (from elections designating members of condominium boards of directors, organizations, professional associations, trade associations and trade/labor unions to local, regional and presidential elections), it lacks the capacity to efficiently cover all of these areas. The absence of proper regulation to limit its jurisdiction in a healthy manner has hindered it from operating in an opportune fashion, thereby affecting renewal of officeholders at a large number of institutions and compromising citizen participation in these authorities. He also reminded attendees that the distribution of districts for the 2010 parliamentary elections was organized in accordance with the ruling party’s preferences and interests. The electoral system in Venezuela, he concluded, operates as a party-controlled mechanism.

Rules on paper. Among the problems faced in Venezuela, he noted the gaps in terms of rule enforcement. While there is a set of regulations clearly in place, they are systematically not observed. The constitution, he said, requires immediate replacement of National Electoral Council members whose terms have expired. This is being delayed, however, for a period in excess of one year. Something similar is happening with respect to the rules stipulating fairness in the electoral management institution. Despite what the laws say, political actors are not relinquishing their activities to accept positions at the CNE, thereby affecting the electoral management body’s performance in running elections and settling disputes. The last presidential election, he explained, was characterized by hugely lopsided levels of spending and media access by candidates. A similar situation was observed in access to and the use of state resources. CNE performance, however, has not lived up to expectations of how this type of an institution should act. It simply did not apply power endowed with by the Constitution to enforce the law.

“The fact that a great deal of the population arrives at the polls to vote does not necessarily mean that it has a positive outlook on the electoral system...”
Proposals from national electoral observation organizations

Elections, electoral observation and sovereignty:

Hellen Aguiar

Spokesperson for the Venezuelan Network of Electoral Observers, Hellen Aguiar, focused her presentation on analyzing the evolution of legal mechanisms established in Venezuela to carry out electoral observation, and the levels of confidence in the electoral system and the arbiter of that system.

Progress in the Venezuelan system. Concerning the rules governing surveillance of electoral processes by Venezuelan citizens, Aguiar said that, thanks to the progressive strengthening of the electoral system, Venezuelan legislation has evolved to the point of only allowing Venezuelan observers to observe electoral processes close up. While challenges to this legislation have been made, in practice it entails leaving behind the political mechanism of oversight and interference (which by definition is what international observation is) through decolonization. This process, she said, has been supported by the Network of Electoral Observers since it is a reflection on reflects the strength of the system, which has gradually managed to regain its sovereignty. The Venezuelan electoral system, she said, is idiosyncratically designed from the Venezuelan perspective.

Despite prevailing unrest in the country and its impact on the electoral branch, with some sectors calling its legitimacy into question, Aguiar pointed out that Venezuela does have a good electoral system. While it could be improved upon, she said, it has proven strong time and again. The 2013 presidential elections, she said, met with the approval of both international observers and national electoral observation organizations who verified, among other things, that the principle of the secrecy of the vote had is being observed. This, she said, engenders in people a sense of fairness and trust in the electoral system.

The experience of ROEV. Concerning the association that she represents, the Venezuelan Network of Electoral Observers, Aguiar said that the object of this institution, founded in 2009, is to promote the education and participation of citizens based on the principles of a democracy that is “participatory, protagonist, co-responsible and advocates...
social justice.” She stressed that the network relies on the direct support of “people power” members (housewives, farmers, members of grassroots organizations and backers) who voluntarily serve as observers at polling stations. The ROEV, she said, has coordinators at the parish, municipal, regional, national and international level, as well as a team of experts responsible for managing the technical and electronic observation tools.

The information gathered by this network is not based on anyone’s perspectives or opinions but on adherence to a rigorous methodology that allows it to draw conclusions and suggestions which are forwarded on to the electoral management body. The network, she said, has participated in the 14 audits built into the Venezuelan electoral system, from processes involved in the pre-election period (reviewing software, pre-shipment of voting machines, certifying levels of security, auditing databases and voter registration, verifying the quality of the indelible ink used in voting, and so on) to election and post-election periods.

Inequities in the Venezuelan electoral system

Carlos Medina

In his presentation, Coordinator General Carlos Medina of the Venezuelan Electoral Observatory (OEV) outlined some of the proposals identified by his organization as essential for Venezuela to rectify weaknesses in its electoral system that affect fairness in electoral campaigns and public trust in the system.

Campaign financing. Addressing the issue of campaign financing, Medina challenged the fact that even though politics is a preeminently public activity, no direct or indirect support mechanisms are in place in Venezuela for this type of activity. Recent Venezuelan experience has demonstrated that without public financing, electoral campaigns tend to become profoundly unfair events.

Media access. On the subject of candidate access to the media, Medina pointed out that since the media (especially television and radio) are the chief means used to disseminate the messages and proposals of candidates in campaigns, the absence of clear, equitable, efficient rules and mechanisms regulating the distribution of this access in Venezuela has become a root cause of deep disparities and inequity.

Political advertising and use of public resources. This applies equally to the electoral propaganda and the activities of public officials during electoral campaigns, as well as the use of public resources for campaign purposes, an area where many gaps continue to exist. Changes to regulations are essential to ensuring fair conditions for electoral campaigns.

Proportionality. On the subject of proportionality, Medina pointed out the need to reestablish this principle in electing for offices to collegial bodies. The 2010 parliamentary elections, he said, showed that the system doesn’t guarantee proportionality. Although the ruling party won by barely a one percent difference (48.6% vs. 47.6%), it won 20% more of the seats in the Assembly (98 vs. 65). Since the Venezuelan electoral system also defines the states as electoral districts, wherein offices are distributed free of national compensation mechanisms, divergence from the principle of proportionality in some states was even greater than was reported nationwide. According to Medina, if we analyze cases occurring in the state of Anzoategui and the Capital District, we have to conclude that
either some votes are worth more than others or that proportionality was not observed. In the Organic Law of Electoral Processes, he stressed, there are several options for restoring proportionality, as called for in the constitution.

Four elections have been held since the most recent modification made to Venezuelan electoral legislation in 2009. Consequently, the absence of elections in this period means that now is a good time to promote change in areas where weaknesses negatively affecting electoral process have been identified. Having clear rules in place is crucial to ensuring perceptions of fairness and competition in the process and trust among the population.

Medina stressed the need to strengthen the electoral branch as an impartial institution. Though the CNE has demonstrated effective performance in organizing elections (from 2004 on especially), its biggest weakness is that it fails to guarantee a level playing field. This translates into public distrust in the institution’s impartiality.

**Dialogue among parties and respect for the arbiter**

*Franklin Orellana*

The spokesman of the Foundation for a Dignified People’s Electoral Observer Group, Franklin Orellana, discussed the importance of training and raising the awareness of citizens for defense, participation and surveillance of the electoral system. While elections in Venezuela are highly regulated, he said that progress must be made in the process of informing and socializing the potential impact of this regulation on society as a whole, which requires encouraging public debate. Orellana also discussed the importance of the electoral management body being impartial. Not only must it be impartial, but society must also perceive it as such.

**Dialogue and respect for the arbiter.** The first conclusion drawn from election observation carried out by the Foundation for a Dignified People is that if you want to move forward toward a trustworthy electoral system you have to make progress toward dialogue and respect for the arbiter. In this vein, Orellana indicated that both sides need to give a little in the current context of polarization in order to foment areas of common ground. He mentioned the cases of Colombia and Argentina where, despite holding elections with higher levels of abstention, citizens and political parties don’t challenge the electoral arbiter or the system. Critiques are intended to strengthen the system and make it more perfectible. Progress on electoral debate is impossible if analysis is restricted solely to the electoral management body and the legal framework while neglecting the conduct of political parties and social organizations in Venezuela, said Orellana. Another conclusion drawn from electoral observation is that, following the country’s “re-founding” in 1999, most of the political parties that used to compete among themselves for elected office were now united around two trends polarizing the political spectrum. Democracy, he said, cannot be reduced to just two camps but instead should try to include a diversity of parties and social organizations.

Finally, Orellana pointed out that the electoral branch of government was created along with the five branches established in the 1999 constitution. The members of this EMB are elected by a nominations committee comprised of political and social stakeholders. In this sense, the political stakeholders must acknowledge the diversity of social stakeholders, admitting that they are not the sole representatives of society. In Venezuela, he said, there is an urgent need to build trust through dialogue among social and political stakeholders. In order for this to take place, progress must move
forward on a training and socialization policy conducive to generating greater credibility of the electoral system among society.

The Foundation’s objectives. The Foundation for a Dignified People, he said, is a nongovernmental organization established in 2012 that, in addition to carrying out election observation and making technical recommendations, seeks to analyze the socio-political and democratic system as a whole. The Foundation, he said, has developed a methodology called “horas pre,” whereby a historical registry of social events with potential electoral repercussions is created. The electoral process is not confined to the mere act of voting on election day, but includes all the activities engaged in prior to and following the elections. Acceptance of election results and the legitimacy of the electoral arbiter could hinge on these activities. In this respect, he concluded, the foundation’s efforts not only focus on strengthening the electoral system, but also on consolidation of the participatory democratic system altogether.

Unlimited re-election, electoral districts and electoral regulations

José Domingo Mujica

José Domingo Mujica, Director of the National Education Assembly’s Electoral Observation Group, focused his attention on the need to review the process of defining the electoral districts as well as regulations governing the unlimited re-election of public servants. The major weakness of the current Venezuelan electoral law, he said, is a lack of regulation on the unlimited re-election of leaders to public office. This is a major issue requiring special attention, and it needs to be addressed immediately, he stressed.

Review of electoral boundaries. Concerning the mechanism for allocating deputy seats to the National Assembly, as stipulated in the Organic Law of Electoral Processes, Mujica pointed out that it is currently very far from following the principle of equality of votes. This distortion makes for a huge disparity among regions of high and low population, he said. Therefore a revision of the established rules is urgently needed in order to draw the seat allocation process nearer to the spirit of this important democratic principle.

Mujica likewise stressed the need to revise current regulations governing the districting process. This legislation, he said, now leaves the task entirely up to the National Electoral Council, with only a few superficial guidelines. Therefore the National Education Assembly’s Electoral Observation Group proposes drafting regulations to govern the definition and reformulation of electoral districts, thereby ensuring that these processes are always carried out according to uniform criteria, and allow for engagement of the sectors affected.

Unlimited re-election and electoral campaigns. According to Mujica it is equally necessary to expand current restrictions on the conduct of government leaders and other public officials during election campaigns, regardless of whether they are running for public office or not. Current restrictions in Venezuela, he said, are considerably less strict than those in other countries. In a context of unlimited re-election, use of state resources for political campaigns by those in power becomes an even more urgent matter. While it is necessary for there to be clear rules in place, that in itself is not enough. It is also necessary for there to be an impartial electoral institution willing to enforce the law, thereby engendering perceptions of trust, fairness and competition among the population.
From their positions as representatives to the National Assembly, Deputies Juan Carlos Caldera (Justice First-PJ) and Pedro Pablo Fernández (COPEI), offered their viewpoint regarding the Venezuelan electoral system, focusing on areas they consider urgent to push reforms forward to regain public trust and promote transparency in the electoral process.

The need to build trust

Juan Carlos Caldera

Juan Carlos Caldera, deputy for the Justice First party (PJ), and member of the Preliminary Commission for Nominations to the National Electoral Council, focused his presentation on examining several issues affecting public trust in the Venezuelan electoral system, such as the lack of impartiality among CNE members. On this matter, he said that in Venezuela, over 18 government officials at the CNE are part of the organizational structure of the ruling party, the Partido Socialista Unido de Venezuela (United Socialist Party of Venezuela-PSUV). Therefore, he said, it is crucial to strive for an impartial electoral institution to be formed that will abide by the constitution and inspire public trust.

Powers and responsibilities of the CNE during elections. The alliance of opposition parties known as Mesa de la Unidad Democrática (Democratic Unity Table-MUD), has repeatedly denounced the presence of so-called “coordinators” at the polling centers on election day. He said that these are CNE officials who, in practice, serve as “political commissars” of the ruling party, whose chief goal is to hinder the progress of electoral activities. Most of these officials, he said, belong to the Frente Francisco de Miranda, an organization with clear political and ideological ties to the national government.

The deputy said it is necessary to generate perceptions of fairness and competition among the people to help boost their confidence in the electoral system. Issues such as the legalization of so-called “morochas,” by the 2009 reform, sealed the fate of the principle of proportionality. In the 2010 parliamentary elections, said Caldera, the opposition won more votes than the ruling party. Nevertheless, it ended up with fewer deputies in the distribution of seats in the National Assembly.

(9) The term “enmorochamiento” in Venezuela refers to a procedure used to disassociate party list voting from nominal voting in elections for collegial bodies. According to the Venezuelan electoral law in force until 2009, nominal offices won by a party were to have been subtracted from party list offices awarded to the same organization. To circumvent the law, political parties decided to nominate only party list candidates, allowing their nominal candidates to be registered on other cards. The first case of this procedure was by the Convergencia (Convergence) party in 2000 in Yaracuy state, which took place in the context of that year’s election for deputies to the National Assembly. By using “morochas,” the party won four of the available five seats with only 43 percent of the vote. While the principle of proportionality is enshrined in Articles 63, 186 and 293 of the 1999 Constitution, in the Organic Law of Electoral Processes, adopted in August 2009, there is no mention of the proportional distribution system to establish a parliamentary majorities system, thus undermining representation of the political minority, while unduly expanding the majority.
Use of government resources for campaign purposes. Caldera also denounced the government’s illegal use of state resources for electoral purposes. This procedure, he said, not only creates unfair conditions but it is violates law. In that same vein, he criticized the disparity in media access during political campaigns, specifically pointing out use of the state-run Venezolana de Television (VTV) channel by the ruling party.

Caldera pointed out the need to formulate clear regulations delineating when a candidate is to act as a public official and when he/she is to act as a candidate. In particular, the deputy pointed to situations when the President is presented as a candidate for re-election. The lack of rules governing this type of a situation creates a severe disparity in electoral competition. In this context, Caldera questioned removal of the concept of international observation under the pretext that the country doesn’t need it. Even worse, he said, are allegations to the effect that the presence of third party electoral observers in the country constitutes an act of interventionism and imperialism. If that were true, he said, it would make no sense to create an electoral observation body in UNASUR or for organization to be in the country during the last election.

Caldera also called into question the concept of “assisted voting.” Due to political pressure that individuals assisting voters with disabilities can wield upon them, they can limit the exercise of their voting rights, thereby violating the principle of human dignity. These situations should therefore be regulated to avoid anomalous practices in conflict with the secrecy of the vote.

Pedro Pablo Fernández, deputy of the COPEI party, centered his presentation on the importance of clearly identifying the strengths and weaknesses of the electoral system, in aim of encouraging changes in weak areas and preserving the quality of the system where strengths are apparent. Electoral matters must be addressed, he said, in order for the political conflict in Venezuela to be resolved. In this respect, he noted, reforming the weakest aspects of the electoral system is an extremely urgent step to take toward salvaging the trust of 50 percent of the population that has no faith in the impartiality of the CNE or in the transparency of the electoral system.

Venezuela lacks proper electoral legislation, and the legislation is in place now is continually being violated. While the legal system stipulates that the electoral authority must be comprised of five independent members, four out of the five officials (rectores) who currently serve in the CNE answer directly to partiality of the ruling party. It is therefore crucial to put together an impartial electoral management body capable of running elections and settling electoral disputes in a fair way.

**Fraud and abstentionism.** Deputy Fernández underscored the strength of the automated system...
and voting machines, stressing transparency in this area of the electoral process. The opposition, he said, made a serious political mistake in hastily slamming the automated system following the 2004 recall referendum. This situation, he said, not only began a gradual discouragement of the vote in an important sector of the population, but it also drove the opposition away from participation in the election as a whole, triggering their withdrawal from the 2005 parliamentary elections, among other electoral processes.

This erroneous situational assessment began to change in 2006, thanks in part to the former governor of Zulia and founder of the Un Nuevo Tiempo (UNT) party, Manuel Rosales entering the race as presidential candidate. It was Rosales, Fernández who led the opposition back toward participation in electoral campaigning. In April 2013, however, the opposition made the same mistake again of hastily declaring fraud in the presidential elections held earlier that month, thereby triggering a substantial level of abstention in that year’s municipal elections in December. Historically, experience in Venezuela, said Fernández, has shown that the opposition decides to participate in elections it always leads to growth.

“The opposition made a serious political mistake in hastily slamming the automated system following the 2004 recall referendum.”

Electoral opportunism. Fernández pointed out the need to understand that the Venezuelan electoral system’s real problem lies in processes taking place leading up to election day, specifically those occurring throughout the election campaign. This is exemplified, he said, in the absence of an even playing field during the course of political campaigns, manifesting itself primarily in the overwhelming opportunism engaged in by the national government in its use of the national broadcasting network, media access, the use of state resources and the ability to deliver institutional messages with political objectives throughout the entire electoral process. This set of circumstances forces challenger candidates to compete not only against the incumbent running for reelection but also against the government juggernaut as a whole.

In the picture, the deputy Juan Carlos Caldera (PJ) spoke to the assistance. In the panel, Héctor Vanolli, Pedro Pablo Fernández, Griselda Colina (Carter Center), José Domingo Mujica, Hellen Aguiar, Carlos Modina and Franklin Orellana.
The Carter Center’s permanent representative in Venezuela, Héctor Vanolli, formally presented the final report of the Study Mission sent there by the Carter Center on the occasion of the presidential elections held on April 14, 2013. This report confirmed the impressions gathered previously in the report of the Study Mission that followed up on the 2012 presidential elections. On this matter, the report underscored the use of government resources for campaign purposes, unequal conditions under which opposition candidates had to compete and scarce regulation on the source of the resources for political campaign financing. All of this took place in the context of legislation on unlimited re-election being approved in 2009.

The report also highlighted a series of critical issues concerning the operation of the electronic voting system, prevailing conditions on the election day and the conducting of post-election audits, particularly the audit of the Integrated Authentication System, known as the “fingerprint duplicity audit.”

The importance of transparency

Héctor Vanolli

In his presentation, Vanolli, touched on some of the key recommendations in the reports of the electoral missions sent by the Carter Center to Venezuela in 2012 and 2013. These recommendations, he stressed, were always handed down with the aim of helping local efforts to improve and refine the Venezuelan electoral system. Among these recommendations, Vanolli underscored the following:

a) Ensure greater equity in political campaigns;

b) Clarify the rules governing the participation of officials and public servants in campaign activities;

c) Enforce regulations restricting the use of government resources for political purposes more effectively;

(10) The entire final report can be seen by clicking on the following link: http://www.cartercenter.org/news/pr/venezuela-052214.html#spanish

(11) One way to resolve doubts as to voter identity is the so-called “fingerprint duplicity audit.” On election day, the memories of fingerprint capturing devices record the images of voter fingerprints together with the numbers on their ID cards. Even though fingerprint capturing devices only contain the prints of the voters registered at their specifically assigned polling stations (so potential fingerprint duplicity is checked only for that subset). A universal fingerprint check could be performed by downloading all registered prints onto all voting machines. This test would then be able to determine whether the fingerprints captured on each of the machines are being repeating. Given the controversy over the results of the 2013 presidential election, and given the accusations made by the opposition of voter impersonation and multiple voting, incorporating the fingerprint duplicity audit to the normal CNE audit schedule is crucial not only to keep Venezuelan citizens informed about how well the new SAI system is achieving its intended aim but also to build public trust in the electoral system.
d) Clarify the role played by printed ballot receipts;\(^\text{12}\)

e) Conduct the fingerprint duplicity audit in the presence of witnesses from all political parties and make the results public;

f) Improve the election day voting experience;

g) Study the legal framework to more clearly define certain exceptional situations, such as unforeseen events stemming from the temporary or permanent absence of a re-elected leader;

h) Standardize the appointment process for the country’s supreme electoral authorities.

Yet, if we had to replace all of these recommendations with just one, noted Vanolli, the only recommendation we could give would be to promote transparency at all levels of the electoral process. If you were to imagine the electoral process as taking place behind a wall, the system’s level of transparency would be measured by the number/size of the windows or glass doors on the wall. The greater the number of windows or glass doors and the larger their size, the better. The ultimate system, he concluded, would be one by which the entire system’s operations could be observed through one gigantic pane of glass, so that anyone who so desired could see, effortlessly, even the most intimate features of the process.

Given that the higher the degree of openness, the lower the possibility of conflict, the principle of transparency is at the core of any successful electoral system. Venezuela, he concluded, not only has one of the most sophisticated electoral systems in the hemisphere but also one of the most auditable. The current schedule of audits, completed in the 2013 elections with inclusion of the fingerprint duplicity audit, makes it possible to audit all aspects of the voting process, making it a highly reliable system from the technical standpoint.

Given the problems encountered throughout the political campaigns, the greatest challenge for the Venezuelan electoral institution today lies in transferring the principles of transparency and integrity that characterize the technical aspects of the system to what has been called the electoral ecosystem, that is, the area where electoral campaigns take place, thereby ensuring a level playing field for all contenders.

“Venezuela not only has one of the most sophisticated electoral systems in the hemisphere but also one of the most auditable.”

\(^{12}\) The paper receipts (ballot receipts) are small pieces of paper printed out by the voting machines after voters cast their ballots. Recorded on each of these pieces of paper are the respective candidates or parties voted for. To complete the voting process, voters must place these pieces of paper into a ballot box, to be used subsequently to perform the so-called “citizens’ audits,” whereby these receipts are compared with the results as expressed in the tally sheets. While citizen audits have helped to demonstrate the accuracy of the voting machines, the rules in place fail to indicate any contingency plans to address detected discrepancies.
JENNIFER MCCOY has served as Director of the Carter Center’s Americas Program since 1998 and has been a Professor of Political Science at Georgia State University since 1984.

HÉCTOR VANOLLI is the Carter Center’s permanent representative in Venezuela and Coordinator General of the Media Program in Venezuela.

JUAN FERNANDO LONDOÑO is a specialist in Constitutional and Parliamentarian Law. He served as Colombian Vice-Minister of the Interior between 2011 and 2012, as well as Vice-Minister of Participation and Equal Rights (2011) and Vice-Minister of Political Affairs (2012).

CARLOS SAFADI is a lawyer and a Professor of History and Constitutional Law at the University of San Salvador in Buenos Aires. He is subsecretary for elections of the Supreme Court of the Province of Buenos Aires.

BENIGNO ALARCÓN is a professor and Director of the Andrés Bello Catholic University’s Center for Political Studies. He is Coordinator of the Political Management and Governance Program under the CAF-UCAB Agreement.

JOSE VICENTE CARRASQUERO is a professor of political science at Simón Bolívar University and Andrés Bello Catholic University. He is also an Expert on public opinion, culture, politics, behavior and electoral systems.

HELEN AGUIAR is Director of the Venezuelan Network of Electoral Observers electoral observation organization.

CARLOS MEDINA is Coordinator General of the Venezuelan Electoral Observatory (OEV) and Director of the CFC Consulting Group and the Center for Research on Statistics, Marketing and Opinion (CIEMO).

FRANKLIN ORELLANA is Coordinator General of the Foundation for a Dignified People electoral observation group.

JOSÉ DOMINGO MUJICA is Director of the Electoral Observation Network, of the National Education Assembly NGO in Venezuela.

JUAN CARLOS CALDERA is a Deputy in the Venezuelan National Assembly representing the Primero Justicia (Justice First) party and member of the National Electoral Council’s Electoral Nominations Committee.

PEDRO PABLO FERNÁNDEZ is a Deputy in the Venezuelan National Assembly representing the Committee of Independent Electoral Political Organization (Comité de Organización Política Electoral Independiente - COPEI) Social Christian Party and Director General of the Center for Training and Public Policy (Centro Internacional de Formación y Políticas Públicas - IFEDEC).