

**General Elections  
Venezuela, 2000**

**Electoral Observations in the Americas Series, No. 30**



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## **FOREWORD**

Democratic ideals and principles have always been present in the inter-American system. The Charter of Bogotá, establishing the Organization of American States (OAS), formally proclaimed in 1948 that "the solidarity of the American States and the high aims which are sought through it require the political organization of those States on the basis of the effective exercise of representative democracy." Forty years later, the Protocol of Cartagena de Indias emphatically reaffirmed this principle, including among the essential purposes of the Organization the promotion and strengthening of representative democracy. The signature of the Protocol gave rise to an unprecedented renewal of the commitment of the member states to defending and building democracy.

Within this context, the Unit for the Promotion of Democracy (UPD) is one of the instruments the OAS can draw upon to support member states in their efforts to strengthen and consolidate democratic institutions. Established by João Clemente Baena Soares, who was then Secretary General, as agreed at the 1990 General Assembly session, the UPD offers a broad program of support to member states which, in full exercise of their sovereignty, request advisory services or assistance in their efforts to preserve or strengthen their political institutions and democratic processes.

With regard specifically to elections, the UPD provides assistance and technical advisory services to national electoral agencies and organizes and dispatches electoral observation missions to member states that so request by

applying to the Secretary General of the Organization. OAS activities in this field are based on the conviction that the electoral process is always an essential piece of the transition to or building of democracy.

The electoral observation missions of the Organization are intended to: observe and report to the Secretary General on the electoral process, using as a reference point the constitution and electoral law of the host country; express the international community's support for the electoral process; work with government, electoral, and party officials and with the population in general to ensure the integrity, impartiality, and reliability of the electoral process; foster an atmosphere of public confidence and encourage citizen participation; discourage attempts to manipulate elections; serve as an informal channel for reaching a consensus if disputes arise among the various participants in the electoral process; and make recommendations for improving the electoral system.

In order to meet these objectives, the OAS electoral observation missions deploy observers throughout a country to monitor the different stages of the electoral process and compile their comments in a final report.

In general, the work of the OAS electoral observation missions focuses on those aspects and mechanisms of the political and electoral process where differences or disputes among participants are more likely to arise or that could jeopardize the integrity and transparency of the results. The missions therefore closely follow both organizational and political aspects of the electoral process. On the organizational side, the missions pay special attention to the enforcement of election law, the actions of the electoral tribunal, logistical arrangements, civic education campaigns, and the observance of rules governing the registry of candidates and voters. On the political side, the missions look at promotional campaigns, the behavior of the mass media, activities linked to elections in nongovernmental organizations, and government actions that might have an impact on the course of the electoral process.

The observations and analyses by the electoral observation team, combined with the Organization's experience with elections, enable the mission to identify the weaknesses of a system with considerable accuracy and formulate possible solutions. As a result, mission reports generally include a number of recommendations for strengthening the electoral process.

This volume is part of a series designed to provide relevant information on some of the UPD's electoral observation missions, both to the general public and to readers with special interests. We trust that the study and analysis of these experiences will help to increase knowledge of circumstances in the countries in the region and promote democratic values and practices as the 21<sup>st</sup> century approaches.

Elizabeth Spehar  
Executive Coordinator  
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## **EXECUTIVE SUMMARY**

By means of a note sent on March 23, 2000, the Government of Venezuela invited the Secretary General of the OAS to send a Mission to observe the Venezuelan general elections, known as the “Mega-elections 2000,” which were initially to be held on May 28, 2000, and which were finally conducted on July 30 of this year.

The Secretary General appointed Dr. Rubén M. Perina as Chief of the Electoral Observation Mission in Venezuela (EOM-VEN). The Mission, however, had to be conducted in two phases: the first, between May 15 and 26, and the second, between July 16 and August 11. This reflected the fact that the elections, which were supposed to be held on May 28, were postponed by the national electoral and judicial authorities three days before they were scheduled to take place.

The objectives of the EOM were to demonstrate the support of OAS member countries for Venezuelan democracy; to observe all stages of the electoral process and report to the OAS General Secretariat and its member states; and to cooperate with all Venezuelan participants in their efforts to achieve the greatest possible integrity, transparency, impartiality, and credibility for the electoral process.

As is usual in such situations, the General Secretariat signed the corresponding agreements on privileges and immunities and on election

observation procedures with the Venezuelan government and the national electoral authorities.

During the preelection period of phase I, the Mission deployed 24 observers and established its headquarters and six regional offices. From the outset (and indeed during both phases), the Mission focused its attention on election organization and preparations and, in particular, on technical aspects relating to the automated voting and vote-counting system. It also observed the conduct of the election campaign and the behavior of all those involved in the elections, particularly with respect to their compliance with the country's election rules.

During this phase, and particularly at the beginning of the final week prior to May 28, the Mission was concerned to note some obvious delays in preparation of the automated voting system. Five days before election day, it was clear that there was still a lack of compatibility or coincidence between the components of the automated voting and counting system: i.e., between the candidates data base, the ballots, the flash cards, and the counting matrix. The Mission reported these concerns to the government and the electoral authorities and expressed them publicly as well.

As it turned out, the mega-elections were suspended entirely by the Supreme Court of Justice, as a result of an appeal brought by the non-governmental organizations (NGOs) COFAVIC (Committee of Families of Victims of the Events of February and March 1989) and Queremos Elegir (We Want to Vote). This appeal was supported by the National Elections Council (CNE) itself and by the government authorities. The decision avoided what would very likely have been a political crisis, since there would undoubtedly have been serious technical problems and irregularities during the elections, which would have destroyed confidence in the outcome.

As a result of this postponement, the members of the CNE resigned. On June 13, the National Legislative Commission appointed new members to the CNE, and on June 22 it determined that elections should be held separately, as follows: on July 30, for president, deputies to the National Assembly, the Latin American Parliament, the Andean Parliament, governors, regional legislative counselors and mayors; and on October 1, 2000, for municipal councils and parish boards.

The second phase of the Mission began on June 16 and deployed some 50 observers at headquarters and in eight regional offices, from which they observed the three stages of the election process: the prevoting stage, election day, and the postvoting stage.

The Mission observed the conduct of all players in the election process and was able to evaluate the preparation, organization, and execution of the process. The Mission paid particular attention to monitoring the automated voting system, and to the complaints brought by different players.

During its stay in Venezuela, the Mission met with government authorities, election authorities, the principal candidates and party leaders, governors and mayors, church authorities, NGO representatives, and academics, among others.

The Mission held three press conferences during the first phase and three during the second phase, to report on its objectives, activities, and impressions. The Mission was at all times received very cordially and in a spirit of full cooperation for the conduct of its activities.

During phase II, in general terms, significant progress was observed in overcoming the logistical, operating, and technical problems that had been noted during the first phase of observation. There was also significant progress in the release of information and the distribution of electoral materials to the citizens and to the election authorities, as well as in the training provided for poll officials. Additionally, there was significant progress in detecting and correcting changes of address in the voters' list.

Finally, political parties were able to compare returns reported from the polls with the results as they appeared on the screens at the CNE verification center, and the flash cards (an electronic card that stores the necessary parameters for using the machine and the matrix for tabulating votes, prepared on the basis of the candidates' data base) were deposited in a vault at the Central Bank. These systems of control, together with the vote tabulation system, were, in the Mission's opinion, important in increasing the security, transparency, and reliability of the process. They all served to create credibility and confidence in the new electoral authorities.

All the same, the political climate prevailing in the month of July was less aggressive and agitated than it had been in the previous phase, thanks to the measures taken by the new CNE and, in part, to sheer exhaustion among the voters.

It should be noted as well that a significant role was played by NGOs, the mass media, and the public defender and the attorney general of the republic in producing information and inspiring a climate of transparency and confidence in the electoral process, which, in the Mission's opinion, is an indicator of the strong democratic political culture that prevails in Venezuela.

On Sunday, July 30, the Mission deployed more than 50 international observers and was present during voting at some 400 polling centers, in more than 50 municipalities located in 20 states of the country. At those centers, people turned out to vote in massive numbers and behaved with admirable patience and civic spirit, even at those polls that were late in opening and slow in processing votes. Such delays were due primarily to tardy installation of poll officials, the high numbers of voters who had to be processed at each poll, obvious defects in some of the voting machines, and the complexity of the ballot itself. This led to a certain degree of discontent and unrest among the voters.

This situation was apparent at certain voting centers, but it did not reflect a serious or generalized trend such as would have invalidated the electoral process. On the contrary, the elections were as a rule adequately planned and organized by the CNE, consistent with prevailing legislation, and were held in the presence of witnesses from the various political parties as well as national and international observers. For the most part, the elections were conducted in an atmosphere of calm, transparency, impartiality, and security.

In short, according to direct observations by Mission members deployed throughout the national territory, the election day of July 30 resulted in outcomes that, generally speaking, were considered valid, despite the technical shortcomings and complaints noted. These were not considered sufficiently serious or sufficiently widespread to invalidate the overall electoral process.

As usual, the Mission conducted a quick count or projection of results based on returns from a scientific sampling of polls. This is an accurate and



very useful instrument for monitoring the officially reported results and can constitute a very useful tool for contributing to the security and transparency of results. It is also an instrument for qualitative electoral observation, since it involves the random selection of places to be observed, and this makes it possible to gain a representative overview and appreciation of electoral behavior in the midst of a broad and varied socioeconomic and political situation.

Immediately following the elections, there were complaints of alleged irregularities on election day. Nevertheless, the EOM found no grounds for impugning the actions of the electoral authorities or for rejecting the results as reported by them. In the postvoting stage, the Mission observed the complaints and challenges brought before the various legal bodies, as well as the steps taken by the authorities in response to those appeals.

Generally speaking, the CNE acted with proper diligence and transparency in handling appeals. Several of these are still being processed, and the Mission is confident that the authorities will handle them all properly, in accordance with law.

Finally, the Mission believes that in performing its duties it was able to strike a proper balance between irrelevance or anonymity and interference or excessive activism. One indicator of this is the fact that both the government and the opposition candidates congratulated the Mission on its activities. The Mission also was able on some occasions to help clarify situations that were confusing or obscure; it facilitated dialogue, rapprochement, and consensus-building in the disputes or conflicts that arose among players in the process.

The Mission wishes to congratulate all its observers for their commitment to the OAS and to democracy in the Americas, and for the dedication, prudence, objectivity, and impartiality with which they conducted their work. Some of them had to travel up the Orinoco River by boat to visit polling stations, trek on foot through swamps, fly by helicopter to the frontier, or ride horses into the mountains. The Mission recognizes all of these efforts with special gratitude.

The Mission also wishes to thank the OAS Permanent Missions of the United States, Canada, Great Britain, Spain, and Italy, and the National Office of the OAS in Venezuela for their cooperation in organizing the Mission. It also thanks the people Venezuela for their warm welcome.



## **CHAPTER I**

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# **THE ELECTORAL OBSERVATION MISSION**



#### **A. ORIGIN AND MANDATE OF THE MISSION**

By means of a note sent on March 23, 2000, the National Elections Council of Venezuela (CNE) invited the Secretary General of the OAS to monitor the Venezuelan “Mega-elections 2000,” which were to be held on May 28, 2000.

On April 9, 2000, the Executive Vice President of Venezuela, Dr. Isaías Rodríguez, called upon the Secretary General and requested him to send observers for the process leading up to those elections. That request was confirmed by a note of the same date, from the Minister of Foreign Relations, Dr. José Vicente Rangel.

Subsequently, on April 12, the chargé d’affaires of the Ministry of Foreign Relations of Venezuela approached Dr. César Gaviria, reiterating the invitation from the CNE, providing further relevant information, and expressing the hope that international observers could be sent for the elections.

This background information was confirmed in a note sent by the Permanent Representative of Venezuela to the OAS, Ambassador Virginia Contreras, to the Secretary General of the OAS, reiterating that request.

The Secretary General, in a note dated May 2, 2000, accepted the invitation and declared his willingness to organize an election observation mission. The head of the mission was to be Rubén M. Perina, coordinator of

the Institutional Strengthening Area of the Unit for the Promotion of Democracy (UPD).

On May 11, 2000, the Secretary General and the Permanent Representative of Venezuela to the OAS signed the “Agreement on Privileges and Immunities for Observers of the Electoral Process for the Mega elections 2000.”

Because the elections of May 28 were postponed, a similar agreement was signed on July 26, 2000, by the Assistant Secretary General, representing the OAS General Secretariat, and the Permanent Representative of Venezuela to the OAS, Ambassador Virginia Contreras.

The OAS has observed the last four rounds of elections held in Venezuela: the legislative and regional elections of November 1998, the presidential elections of December 1998, the elections to the National Constituent Assembly of July 1999, and the referendum of December 1999, demonstrating thereby the decisive support of the member states of the Organization for Venezuelan democracy and the strengthening of its democratic institutions.

## **B. OBJECTIVE OF THE MISSION**

The fundamental objectives of the OAS Electoral Observation Mission in Venezuela were to demonstrate the support of the inter-American community of democratic nations for Venezuelan democracy; to observe all stages of the electoral process, reporting thereon to the General Secretariat of the OAS and its member states; and to cooperate with all Venezuelan participants in their efforts to ensure that the elections process reflected the greatest possible integrity, transparency, and credibility.

Nevertheless, the Mission had to be held in two phases: the first, between May 15 and 26, and the second, between July 16 and August 11. This reflected the fact that the elections that were supposed to be held on May 28 were postponed by the national electoral and judicial authorities three days before they were scheduled to take place.

The Mission observed the prevoting stage, including the election campaign, the preparation and organization of the electoral process, and the automated voting system; the actual conduct of the elections themselves, including the voting, the reporting of returns, and the tabulation of regional and national votes; and the postelections stage, which included the total tabulation of votes, the proclamation of results, and the assumption of power by the newly elected authorities.

### **C. ELECTION OBSERVATION PROCEDURES**

To ensure compliance with its mandate, and because of the postponement of the elections, the Mission worked out procedural agreements with the Venezuelan election authorities, on May 23, 2000, and July 19, 2000, establishing the rules that would govern the relations between the OAS Mission and the National Elections Council (CNE) and its subsidiary bodies. These documents established the following, *inter alia*:

- The CNE was to provide the Mission with all the information relating to the organization, management and supervision of the electoral process. The Mission could request the CNE to provide additional information as necessary for the exercise of its duties.
- The CNE was to guarantee the Mission full access to audit reports and quality controls performed before and after the election process.
- The CNE was to provide any other information required with respect to the voting system, the computer system, and the transmission of results on voting day, and it was to demonstrate their operation, if requested.
- The CNE was to guarantee the Mission access to all national, regional, and municipal election bodies responsible for voting, counting, and tabulating the votes, and was to provide information on the provisional and final computations of the election results.

In addition, during its activities, the Mission referred constantly to the Charter of the Organization of American States, the Constitution of the Republic of Venezuela, and existing electoral legislation, such as the Electoral

Statute of Government (EEPP) and the Law on Suffrage and Political Participation (LOSPP).



## **CHAPTER II**

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# **MISSION STRUCTURE AND LOGISTICS**



In order to carry out its objectives, the Mission deployed observers in virtually every portion of the country, establishing a central headquarters and six regional offices during the first phase, and a central headquarters and eight regional offices during the second phase.

#### **A. STRUCTURE OF THE MISSION**

The design, management, and monitoring of observation tasks were in the hands of a base group. This group worked out of the Mission's central headquarters, under the direction of the Chief and Deputy Chief of Mission. In both phases, the base group consisted of a financial officer, logistics officer, four specialists (on elections, political parties, complaints, and press), and two electoral information experts.

Each of the regional offices was in the hands of a regional coordinator, who was responsible for supervising and coordinating the observation work in his or her respective geographical area, as well as maintaining relations with the election authorities, party representatives, and civilian and military figures locally.

#### **B. TERRITORIAL DISTRIBUTION**

During phase I, the Mission consisted of 24 international observers from 12 hemispheric countries, while during phase II it consisted of 44 OAS observers from 18 hemispheric countries and 2 from Italy as bilateral observers. On election day itself, they were joined by 2 observers from the Embassy of

Spain and 7 from the United States Embassy, for a total of 55 observers (see Annex 2).

The pattern of distribution of the observers and the establishment of regional offices took account of such factors as the population density of the Venezuelan states, states that were particularly prone to conflict, the behavior of the electorate in previous elections, the need to obtain a scientific sampling of voting stations for the quick count, as well as general observation criteria established by the Mission.

### **1. The Offices of the Mission**

Central headquarters: The Mission's central headquarters, consisting of the Chief of Mission, the Deputy Chief of Mission, and the members of the core group, was established in the city of Caracas, capital of the republic, from which the Mission's organization, administration, and logistics were directed.

Regional offices: On the basis of the criteria listed above, the Mission installed regional offices at the following strategic points, from which it was able to observe a total of 18 states: Puerto La Cruz (Anzoátegui and Monagas), Maracaibo (Zulia and Flacón), Caracas (Distrito Capital, Miranda, and Vargas), Porlamar (Nueva Esparta), Mérida (Mérida, Trujillo and Táchira), Valencia (Carabobo, Aragua, and Guárico), Barquisimeto (Lara and Yaracuy), and Cojedes (Portuguesa and Cojedes). In accordance with the statistical sample selected for the quick count, however, the Mission deployed its observers in 21 states of the country on election day.

## **CHAPTER III**

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# **THE VENEZUELAN POLITICAL CONTEXT**



## **A. RECENT POLITICAL AND INSTITUTIONAL DEVELOPMENTS**

On April 25, 1999, a referendum was held on the calling of a National Constituent Assembly (ANC) to “transform the state and create a new juridical order that would permit the effective functioning of a social and participatory democracy.” The abstention rate on that occasion exceeded 62 percent, but the convening of the ANC was approved by an affirmative vote of 92 percent of those casting their ballots.

Consequently, on July 25, 1999, elections were held for representatives to the ANC.<sup>1</sup> At that time, the official political group, the Polo Patriótico, won 122 of the 128 seats; the abstention rate was 52.92 percent.

The ANC was installed on August 3 and began its discussions on the basis of the draft National Constitution submitted by the President of the Republic, Hugo Chávez Frias. The final text was approved on November 17, 1999, with seven constituents entering formal reservations.

The draft was immediately sent to the National Elections Council (CNE) for publication and dissemination in advance of the second referendum which, according to a prior decree from the ANC, had been called for December 15, 1999. This referendum approved the draft Constitution and, as of December 30, 1999, the current Political Constitution of the Republic entered into force.

Subsequently, the ANC, by a decree dated February 3, 2000, issued the Electoral Statute of Government (EEPP) to govern the first elections, with a

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<sup>1</sup> National Constitution (CN), Articles 113 and 114. See also the Law on Political Parties, Public Meetings, and Demonstrations (1965).

view to reorganizing the political order created by the new Constitution, and it set the date of May 28, 2000, for the election of deputies to the Legislative Assembly, president of the republic, legislative deputies and state governors, members of municipal councils and mayors, parochial boards, and representatives to the Latin American Parliament and the Andean Parliament. These elections came to be known as the Mega elections 2000.

On May 22, 2000, the citizens' organizations Queremos Elegir (We Want to Vote) and COFAVIC presented an appeal to have the election date deferred. The appeal detailed various shortcomings and omissions in the organization of the election process which, it was argued, violated the civil rights of voters.

As a result of this appeal, the constitutional chamber of the Supreme Court of Justice held a constitutional hearing on May 25, in which it ordered the elections scheduled for May 28, 2000, to be suspended. The decision stipulated that the National Legislative Commission should set a new date for the voting, after clearing up the errors and technical failings that had caused the suspension. The postponement of the elections also led to the resignation of the members of the CNE.

On May 5, the National Legislative Commission appointed new members of the CNE, and on June 22 it was decided that elections should be held separately, as follows: on July 30, for president, deputies to the Legislative Assembly, the Latin American Parliament, the Andean Parliament, governors, regional legislative councilors and mayors, and on October 1, 2000, for municipal councils and parish boards.



## **CHAPTER IV**

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# **THE VENEZUELAN LEGAL FRAMEWORK**



## **A. POLITICAL AND ADMINISTRATIVE DIVISIONS**

The Republic of Venezuela has approximately 23,645,500 inhabitants and is divided politically into 23 states, a capital district, 72 dependencies (islands), 2 federal territories, and 333 municipalities.

## **B. THE CONSTITUTION**

The new Constitution of Venezuela, approved in 1999, establishes in Article 6 that “the government of the Republic of Venezuela and the public entities that comprise it are and shall always be democratic, participatory, elective, decentralized, alternative, responsible, pluralistic, and with revocable mandates.”

It provides moreover that “suffrage is a right recognized to all Venezuelans who are 18 years of age and are not subject to civil prohibition or political disqualification,”<sup>2</sup> and it empowers members of the armed forces to exercise this right which, according to the Constitution, must be done through free, universal, direct, and secret voting.

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<sup>2</sup> CN, Articles 110 and 111. The right to vote may be extended to foreigners in the case of municipal elections, under the conditions imposed by the law (which requires, among other things, evidence of at least ten years' legal residency in the country).

Additionally, the election legislation establishes the obligation of citizens to participate in local electoral bodies, provided that they have been selected by public drawing of lots as established by law, and that they are not covered by any of the grounds for exemption from compliance with that function.<sup>3</sup>

### **1. The system for the transfer of power**

On December 22, 1999, the ANC decreed the “System for the Transfer of Power,” based in part on the fact that, according to the popular referendum of April 25, 1999, the ANC was empowered to effect the transition process through the juridical regime established in the 1999 Constitution, and that the first article of the ANC rules of procedure empowers the body to dismiss the existing government.

This transition regime allows the Constitution to enter into force immediately and declares “the dissolution of Congress and consequently the termination of the functions of the senators and deputies who comprise it.” The following article provides that “the national legislative power shall be exercised by a National Legislative Commission,” composed of 20 members, until deputies to the Legislative Assembly called for in the Constitution are elected and have taken office.

This transition regime also declared the dissolution of the legislative assemblies of the states, and it called for designation of a state legislative commission consisting of five citizens selected by the coordinating commission of the ANC. Municipal councils and mayors holding office at the time this regime was approved were confirmed “under the supervision and control of the National Constituent Assembly or the National Legislative Commission” (Article 15). The president and governors were to continue in their functions until popular elections to these positions could be held, pursuant to Article 16.

Finally, the transition regime provided, in Article 40, that the ANC should appoint provisional members of the CNE and should empower that body to organize the “first elections” in accordance with statutes to be approved by the ANC.

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<sup>3</sup> Law on Suffrage and Political Participation (LOSPP), Articles 30 to 48.

## 2. Constitutional structure of government

Title IV of the Constitution is devoted to the “Organization of the National Government.” This is divided into five powers: legislative, executive, judicial, citizen, and electoral.

Executive power is exercised by the president of the republic; legislative power by the single-chamber Legislative Assembly; and citizen and electoral powers, which were incorporated into the last constitutional reform, are composed as follows: citizen power consists of the public defender, the attorney general and the comptroller general of the republic and is exercised by the Republican Moral Council; electoral power, for its part, is exercised by the CNE as the body responsible for organizing elections and subordinate agencies.

## 3. The electoral authorities

The CNE is the senior electoral body. It is permanent and autonomous in the exercise of its functions and jurisdiction throughout the country. It consists of five principal members,<sup>4</sup> elected by the National Assembly, who are responsible for management, organization, and supervision of electoral processes, with functions of a normative and jurisdictional nature. Among these functions are those of enforcing electoral laws and resolving doubts or filling gaps in those laws; issuing binding directives with respect to electoral financing and advertising activities and applying penalties as appropriate; declaring total or partial nullity of elections; organizing, managing, directing and supervising all acts relating to election to popularly elected positions; and organizing, managing and supervising the civil registry and the voters’ list.

The election boards (*juntas electorales*, JR) are subordinate, temporary bodies, with jurisdiction over the organization and supervision of elections at the state or municipal level. The five members of each Board and their alternates are selected by lot by the CNE.

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4 Article 296 CN: “The National Elections Council shall be composed of five individuals unrelated to political organizations; three of them shall be nominated by civil society, one by faculties of legal and political sciences of the national universities, and one by the Citizen Power.” They are to be appointed by the National Assembly with the vote of two-thirds of its members. Nevertheless, as mentioned in the previous section, the transition regime established, in Article 40, that the ANC was provisionally to appoint the members of the CNE.

The polling station teams (*mesas electorales*, MR) consist of five members and a secretary. They are selected by the CNE by lot from lists of teachers, students, professional colleges, and voters. They are responsible for the conduct of voting and vote counting. Their functions are temporary and extend from the establishment of the polling station until the signing of the tally report.

## **CHAPTER V**

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# **THE VENEZUELAN ELECTORAL SETTING**





## **A. CURRENT ELECTORAL LEGISLATION**

Pursuant to the transitional decree of the ANC, the Megaelections 2000 were to be governed by the Electoral Statute of Government (EEPP), and in a subsidiary manner by the Law on Suffrage and Political Participation (LOSPP), which was partially amended by the provisions of the new Constitution, and subsequently by the EEPP, as well as by regulations issued by the CNE under the powers conferred upon it by the National Constitution.

Electoral disputes are to be resolved by the electoral chamber of the Supreme Court of Justice, and other tribunals as determined by law. (Article 297C).

### **1. Election systems used**

Current legislation establishes the following electoral systems:

**PRESIDENT, GOVERNOR, MAYORS, AND SENIOR MAYOR**  
Relative Majority System

**DEPUTIES TO THE LEGISLATIVE ASSEMBLY AND COUNCILORS**  
Personalized System with Proportional Representation

**DEPUTIES TO THE LATIN AMERICAN PARLIAMENT**  
Proportional System of Closed and Blocked Lists

DEPUTIES TO THE ANDEAN PARLIAMENT  
Proportional System of Closed and Blocked Lists

DEPUTIES TO THE STATE LEGISLATIVE COUNCILS  
Personalized System with Proportional Representation

MEMBERS OF THE PARISH BOARDS  
Personalized System with Proportional Representation

## 2. Positions

Voting was held on July 30 for the following positions:

QUANTITY	POSITION	DISTRIBUTION
1	President	
165	Deputies to the Legislative Assembly	97 Names 65 Lists 3 Indigenous
12	Deputies to the Latin American Parliament	12 List 24 Alternates
5	Deputies to the Andean Parliament	10 Alternates
219	Deputies to the State Legislative Councils	121 Names 90 Lists 8 Indigenous
1 335	Senior Mayor Mayors	
13	Metropolitan City Councilors	

Thus, for the total of positions to be elected at the various levels in the mega-elections of July 30, there were more than 4,658 candidates, representing 514 different ballot combinations, while for the May 28 elections there were 36,557 candidates (see Annex 3) and 1,370 ballot combinations. In effect, these elections were to select or reconfirm all popularly elected governing positions, and each voter therefore had to choose candidates to fill between 11 and 14 posts, depending on his or her place of residence.

### **3. Participating political forces**

The presidential candidates registered to run for election were President **HUGO CHAVEZ FRIAS**, official party candidate of the Movimiento Quinta República (MVR), supported formally by the Movimiento al Socialismo (MAS), the Partido Comunista de Venezuela (PCV), Acción Agropecuaria, Independientes por la Comunidad Nacional (IPCN), Movimiento Electoral del Pueblo (MEP), Movimiento Solidaridad Independiente (SI), and Gente Emergente (GE); Comandante **FRANCISCO ARIAS CARDENAS**, official candidate of the Causa R, Izquierda Democrática, Iniciativa Propia, Bandera Roja, Movimiento Integridad Nacional (MIN), and the Movimiento Democracia Directa (MDD); and the former mayor of Caracas, **CLAUDIO FERMIN**, official representative of the Partido Encuentro Nacional.



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**CHAPTER VI**  
**ACTIVITIES OF THE ELECTORAL**  
**OBSERVATION MISSION**



#### **A. COOPERATION WITH THE ELECTORAL AUTHORITIES:**

During both phases of the Mission, the electoral authorities, at both the management and technical level, showed tireless dedication and determination to ensure that the elections proceeded as planned. They were in constant dialogue with political party delegates and with the various players in the electoral process. Nevertheless, during phase I, technical shortcomings and slippage in the election schedule tended to overshadow the work of the authorities and gave rise to severe criticism from some sectors of the press, civil society, and opposition political parties.

The Mission maintained permanent and open contact with the electoral authorities, particularly during the first phase, to express its concern over the organizational problems and delays noted. The Mission at all times received a cordial and open reception and had access to all information requested. But it must be noted that at critical moments prior to postponement of the May elections the authorities did not respond to the Mission's concerns as quickly and fully as would have been desirable at such a crucial time. On May 23, the Mission delivered a note relating its observations, to which the authorities failed to respond (see Annex 4).

The shortcomings that led to suspension of the May elections created a climate of mistrust over the CNE's handling of the electoral process and undermined confidence in the firms responsible for automation of the voting. It was in this context that the electoral authorities resigned.

The new members of the CNE were faced with the task of reorganizing all the various components of the election process, in preparation for the rescheduled voting. As noted earlier, there were serious problems with preparations for automated voting, which had to be quickly resolved, given the pressure exerted by political figures and public opinion.

In the face of such circumstances, the new CNE performed its tasks well. Mission observers were generally unanimous in their praise for the efforts made by the new authorities in terms of organization, training, automation, and publicity. The new CNE leadership thus succeeded in portraying to society and opinion-makers an image of greater confidence and objectivity, showing themselves more open to players involved in the process and to Venezuelan society at large.

During the Mission's visits in various states, the election authorities demonstrated a high degree of professionalism and sound logistical and organizational capacity.

## **B. MISSION CONTACTS**

From the outset, the Mission established contact with all players involved in the election process, in order to inform them of the Mission's objectives and activities, to report its observations on the process, and to gather information. Generally speaking, the observers received a cordial and open response to their requests. Mission observers met with electoral and governmental officials (the president of the republic, the vice president, the chancellor, members of the Supreme Court of Justice, the attorney general and the public defender), candidates and political leaders, and representatives of civil society organizations.

### **1. Contact with political forces and other institutions**

During the Mission, observers met with various political players, the Catholic church, and other institutions of civil society, in order to appreciate their viewpoints and concerns with respect to the election process and to inform them of the Mission's own mandates and activities.

Among the contracts made during the two phases, special note should be made of the meetings held with presidential candidate Hugo Chávez, with presidential candidate Francisco Arias Cárdenas, with the elections policy director



of the MVR, with two candidates of the Partido Primero Justicia, with the secretary general of Acción Democrática, with a representative of the COPEI leadership, with the Red Emergente Democrática, with Enrique Salas Römer of Proyecto Venezuela, with Causa R and the MAS, with the secretary general of the Conference of Bishops of Venezuela, Monseñor José Hernán Sánchez Porras, and others.

During the first phase, most of the opposition leaders and candidates interviewed declared their concern over various types of irregularities in the election process, indicating that these were affecting their campaigns and candidacies, and pointed to a series of technical and administrative shortcomings that were sowing uncertainty and discord over the process. As a result of the shortcomings, the process was eventually suspended. During the second phase, opposition parties continued to express their concern over the organization of the process, but to a lesser degree, and their attitude towards the coming elections was more positive.

In the state of Vargas, several candidates entered verbal complaints over the use of state resources by official candidates for purposes of political campaigning.

However, representatives of the political groups supporting the candidacy of President Chávez had a generally positive view of the political process, stressing its popular legitimacy as evidenced by the various elections that have been held in recent years. They pointed to the prevailing freedom of expression and the degree of political participation as positive signs of a healthy electoral process.

After the initial elections were suspended, the two most important presidential candidates accepted the correctness of the decision to postpone the voting and expressed their satisfaction at the presence of the OAS, with the hope that the Mission would return to the country when new elections were held.

During the second phase, the Mission was careful to reestablish and pursue the contracts made during the first phase. The parties contacted expressed their satisfaction over the appointment of the new members of the CNE and the creation of the Parties Commission. Nevertheless, they voiced concern over the lack of timely communication by the election authorities and the INDRA firm (a Spanish company responsible for the automation system). Monseñor Porras, for his part, admitted to having serious doubts about the transparency of the electoral process, and this statement created for a time a certain tension among informed sectors and organized civil society.

The political parties visited showed at all times a good disposition towards Mission observers and expressed their gratitude for the Mission's presence.

## **2. Media contacts**

During both observation phases, the Mission maintained permanent contact with the national and international media and responded to their requests at all times.

The Mission's communications policy was highly restrictive and controlled. Only the Chief of Mission, and no other member of the Mission, was allowed to speak with the press. Interviews were granted only when the Chief of Mission considered it appropriate, in order to maintain a proper balance between the necessary degree of institutional presence and a possibly excessive interference in the process.

During the first phase, because of the problems in organizing the electoral process, the Mission was constantly approached by the media, and its press communiqués were crucial in highlighting public concern over the irregularities and technical delays noted by Mission observers, and their potentially negative impact on the process. The final communiqué expressed the Mission's satisfaction at the decision of the electoral authorities to postpone the date of the elections (see Annex 5).

During the second phase, with the problems and arguments over the May proceedings now out of the way, public attention and the media were able to focus on the election process itself. The media tended for the most part to take a clear editorial line on the electoral process, and consequently, the Mission was under great pressure to engage in public debate and to take sides (see Annex 6).

The Mission held three press conferences during this phase, at which it delivered clear messages. The first was to announce the installation of the Mission and its principal objectives. The second, held two days before the elections, was to issue a preliminary report on the results of its observation and to try to foster a climate of greater confidence in the process. The third press conference, held the day following the vote, was intended to report the Mission's preliminary observations on the election-day proceedings of July 30. The intent here was to lend greater credibility to the election process and its outcome (see Annex 7).

During both phases, the Mission was able to maintain cordial relations with the media at all its offices, and there was no negative press comment about the Mission's activities. Nevertheless, and particularly during the first phase, the most important media sources were critical of the actions of the government and the election authorities.

### **3. The role of civil society organizations**

From the beginning of its work, the Mission maintained constant contact with various civil society organizations that were actively engaged in the electoral process.

These NGOs in fact played a key role during the Venezuelan electoral process. That role made itself felt primarily in terms of keeping watch over the electoral authorities and participating actively in providing information to voters. According to reports from Mission delegates, these organizations maintained a permanent and active presence at offices of the CNE and the media.

One example of this presence was an open meeting convened by several NGOs, in which they expressed to members of the CNE board their views about the electoral process and offered their support for encouraging people to vote, for which they were willing to take all steps necessary to inform, instruct, educate and motivate the citizenry to participate in the voting, by mobilizing their NGO network.

During phase I, the activism of these organizations was particularly noticeable on two key occasions: the setting up of the elections audit committee, and the judicial appeal for suspension of the May 28 elections.

The Mission expressed its satisfaction over the efforts of these organizations, as a means of strengthening civil society and democracy in Venezuela through the encouragement of responsible, active, and effective public participation.

#### *a. The Audit Committee*

As a further indication of their support for the electoral process, civil society organizations set up an audit committee composed of a commission of seven NGOs: Fedecámaras, Queremos Elegir, Pro Venezuela para el Fortalecimiento de los Valores, Red de Veedores, and Momento de la Gente, among others.

The basic purpose of this committee was to prepare international calls for tender to be issued by the CNE for the three external audits of the automation system used in the mega-elections. The committee also constituted the basis for the National Observation Network (RON).

The committee thus prepared the bidding documents for the audits of the management units responsible for automation; the voting machines and the equipment for transmitting data and results, and the procedure for tabulating and adjudicating the results.

During the first phase, no audit contracts were let, because none of the competing firms complied with the bidding requirements. During the second phase, however, after some adjustments were made to the bidding documents, the CNE awarded audit contracts to the Venezuelan firms ZPedraza, Camero Romero Contadores, and DFK Consultores y Asociados, respectively.

*b. National Observation Network*

The RON, which embraced a number of civil society organizations, was constituted in April 2000 to monitor preparations for and conduct of the elections. Its membership included the Momento de la Gente, Fundación Dale al Voto, Asamblea de Dios, Asociación Procalidad de Vida, Fetracarabobo, Participación Ciudadana, Liderazgo y Visión, Libertad de Elegir, and Compromiso Ciudadano. The purpose of the network was to help strengthen the legitimacy of Venezuelan electoral proceedings, to increase voter turnout, and to promote fair and peaceful competition during the elections.

**C. THE PREVOTING STAGE**

During the prevoting stage (phases I and II), the OAS Electoral Observation Mission observed the logistic and administrative aspects of election preparations, with special attention to the automated system and to the various components of the electoral campaign.

**1. Voters' list**

The voters' list for the July 30 elections contained 11,795,440 names (11,720,660 Venezuelans and 74,780 foreigners) (see Annex 8). This list was in

fact the same as that prepared for the elections postponed from May, because the CNE decided not to open it to any further registrations.

From the beginning of their activities, Mission observers noted four aspects that had an important impact on the voters' list: fraudulent changes of address, relocation of polling stations, deceased voters, and double registration.

*a. Changes of address*

During voter registration, the CNE detected approximately 80,000 changes of address, of which some 15,000 were investigated by sending officials to the addresses reported. On election day, as Mission members were able to observe, the CNE posted lists at voting stations, naming those whose change of address had been proven, so they would not be allowed to vote. The effectiveness of this measure could not be determined, however, since no cases of this type arose during observation visits to the voting centers.

The states showing the greatest number of fraudulent changes of address were Vargas, Aragua, Amazonas, and the municipality of Chacao. In the state of Amazonas, for example, the Mission noted that 1,000 individuals were known to have registered on time but were not listed in the national office; in Aragua there were 200 persons, and in Nueva Esparta 194 persons in the same situation. Another situation worth mentioning occurred in the metropolitan area of Caracas, in the municipality of Chacao (Miranda State), where there were 70,973 individuals registered to vote, although the total population was only 72,211.

These cases were cleared up in part during the stage prior to the elections. Nevertheless, as of September 30, the date this report was completed, the electoral and justice authorities were continuing to investigate and take corrective action in the cases mentioned above.

*b. Relocation of polling stations*

The CNE ordered a total of 32 relocations throughout the country, and a number of complaints were submitted about the places selected for these relocations, particularly in the state of Vargas, which was seriously affected by a natural disaster in December 1999. Nevertheless, the CNE responded officially that these transfers were made solely in order to keep the polling stations close to voters'

homes. This point could not be confirmed, however, because of difficulties in traveling to the affected zone.

Some of the most significant relocations were made at the following sites: 15 voting centers in the state of Vargas; 3 in the states of Mérida and Portuguesa and in the federal district; 2 in the state of Táchira; 1 in the state of Nueva Esparta; and 1 outside the country.

*c. Double registration*

With respect to problems of double registration, the following cases were noted: where the same ID number is assigned to two persons, and where one person appears on the voters' list with two different ID numbers. These situations, as the CNE explained, generally involve foreigners who have been naturalized and who have been issued a new ID number without deleting the old one. It should be noted that, while the number of such cases was not significant, they attracted wide attention and deserve to be investigated and cleared up.

## **2. The automated voting system**

The automated voting system relies essentially on the voting machines. These operate on the basis of a PCMCIA device known as a "flash card," an electronic card that stores the necessary parameters for using the machine and the matrix for totaling votes cast, constructed from the candidates' data base; a modem for transmitting the results; a series of eight optical scanners (four above and four below, for recording the vote regardless of the direction in which the ballot is inserted); and an internal electronic device for storing the firmware (an element containing the machine's elementary operating logic).

Results are communicated from the machines to the tabulation centers, for the most part, over telephone lines (in regions where there are no fixed lines, wireless systems are used) specially dedicated by the National Telephone Company (CANTV), using that company's switched network infrastructure, and thus essentially sending communications between the central offices of that operator.

The totals from each machine are transmitted to the tabulation center computers, which use the tabulating program provided by the INDRA company to total votes in their respective jurisdictions, i.e. national, regional, or local. The CNE

tabulation center has two HP 9000 computers for this purpose (one of which provides backup to the other); the regional centers have two HP 3000 computers; and the municipal centers are equipped with personal computers.

The irregularities observed in the automated system, which led to suspension of the May 28 elections, originated primarily in operating errors detected in the PAR 2000 system (Network Automated Candidacies 2000) and the impossibility of organizing the candidates' data base fields to coincide with the flash card, the ballots, and the counting procedure.

These errors arose for three fundamental reasons: 1) the candidates' data base was fragmented and compiled with different parameters in various parts of the country, so that there was no nationwide consistency; 2) the contract operators introduced a significant number of errors in transcribing candidacies, basically because of the complexity of the alliances among parties and candidates; and 3) most candidacies were presented within the last three days before the deadline, producing great paperwork congestion that led to errors in transcription.

Once it detected this problem, the CNE attempted until the last moment to correct the errors but was unsuccessful in doing so, primarily because it did not have a systematic correction procedure. In effect, corrections were made in a parallel but isolated manner, without any mechanism of coordination among the various components of the system, which were in the hands of four different companies (Unisys for the candidacies system, ES&S for producing the flash-card matrices, Continental Web for printing the ballots, and INDRA for the tabulating system).

In the days before the Supreme Court of Justice ordered suspension of the vote, the Mission warned the electoral authorities that the lack of consistency between the candidates' data base and the data stored in the other components could not be corrected by May 28 and that, in the opinion of OAS experts, if isolated modifications continued to be made, with no control and simultaneous verification by the CNE, there would be serious discrepancies on election day between the various components of the system, which could call into question the credibility of the elections themselves (see Annex 9).

Nevertheless, for the July 30 elections, the Mission's technical observers found that the automation commission of the CNE had established a procedure for systematic reconciliation of the data base and had conducted a person-to-person

check of the instruments in question, against all candidates registered for the elections. In this way, corrections were incorporated into the data base using a strategy of three separate data cross-checks. The CNE also took steps to deal with possible breakdowns in the process, and this generated greater confidence and credibility among the various players involved.

As a security and control mechanism, the CNE ordered that the electoral tools to be used on election day should be kept in the vaults of the Central Bank. These included the data bases for the flash cards and the tabulating system, a copy of the tabulating software and of the flash-card records, and a copy of the various ballots and reporting forms to be used.

As a result of its evaluation of the automated elections system, the Mission concluded that the system achieved its objective of significantly reducing human intervention, which is recognized as the principal source of errors. Nevertheless, members of the CNE reported that during voting the current system left a major degree of discretion to polling station officials, who had to act as a bridge between the voters' list and the candidates' list, since the current automated system does not combine these components. This left open the possibility of inconsistencies in the count and the risk of fraudulent actions.

The Mission considers that, thanks to the independent audits ordered by the CNE at several points of the election process and their administration, as well as the installation of an automated system whereby political groups and observers could consult directly the results transmitted from the polling stations, the transparency of the process has been significantly improved.

Nevertheless, the Mission was unable to verify the computer programs and control procedures used either with the voting machines or in the tabulation centers, because these belong to private suppliers (ES&S and INDRA) and were not turned over to the contractor (CNE).

It should be noted, finally, that the system in use has particular design features that make it possible to evaluate the process using the ballots themselves: Once these are recorded by the automated system, they are kept as documentary proof and can be audited and verified subsequent to the automated process.



### 3. Election infrastructure

For these elections, a total of 8,403 voting centers were established throughout the country (4,849 automated and 3,554 manual), with a total of 10,556 polling stations (see Annex 10).

With respect to the voting machines, the CNE has a total of 7,350, of which 7,020 are operational and 330 are kept in reserve. The number held in reserve depends on the distribution of active machines in each state.

### 4. Election logistics of the CNE

The materials used in Venezuelan elections are classified into 9 groups: office materials, paper supplies, continuous forms, stickers, cartons and boxes, seals, voter registry books, and vote-counting forms.

#### *a. Logistics and distribution of materials*

During the first phase, according to the Mission's observations, distribution of materials was properly designed and the supplementary materials were distributed on time. Nevertheless, the voting ballots were not fully distributed, because of printing delays and the disorderly manner in which they arrived at Plan República headquarters.<sup>5</sup>

Another problem was the delay in publishing the *Electoral Gazette* with information on candidates for the various positions, and in distributing the sample of "not valid" ballots. This delay in providing required information was a further source of repeated criticism aimed at the electoral authorities.

During the run-up to the July 30 elections, Mission observers monitored logistical operations and distribution of materials under the Plan República.

Two days prior to the election, the Unified Command of the National Armed Forces (CUFAN) reported that there had been no operational problems with deployment anywhere in the country. The observers noted that election materials were indeed available at most voting centers visited and that they were held in

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<sup>5</sup> The Plan República was established in 1963. It assigns the armed forces the responsibility for the distribution of voting materials and the provision of security during elections.

proper safekeeping. Nevertheless, in the states of Portuguesa and Trujillo, distribution was delayed because, first of all, the materials arrived two days later than shown in the electoral schedule and, secondly, there were problems in locating members of many polling stations to deliver their credentials.

All of the Mission observers agreed that the Plan República was effective in its logistical deployment, both prior to the vote and on voting day itself, where military personnel demonstrated not only a knowledge of electoral proceedings but a generally cooperative and friendly attitude towards voters and other players in the process. The observers reported that they were cordially received and given full access to information by officials responsible for the Plan República and for JRE logistics.

## **5. Publicity**

Information tasks related essentially to the distribution of voters' brochures, instructions on the handling of voting materials and the voting process, the distribution of "not valid" ballots, and televised voter information campaigns, among other things. Special mention should be made of the National Voter's Day which was held on Sunday, July 23, to launch a nationwide information campaign, in which Venezuelan voters could go to a number of information sources throughout the day to obtain details on where to vote, who the candidates were by zone or electoral district, and how to cast their vote.

The communication strategy, using television announcements to encourage people to find out who their local candidates were and to vote, was conducted with great creativity and originality.

Thus, despite the difficulties that the Mission found upon its arrival, and the citizen complaints that were lodged about the dissemination of voter information, the information campaign was effective and its objective was achieved, especially during the second phase.

## **6. Training**

The CNE designed a special training program for these elections, aimed at members of the subsidiary electoral bodies (regional boards, municipal boards, and polling station teams). The principal objectives of this program were to train polling

station workers in applying each of the administrative and technical procedures, to foster citizen awareness about the transparency of the process and the need to follow the rules correctly, and to ensure that the various operating phases of the electoral process were properly performed and any problems resolved.

One of the goals of the training program was to train 100,000 members of the voting station teams (full members, alternate members, or reserve members) to ensure a sufficient supply of qualified staff to guarantee success of the voting process in each federal entity.

Use was made for the first time of a distance training system, which provided video-conferencing for training regional and municipal boards in the 23 states and in the capital district.

In the run-up to the scheduled May election, delays in the printing of the roughly 5 million ballots prevented training from being fully and properly conducted in many parts of the country. Because the CNE had no means of forcing polling station workers to present themselves and retrieve their credentials to take part in training, most of the workers selected by lot failed to take the appropriate training.

Nevertheless, training coverage was complete in the states of Sucre, Anzoátegui, and Nueva Esparta, where observers found that there were no difficulties in appointing polling station members, and that training was conducted properly and fully. Also, voting scrutineers, who were to act as alternates in the absence of a member, were trained by the participating political parties.

As in the previous phase, in the days immediately prior to the July 30 elections there was widespread public concern over the fact that so few polling station members were attending the training courses. Yet the observers found that in fact many of the polling station members had been appointed for the elections originally scheduled for May and had, therefore, already received their training.

Similarly, given the failure of some polling station members to show up for training, the CNE appointed ad-hoc members from among voters who had cooperated during the 1998 and 1999 elections, and who, as Mission members were able to confirm at various polling centers, were fully familiar with election proceedings.

## **7. The election campaign**

During the first phase of observation, the Mission observed the final stage of the election campaign, focusing in particular (because of logistical and human resource constraints) on the presidential campaign and the campaign for mayor of Greater Caracas.

When the Mission arrived in the country, it found a highly charged political atmosphere, marked by negative campaigning and personal attacks. Things improved, however, and in the end the campaign was conducted normally. Towards the close of the campaign, candidates presented their platforms, which were subjected to considerable debate and discussion in the media.

With its order suspending the May elections, the Supreme Court of Justice also suspended all campaign activities until the designation of a new election date and the establishment of a new election timetable.

The campaign for the July 30 elections was finally reopened on July 15, at which time the Mission focused its activities on the presidential campaign, and the campaigns for governor of the principal states.

During this phase, Mission members were able to observe various campaign activities, such as caravans and party demonstrations, as well as the windup events at both state and municipal levels. In many cases, it was found that candidates for regional and local office relied heavily on speeches and debates at the national level, seeking to attract to themselves some of the support for one or other of the presidential candidates.

In both phases of observing the election campaign, the following general features stood out:

- Broad freedom of expression and assembly
- A degree of verbal aggressiveness by candidates (especially during phase I) that declined towards the end of the campaign

- Little discussion of political platforms by candidates, at least at the national level
- Massive and enthusiastic mobilization in support of various candidates, in various types of events, caravans, street booths, etc. Nowhere were any anomalous situations noted
- Television, radio advertising, and posters in the streets
- A high degree of participation, both in terms of the number of candidates and the turnout at party events

At several of the Mission's offices, delegates observed the following features in the campaign:

- No attacks among candidates
- Concern for the transparency and credibility of the electoral process
- Concern over the confusion among party alliances as shown on the ballots
- Parties offering concrete proposals to voters

#### **D. OBSERVATION ON ELECTION DAY**

On election day, the Mission deployed more than 50 observers throughout the country to observe voting, with particular attention to polling stations selected at random for the quick count. Within their respective geographical zones, observers began their day early, checking on installation of the various voting centers, and attended the closure of polls and the counting of votes.

During this stage, the Mission enjoyed the cooperation of the United States and Spanish embassies in its field observation work and in performing the quick count. The Mission also coordinated with the representative of the Carter Center, which allowed observers to maintain a constant exchange of information on election day.

The Mission observed some 600 voting centers, distributed in 50 municipalities in 21 of the country's states.<sup>6</sup>

### **1. Installation and opening**

Voting stations were installed and opened in all cases, although there were instances of delay, in the states observed by the Mission. Generally speaking, the polls observed opened between 6:30 A.M. and 8 A.M.

Most of the delays in installing the polls had to do with the absence or late arrival of members of the team. In general, however, the installation process proceeded normally and efficiently. In the state of Falcón, some polls were constituted with scrutineers from only one party, but this did not prevent the poll from operating normally.

At the beginning of the day, voting machines were found to be functioning normally, for the most part, although there were a few exceptions in some of the centers observed. Defective machines were repaired or replaced quickly without interrupting the normal flow of voting. This situation was observed in 5 of the 50 centers under observation at opening time. In cases where the machines could be neither replaced nor repaired, voting began manually, as prescribed by law. INDRA technicians, in fact, were unable to resolve such problems and had to report them to the company's regional center for subsequent replacement or repair.

No shortage of materials was observed at any of the voting centers, nor was there any political propaganda in the immediate vicinity. Scrutineers from the various political parties were present at more than 90 percent of the polling stations.

However, in several polling centers it was noted that the machines were failing to read the ballots for president, and in other cases the ballots for governor, and in these cases votes had to be counted by hand. Nevertheless, the voting process proceeded uninterrupted at all stations observed, in accordance with the rules laid down by the CNE. According to CNE sources, these problems reflected the different thickness of the ballots, which had been left over from the originally scheduled May elections without being reprinted.

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6 Lara, Sucre, Zulia, Nueva Esparta, Miranda, Yaracuy, Portuguesa, Cojedes, Monagas, Anzoátegui, Bolívar, Vargas, Distrito Capital, Táchira, Trujillo, Mérida, Falcón, Guárico, Aragua, and Apure.

The atmosphere on voting day, according to the reports received, was calm and festive. There was a massive voter turnout, despite long waiting lines at the polls, which led to complaints by voters in some cases.

## **2. Poll closing and vote counting**

Polls closed, for the most part, at the appointed time, although there were some cases of delay, due generally to the following factors:

- There were long lines of people waiting to cast their votes, reflecting the increase in the number of voters per station (average 800 to 1500 per poll)<sup>7</sup> that had been created by the reduction in the number of polling stations (from 22,500 to 10,556) during the re-engineering of the December 1999 elections.
- Because of the complexity of the election, the voting process was slow. Voters had to make between 11 and 14 choices, depending on their electoral district.

Such situations were observed despite the fact that, during voting day, the CNE decided to extend the poll closing time from 4 P.M. to 6 P.M.. Generally, the polls closed between 6:30 P.M. and 8 P.M., although in several cases they were still open at midnight.

The Mission's observers reported that the counting of votes also took place in an atmosphere of tranquility, and in the presence of the political parties. In many cases, vote counting was late in getting under way, because the ballots for president and governor could not be inserted properly into the machines, and poll workers had to introduce the ballots manually, one by one, after voting was over and the machines had been calibrated. This was a time-consuming process. At most of the centers observed, however, vote counting was completed between 8 PM and 10 PM on voting day, although there were some cases where counting extended into the early hours of the next morning.

The transmission of results took place without incident, and results were released to the public at 10:30 that night, only four hours after the polls closed.

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<sup>7</sup> In the previous elections the average number of voters per poll was approximately 750.

At the end of the day, the Mission's technical staff went to the information center set up within the CNE and attempted to verify results for some 50 counts obtained by observers at polling stations visited for the quick count. Of these, only 30 could be verified, since the remaining reports were not yet in the system when the verification was conducted.

During this work, the observers noted a certain number of numerical inconsistencies in the tally reports, primarily from the polls where votes had been counted manually, and these had to do with differences between the number of voters voting and the number of votes cast, and the total number of valid and invalid votes. The Mission paid particular attention to this situation and came to the conclusion that these discrepancies reflected, in some cases, human error by polling station officials, and in other cases, votes cast by illegal voters, who were impossible to identify precisely unless they were caught in the act by members of the polling station team.

In this connection, the CNE has a tabulation commission that certifies any reports containing numerical inconsistencies and allows the tabulation of reports that, although they contain inconsistencies, can be rectified by reviewing the instruments (voters' lists and voting records), or through a manual recount of votes, where a legal appeal is brought to this effect. The commission has no power to correct such inconsistencies at its own initiative, except where the reports contain a greater number of voters voting than are registered in the voters' list. In these cases, the commission rejects the report and replaces it with the report from a poll with the same socioeconomic and electoral characteristics (e.g., a poll from the same center or voting district).

From these qualitative observations, a number of general conclusions can be drawn with respect to proceedings on voting day:

- Generally speaking, the polling stations opened with some delay and in many cases without all the members of the team prescribed by law.
- In a significant number of polling stations visited, members of the team were absent. In these cases, observers confirmed that the polls were constituted with full members, alternate members and in many cases (perhaps 60 percent) with scrutineers or voters acting as ad-hoc members. In this last case, it



should be noted that none of the polls observed encountered any difficulties in the voting process.

- At many voting centers, particularly those located in urban areas, there were long lines of people who had to wait sometimes several hours in order to cast their vote. These situations produced feelings of impatience and frustration among voters. Such delays were due, according to observers' reports, to the time-consuming process of identifying each voter and the high number of voters registered to vote at certain polling stations.
- In approximately 30 percent of the automated polling stations visited, observers recorded some kind of failure relating to the voting machines. In some cases there were technical problems with the functioning of the machines, which meant that the polls could not be opened until these problems were fixed. In isolated cases, there were initial problems with the printers and with the electricity or telephone connections required for data transmission.
- At some of the voting stations visited, premarked presidential ballots were found, and these were duly annulled by the poll officials. Such irregularities occurred in several states, although observers reported that they were the exception rather than the rule.
- At most of the polling stations observed, it was found that the voting machines rejected presidential and gubernatorial ballots, in which case voting for those positions had to proceed by hand.
- In some polling stations located in remote areas (Apure and Portuguesa), instances were detected where the voter's right to privacy was violated by poll officials, although no complaints were received to this effect from voters. In some cases, the polling station members filled in the ballots for voters who had difficulty in doing so, but following the voter's instructions, of course. In other cases, voters were allowed to complete their ballots in the company of other persons, where this was physically possible.
- At some voting centers, observers found that the published voters' lists were missing the names of persons duly registered to vote at those stations, a fact

that caused confusion and led many people to feel that such omissions were intentional acts of fraud.

- The observers praised the valuable work performed by members of the polling station teams and by the scrutineers appointed by the political parties. The patience, devotion, and enthusiasm demonstrated throughout election day deserve the greatest respect and admiration.
- The observers also noted the efforts of the armed forces, under the Plan República, to provide logistical support and security on election day. Voters clearly recognized and respected the members of the National Guard. They, in turn, showed a considerable capacity for organization and leadership, which greatly facilitated voting operations.

The situations that occurred in certain voting centers by no means represented a serious or generalized trend such as might have invalidated the elections process. On the contrary, the elections were, as a rule, adequately prepared and organized by the CNE, consistent with prevailing legislation, and were held in the presence of witnesses from the various political parties as well as national and international observers. For the most part, the elections were conducted in an atmosphere of calm, transparency, impartiality, and security.

### **3. Quick count**

A quick count consists of deriving and projecting voting results from a determined number of voting stations selected at random in accordance with a statistical sample representative of the population's demographic characteristics. These results are then projected to the total universe of voters in the country and are compared against the official results of the election. If there are any discrepancies, beyond a predictable margin of error, this may indicate problems or irregularities in the official counting process.

Given the representative characteristics of the sample selected, it constitutes a valuable instrument for observing voter behavior in a context of great socioeconomic and political variety. The quick count provided a reliable point of reference for comparing results of the presidential elections, as well as a general yardstick for the conduct of voting throughout the country, including different urban and rural areas and remote corners of the country.

Given the number of observers available, the sample was composed of 50 voting stations out of a total of 10,436, based on a simple random sampling. After obtaining results from the vote count (manual or automated), the observer transmitted the results to the computer center at the Mission's central headquarters.

Using the SAS system in a Windows 98 environment (see Annex 11), calculations for the quick count produced the following results, which coincided with the first bulletin issued by the CNE, and subsequently with the official results that were released later (see Annex 12).

<b>PERCENTAGE OF VOTES BY CANDIDATE, INVALID VOTES, AND ABSTENTIONS LIMIT OF CONFIDENCE (95%)</b>				
<b>Candidate/Invalid/Abstention</b>	<b>Percentage of votes</b>	<b>Lower limit</b>	<b>Upper limit</b>	<b>Error</b>
CHÁVEZ	60.8	56.0	65.6	4.8
ARIAS CÁRDENAS	36.4	31.7	41.1	4.7
FERMÍN	2.8	2.3	3.3	0.5
Invalid	4.7	3.7	5.7	1.0
Not voting	44.1	41.0	47.3	3.1

The availability of reliable results of this kind allowed the Mission to deal prudently and correctly with events immediately after the polls had closed. For example, this tool was extremely useful when the presidential candidate Francisco Arias Cárdenas insinuated, at the end of voting, that the outcome for him had been different from the results issued by the CNE. Moments after the CNE had released its first bulletin, candidate Cárdenas came to the Mission, declaring his disagreement with the outcome reported by the senior electoral authority. Yet after the Chief of Mission had explained to him the Mission's position with respect to the election outcome, the candidate promised to review his own results and compare them with those of the quick count and those officially announced by the CNE.

In short, the election was conducted in an atmosphere of calm, transparency, freedom and security. In general, voting was free and secret.

#### **4. Observers' experiences**

Consistent with its mandate and its objectives, the Mission deployed its international observers in 21 states of the country, in each of which it covered urban centers, rural districts, and remote areas, to evaluate the various aspects of the electoral process. This logistical effort allowed the Mission to establish high levels of confidence and recognition among voters, the electoral authorities, civilians, military officials, and the various political players. This broad geographic coverage provided the Mission with a solid empirical base for its observation work and for the assessments and official declarations that it made.

As a means of appreciating the work involved in election-day observation, it is useful to look at the experience of some observers whose principal challenge was to get themselves to their assigned voting center. Given the great distances involved and the need to perform sampling in areas of difficult terrain, several observers arrived at their voting stations by boat, by helicopter, on foot through the swamps and, in some cases, where the physical risk was high, under the protection of military personnel.

The observers were unanimous in praising the full and disinterested cooperation of the electoral and civilian authorities, as well as of the Plan República. These and other players in the electoral process recognized the positive contribution that the Mission observers' presence made in the various states. Several observers reported that players in the process welcomed the OAS presence as enhancing the transparency of the elections proceedings (see Annex 13).

#### **E. POSTELECTION STAGE**

The postelection stage involved monitoring the vote tabulation, external audits, proclamation of successful candidates, challenges, and other complaints about the process, and included a period of time during which public opinion was able to assimilate the results. The Mission maintained an active presence in the country for several days after the election, renewing contact with the electoral authorities and with some of the players in the process. Moreover, several public figures and players in the electoral process called upon the international observers to remain and observe the postelection period.

## **1. Observation of the audits**

For these elections, the CNE arranged for three external audits to be conducted, in addition to the conventional internal audit, by private firms contracted through public bidding monitored by a public audit committee. These three audits related to management of the units responsible for vote automation and voting instruments and materials; voting machines, transmission of data and results and the process for tabulating returns; and the adjudication of results. The firms contracted are shown in item 2.3.1 of this chapter.

Mission experts had the following observations in this regard:

With respect to the management audit of the CNE units responsible for the vote automation and for the voting instruments and materials (first audit), the firm conducting the audits did not have proper access to that portion of the automated process corresponding to the INDRA company, and so the audit must be regarded as of limited validity.

With respect to the audit of the voting machines and transmission of data and results (second audit), the tests conducted were reasonable; nevertheless, testing should have been performed at least on a random and representative sample of machines, if invalid conclusions were to be drawn about the machines as a whole.

With respect to the audits of tabulation procedures and adjudication of results (third audit), the process was not properly organized because not enough time was allowed for the planning stage. Agreements and decisions about the audit were taken only in the last days before the audit was to begin. The validity of this audit must, therefore also be regarded as limited.

The foregoing comments resulted from observations made at the outset of work by the respective auditing firms. The Mission wrapped up its work before the audits were completed and, consequently, before the final reports were delivered to the CNE.

Nevertheless, the audit results indicate that the electoral authorities performed well and that the automated system was reliable, despite errors and problems that were detected in the process and that were reflected in the recommendations from both reports.

## **2. Proclamation of successful candidates**

Despite the criticisms and appeals submitted to the CNE, the electoral authorities proceeded, pursuant to legislation and once the tabulation process was completed, to proclaim the elected candidates.

Thus, as a result of the presidential vote, Hugo Chávez Frias was proclaimed president of the republic, with 59 percent of votes cast, followed by the opposition candidate, Francisco Arias Cárdenas, with 32 percent of the votes.

In the parliamentary arena, the official coalition obtained 60 percent of the seats in contention (92 deputies), giving it a simple majority in the Legislative Assembly. Nevertheless, for certain issues, such as the appointment of public officials and the approval of organic laws, the coalition will have to have a majority of 66 percent.

With respect to the state governments, the governing party (MVR) won 11 governorships out of a total of 23, losing only one state in which its candidate was the favorite and winning two states where the opposition appeared to be ahead. The remaining governorships were distributed as follows: AD (4), COPEI (6), MAS (4), Proyecto Venezuela, UNT, PPT, and CONVERGENCIA (1). It must be noted, however, that at the time this report was prepared the results in three gubernatorial races were the subject of legal challenges (Vargas, Mérida, and Anzoátegui).

At the local level, opposition parties won about 60 percent of municipalities, while the MVR succeeded in only 24 percent (80 municipalities of a total of 386). The parties winning the greatest number of municipalities were the traditional parties, AD (winning 91 municipalities) and COPEI (with 51), followed by the MAS (with 19) and the PPT (with 15). The remaining municipalities were distributed for the most part among independent candidates or movements.

In the Mission's opinion, these results show clearly that, despite the political lead enjoyed by President Chávez, who obtained a wide margin of votes over his principal rival, the opposition forces are in fact well represented at all levels, and political pluralism is very much alive.

### **3. Abstentions and invalid ballots**

It is important to note that, despite the suspension of elections in May and widespread apathy among the public, the abstention rate (43 percent) was lower than in the previous three elections, although it was higher than that for the presidential elections in 1998 (36 percent).

The incidence of invalid ballots in these elections varied significantly among the different levels of elective positions and reflected voter apathy or lack of knowledge about certain kinds of elections. Thus, for example, invalid ballots cast for president accounted for only 5.26 percent of the total, while the invalid-ballot rate for the indigenous seats in the National Assembly was 72 percent (see Annex 14). The term “invalid ballots” refers not only to ballots incorrectly completed (“spoiled ballots”) but also to blank ballots.

With respect to the CNE’s announced intention to monitor the disposition of invalid votes, the Mission confirmed that a study was conducted of all voting stations, which were classified in accordance with historic averages of invalid ballots for each region, in order to identify those polls where ballots were being rejected through mechanical malfunction. In fact, the study found that, of the 306 machines recording an invalid-ballot rate of more than 15 percent, only 25 of them (where such behavior was evident in the tallies for all classes of ballots cast) suggested mechanical malfunctioning. The remainder (281) revealed this irregularity in only certain classes of ballot, indicating that those ballots were invalid for reasons other than mechanical problems (i.e., they were spoiled or blank, as defined by law).

It should also be noted that in those states where challenges were submitted, this problem had no impact on the election results. For example, in the states of Anzoátegui, Falcón, Sucre, Amazonas, Apure, and Vargas, this problem was reported with only one machine, while in the states of Mérida, Nueva Esparta, and Cojedes, no machine exceeded the expected average of invalid ballots for the region.





## **CHAPTER VII**

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# **COMPLAINTS AND CHALLENGES**



During the two observation phases, the Mission undertook to monitor complaints and appeals (challenges, denunciations, etc.) submitted both to the CNE and to the Mission itself.

#### **A. LEGAL FRAMEWORK**

In its handling of complaints and challenges, the CNE follows formal procedures for accepting and substantiating them. Specifically, complaints of irregularities in the electoral process must be submitted by a citizen in writing to the General Secretariat of the CNE and must be accompanied by supporting evidence.

Where the challenge relates to the election results themselves, the procedure involves submitting a *recurso jerarquico* to the CNE, or laying the complaint before the electoral chamber of the Supreme Court. Where an appeal is brought to the CNE, the case is heard by the commission's electoral appeals substantiation chamber, which determines whether the appeal is admissible or not. If it is admitted, the chamber has a period of 20 working days to substantiate the appeal, including five days in which the interested parties may present allegations and evidence, after which the remainder of the time is used to prepare the draft decision. That draft is then submitted to the CNE board for approval or rejection. The time limit for presenting such appeals was extended in this case until August 25, 2000.

#### **B. COMPLAINTS AND APPEALS SUBMITTED TO THE COMPETENT BODIES**

During the preelection stage, in both phases, a number of complaints and appeals of varying kinds were submitted to the competent bodies. The most

frequent complaints had to do with: election propaganda; use of state resources; publicity campaigns in violation of the law; and fraudulent relocations. Appeals related primarily to charges of ineligibility, incapacity, or incompatibility of certain candidates. In the cases that it observed, the Mission found that these complaints and challenges were not sufficient to affect the process as a whole, and the CNE addressed them promptly, taking whatever measures were necessary to resolve them.

During the first phase, however, an important appeal was brought before the electoral chamber of the Supreme Court of Justice by two citizens' associations, COFAVIC and Queremos Elegir, represented by Liliana Ortega and Elias Santana, assisted by the lawyer Alonso Domínguez. This appeal led to a court order suspending the mega-elections scheduled for May 28. The appellants based their appeal on violations of the right to information for participation, for free elections and the right to peace. They also maintained that the CNE was incapable of guaranteeing the quality and transparency of the elections.

On election day itself and during the subsequent stage, the CNE received more than 300 appeals, including complaints, denunciations, and challenges over irregularities and allegations of fraud, particularly cases of numerical inconsistency in the vote count, premarked ballots, voting machine failures, and fraudulent changes of address.

The principal appeals submitted were the challenges brought by the candidate for governor of Mérida, William Dávila, who challenged many tally reports for numerical inconsistency; presidential candidate Cárdenas, who challenged more than 4,000 poll counts for the same reason; the candidate for governor of Anzoátegui, Andrés Velásquez, who alleged inconsistencies in the vote count; the outgoing governor of Táchira, Sergio Calderón, who challenged the tabulation and proclamation of the MVR candidate for substitution of candidates; the candidate for governor of Cojedes, who challenged the election outcome; and the PPT candidate for governor of the state of Amazonas, who challenged a series of vote counts.

The public defender recommended that the CNE order a manual recount of votes in the states of Mérida, Anzoátegui, Monagas, Yaracuy, Cojedes, and Táchira, in light of the complaints received over alleged irregularities which, he maintained, "could slightly affect the process." The CNE replied, however, that once the governors were proclaimed the CNE had no power to authorize a manual recount *ex*

*officio*, but could only do so at the request of a party to the dispute, and in accordance with legally prescribed procedures.

With respect to numerical inconsistencies,<sup>8</sup> the CNE explained that most of the cases submitted fell into the following classes:

- Discrepancy among the number of voters voting, the number of ballots cast and the number of valid and invalid votes. This situation arose primarily in two cases: first, through material errors and secondly, through voting irregularities. In the first case, errors may arise in counting the ballots or in counting the digital spaces in the voters' registry. In the second case, irregularities may arise, with or without complicity by polling station officials, when voters deposit either more or fewer ballots than the number of voters who actually voted.
- Discrepancy between votes cast and the total of valid and invalid votes. According to the CNE, these discrepancies, arose primarily through human error and occurred in two situations: when the box "Various Valid Ballots" (VTV)<sup>9</sup> was misinterpreted. Officials at manual polling stations mistakenly interpreted the VTV, using it as a subtotal for each candidate, and multiplying thereby the total of valid votes cast; and when an error occurred in completing the tally report (coincidence among the number of ballots cast, the number of voters, and the number of valid and invalid votes counted). Here, polling officials made mistakes in recording these data, and the reports were therefore inconsistent.

As noted previously (see page 25), these cases could only be resolved through appeals brought by the parties, since the CNE tabulation commission was empowered only to certify or reject vote counts and not to amend them. Vote counts can only be annulled in the case of negative abstention, i.e., where the number of voters is greater than the number of people registered to vote at that polling station.

In these cases, the CNE explained that the current election system allows members of the polling stations to exercise broad discretion: where the system is

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<sup>8</sup> See LOSPP, Article 220.

<sup>9</sup> The VTV box is used to express the intention to vote for a candidate, when the voter votes for the candidate in more than one box bearing his name and not for a specific party.

only partially automated, there is considerable handling of the voters' registry and election materials by poll workers, who function as a bridge between the manual procedures and the automated vote-counting system. In this way, there is room both for error and for fraudulent action.

As of the date of this report, of the 319 appeals submitted, the CNE had resolved 156 *recursos jerarquicos* in a "first round," of which 91 were declared inadmissible or out of order, 16 were approved with vote recount (including those for the states of Mérida and Vargas), 14 were admitted for submission of arguments by the interested parties, and 35 were accumulated, because they related to the same issue or the same person. Also, a total of 67 complaints were answered, while 96 appeals were pending determination or settlement of alleged numerical inconsistencies (e.g., where the vote count report failed to include the number of voters voting according to the voters' registry). Pending cases include those relating to the governorship of the state of Anzoátegui and the challenge brought by presidential candidate Arias Cárdenas).

Among the appeals admitted and resolved in the first round, there were three important cases that aroused great public interest. Two of these were resolved by the CNE in its own right and one, which involved investigation by the CNE, resulted in a change of outcome. The first case was that of the "Governor of the State of Cojedes brought by citizen Jesús Alberto Galíndez," which was partially admitted, in that the tabulation report was nullified, as were the adjudication and proclamation; after a recount the initially successful candidate was confirmed. The second case was that of the "Governor of the State of Táchira brought by the citizen Sergio Omar Calderón," which was declared out of order by the CNE, for having been submitted late. In the third case, "Governorship of the State of Amazonas," brought before the electoral chamber of the Supreme Court, the CNE quantified the irregularities in the vote counts annulled by the court, with the result that the election outcome was changed and the candidate proclaimed was removed from office.

As of the date of this report, none of the decisions taken by the CNE had been formally appealed before the Supreme Court.

It is also important to note that the number of appeals submitted to the various official bodies was relatively low (approximately 9 percent), compared with the

total number of candidates standing for office (319 appeals compared to 4,650 candidates).

### **C. COMPLAINTS SUBMITTED TO THE MISSION**

During the preelection stage, relatively few formal complaints were brought before the Mission. However, the Mission received several informal complaints from different players in the process, primarily challenging the electoral process and institutions involved or alleging irregularities in organization of the election and in the automated system. During the second phase, complaints focused essentially on the fact that there had been no immediate audit on election day. There are also complaints about the activities of the INDRA company.

#### **1. Complaints**

During the first phase, the Mission received four complaints of irregularities in the organization of the electoral process, specifically relating to the automation system, and these were duly processed and followed up by the electoral authorities. These complaints in fact became irrelevant when the electoral process was suspended.

During the different stages of phase II, observers received the following complaints, which were duly processed:

- In the state of Zulia, the AD party laid a formal complaint requesting the Mission to intervene in three petitions, relating to: 1) an immediate audit after the close of voting; 2) delivery of official confirmation of voting results to political party representatives at the voting stations; and 3) delivery by the CNE of total results from polling stations in the state, on magnetic medium.
- The regional coordinator for the State of Nueva Esparta received a complaint submitted by Morel Rodríguez Avila, candidate for governor of the state, alleging that there had been serious irregularities in the electoral process and that the vote count was manipulated so as to rob him of victory at the polls. The complaint listed a series of petitions that had been made to the electoral and judicial authorities prior to the election, and that had not been properly dealt with.

- Voters who were prevented from voting because their names did not appear on the voters' list, for no apparent reason and without a satisfactory answer from the electoral authorities. These complaints were transferred to the CNE complaints commission.
- Several complaints received from candidates in various states concerning irregularities on election day. Among these was a complaint submitted to the attorney general by the governor of the State of Mérida, with a copy to the OAS.
- The candidate for governor of the state of Mérida, William Dávila, gave the Mission a copy of a letter addressed to the attorney general of the republic challenging the election results and indicating that his electoral victory had been deliberately and fraudulently snatched from him. The plaintiff referred to the initial bulletins from the CNE on the night of July 30 and the morning of July 31, in which he was identified as the winner, only to have his victory later overturned in favor of the opposition candidate.

These complaints were transmitted to the corresponding authorities and as of the date of this report, as noted, the CNE was proceeding pursuant to law to resolve the challenges and complaints that had been laid before it. The Mission sees no evidence of attempts to manipulate the results of the investigations or to place the authorities in a position of impunity.



## **CHAPTER VIII**

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# **CONCLUSIONS AND RECOMMENDATIONS**



By way of conclusion, the Mission wishes to put forward the following comments and recommendations.

#### **A. CONCLUSIONS**

The election campaign was conducted in an overall framework of freedom of expression, pluralism, and a high degree of public participation, fostered by the diversity of candidates, party backed and independent, and by the efforts of campaigners to mobilize the public, at the national as well as at the state and municipal levels.

In terms of the organization of the elections and the legal and organizational questions that arose, the Mission noted that the organizational and technical problems existing at the time the elections were suspended posed a serious threat to the normal conduct of voting and made it impossible to guarantee Venezuelans their electoral rights. During the second stage, great progress was made in resolving problems identified during the first phase of the electoral process. The technical problems noted in the organization of the elections, particularly those relating to the automated system, and the irregularities observed in the voting on July 30 were not, as far as the Mission could observe, attributable to any deliberate attempt to alter the popular will as it had been about to express itself on Sunday, May 28.

The involvement of civil society organizations was an important, indeed a determining, factor in the Venezuelan electoral process. This is a sign of the strength of the country's democratic political culture, and of the citizenry's determination to seek an alternative form of political expression. In both phases

observed by the Mission, the public authorities provided NGOs with channels of expression and participation that had an important influence on decisions relating to the electoral process.

Moreover, citizen power played a key role in the electoral process. In particular, the public defender and the attorney general acted decisively and independently, offering through their actions an important degree of institutional support, as well as drawing together the disparate individual voices of citizens presenting complaints and challenges.

In addition, the Mission was pleased to see the important role that the country's mass media played, and continue to play. Throughout the campaign, the major media took a critical and constructive position with respect to the election authorities and the private companies involved in the various aspects of the process, keeping the electorate constantly informed and denouncing irregularities wherever they occurred. Similarly, the media amply fulfilled their principal task of informing public opinion about the complex electoral process in its different facets, serving thereby as agents for disseminating information that voters needed in order to exercise conscientiously their right to vote.

These elements formed a picture that provides grounds for optimism in a society that is going through significant political and institutional transformation. They would appear to encourage the search for more and better channels for dialogue and encounter among the different sectors of Venezuelan society, in its effort to consolidate and deepen the democratic process.

The Mission wishes again to congratulate the Venezuelan people for their joint effort during the electoral process and the demonstration of civic responsibility that was observed on election day, despite the difficulties present.

In short, the Mission finds that the electoral process culminating in the July 30 vote must be considered valid overall, despite the difficulties and complaints indicated. Those difficulties and complaints were not sufficiently serious or generalized to invalidate the electoral process as a whole.

## B. RECOMMENDATIONS

With the conclusion of the electoral process, the Mission believes that there are a number of areas where procedures should be reinforced or improved in order to strengthen the electoral process overall, and thereby to enhance voter confidence in the next elections. These recommendations are essentially of two kinds: technical and organizational/administrative.

### 1. Technical recommendations

The machines used for the automated voting system proved to be so complex and sensitive that they posed technical difficulties, primarily in reading the vote. This gave rise to political and legal problems that were at times difficult to resolve. Another sensitive area in the current process relates to the auditing of results. The process of appointing auditors, and the subsequent design and execution of their tasks, generated great uncertainty and speculation, primarily because there was no proper public communications strategy on the part of the CNE and the companies contracted to perform the audits.

In order to improve internal controls and enhance the credibility and transparency of the process, the Mission offers the following suggestions.

#### *a. Automated system*

- Introduce proper tools and procedures for administration and control of changes that are made in the automated programs, so as formally to separate the systems development environment from the production environment.
- Upgrade the system adopted for dealing with problems, so that the central help desk will have an overall familiarity with problems that have occurred, and not only those that could not be resolved in various regions of the country. It would be well to adopt an automated support system for dealing with problems.
- Automate the system for control, distribution, and storage of voting machines, so as to have available up-to-date and timely historical information on the performance of each machine. This information should

include a record of the status of problems determined during engineering tests, the date on which maintenance was performed, reasons, quantity, etc.

- Adopt a mechanism for encoding the results from each polling station for transmission over communication lines.
- Update documentation on systems infrastructure and on the procedures involved, including contingency plans.

*b. Audits*

- Consider including in the contractual agreements with the companies providing the automated voting service provisions, a full and unlimited audit by the CNE of the computer systems used in the process.
- In auditing the results and the interpretation of votes (third audit), introduce mechanisms for controlling the integrity of mechanized procedures used in selecting the sample of polling stations to be audited. Provide greater transparency in the sample, so as to prove that it is totally random, that it has no bias, and that it has not been preconceived. Such mechanisms should be witnessed and validated by expert representatives of the interested political groupings, so as to ensure that there is no modification, total or partial, from the time they are validated until the time they are put into use.
- Design the audits well in advance, to ensure that all persons involved in the process have proper training in the procedures to be used.
- In auditing the voting machines, conduct a random and representative sampling so the results will be valid.

## **2. Organizational and administrative recommendations**

The difficulties encountered and described by Mission experts suggest that a wholesale review of the electoral system is needed, primarily for the technical aspects of voting procedures. While it is difficult to offer solutions, since these must be assessed within the particular historical, political, legal, and economic

context, the recommendations made here are intended to serve as a basis for analysis and possible correction.

- Rationalize and update the civil registry and voters' list mechanisms as soon as possible, since these are an indispensable tool for ensuring the transparency of elections and for avoiding any possibility of manipulating the voters. The Mission also recommends that there be a mechanism for a single voter ID, one that will improve government control and simplify procedures for the citizenry.
- Incorporate the voters' list into the automated system, to allow better control of voters and the ratio of votes cast. This will help to avoid numerical inconsistencies as well as possible electoral fraud.
- Establish a recording mechanism in the optical scanning devices of voting machines that can establish the number of ballots entered by each voter, so as to avoid the insertion, fraudulent or otherwise, of excessive ballots into the machines.
- Promote voter participation by establishing an automatic mechanism for compiling voters' lists, without the need for voluntary registration.
- Review the rules that make it possible for one candidate to strike an alliance or to resign in favor of another candidate up until election day. This rule has threatened to frustrate the will of the electorate by directing some candidates' votes to other candidates, through manipulations that are not understood by the voters sufficiently in advance.
- The system for organizing elections should be decentralized to the regional authorities. This would simplify all aspects of electoral organization.
- Simplify the voting mechanism to make it more readily understandable and accessible to the voter. The oval spaces that voters must fill in on the ballot should be outlined more clearly and made more visible, and instructions for marking the ballot, i.e., the kind of mark to make, should also be made clear. This would eliminate potential problems in interpreting the votes expressed by the citizenry.

- Clarify procedures to be followed in cases of manual voting (both in cases where this is programmed and where it must be used because of a breakdown in the voting machines). For example, specify whether or not the concept of “voter intention” will apply in cases where the mark on the ballot exceeds the limits of the oval, but where the voter’s intention is still clear.
- Total returns should be posted, by polling station, on the Internet, in addition to the information available for consultation in the monitoring environments at CNE.
- Develop a system for recording queries using a toll-free telephone line that can classify problems and provide statistical data for assigning priority to corrective actions.
- Undertake a study or analysis, including comparative regional projections, for identifying procedures that will speed up voting on election day. This recommendation reflects the generalized observation of long lines and waiting times, which tend to produce a climate of tension and disorder
- Define more clearly the functions of the Plan República on voting day, since some of the activities now conducted in the voting stations may lead to confusion.
- Prepare voter information campaigns further in advance.



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