

THE  
CARTER CENTER



**Universal Periodic Review**  
**Relevant Stakeholder Submission**  
**Venezuela**

**Submitted by: The Carter Center**

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*The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.*

*The Carter Center's Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored 99 elections in 38 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democratic Election Standards (DES) initiative aims to build consensus on standards for democratic elections, based on state obligations under public international law.*

## 1. INTRODUCTION

- A. *The Carter Center's Americas Program in Venezuela:* The Carter Center Americas Program led a six month project to follow electoral developments and ascertain Venezuelan perceptions of them in 2012 and sent an expert mission to report on conditions surrounding the presidential elections held on April 14, 2013. The Carter Center has not conducted any activities in Venezuela since May 2014.
- B. Although voting took place peacefully amid the high-stakes election on Oct. 7, 2012, the election won by Hugo Rafael Chávez Frías reflected and reinforced the intense political competition and social polarization to which Venezuelans have grown accustomed since Chávez was first elected to the presidency in December 1998. Repeated calls by both candidates for citizens to vote, extensive participation of political party representatives in both pre-election preparations and audits contributed to citizen confidence in the voting system, but isolated claims of fraud surfaced after the vote. In 2013, Venezuelans turned out in great numbers to vote in special elections for a new president to fulfill Chávez's six-year term and elected Nicolás Maduro. The results threw the country into turmoil as the Capriles' campaign demanded an audit before accepting the results and then submitted an official petition to the Supreme Court (TSJ) to annul the elections.
- C. The Carter Center provided a set of recommendations below to improve future elections and the electoral climate in Venezuela.

## 2. FINDINGS FOR CONSIDERATION

Based on its election expert missions in 2012 and 2013, and through its continued tracking of the electoral situation in Venezuela through 2014, the Carter Center submits the following findings for consideration.

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

region, Venezuelan legislators and electoral authorities could consider several options. Given regulations allowing unlimited government obligatory broadcasts (cadenas) and limited institutional advertisements (public service announcements) while simultaneously imposing strict limits on candidate and civic organization political advertising – Venezuelan campaigns have demonstrated a marked inequity in the ability of candidates to conduct a fundamental element of the electoral process: inform voters of their political platforms. Ensuring free and equitable access to information could greatly help to reduce the present inequalities and enhance the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.

C. *Enforce the regulation of the use of state resources for political purposes*

Venezuelan law prohibits the use of public resources for political campaigns. However, national observer organizations and other nongovernmental organizations have documented the use of public resources for political purposes, including use of public vehicles to transport voters to rallies and to vote, and use of public buildings for campaign propaganda. In addition, local organizations and parties have complained that public officials have improperly used government offices and personnel to encourage public employees to participate in political activities and voting or to threaten them in case they refuse to comply.

D. *Clarify the role of the paper receipts*

Extensive pre-and post-audits have demonstrated the accuracy of the automated voting machines. Nevertheless, election regulations that provide for verification of the electronic results through a count of the paper receipts emitted by the machines for purposes of “transparency and confidence in the system” do not specify contingencies should there be a significant discrepancy in this verification<sup>1</sup>.

E. *Carry out the fingerprint audit in the presence of witnesses from all parties and make public the audit’s results*

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

F. *Improve the quality of the voting experience on election day*

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

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<sup>1</sup> Carter Center Report on the 2006 Venezuelan Elections.

[http://www.cartercenter.org/resources/pdfs/news/peace\\_publications/democracy/venezuela](http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/venezuela)

voluntarily could include guaranteeing accredited witnesses access to the voting centers on election day, informing volunteer workers on proper procedures for assisted voting, examining better ways to enforce the electoral regulations on free access without intimidation of voters to voting centers, and defining criteria for receiving CNE credentials as a party witness as well as better identifying party witnesses at voting centers.

G. Audit and update the electoral registry

The CNE has achieved a very inclusive voters list, with 97% of the population registered. Questions about the list in Venezuela have focused more on the possibilities of overinclusion (unremoved deceased citizens, homonyms, appropriateness of naturalized citizens) than on exclusion of citizens from that list. Although political parties received a copy during the campaign and participated in and signed off on a review of the electoral registry used both for the October 2012 and April 2013 presidential elections, continuous updating of electoral registries poses a persistent challenge, particularly when removal of deceased people requires action by a family member to provide a death certificate to the civil registry and, in turn, to update the electoral registry. A study carried out by the Andres Bello Catholic University found an estimate of 49,000 deceased on the registry prior to the October elections, while the Capriles campaign estimated between 191,000 and 300,000 deceased still on the lists, in addition to some 20,000 cases of homonyms. Clearing up these issues, perhaps with a regular schedule of updates and audits, will help to increase confidence and transparency of the electoral registry.

H. Legal Framework

From January to March 2013, the Supreme Court made several interpretations of the Constitution that were subsequently questioned by the opposition, including some individual suits presented to the court. The disputed interpretations arose, in part, because the Constitution does not clearly specify every contingency for the temporary or permanent absence of a re-elected president, governors, and mayors. Implementing laws to clarify these issues may be warranted.

I. Appointment of election authorities

Article 296 of the Venezuelan Constitution provides for the appointment of the rectors of the CNE for seven-year terms by a two-thirds vote in the National Assembly, from nominations made by civil society, law faculties of national universities, and the citizen branch of government. It further specifies that these rectors should be people without ties to political organizations. In the case of a standoff in the National Assembly, it is highly unlikely that the necessary two-thirds vote will occur. It is necessary to ensure that in cases like this, the situation be normalized by reaching interparty agreements to guarantee an independent, impartial election authority.

J. Promote maximum transparency

The levels of conflict during elections are intrinsically related to levels of openness and transparency concerning the operation of the electoral system and its rules and procedures. The higher the barriers for political parties to access information about electoral procedures, the higher the levels of distrust will be, resulting in a greater likelihood of conflict. The CNE, in its capacity as the highest electoral authority of the country, should

promote as its general philosophy the broadest possible policies of transparency regarding all of its procedures.

### **3. RECOMMENDATIONS FOR CONSIDERATION**

- 3.1. In order to ensure greater campaign equity in Venezuela, legislators and election authorities should consider providing free and equitable access to public and private media for campaign messages. Assuring free and equitable access to public and private media to all competing parties could greatly help to level the present inequalities and enhance the competitiveness of elections, particularly in a legal framework that permits indefinite re-election of public officials.
- 3.2. The government should equally regulate and enforce candidate's campaign messages in the pre-election period. Presently, there are no clear norms to regulate campaign messages during the pre-election period from the convocation of elections to the official start of the campaign. A clear regulation on that subject would help to reduce the numerous conflicts that commonly arise during this period due to the absence of norms.
- 3.3. The use of *cadena*s (government obligatory broadcasts) and inauguration of public works should be limited or prohibited in a specified period prior to the election. Mexico, Colombia, and Brazil provide some examples in this area.
- 3.4. Right of public officials to campaign for members of their own party or coalition should be limited. Mexico also provides an example of strict limits on the president to speak on behalf of candidates from his/her own party.
- 3.5. Enact safeguards to prevent abuses of *ventajismo* (incumbent advantage) so as to make abuses or violations of the law not just financially costly but also politically costly. The electoral authorities could take a more active role in investigating and enforcing the norms.
- 3.6. Create election regulations that specify contingencies should there be a significant discrepancy in the verification of electronic votes through paper receipts.
- 3.7. Incorporate an audit of the fingerprint authentications conducted at voting tables into the regular schedule of audits of the CNE in the presence of witnesses from all political parties and with a timely dissemination of results.
- 3.8. Instruct the security and election officials tasked with ensuring security and conduct of elections to ensure that all accredited party witnesses and national observers properly accredited by the CNE are guaranteed access to the voting centers the entire election day, according to the norms.
- 3.9. Instruct volunteer poll workers on the proper procedures for assisted voting, including the specified limits for each assistant to help only one person.

- 3.10. Define the criteria for receiving CNE credentials as a political party poll watcher and consider providing them with pins or apparel that identifies them as such.
- 3.11. Examine ways to better enforce the electoral regulations regarding limits on campaign propaganda around the voting places and the guarantee of free access, without intimidation, of voters to the voting centers so they can to vote and participate in the citizen verification afterward.
- 3.12. Create a regular schedule of updates and audits to the electoral registry to help increase the confidence and transparency of the electoral registry.
- 3.13. Create and implement laws to clarify issues in the event of a temporary or permanent absence of a re-elected president.
- 3.14. Lower barriers for political parties to access information about electoral procedures in order to increase trust and reduce the likelihood of conflict over elections. The CNE should promote as its general philosophy the broadest possible policies of transparency regarding all of its procedures.