

THE
CARTER CENTER



**EXECUTIVE SUMMARY
OF COMPREHENSIVE REPORT¹**

Sept. 30, 2004

INTRODUCTION

In May 2003 representatives of the Venezuelan government and opposition groups signed an agreement at the *Mesa de Negociación y Acuerdos* that paved the way for a recall referendum on President Hugo Chavez to occur halfway through his term in office or after Aug. 19, 2003, should the requisite signatures be gathered. The recall referendum for elected officials is one of the measures established in the 1999 Venezuelan Constitution. The accord suggested the use of this constitutional provision could help resolve the bitter political dispute between the government and opposition that had gripped the nation the previous two years. The opposition, consisting of multiple political parties and civil society associations, was organized and led by the *Coordinadora Democrática* during this period.

After working in Venezuela since June 2002 helping to facilitate dialogue between the two conflicting parties, The Carter Center, in an effort to support realization of the commitments made in the May accord, accepted an invitation in November 2003 from the National Electoral Council (CNE) to observe the presidential recall process. As each step of the process unfolded, the CNE granted observer status to The Carter Center, the Organization of American States, and ultimately to additional international observer groups and individuals. The Carter Center deployed an international observation team for each stage of the recall process, namely the signature collection, the verification of

distinguish between irregularities and fraudulent acts that could change the outcome of a process. **It is the Center's finding that the official results reflect the will of the Venezuelan electorate as expressed on Aug. 15, 2004.**

With respect to distinct parts of the process, the Center found the **signature collection** was conducted in an atmosphere mostly free of violence, with citizens who so wished having the opportunity to sign, though with some confusion on the exact procedures and limited instances of intimidation. The **verification process** was complex, conducted by the CNE for the first time with multiple levels of review, unclear rules inconsistently applied, multiple delays, and with a concern for detecting fraud given priority over a concern to recognize the good faith of signers.

The **reparo period**, despite the call made by the pro-government parties for the removal of signatures (known as the "arrepentidos" act), was conducted in an atmosphere mostly free of violence, with citizens who so wished having the opportunity to confirm their signatures or remove their names, and with clear and transparent procedures that had been negotiated between the CNE and the political parties. Nevertheless, allegations of intimidation that had surfaced earlier in the process re-emerged prior to the reparo process, involving threats of loss of government jobs or benefits.

The Aug. 15 **balloting day** was conducted in an environment virtually absent of any violence or intimidation. Yet the voting procedure required several additional hours because of high voter turnout and insufficient voting stations (47 percent of the tables, or *mesas*, had more than 1,700 registered voters). Voting station capacity was stressed further by incorporating new electronic voting and fingerprint machines while maintaining the usual written administrative procedures.

The presidential recall referendum was intr

The signature collection: Part of the political compromise reached over the procedures was the hybrid nature of the initial phase, the signature collection. While the political parties maintained some responsibility for collection and delivery of the signatures, the CNE created the materials to be used and defined the controls to guard against possible fraud. The decision to include “itinerant” collection of signatures created a complex process with no surveillance and room for allegations of many irregularities. This hybrid nature led to subsequent confusion and controversy during the verification period. Subsequently the CNE decided to take complete control of the process from the verification onward.

The distrust between the parties and the desire to prevent fraudulent signatures led to complicated procedures designed to protect against fraud, including use of specific CNE-generated petition forms, the tracking movement of petitions over the four-day collection through filling out *actas* (tally sheets) each day, and the requirement of thumbprints during the collection period. The presidential allegation of a “megafraud” during the collection period further complicated the situation, putting extra pressure on the CNE during the verification period. Ultimately, the CNE did not have the capacity to effectively use such controls. For example, no digitized database of thumbprints existed to compare the newly collected prints, nor was a database created during the signature collection. Nonetheless, the inclusion of such onerous controls left wide room for discretionary decisions by CNE directors and personnel at every level when scrutinizing signatures during the verification process.

Recommendation: The CNE should decide on a system of either party control of signature collection (necessitating stricter controls during the post-signing verification stage to assess the identity and will of the signer), or CNE control of signature collection (necessitating stricter controls during collection of signatures and eliminating the need for lengthy post-signing verifications.)

The verification: The verification of signatures proved to be one of the more contentious parts of the recall process. During verification, multiple procedural issues arose and many changes were introduced. One significant and highly controversial decision came after the CNE discovered multiple signature lines on some petition sheets (or *planillas*) appeared to have the same handwriting for all of the signer data and in some cases even for the signatures themselves. This discovery produced new verification criteria regarding similar handwriting in the middle of the verification process, putting into “observation” all of those signature lines identified in this new category. This required a second round of verification of the names that already had been reviewed and ultimately resulted in more than 900,000 names being questioned under the “similar handwriting” criterion. The Carter Center and OAS publicly disagreed with the CNE on this criterion. This group became the bulk of the names that would go to the correction period in late May, for signers to confirm that in fact they had signed the petitions and their signature was not fraudulent.

The verification process was plagued by incomplete and vague instructions, slow decision-making, insufficient training, and insufficient resources. The CNE board at

points took a long time to make decisions and issue instructions for verification, and many of those instructions were vague or incomplete, requiring further instructions. The CNE did try to address some of the delays by adding additional personnel to carry out the reviews, but often training was insufficient, and mistakes were compounded. Ultimately the verification phase took more than 100 days, when by law it was to have been completed in 30 days.

Recommendation: *The CNE should do an internal evaluation of the administration of the recall referendum process, making recommendations to the National Assembly for legislation to ensure a transparent and swift process for future recalls, respecting the intent of the citizen petitioners as well as the rights of the potentially recalled elected official. Any system that produces a public list of all citizens who have signed against the president and/or government/opposition representatives in Congress allows for potential pressure or intimidation of those individuals. Privacy of individuals should be protected during the verification of the identity of the signer and as much as possible during the collection of the required number of signatures. Venezuelan legal and electoral scholars as well as domestic observer organizations could advise the CNE in this effort.*

Recommendation: *All relevant rules, regulations, and instructional criteria should be complete and available to the public prior to an electoral event and should not be created, changed, or adjusted in the middle of the electoral process.*

The repara process. The regulations for the correction (*reparo*) process had yet to be written at the closure of the verification period. At the urging of international observers, the CNE entered into discussions with political parties in an attempt to devise mutually satisfactory rules for the *reparo* period. The negotiations took several weeks, but ultimately, clearer and more satisfactory rules were indeed produced for this phase. The *Coordinadora Democrática* agreed to participate, even though they disagreed with the CNE decision about the similar-handwriting cases and were frustrated that the mandated five-day *reparo* period was in fact only three days, as the 1st and 5th days were dedicated to opening and closing the *reparo* period. On the *reparo* days, most problems centered around national identification cards (*cedulas*), with some signers turned away because the *cedulas* issued after 1999 had the heading “*República de Venezuela*” and not “*República Bolivariana de Venezuela*,” and because of discrepancies between the name printed in the *Reparo Notebook* and that on the signer’s *cédula*. Observers also noted some administrative problems on the first day as CNE personnel appeared poorly trained. Nevertheless, performance improved in the subsequent days.

A new controversy arose when government officials encouraged voters to “repent” and withdraw their signatures, in addition to the approved provision for signers to withdraw their names if they had been wrongly or fraudulently included. The Carter Center and OAS publicly commented that “repenting” and withdrawing one’s signature would not conform to international voting standards. Partial results, so to speak, were known at that stage, and individual preferences were public. This could create an environment in which undue influence on a petition-signer could occur. Ultimately, more than 90,000 signers did choose to withdraw their signatures. Nonetheless, the opposition succeeded in

reaffirming the needed signatures, and the CNE recognized that result and announced the August recall referendum.

The recall referendum. Leading into the recall referendum, Carter Center observers saw an overwhelming campaign for the No vote, in contrast to a much less visible campaign for the Yes vote, reflecting a significant asymmetry of resources. Opposition representatives confirmed the opposition was organizing a less visible, door-to-door get-out-the-vote campaign. In the months prior to the recall vote, the economy had begun to recover from the national strike in early 2003. In addition, the government was funneling more resources into state-supported missions (literacy, adult education, medical clinics, food markets). Polls showed support for President Chávez was increasing and suggested a high voter turnout would be to the president's favor. Each side was convinced, however, it would prevail. The opposition's leadership denounced numerous unfair conditions and the inexistence of a level playing field. Nevertheless, in the weeks preceding the Aug. 15 recall, they did not seriously consider publicly or privately in talks with Carter Center personnel withdrawing from the process. They seemed confident about their chances for winning the referendum.

Concerns expressed by the opposition included first that the newly incorporated fingerprint machines, introduced to prevent double voting and to begin developing a national fingerprint database, would create significant delays in the voting process. Second was the concern about the replacement of municipal level electoral board members and poll workers in the days immediately before the recall, though opposition CNE directors assured the OAS and The Carter Center the day before the election that this problem was resolved.

Third, the Electoral Registry (REP) had been an issue in prior months due to concerns that the number of eligible voters had grown too large too fast, and there were still too many deceased persons in the REP. The CNE worked to clean up the REP. The primary concern expressed by the opposition on the REP prior to the recall, however, focused on the involuntary change of location (migration) in voting stations for some voters, with some voters even moved to voting tables in another state.

Fourth, prior to the recall, concerns also were voiced about the automated voting machines. Nonetheless, in the days immediately prior to the recall and after simulations of the machines, neither the government, international observers, nor the opposition expressed any significant reservations about the voting machines. The only significant dispute was whether the voting machines should first print the results and then transmit (electronically) the results to CNE headquarters or first transmit and then print. The CNE decided, with the consent of the members representing the opposition, the machines would be ordered to print and transmit simultaneously, which in effect would mean the printing would conclude after the electronic transmission had occurred.

As with all of the phases of the recall, the late promulgation of key regulations led to confusion and exacerbated suspicions on and around balloting day. These included the norms for the voting day audit to count a sample of paper receipts from the machines

immediately after the polls closed, procedures to tabulate votes, use of fingerprint machines, and the voting of military.

While the CNE did perform internal quality control tests of the REP, the electoral notebooks, and the voting machines, the opposition and international observers were not allowed to fully observe these processes nor were they allowed to observe the internal review processes. In addition, certification of the voting machine software was not observed by political party representatives or international observers.

Recommendation: *An external, third party audit should be performed on the REP. This should be done prior to the next election, and an analysis of the alleged voter “migration” should be implemented.*

Recommendation: *The voting process, whether or not it includes automated voting machines, must be streamlined and procedures put into place to allow voters to vote more expeditiously.*

Recommendation: *To increase confidence in automated voting machines, a successful election day audit after closing (a count of paper receipts immediately after the close of the polls) must be performed during the next election. The size and procedures of this audit should be decided by the CNE in consultation with the political parties well before the regional elections. The tally sheets (actas) should be printed before transmission to avoid suspicion or possibility of central computers giving instructions to the machines. All software and other related certifications should be observed by political parties and should receive independent, third party certification.*

Recommendation: *A larger pool of trained election/poll workers now exists in*

govern the recall process, then administering them. Given the deep polarization of the country and anticipation the recall would dissipate much of it, the point of contact between the opposing sides was centered within the five-person CNE board. The board spent considerable time struggling to negotiate acceptable compromises on the procedures of the process under

Dispute Adjudication. As of this writing, the CNE faced pending formal appeals from the Coordinadora Democrática on the Aug. 15 recall. It is important for the CNE and the Tribunal Supremo de Justicia, when appropriate, to investigate these appeals and complaints fully and explain clearly to the public its conclusions. We will produce an addendum to our comprehensive report if needed once the dispute adjudication process is complete and all of the evidence has been weighed and evaluated.

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others who are striving to overcome this extreme breakdown in interpersonal trust and tolerance. We view this breakdown as the most serious threat for the future of Venezuela as a country. We urge these groups to continue their work. We urge all Venezuelans to acknowledge that the country requires the contributions of all of its citizens to advance and that no group or sector can be eliminated or excluded.

We offer these conclusions and our recommendations above in the spirit of continued cooperation with, support of and respect for the sovereign country of Venezuela.