

Constitutional Reform in Venezuela

On August 15th, 2007, President Chavez made headlines when he announced proposed reforms to the Venezuelan Constitution during a speech to the National Assembly in Caracas. The next day, a commission to study the reforms was set up by the National Assembly and was declared in permanent session. In the first commission meeting, the President of the National Assembly, Cilia Flores, said that all issues related to the constitutional reform would be addressed, including the work plan and activity schedule of the National Assembly, as well as "street parliaments" that are designed to allow the public to participate in debates on the reforms.¹

If approved, the reforms would alter various sections of the 1999 Constitution, developed through a Constituent Assembly shortly after President Chavez began his first term in office. The 1999 Constitution was ratified by the general public through a national referendum, in which it passed with a 71.78% 'yes' vote.



Chavez has come under criticism for making the legal argument that the proposed modifications are "reforms" rather than "revisions," allowing him to avoid the creation of another constituent assembly and send his proposals directly to the National Assembly for review. What is overlooked by critics however, is the fact that the public must still approve the new reforms through a national vote. Miguel Tinker Salas, a Venezuelan Professor of Latin American History at Pomona College, said that, while "the process up to now has been rather closed, from here forward we're going to be seeing a broad and ample national debate... It's not just a matter of a president proposing it and

the assembly rubber stamping."²

The National Assembly has already begun a process of public consultation through which proposed reforms are distributed in communities across the country for discussion. Mobile units equipped with videoconference and wireless systems will visit all 23 Venezuelan states to consult with approximately 5.4 million households, according to that lawmaking body.³ Diverse interest groups

¹ "Mixed Commission is in permanent session to deal with Constitutional Reform," Agencia Bolivariana de Noticias, August, 16, 2007.

http://www.abn.info.ve/go_news5.php?articulo=100668&lee=17

² Chris Kraul, "Venezuela Leader Aims to Scrap his Term Limit," *Los Angeles Times*, August 16, 2007.

³ "Congress to visit 5.4 million Venezuelan houses to discuss changes to the Constitution", El Universal, September 24, 2007. http://english.eluniversal.com/2007/09/24/en_pol_art_congress-to-visit-5._24A1062479.shtml

will also be consulted before feedback is then channeled through local elected leaders who will present citizens' perspectives before the National Assembly. The objective of the National Plan to Debate the Constitutional Reform is "to activate a national political debate and the participation of the people in the process of constitutional reform aimed to strengthen revolutionary consciousness, stimulate popular mobilization, and guarantee the sovereign expression of the majority on the occasion of the referendum."⁴ Students in the nation's capital have also begun discussing the tenets of the reforms and continue to hold open forums in downtown public plazas.⁵

Rewriting the 1999 Constitution

Significant political and institutional changes were adopted under Venezuela's 1999 Constitution. With its approval by popular vote, the national legislature was changed from a bi-cameral body to a uni-cameral one, known thereafter as the National Assembly. Currently, the National Assembly consists of 165 deputies elected to serve five-year terms through a system of proportional representation. Two new branches of government were created, adding a National Electoral



Council and Human Rights Ombudsman to the already existing executive, legislative, and judicial branches. These changes represented an effort to give the population – and particularly the poor majority – more direct representation in national politics.

The 1999 Constitution was groundbreaking in that it guaranteed citizens a new and impressive set of human rights, including free education, universal health care, and increased civil rights. Additionally, it officially recognized the existence and value of the original inhabitants of Venezuela- the indigenous - and recognized the work of housewives as a productive contribution

to society meriting compensation. It completely overhauled the prior Constitution of 1961, and is considered today to be one of the most comprehensive and progressive in the world.

Overview of the 2007 Reforms

In Venezuela, constitutional reforms may be proposed by either the President of the Republic, the National Assembly, or 15% of registered voters organized through petitioning. Constitutional Articles 342, 343, 344, and 345 stipulate that reform proposals must be debated three times in the National Assembly, modified if needed, and then each reform must be approved by two-thirds of members in order to move forward. Those approved must then be voted on no more than thirty days later by the public in a national referendum. In this final stage, reforms can only be ratified if supported by a majority of the voting population. As of this writing, the second round of debates had already taken place (September, 2007).

⁴ Kiraz Janicke, "Venezuela Launches Massive Plan to Debate Constitutional Reform Proposal," Venezuelanalysis, August 21, 2007. <http://www.venezuelanalysis.com/news.php?newsno=2393>

⁵ "Students discuss changes to the Constitution", El Universal, September 20, 2007, http://english.eluniversal.com/2007/09/20/en_pol_art_students-discuss-cha_20A1047277.shtml

The 2007 reforms would affect 33 of the 350 articles comprising the 1999 Constitution, or slightly less than ten percent of the legislation. In what follows, the major areas slated for reform are discussed.

Politics

New proposed constitutional reforms would make changes to areas including the economic, political, social, and military spheres, but they do not significantly impact the political structure of the country, as did the 1999 Constitution. Their most important aim, according to President Chavez, is to create a “new geometry of power” that increases citizen power and government accountability.

The most controversial reform is a proposal to add one year to the current six-year presidential term and allow for continual reelection (Article 230). Currently, the executive office is subject to a two-term limit. Despite claims that the change is a bid by President Chavez to remain in office, the removal of term limits would not affect the basic system of electoral competition in Venezuela. It would not restrict the right of citizens to run candidates against Chavez or his party. Moreover, the ability of the populace to organize a national recall referendum to oust the sitting president mid-term would not be altered. This provision is part of the 1999 Constitution and has already been invoked once, in 2004.

Public officials in the U.S. have also called for this change, as was the case in 2005 when Congressmen Steny Hoyer (D-MD) and James Sensenbrenner (R-WI), currently the Majority Leader in the U.S. House of Representatives, introduced a joint resolution to repeal the 22nd Amendment to the Constitution.⁶ The representatives argued that if the people should want a sitting president to continue, it would be undemocratic not to afford them the opportunity. He suggested that although term limits were not fully discussed by the Founding Fathers, Alexander Hamilton at least recognized the importance of them in Federalist Paper 72.

Campaign finance reform is also addressed through Article 67 which would prohibit political associations or candidates from accepting funds or resources from foreign governments, and public or private bodies. The State would be responsible for financing all electoral activities.

The Economy

Reforms currently under review are markedly economic in nature, for, according to the *Los Angeles Times*, the changes aim to “redistribute power and resources to the poor and disadvantaged.”⁷ Article 112 of the current constitution would be altered to allow for a “social economy” to replace existing economic policies, which have for decades favored privatization and neo-liberal economics.

According to Venezuela’s state news agency, if approved, Article 112 would put forth new guarantees to address social needs and stability. Social production through a more communal economy is also included in the draft reforms to this article.⁸ See the comparison below.

⁶ Speech of Hon. Steny H. Hoyer of Maryland in the House of Representatives, February 17, 2005.

⁷ Chris Kraul, “Venezuela Leader Aims to Scrap his Term Limit,” *Los Angeles Times*, August 16, 2007.

⁸ “Propuesta de reforma constitucional plantea cambio de 33 artículos,” Agencia Bolivariana de Noticias, August 16, 2007
http://www.abn.info.ve/go_news5.php?articulo=100540&lee=1

Article 112 of the 1999 Constitution currently reads:

The State shall promote private initiative, guaranteeing the creation and fair distribution of wealth, as well as the production of goods and services that meet the needs of the populace, freedom of work, enterprise, commerce, industry, without prejudice to the power of the State to promulgate measures to plan, rationalize and regulate the economy and promote the overall development of the country.

According to the new proposal, Article 112 would read:

The State shall promote the development of an independent, diversified and intermediate productive economic model, based on humanistic values such as the cooperation and the preponderance of common interests that guarantee the fulfillment of the social needs of the people, social and political stability and happiness. Furthermore, the State will promote several forms of companies and economic units of social production (direct or communal economic units, indirect or state economic units) as well as social production or/and distribution companies or economic units.⁹

Additionally, Article 113 would officially prohibit monopolies and the consolidation of economic resources.

The major change however, affects Venezuela's Central Bank, which would no longer be independent of the government. Article 318 would hand over the Bank's primary task to elected officials: the control of monetary policy, largely through short-term interest rates. Neo-liberal economists frown upon this method because it relegates the market and the interests of the economic elite to a less powerful position. However, interest rates are very important for a nation because they directly affect the rate of economic growth as well as employment, wages, and inflation. The government currently makes decisions on tax and spending policy, and economic development. The proposed reform would increase the government's ability to effectively coordinate economic policies by mandating the Executive and the Central Bank to work closely together to increase economic growth and development.

Property

The definition of property would be impacted, and under Article 115 would expand to include five specific categories: public, social, collective, mixed, and private. Public property is that which belongs to state entities, social property belongs to citizens (either directly or indirectly through the state), collective property belongs to people or social groups (either in social or private form), mixed property is based on both public and private ownership, and private property belongs to individuals and private entities.

Property law would continue to guarantee that, "Only for reasons of public benefit or social interest by final judgment, with timely payment of fair compensation, may the expropriation of any kind of property be declared."¹⁰ As in the past, private property would only be retrieved by the state in the interest of the public good and fair compensation would accompany it.

⁹ "Chavez proposes social economy for the nation in the constitutional reform," Agencia Bolivariana de Noticias, August 16, 2007 http://www.abn.info.ve/go_news5.php?articulo=100605&lee=17

¹⁰ "Propuesta de reforma constitucional plantea cambio de 33 articulos," Agencia Bolivariana de Noticias, August 16, 2007 http://www.abn.info.ve/go_news5.php?articulo=100540&lee=1

The Military

Venezuela's military structure would also be affected by the reforms. Specifically, it is proposed that Venezuela's National Guard be included as one of five branches of the armed forces under the new name "Bolivarian Popular Militias." Under Chavez, the National Guard has taken on an important role in disaster relief and development projects. Changes would assign the new National Guard a role in national defense, in addition to maintaining internal order. Venezuela's armed forces would also be renamed the Bolivarian Armed Forces.

Article 329 of the Constitution would be affected, which currently establishes that "The Army, Navy and Air Force have as their essential responsibility, the planning, execution and control of military operations as required to ensure the defense of the Nation."

Further, Article 11 would incorporate Venezuela's maritime regions into its sovereign territory and would allow military regions to be designated to carry out specific activities ranging from counter narcotics operations to national defense.

Territorial Redefinitions

Similar to zoning in many countries, Venezuela's internal boundaries have largely served the interests of the economic and political elite. Reforms to Article 16 aim to rectify this historical imbalance. To begin with, resources will become more accessible for communities who have suffered from a lack of economic development and infrastructure by being designated as federal districts on the state, city and local level.

To compliment Venezuela's existing political and territorial categories new categories will be created such as insular districts, cities, and maritime regions. Neighborhood activists and community organizations will likely benefit from these proposed changes as well as from the official recognition of "communes". The hope is that this will encourage more formal participation by the community in local public affairs.

Finally, modifications to Article 184 would require that a national law be proposed to codify the responsibilities of municipalities in providing resources and services directly to the community organizations that request them.

Conclusion

In the last decade, the Venezuelan government has put a large amount of resources into citizens and fostering their political empowerment. Through voter registration campaigns and the issuance of national identification cards, voter turnout and participation in local and national politics have increased significantly. Venezuela has had 26 different constitutions since its independence in 1811, but the 1999 Constitution marked the first time that Venezuelans were ever consulted during the rewriting process and the first time they were able to vote on the final draft in a national referendum.

Of the 33 articles of the 1999 Constitution that are now subject to modifications, the one most discussed by the international community is the reform proposal connected to article 230, to change presidential term limits. Meanwhile, in Venezuela, most discussed as of this writing is a reform that would reduce the workday from eight hours to six hours. This demonstrates a clear

difference in priorities that continues to exist between those directly affected by the changes taking place in Venezuela and those analyzing them from afar.

As Venezuela goes about redefining its political path and developing a form of democratic government that challenges classical Western models, it is important to take a thoughtful look at what is happening in that country today. In a process of rapid and dynamic change, mistakes may come with the territory. However, observers of Venezuela will also find impressive experiences in citizen government collaboration, active political engagement, and anti-poverty efforts that are waiting to be discovered.