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Venezuela's 2006 Presidential Elections: Opposition Concerns and Tactics

Last November, the Organization of American States brokered an important set of compromises between Venezuela's election authorities and a coalition of major opposition parties. After days of negotiations, and just one week before Venezuela's scheduled legislative elections, the National Electoral Council (or CNE under its Spanish acronym) agreed to a list of significant concessions with the agreement that the opposition would participate fully in the elections. At a joint press conference on November 28th, OAS officials confirmed that all parties "committed themselves to participating in the elections and encouraging citizens to vote."

Despite this commitment, just a few days later each of Venezuela's major opposition parties announced, in turn, that they would boycott the elections.

While the elections went ahead as planned, the boycott ensured that president Chavez' allies won virtually every seat in the legislature. Observers from around the world were stunned. A spokesman from the conservative American Enterprise Institute told the Chicago Tribune that the boycott was a "terrible mistake,"¹ and the OAS electoral observation mission expressed its "concern that due to the withdrawal of the opposition, an important portion of the citizenry is left without representation in the National Assembly." "Every democracy," the report went on to say, "requires an institutional opposition committed to the electoral process, so that it can loyally participate in the democratic system."²

As Venezuela moves toward presidential elections on December 3, opposition parties remain publicly divided on their strategy. One major party, *Acción Democrática*, which lost 23 legislative seats in last year's boycott, is once again encouraging its members to abstain from voting. The other major opposition parties have united behind one candidate, Manuel Rosales, the governor of Venezuela's oil-rich state of Zulia. At this point, they are publicly encouraging participation but, as past experience indicates, this could change at any time.

In the months ahead, opposition leaders will debate their election day strategy. In the meantime, it is important that all Venezuela election watchers have an understanding of their concerns and potential tactics.

National Electoral Council (CNE)

Under Venezuelan law, the National Electoral Council (or CNE under its Spanish acronym) is a wholly separate branch of government, isolated from political control by the executive branch. Yet many in the opposition accuse the CNE board of being controlled by President Chavez, and say that its decisions cannot

¹ Marx, Gary, "4 Opposition Parties Boycott Venezuela Vote," Chicago Tribune, December 1, 2005.

<http://www.rethinkvenezuela.com/news/12-01-05ct.html>

² "Preliminary OAS Observations on the Legislative Elections in Venezuela," Organization of American States Press Release, December 6, 2006. http://www.oas.org/oaspage/press_releases/press_release.asp?sCodigo=EOM-VE-04

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be objective. Opposition leaders often claim that under the CNE, the Venezuelan vote will not be fair. Many media outlets have repeated the opposition claims, further contributing to a climate of general mistrust of the electoral system among opposition voters.

But these claims don't stand up to real scrutiny. To begin with, the CNE Board of Directors is appointed by the National Assembly, unlike in many countries where the executive branch has primary authority. What's more, the process by which the CNE directors are selected is both rigorous and highly democratic. Under the rules established in Venezuela's Constitution, as well as the 2002 Organic Law of Electoral Powers, the National Assembly must first establish a Nominations Commission, made up of elected officials and representatives of civil society, which registers nominees to the CNE Board from the public. The nominations come from a variety of sources, including universities, non-profit organizations and a state council, whose members are themselves appointed by the People's Ombudsman, the Attorney General's Office and the Comptroller General of the Republic.

In order to be considered, nominees for the CNE board must meet a set of selection criteria, which, among other things, prohibits them from belonging to political organizations and favors candidates that have experience in the electoral field. At the end of the selection process, the National Assembly is presented with a list of five nominees for the five Director positions on the CNE Board: three of these are nominations made by civil society organizations, one is a nominee from the law faculties of Venezuela's universities and the fifth is a nomination made by the state council. The Commission then publishes the names of the nominees in the national media and allows one week for the general public to scrutinize the choices made and double-check that they meet the selection criteria. Finally, the National Assembly must approve the nominations by a 2/3 vote.

Needless to say, this elaborate selection process, in which civil society sectors nominate the majority of the members of the CNE board, is unprecedented in Venezuela and in much of the rest of the world. Thanks to this process, the current CNE Board is made up, in its majority, of professionals with both a high level of competence in the electoral field and with strong ties to civil society. It's worth noting, for instance, that the current President of the CNE, Tibusay Lucena, is the first woman to preside over Venezuela's electoral authority and was originally nominated by a grassroots women's organization, the *Circulo Feminino Popular*.

In addition to the independence of the CNE board, there are a number of additional checks and balances in place to ensure a fair vote. Venezuelan elections are among the most heavily monitored in the world. This December, the Carter Center and the Organization of American States will send hundreds of observers to oversee the vote. Indeed, independent observers have already been participating in pre-election monitoring, including audits of the voter registries and electronic voting machines.

For its part, the CNE has listened to, and met, many demands by the opposition. Before last year's legislative elections, the CNE agreed to scrap the use of electronic fingerprint scanners at the request of opposition parties. This year, electoral authorities agreed to bend Venezuela's election rules, to the consternation of many Chavez supporters, in order to allow Governor Manuel Rosales to run for president without having to resign his office as governor. Perhaps most importantly, the CNE has agreed to a manual audit of a full 53 to 55% percent of the vote, which will be overseen by international observers and political parties alike.

Electronic Voting Machines

Ever since the 2004 recall referendum, sectors of Venezuela's opposition and private media have sought to cast doubt on the fairness and transparency of the country's electronic voting system. It has been suggested that the machines could be used to violate voter privacy or otherwise commit fraud. Immediately following

the referendum tally, which had Chavez winning with 60% of the vote, nearly all opposition parties cried foul, and quickly released statistical studies alleging that the vote was rigged. These hasty reports, produced by statisticians with close links to the opposition, were quickly debunked by the Carter Center, who enlisted an independent panel of statisticians to study the allegations, and found major flaws in their analysis³. While opposition leaders have stopped discussing the idea of electronic fraud, rank and file opposition activists have kept the notion alive, particularly on the internet.

Electronic voting is a requirement under Venezuela's Organic Law of Suffrage and Political Participation, which was passed in 1998 before President Chavez took office. The law was part of a larger effort to reduce the possibility of fraud through ballot-box stuffing that was prevalent throughout generations of Venezuelan elections. The machines standardize the way Venezuelans vote around the country, and the electronic tallies provide a faster and more accurate vote count than manual methods. The touch-screen machines are easy to use, and have the potential to greatly reduce the time voters spend inside the voting center. More importantly, the machines print paper receipts after each vote, which ensures that the voter can check to be sure that the vote recorded matched his intent, and also allows for a manual recount if necessary.

The CNE has also invested in a unique technology to ensure that no party can manipulate the computers to affect the outcome of the vote. The source code necessary to access the machines is split into four equal parts, which are then divided among stakeholders, including a representative from the CNE, opposition parties, pro-government coalitions and international observers. In order for any change to the coding of the computers to be implemented, each of these parties must be present and access the machines simultaneously. For legitimate purposes, such as testing the machines and auditing the vote, each party will have access to the computers, but any unauthorized tampering is rendered impossible. The machines are open to inspection by international observers and Venezuelan political parties alike.

For more information on electronic voting machines in Venezuela, please visit <http://www.rethinkvenezuela.com/downloads/electricvote.htm>

Fingerprint Identification Machines

Separate from the electronic voting machines, but equally controversial among Venezuela's opposition, is a technology that identifies voters by scanning their fingerprints into a computer database as they enter the voting center. The intent is to ensure that voters do not cast multiple ballots at different polling stations, a practice that frequently occurred in the past.

Although the fingerprint machines are separate from the computers on which Venezuelans cast their vote, opposition leaders have expressed concern that the machines could be used to identify how a person votes. Before last December's legislative elections, technicians working for opposition parties demonstrated to international observers that the voting machines stored the order of each vote. If the order of the votes cast, they argued, was matched to the order that people entered the voting center, using the data from fingerprint machines, elections officials could theoretically violate the privacy of the voting booth. CNE officials noted that even if only one fingerprint scanner were used for each voting center, there would still be multiple voting machines to match them to, which would render such a scheme impossible. Still, the CNE agreed to drop the use of the fingerprint scanners in order to shore up opposition confidence in last year's vote. They will, however, likely be in use for the Presidential elections.

Voter Registry

³ "Carter Center Statement about Statistical Assessment of the Venezuela Referendum Results," September 5, 2004. <http://www.cartercenter.org/doc1821.htm>

Another object of opposition ire is the voter registry. Historically, Venezuela's voter registry has been poorly maintained. In part, this is due to the conditions of poverty. For example, those who live in makeshift houses in Venezuela's vast shantytowns have no official address, and may register at the address of a relative or even a local community center. This can result in dozens of voters registered under the same address. In other cases, sloppy maintenance at the local level has meant that thousands of voters have remained on the rolls long after an individual has died.

What's more, a nationwide program, known as "Mission Identity," was implemented by the government to provide traditionally marginalized Venezuelans with identification cards and the opportunity to register to vote. In a period of less than one year, mission identity added more than two million citizens to the electoral registry. Opposition leaders have cried foul on the entire premise of the program, calling it a cynical attempt to get more pro-Chavez voters into the registry, and arguing, without evidence, that people have been registered multiple times.

In the past, opposition groups have argued that the registry had a very small error rate—a point which probably wasn't accurate. However, after Mission Identity, they have called the entire registry into question. One group, Sumate, demanded that the CNE publish the entire national voter list so that they could audit it themselves. Citing voter privacy, the CNE has to do so, but instead enlisted the help of an independent Latin American elections advisory group, known as CAPEL, to audit the registry

In addition, a separate independent audit conducted by three major Caracas Universities (Universidad Central de Venezuela, Universidad Católica Andrés Bello, and Simón Bolívar University) found that while there are still problems with the registry, there has been no effort by Venezuelan authorities to manipulate the registry in any way.⁴ This finding was significant considering that the audit was commissioned by the three front-running opposition candidates at the time, Manuel Rosales, Julio Borges, and Teodoro Petkoff.

Poll Results

Of course, many Chavistas argue that the above complaints are nothing more than a cover for the opposition's true intention: to avoid a humiliating defeat at the ballot box. Opinion polls before the last year's legislative elections indicated that opposition parties would lose ground in the National Assembly. The opposition probably likely considered that a boycott would de-legitimize the Assembly as a body, and also shore up support in international circles. They correctly reasoned that a boycott would lead to a high abstention rate, as even Chavistas would be less likely to vote if their candidates ran unopposed.

The same conditions exist in the Presidential race. Currently, President Chavez enjoys the support of between 55 and 60 percent of likely voters. The opposition has approximately 20 to 25 percent support. The rest of those polled remain undecided or say they will abstain.

It is interesting to note that the first party to declare its boycott of last year's vote was *Acción Democrática*, a party that had the most to lose from not participating. Long before they announced their boycott last winter, however, most AD candidates simply stopped campaigning altogether: not a single flyer or poster or ad was run in support of their 23 legislative seats. This fact gives credence to the suspicion that AD, at least, never intended to participate in the elections at all. Significantly, AD's Secretary General, Henry Ramos Allup, has already stated that the party will not participate in this year's presidential elections. However, it should be noted that AD is divided internally over this strategy as at least two important former National Assembly

⁴ "Coordinador de estudios sobre el Registro Electoral de las universidades Católica, UCV y Simón Bolívar dice que no hay nada que sugiera fraude," Globovision, July 19, 2006. <http://www.globovision.com/news.php?nid=33310>

members have publicly announced that they are in favor of participating in elections and have complained that there was no consultation of party rank and file before the abstention decision was announced.

A Look at December

With the agreement of most major opposition parties on one unified candidate, Manuel Rosales, it now looks as if at least some of Venezuela's anti-Chavez factions are considering seeing this election through. Unfortunately, if last year's legislative elections are any indication, they could pull out at any time up to the date of the election.

The CNE has been scrambling to ensure that voter confidence reaches an acceptable level, but with influential parties like *Acción Democrática* publicly promoting abstention, it is going to be an uphill battle. The CNE, along with international observers, will be working to communicate the improvements in the voter registry and the safeguards in the electronic voting apparatus to shore up public support, but in the end it will be the decisions made by opposition parties that will shape their role in Venezuela's political life. If polls continue to show that an opposition victory is impossible, leaders may decide once again to pull out to save face.

But a repeat of last year's boycott would do more than just undermine the legitimacy of President Chavez. It could very well alienate the United States government, which has long promoted and funded Venezuela's opposition movements. It also risks undermining the faith of Venezuelans, and could leave those opposed to Chavez without a political voice. As a long-term strategy, that benefits no one.