

**Report of the National Lawyers Guild
(NLG) Delegation
on the October 7, 2012 Presidential
Election in Venezuela**

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Introduction

On October 7, 2012, over 80 percent of the Venezuelan electorate turned out to re-elect Hugo Chávez Frias as President of the Bolivarian Republic of Venezuela.

A delegation from the United States,¹ composed of eight NLG members, a Board Member of the Institute for Policy Studies (IPS), and a Senior Associate for International Policy at the Center for Economic and Policy Research (CEPR), served as international “accompaniers” to the October 7, 2012 Venezuelan Presidential election. We formed part of a larger international delegation of accompaniers composed of over 240 parliamentarians, electoral commission members, journalists, professors, judges, and representatives of human rights NGOs from across the world.

Our delegation had the opportunity to witness the elections firsthand, and was able to confirm the legitimacy and transparency of the democratic process which led to President Chávez’s reelection. This report briefly summarizes the general observations of the NLG delegation and what we believe to be most noteworthy about these elections.

Background

In Venezuela, the National Electoral Council (CNE by its initials in Spanish), an independent branch of government, oversees and administers elections. International accompaniers are invited by the CNE to learn about the Venezuelan election process and travel to polling places throughout the country. All international delegates were free to move about, observe, and ask questions. Following the elections, we were asked to prepare reports for the CNE based on our observations. We were specifically invited to include recommendations for improving the electoral process.

Observations

The NLG delegation concluded, as did all the other delegations that submitted reports, that the voting process in Venezuela’s 2012 Presidential Election was fair, transparent, accessible, participatory, fully auditable, and accountable to all Venezuelan citizens.

Some members of our delegation observed the election in the capital, Caracas, while others went to the states of Tachira, Zulia, Miranda, and Monagas. Despite occasional technical problems and long lines in some locations, we were uniformly impressed by the efficiency and accessibility of the voting process through which Venezuelans were able to express their electoral choices. We noted that Venezuelans – both supporters and opponents of the Chávez government – showed pride in the way their elections were conducted.

We were particularly impressed with the high level of voter registration and participation. The effectiveness of the CNE’s voter outreach and registration campaigns is reflected by the 80.94

percent turnout rate for the election and the fact that 96.5 percent of all eligible voters are now registered. (In comparison, in the U.S., the turnout for the 2012 US presidential election was far lower – only 61.1 percent of eligible voters are registered and only 57.5 percent of the eligible voters actually voted.³)

Venezuela's progress on access and participation in the electoral process is particularly noteworthy. A few of the positive aspects of the process that we noted during our election-day monitoring were:

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- the increased efficiency, number, and location of polling places;
- uniform professionalism and incorporation and training of registered voters to serve as officers at each polling place;
- technical support by CNE staff and the active participation by party witnesses and national observers and international accompaniers;
- the accuracy and efficiency of the digital and manual vote calculation and aggregation process;
- the success of the citizen's vote verification process also known as the "citizen's audit."

These and other observations that we made during our time as accompaniers served to inform and encourage us as we continue to seek universal and direct access to the right to vote here in the United States, as required by federal law.

The official training and observation process facilitated by the CNE provided us with a wealth of information and critical insight into the technical and procedural aspects of the democratic process in Venezuela. Representatives of the opposition conceded that the electoral process was "blindado" (armor plated, or fool proof).

Media Coverage and Opinions on the Two Major Candidates

Approximately half of the NLG delegation arrived in Venezuela well ahead of the elections in order to take extra time to travel throughout the country and meet with a diverse group of non-governmental organizations, civil servants, labor activists, attorneys, judges, and academics prior to October 2, 2012, when a pre-election agenda of informational workshops and other preparatory activities began under the auspices of the CNE. During this time, we were also able to follow the print and broadcast media, which is mostly controlled by opponents of the Venezuelan government, and found that the election was depicted as a choice between two paths for Venezuela's future.

Supporters of the government pointed to improvements in the well-being of poor and working class Venezuelans, including: a 32 percent increase in the minimum wage; a new labor law that has reduced the work week; increased and expanded coverage of social security and job security, with increased penalties for unjustified discharge; and an increase in the length of maternity leave by more than twofold. Poverty, measured by cash income, has been cut by 44 percent and extreme poverty has been reduced from 40 percent in 1996 to 7.3 percent in 2010. GDP per capita has more than doubled, while unemployment has dropped below eight percent. Inequality, measured by the Gini Coefficient, is now the lowest in the region. Free health care and education has been greatly expanded; new housing has been built for hundreds of thousands of poor people; and there is more equitable distribution of land and support for worker-owned and managed businesses and farms.³

Chávez's opponents were equally forceful in expressing their opinions, focusing on such factors as inflation, corruption, unemployment, and crime. Opponents highlighted Chávez as a personality – and the idea that Chávez had been in office too long, had accomplished too little, and that most of his programs benefited poor people to the detriment of the middle class. It was apparent however that the opposition had determined that it was not politically feasible for them to reject the social programs initiated under Chávez's government. The opposition candidate, Henrique Capriles Radonsky, was careful to speak not of eliminating these programs, but rather of rendering them more efficient.

Conclusions

On election day, the Venezuelan people voted by a decisive 11 percent margin for Hugo Chávez. Although the outcome was a surprise to many in the United States, given that the news media had predicted “tight results,” the process was so unquestionably democratic that Capriles Radonsky conceded defeat gracefully within the next hour, stating “the will of the people is sacred.”

Following the election, the reports to the CNE from virtually all the accompaniers, including our delegation, summarized delegates' firsthand accounts of the high levels of engagement and participation of voters and citizens in the administration of a streamlined and thoroughly audited national process. While the accompaniers all offered some suggestions for refining the system, including adding additional machines to decrease long lines and wait times in some locations and higher-privacy screens around the voting machine stations, we were unanimous in finding that none of these issues had any impact on the legitimacy of the results, due to thorough and careful preparation, massive participation, and compliance with legal requirements and regulations.⁴

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While some aspects of the Venezuelan voting process may not be applicable in the United States, many of the electoral reforms implemented in Venezuela provide a stark contrast to the extensive recent efforts to restrict and suppress the vote in the United States, such as voter ID laws,⁵ and would go far to both dispel the perception of unfairness shared by many U.S. voters and restore credibility to our electoral processes:

- Elections are held on Sundays to make it easier for working people to vote;
- A major outreach effort has resulted in a dramatic increase in voter registration;
- Sophisticated technology, including open source software and multiple (17) audits that involve political parties and independent national observation organizations, is used to eliminate any possibility of fraud or manipulation of electronic data;
- All voting machines issue a paper receipt that can be viewed by the voter to confirm that his or her vote has been properly registered;
- These paper receipts are then placed by the voters in traditional ballot boxes, and, after the polls close, 54 percent of those boxes are counted manually by representatives of all parties, through a “citizen audit” verification process to ensure that the results of the final print-out from the voting machine match the results in the paper ballot box.

Current Situation

In early December 2012, after appointing Foreign Minister Nicolas Maduro as Vice President, President Chávez underwent surgery for cancer and has experienced complications that have required him to remain in Cuba for extended care. When it became apparent that he would be unable to attend the inauguration ceremony on January 10, 2013, the Venezuelan National Assembly approved his request to postpone the inauguration, and the Venezuelan Supreme Court determined that Article 231 of the Bolivarian Constitution allowed for the swearing in of the re-elected President to occur after January 10 before the Supreme Court. The Secretary General of the Organization of American States (OAS), Miguel Insulza, has since stated that the OAS “fully respects” that decision.⁶

In light of our delegation’s experience as international companions to the October election in which 80.94 percent of the electorate voted and 55 percent voted for the Bolivarian project of Hugo Chávez, as well as the provisions for inauguration set forth in the Bolivarian Constitution, the NLG believes that the international community, including U.S government and society, should respect that decision as well.

¹ The U.S. delegation was composed of eight members of the NLG (Azadeh Shahshahani, NLG President; David Gespass, past NLG President; Natasha Bannan, NLG International Committee Co-Chair; Susan Scott, past NLG International Committee Co-Chair; Robin Alexander, International Labor Justice Working Group Coordinator; Mana Barari, NLG labor lawyer; Joanna Cuevas Ingram, Voting Rights Fellow from the Lawyers’ Committee for Civil Rights; and Erik Sperling, law student from the Georgetown Law Center). We were fortunate to be joined by James Early, Board member from the Institute for Policy Studies (IPS), and Alex Main, Senior Policy Analyst from the Center for Economic and Policy Research (CEPR). Between these three organizations (NLG, IPS, and CEPR), the U.S. delegation shared expertise in a diversity of areas, from foreign policy analysis to legal disciplines, including labor, employment,

housing, criminal defense, civil rights, immigrants' rights, and voting rights. The US delegation was also geographically diverse, with delegates hailing from New York, Washington D.C., Alabama, Wisconsin, Pennsylvania, Georgia, and California. Five delegation members had spent time in Venezuela, and three of the NLG attorneys had prior election observing experience in Venezuela. Eight of the ten members of the delegation were sufficiently fluent in Spanish to converse with voters and election workers without translation. Those who required translation found that the interpreters employed by the CNE were excellent and added greatly to their understanding of the voting process. Several other delegates came from the U.S. on election day – including Ronald Hayduk of Queens College, David Anderson of the Humanist Party, former Massachusetts Congress member William Delahunt, and representatives from TransAfrica (Danny Glover) and the NAACP (James Gomez). This report comes from the NLG delegation.

² See Center for the Study of the American Electorate; see also www.statisticbrain.com.

³ See “Update on the Social Determinants of Health in Venezuela – The Achievements of Hugo Chavez,” Carles Muntaner, Joan Benach and Maria Paez Victor. <http://www.counterpunch.org/2012/12/14/the-achievements-of-hugo-chavez/>.

⁴ The 2009 Organic Law of Electoral Processes mandates the approval, participation, and signature of all four “constituted” citizen members – chosen by random selection, trained, and sworn in – for each of the 39,322 voting booths at over 13,850 polling centers (totaling 168,000 constituted members across the country). It also requires the presence of at least two opposing party witnesses at each of the 17 auditable phases of the election process.

⁵ Voting rights groups in the U.S. have argued that voter ID is unnecessary and that the affirmation individuals sign at the polls attesting that they are who they say they are is sufficient. This is particularly so because there is no evidence that in-person voter impersonation is a problem in the U.S., and there is no other problem that a voter ID law would cure. The majority of recently enacted voter ID laws in the U.S. further require the presentation of a limited number of government-issued photo ID, which only serves to disenfranchise the poor, people of color, and the elderly.

⁶ The Secretary General of the Organization of American States (OAS), José Miguel Insulza, stated to the press that the hemispheric body “fully respects, how could it be otherwise, the decision of the constitutional powers of Venezuela regarding the inauguration of the President of that country.” He continued by saying that “the issue has been resolved by the three branches of government of Venezuela: it was presented by the executive, considered by the legislature and decided by the judiciary.” He further stated: “The possibilities have been exhausted and therefore the process that will take place in that country is that which has been decided by the three powers.” http://www.oas.org/en/media_center/press_release.aspx?sCodigo=E-004/13