



VENEZUELA:
REPORT OF NATIONAL LAWYERS GUILD ON PRIMARY ELECTIONS

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We preface this by noting that both of us are experienced election observers, having participated in upwards of twenty election missions between us. David Gespass who, as president of the National Lawyers Guild (NLG), was invited to observe these elections along with one colleague from the NLG. He has participated as an observer and in other official capacities in elections in Bosnia, Croatia, Macedonia and Armenia. Kathy Johnson was designated by the NLG's International Committee as its second representative. She has a master's degree in international human rights law and has observed or otherwise participated in elections in Bosnia, Croatia, Estonia, Moldova, Macedonia, Albania, Pakistan and Afghanistan. The NLG was the first racially integrated national bar organization in the United States, formed on the principle that human rights be held more sacred than property interests. We emphasize that we observed these elections as representatives of the NLG and not of the United States. We observed the election and submit this report not, as North Americans too often do, claiming to know everything and to hail from a country that has perfected the electoral process (our experience about the US is quite the opposite), but as long-time advocates of human rights and democracy offering our observations in hopes they will assist in insuring Venezuela's electoral process is free, fair and transparent. We note also that our experience teaches us just how difficult it is to ensure such a process in a modern state. We are grateful for the opportunity to do so and feel privileged to have been asked.

Our previous election experience has generally been in countries with primitive processes. They have generally used paper ballots marked by voters, deposited in a box and hand-counted. Venezuela's system, by contrast, is very advanced. Indeed, it is advanced by any standard.

We congratulate Venezuela on creating an independent branch of the government, the CNE, to run elections. Elections in our country are run by the secretaries of state of the various states, all of whom are elected and represent one of the two major political parties. Moreover, the methods of voting used among the various states are not uniform. The consequence is that election management can be, and too often is, used as a means to advance the ends of the party to which the secretary of state belongs. We cannot say whether the establishment of the CNE eliminates this problem entirely, but it certainly reduces those risks and reflects a serious attempt to insure free, fair and transparent elections. We were impressed particularly by the professionalism and technical expertise of the CNE staff we were introduced to and observed and the lengths to which they go to insure the integrity of each ballot.

We particularly note that the opposition Coalition for Democratic Unity, the Mesa de la

Unidad Democrática (MUD) requested that the CNE facilitate the election, an indication of its confidence in the skill and objectivity of the CNE. We also note that the representatives of the MUD election commission with whom we spoke and from whom we heard were universally pleased with the way in which the CNE managed this election. We do understand that MUD had little option because the cost of managing the election without the participation of the CNE would have been prohibitive and we have heard from individuals who expressed concern that the general elections later this year may not be as free and fair as were the primaries. While we saw no evidence within the CNE of bias in the manner in which elections are handled, a significant observer presence would likely help to alleviate the fears some expressed.

With one exception we will mention, everyone we asked was willing to speak with us and express their views without hesitation or fear. Many spoke to us in English and, from what we could tell, our interpreters did not keep anything from us, advising us both of praise and criticism for the process. Our access to voters and election personnel was generally unrestricted. The president of one mesa where David visited, however insisted we leave because we were there at the invitation of the CNE and not the MUD. While much is said in the United States about President Chavez exercising dictatorial powers, it is a strange dictatorship that holds such frequent elections, including one to recall the president, and in which people are so willing to express their opinions and, indeed, their determination and plans to win the upcoming presidential election.

All that being said, there are suggestions we would make. Some have been made in the reports we prepared with our respective teams and we will not repeat them all, only those we wish to highlight. We repeat that it appears to us that a substantial international observation presence for the presidential election will calm some of the fears that were expressed to us that the results may be manipulated. Many people we saw welcomed our presence and urged us to return in October.

We were taken to particular centers decided upon by CNE and suggest that, in upcoming elections, observers be shown all the centers in their respective areas prior to the day voting takes place and that the observers choose to which ones they will go and in what order. This has generally been the procedure in the elections we have observed in the past and doing so will protect against an accusation that observers are taken to designated “model” centers and not to those where problems exist. We are not suggesting that is the case. Our experience indicates otherwise and the fact we noticed some problems at the centers we visited further indicates they were not selected as showcases. We were impressed with the knowledge and openness of the CNE personnel who met us and took us to centers in their districts and have no reason to be anything but fully confident in their training and ability. Rather, we make this suggestion to reduce any perception that observers are being manipulated.

Perhaps the most serious problem we were told of was that a significant number of voters said they had checked to see where they were to vote online prior to going to cast their ballots and, when they arrived at the mesa, were told their names were not on the book. No procedure was in place to remedy the problem at the polling center and they were forced to return home without voting or knowing where they were to go in order to vote. Officials at the mesas advised us of this problem. It appeared to be one that affected a small, but significant, number of voters.

It was particularly prevalent in an indigenous area in Zulia state, and we urge the CNE to investigate and correct it.

We also note that, at certain mesas, the president instructed voters on how to operate the machine and remained with the voters when they cast their votes. While we have no reason to believe the voters were being influenced to vote one way or another, this clearly breaches the privacy of the ballot and training should emphasize that it is impermissible.

This is the first time we have observed an election in which we have been invited and hosted by – and observed as representatives of – the body organizing the elections. The NLG has sent various delegations to the Bolivarian Republic. The first, in February 2006, investigated conditions in Venezuela following the Bolivarian revolution. Since then, we have been invited to observe each election held beginning in 2007. In 2008, we struggled over whether to accept for fear that our independence and objectivity would be compromised, or appear to be. Ultimately, we agreed to participate and found that no restrictions were placed on us and that we were free to report what we observed, whether complimentary of the process or otherwise, as can be seen by reading the 2008 report (<http://www.nlginternational.org/news/article.php?nid=186>). This evidenced to us a sincere desire by the CNE both to showcase its process and professionalism and to improve them through constructive suggestions from others. Most, if not all, our colleagues on this mission were election officials in their respective countries, who have the background and skill to see flaws in the process and who were not shy about asking questions or expressing opinions. All our experiences verify for us that observers have complete freedom to investigate the process and are able to accurately assess the validity and integrity of the process on the day of the election.

We would point out that elections are a process and not an event. Kathy has often served as long-term election observer which has given her the opportunity to observe, over a period of weeks, the process leading up to the day votes are cast. Our experience in these elections was limited to the balloting, so we cannot comment on any other aspect of the process.

In sum, our experience confirmed for us that the original decision of the NLG to observe elections in Venezuela was correct and that we have been free to investigate, ask questions and frankly and honestly report our findings. The CNE is justly proud of its functioning and its invitation to us and others to observe the elections indicates both its confidence in the process and its willingness to accept criticism and guidance from others to correct flaws. We have never been involved in a perfect election, neither those we observed nor those we voted in. In the end, the overriding question is whether people can have confidence that problems encountered did not compromise the final result. For these elections, we have no doubt that test is met and our suggestions and criticisms should be seen as means of improving the reality and perception of what is clearly an advanced, well-developed process intended to insure elections that are free, fair and transparent.

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