

# VENEZUELA

---

## 1. PRESENTATION<sup>1</sup>

---

Basic Facts <sup>2</sup>	
Name of Country	Bolivarian Republic of Venezuela (Venezuela)
Capital	Caracas
Population	25,730,435 (July 2006 est.)
Area	912,050 sq km
Average Life Expectancy	74.54 years
Ethnic Groups and Religions	Spanish, Italian, Portuguese, Arab, German, African, indigenous people
GDP per capita, PPP	\$6,100 (2005 est.)

Community of Democracies	
Previous participation	Participant at all previous meetings of the Community of Democracies

### Timeline of Recent Major Events in Venezuela:<sup>3</sup>

- **1992** – Colonel Hugo Chávez leads one of two failed coups; 120 people die in violence.
- **1998** – Hugo Chávez is elected President.
- **1999** February – Constitutional assembly called by Chávez meets; drafts new Constitution.
- **1999** December – Constitution approved by referendum.
- **2000** – Chávez wins a new six-year term in office.
- **2001** – Chávez introduces fast-track reform laws authorized by Congress.
- **2002** February-April – Chávez appoints new board of directors to *Petroleos de Venezuela* (PdVSA) oil company, provoking opposition by PdVSA executives; general strike called by trade unions and employers' association to support PdVSA strike.
- **2002** April 11-12 – Attempted coup against Chávez, military temporarily appoints Pedro Carmona as President.
- **2002** April 14 – Junta collapses, Chávez returns to power.
- **2002** December – Opposition strikes stop the oil industry, leading to severe fuel shortages.
- **2003** May – OAS negotiates deal between government and opposition setting out a plan for a recall referendum on Chávez's presidency.
- **2004** May – Petition triggers recall referendum.
- **2004** August – President Chávez wins recall referendum.

---

<sup>1</sup> Principal author: Democracy Coalition Project

<sup>2</sup> Source: CIA World Factbook at <http://www.cia.gov/cia/publications/factbook/index.html>, accessed on August 18, 2006.

<sup>3</sup> Source: 'Timeline: Venezuela' (6 May 2006) *BBC News* at [http://news.bbc.co.uk/2/hi/americas/country\\_profiles/1229348.stm](http://news.bbc.co.uk/2/hi/americas/country_profiles/1229348.stm), accessed on August 28, 2006.

# VENEZUELA

---

- **2005** August – Chávez supporters win majority of seats in municipal elections in elections marked by low turnout.
- **2005** December – Parties loyal to Chávez win parliamentary elections, after opposition boycott.
- **2006** August – Main opposition parties choose Governor Manuel Rosales as a unity candidate for the 2006 presidential election.
- **2006** November - The head of PDVSA and Venezuela's oil minister causes an outcry after he urges workers at PDVSA to back Chávez or leave their jobs.
- **2006** December – President Chávez wins re-election, defeating opposition candidate Manuel Rosales.
- **2007** January – The National Assembly approves an enabling law granting Chávez the power to rule by decree for the next 18 months in 11 areas of legislation.

## 2. BACKGROUND

---

Venezuela has had a democratic form of government since 1959, when elections and a new constitution ended a long period of instability and military rule. Venezuelan politics came under the influence of two large parties, the social-democratic *Accion Democratica* (AD) and the Christian-democratic *Comite de Organizacion Politica Electoral Independiente* (COPEI). Disillusionment with the traditional party system set in after the 1989 unrest led President Carlos Andres Perez to suspend civil liberties to suppress riots. The country's democratic system was thrown into further disarray when two coup attempts were made in 1992, one of which was organized by then army Colonel Hugo Chávez. About 120 people died in the ensuing violence. President Perez was impeached in 1993 after accusations of his involvement in large-scale corruption.

Pardoned two years after his coup attempt, Colonel Hugo Chávez made a political come-back when he was successfully elected President in December 1998, defying the traditional political elites as the head of a reformist platform that called for a radical overhaul of the Venezuelan state to bring it closer to its people. Chávez began to implement his program by convening a constituent assembly that drafted a constitution for a re-founded "Bolivarian Republic of Venezuela". The new constitution established a new structure of government: a unicameral assembly, the possibility of recall referenda, and a strengthened presidency. In addition, the constitution introduced a number of innovations, such as two additional branches of government: the "citizen branch" (made up by the public ombudsman, the public prosecutor and controller general) and the "electoral power" consisting of the national electoral commission (CNE). The new constitution was approved by popular referendum in December 1999, and a new set of elections in July 2000 granted Chávez a fresh six-year term of office.

Chávez's rule, however, has exacerbated Venezuela's political polarization and undermined institutional checks and balances. His terms in office have been marked by a number of significant political crises amid fierce and at times counterproductive resistance to his rule. The first major crisis occurred in 2002, when Chávez's attempts to replace the board of the national oil company, Petroleos de Venezuela (PdVSA), set off a

## VENEZUELA

---

series of events that culminated in a general strike and a failed coup attempt by opposition forces in April 2002. While Chávez regained power at the head of loyalists in the armed forces and with strong popular support, his authority was significantly challenged again the same year when a national work stoppage, joined by the petroleum industry, brought the country to an economic standstill in December 2002. Opposition figures have come under severe criticism for these harsh tactics which appear to have solidified Chávez's control of the country.

After a May 2003 pact between government and opposition to organize a recall referendum on President Chávez's rule, as provided for in the constitution, wrangling ensued over the admissibility of signatures collected in support of such a referendum. Finally, in May 2004, the CNE certified that sufficient signatures had been collected, and that a referendum had been triggered. The referendum was held on August 15, 2004, and President Chávez defeated the motion for recall with 59% of the votes. During the period leading up to the referendum, Chávez continued to deploy throughout the country social service "missions", first created in 2003. These initiatives, sometimes staffed by the army, provide basic health, education and other services to underprivileged groups. These missions helped to solidify and increase support for his social policies, and may have helped him to win the referendum.

Since the August 2004 referendum, the opposition's fortunes have weakened, as President Chávez, buoyed by high oil revenue, has won a number of political victories. In October 2004, his supporters swept to victory in a majority of the state gubernatorial races. The following year, in August, Chávez's supporters won a victory in municipal elections. The December 2005 parliamentary elections were racked by controversy. After opposition parties pulled out of the race at the last minute on allegations that the CNE was biased in favor of pro-government candidates, pro-Chávez parties captured all 167 seats in the National Assembly in an election marked by a very low turnout.<sup>4</sup> In December 2006, President Chávez won re-election to the presidency, beating the unified opposition candidate Manuel Rosales by a wide margin, in elections seen as free and fair by international observers.

Throughout the last eight years, Chávez has used the powers granted to him by the constitution to push through significant changes to Venezuelan law. In November 2000, Chávez's allies in the National Assembly granted him "fast-track" powers to adopt a raft of reform laws by decree. In 2004, Chávez won approval for a controversial plan, the Organic Law of the Supreme Court, which allowed him to increase the number of justices of the Supreme Court. Some opposition observers charge that this maneuver is a blatant attempt to bias the judiciary in Chávez's favor.

---

<sup>4</sup> 'Venezuela 'landslide' for Chávez' *BBC News* (5 December 2005)  
<http://news.bbc.co.uk/2/hi/americas/4496586.stm>, accessed on October 2, 2006.

## 3. ANALYSIS

---

### **Democratic Institutions and Processes**

Venezuela's political life since President Chávez came to power has been marked by an inordinately high level of political polarization and animosity. While Chávez has repeatedly succeeded in winning a popular mandate through relatively free and fair elections, there are several reasons to conclude that the autonomy of Venezuela's democratic institutions has deteriorated under his rule, with its creeping centralization of power in the hands of the executive branch.

Chávez' re-election in December 2006 opened up the possibility that the 1999 constitution might be significantly altered. Since the election, Chávez has announced many new initiatives and reforms, under the over-arching theme of creating a "new geometry of power". The new Enabling Law (see below) grants Chávez the power to legislate by decree in many fields of law. One area that may see significant change is the balance of power between Caracas and the subsidiary levels of government. Chávez has announced plans to create "Communal Councils" for public participation in local governance, whose potential relationship to existing levels of local and regional government is as yet unclear. Some members of the opposition have registered their fears that the proposed Communal Councils may become a tool of the Presidency to weaken the power of autonomous local and regional authorities. Chávez has also announced that he will be forming a joint executive-legislative commission to study changes to the 1999 constitution, which will report by the end of 2007.<sup>5</sup> Chávez has also hinted that he may want to remove the ban on seeking a third term of office as President.<sup>6</sup>

#### *The Constitution and the Separation of Powers*

Under Venezuela's 1999 constitution, there are five branches of government, as opposed to the traditional three branches: the executive, legislative, judiciary, citizen and electoral powers. Nevertheless, there are reasons to conclude that the independence and separation of powers has weakened under Chávez's rule. The structure of the new constitutional system, as well as the control of parliament, has enabled President Chávez to exercise a powerful influence over the other branches of government.

The executive branch has strengthened under President Chávez. Under the 1999 constitution, the president can be elected to two six-year terms, though Chávez has indicated that he would like this constitutional provision to be changed to allow him to run for the presidency again.<sup>7</sup> The president can and has asked for legislative powers to

---

<sup>5</sup> 'Chávez recibe amplios poderes después de prometer "socialismo o muerte"' *El País* (February 1, 2007) at [http://www.elpais.com/articulo/internacional/Chavez/recibe/amplios/poderes/despues/prometer/socialismo/muerte/elpepuint/20070201elpepiint\\_2/Tes](http://www.elpais.com/articulo/internacional/Chavez/recibe/amplios/poderes/despues/prometer/socialismo/muerte/elpepuint/20070201elpepiint_2/Tes), accessed on February 2, 2007.

<sup>6</sup> 'Chávez Begins New Term Vowing Socialism' *The New York Times* (January 11, 2007) Section A, p16 – accessed online through [www.nexis.com](http://www.nexis.com).

<sup>7</sup> 'Venezuela's Hugo Chávez Sworn In' *BBC News* (January 10, 2007) <http://news.bbc.co.uk/2/hi/americas/6248787.stm>, accessed on January 17, 2007.

## VENEZUELA

---

be delegated to him, so as to rule by decree, through “Enabling Laws”. Chávez has also used the formal and informal powers of the office of president to exercise pressure on the independent media, attack opponents, criticize autonomous civil society organizations, and purge the military of opponents.

The legislature is entirely controlled by allies of the President. After the opposition boycott, the December 2005 legislative elections resulted in a National Assembly completely dominated by Chávez’ party, the Movement for a Fifth Republic (MVR) and their coalition partners. However, even though the executive faces little or no opposition in the National Assembly, Chávez demanded and won the power to rule by decree to allow him to push through a series of radical economic, social and political reforms. On January 31, 2007, the National Assembly approved the Enabling Law, granting Chávez the power to legislate by decree in the areas of telecommunications, the economy, defense, citizen participation, infrastructure, transport, services, science and technology, and territorial organization for the next 18 months.<sup>8</sup> Chávez has also proposed merging all pro-Chávez parties into a single United Socialist Party of Venezuela, with Chávez as leader.<sup>9</sup> Since there is no opposition representation in Parliament, this would in effect create a single-party parliament.

The independence which the Supreme Court and the judiciary traditionally enjoyed was dealt a severe blow by President Chávez’s 2004 Organic Law of the Supreme Court (see below). The new branches introduced by President Chávez, the electoral and citizen powers, have both been charged with being overly sympathetic to Chávez.

The citizen branch has three components (public ombudsman, public prosecutor and comptroller general). A national ombudsman, elected by the parliament, presides over a system of regional and local ombudsmen, as well as ombudsmen appointed to deal with thematic issues.<sup>10</sup> The introduction of clauses to allow for citizen initiative laws as well as recall referenda introduced an element of participatory democracy to Venezuela’s political system. However, the National Assembly has the power to remove any of the three components of the citizen branch with a two-thirds vote. Thus, the independence of the “citizen” branch is potentially limited by the National Assembly, dominated as it is by pro-Chávez political parties. Furthermore, the three main components of the citizen branch have been accused of favoring Chávez’ government.<sup>11</sup> While the system of ombudsmen is meant to protect citizens against any encroachments on their rights, the Venezuelan human rights organization *Programa Venezolano de Educación-Acción en*

---

<sup>8</sup> ‘Chávez gets sweeping new powers’ *BBC News* (January 31, 2007) <http://news.bbc.co.uk/2/hi/americas/6315819.stm>, accessed on February 2, 2007; ‘Chávez recibe amplios poderes después de prometer “socialismo o muerte”’ *El País* (February 1, 2007) at [http://www.elpais.com/articulo/internacional/Chavez/recibe/amplios/poderes/despues/prometer/socialismo/muerte/elpepuint/20070201elpepiint\\_2/Tes](http://www.elpais.com/articulo/internacional/Chavez/recibe/amplios/poderes/despues/prometer/socialismo/muerte/elpepuint/20070201elpepiint_2/Tes), accessed on February 2, 2007.

<sup>9</sup> “Chávez Plans One Big Leftist Party, Led by Him” *The New York Times* (January 4, 2007) at <http://select.nytimes.com/search/restricted/article?res=F40E10F83C540C778CDDA80894DF404482>, accessed on January 17, 2007.

<sup>10</sup> Special Representative of the Secretary-General on Human Rights Defenders (2005) p309.

<sup>11</sup> Freedom House (2006).

## VENEZUELA

---

*Derechos Humanos* (PROVEA) has criticized the national ombudsman for failing to speak up against proposed changes to the penal code to limit the right to assembly and protest.<sup>12</sup> The National Electoral Council (CNE), meant to be an independent “fifth branch” of government in charge of the neutral administration of elections at all levels of government, has been accused of being a “mere appendage” of the government.<sup>13</sup>

### *Electoral Processes*

The other new “branch” of government established by the 1999 constitution, the “electoral power” presided over by the CNE, has faced public distrust in its role as an independent administrator of elections in Venezuela. While the CNE executive committee was composed of both Chávez supporters and opponents, decisions in the CNE have often been taken on a strict party line in favor of the government. Since the August 2004 referendum, only one of five members of the CNE has been aligned with the opposition.<sup>14</sup>

The CNE’s performance during the run-up to the recall referendum was problematic. While the government and the opposition had agreed to hold a recall referendum in May 2003, the CNE’s handling of the submission of signatures was controversial. The first collection of signatures took place on November 28-December 1, 2003, collecting some 3.4 million signatures.<sup>15</sup> The CNE, however, objected to 900, 000 of those signatures, through a verification process that the Carter Center described as imbalanced, inadequate, inconsistent, and lacking in transparency.<sup>16</sup> Throughout the controversy, decision-making in the CNE was often taken on a strict party-line vote.<sup>17</sup> Some of the rejected signatures, however, were allowed to be submitted to an appeals process (the so-called *reparo*) in which citizens could confirm their signature. This *reparo* process took place in late May 2004, and though an agreement was reached regarding the rules, the process was still fraught with difficulties and irregularities.<sup>18</sup> Finally, in the spring of 2004, the CNE accepted a new petition and set in motion the August 2004 referendum.

The final phase of the recall process, the referendum of August 15, 2004, was seen to be broadly free and fair according to the Carter Center election observation mission. Responding to opposition allegations of fraud after the recall referendum, the Carter Center carried out various tests on the results and concluded that no fraud had taken place.<sup>19</sup>

The referendum process did not lead to any improvement in the bitter political polarization observable in Venezuela. Trust in the authorities, and in particular the

---

<sup>12</sup> PROVEA, cited in State Department (2006).

<sup>13</sup> Shifter (2006) p48; this assessment is supported by Freedom House (2006).

<sup>14</sup> Walsh (November 17, 2005) p3.

<sup>15</sup> Carter Center (2005) p14.

<sup>16</sup> Carter Center (2005) pp40-41.

<sup>17</sup> Walsh (November 17, 2005) p4; Carter Center (2005) p19.

<sup>18</sup> Carter Center (2005) pp49-50.

<sup>19</sup> Carter Center (2005) p22.

## VENEZUELA

---

electoral authorities, took a severe hit when a pro-Chávez deputy published the so-called “*Lista Tascon*” on his website, containing the names of all signatories of the initial recall referendum. It is alleged that this list was used to punish opponents of President Chávez and to exclude them from public services, benefits, bids, and competitions.<sup>20</sup>

Regional elections in October 2004 were marred by opposition accusations of fraud, and some candidates, such as the mayor of Caracas, withdrew their candidacy in protest against what they saw as an attempt to manipulate the elections.<sup>21</sup> However, international observers declared that the elections had been satisfactory.<sup>22</sup> Turnout fell to 50% of the registered voters, down from the 70% witnessed during the recall referendum.<sup>23</sup>

Municipal elections in August 2005 were also the subject of a number of allegations by opposition parties and groups. The nongovernmental group *Súmate*, for instance, alleged in July 2005 that the CNE’s procedures for the upcoming elections were highly flawed and would taint the elections.<sup>24</sup> *Súmate* particularly underlined the flaws in the electoral register as well as concerns over the secrecy of the vote.<sup>25</sup> Turnout in the municipal elections was 31%.<sup>26</sup>

EU election observers to the December 2005 national parliamentary elections noted the very low levels of trust in the election process, despite the technical skill of the CNE.<sup>27</sup> These elections suffered a blow to their legitimacy when the majority of the opposition refused, shortly before the polling date, to participate. The opposition had expressed a number of concerns regarding potential flaws in the electoral technology and their implications for the secrecy of the vote. After receiving guarantees from the Organization of American States (OAS) that a particularly controversial component of the voting machine would not be used on election day, the opposition decided to boycott the election anyway. OAS observers had previously been assured by the opposition that they would participate in the election if they were given the guarantee. Some observers suggest that the opposition boycott was prompted by the opposition’s fears of defeat on election day.<sup>28</sup> On the day of the election itself, the abstention rate reached 80% of registered voters.<sup>29</sup> The boycott of the election had a number of consequences. An

---

<sup>20</sup> EU Election Observation Mission (March 2006) p9.

<sup>21</sup> ‘Caracas Mayor Pulling Out of Poll’ (October 17, 2004) *BBC News*  
<http://news.bbc.co.uk/2/hi/americas/3750926.stm>, accessed on August 28, 2006.

<sup>22</sup> PROVEA ‘Boletín Electrónico No147’ (5 November 2004) available at  
[http://www.derechos.org/ve/actualidad/coyuntura/2004/coyuntura\\_147.htm#14](http://www.derechos.org/ve/actualidad/coyuntura/2004/coyuntura_147.htm#14), accessed on September 14, 2006.

<sup>23</sup> EU Election Observation Mission (March 2006) p9.

<sup>24</sup> Asociación Civil Sumate (July 2005) p2.

<sup>25</sup> Sumate (July 2005) pp3-4.

<sup>26</sup> EU Election Observation Mission (March 2006) p9.

<sup>27</sup> EU Election Observation Mission (March 2006) p9.

<sup>28</sup> Council on Hemispheric Affairs (COHA) ‘Venezuela’s Disloyal Opposition Serves the Bush Administration’s Narrow Ideological Interests, But Hardly Those of its Own Nation’ (December 1, 2005) at  
[http://www.coha.org/NEW\\_PRESS\\_RELEASES/New\\_Press\\_Releases\\_2005/COHA\\_Opinion\\_05.29\\_Venezuelan\\_Vote\\_Boycott.html](http://www.coha.org/NEW_PRESS_RELEASES/New_Press_Releases_2005/COHA_Opinion_05.29_Venezuelan_Vote_Boycott.html), accessed on 14 September 2006.

<sup>29</sup> State Department (2006).

## VENEZUELA

---

immediate result, as reported by the OAS, was an absence of opposition observers at polling sites, leaving the verification process in the hands of pro-government observers.<sup>30</sup> The more momentous consequence, however, was that the opposition parties now have no representation in the National Assembly.

The presidential election of December 2006 apparently restored some credibility to the electoral process in Venezuela. International observers judged the election free and fair, and the opposition participated in and conceded the election. The vote resulted in the re-election of President Chávez, after he received 63% of the votes cast, beating his closest rival, Manuel Rosales, by nearly 25 percentage points.<sup>31</sup> The election was observed by delegations from the Carter Center, the OAS and the EU. The EU's delegation, the largest present, in an initial statement after the elections, concluded that the election had gone smoothly and securely, but noted numerous instances of intimidation of public officials during the campaign.<sup>32</sup> The OAS mission noted that while there had been some technical problems related to the voting machines, these did not put in doubt the result of the election, and concluded that the "democratic process emerges fortified after December 3."<sup>33</sup>

### *Judicial independence*

President Chávez's reform of the Supreme Court through his Organic Law of the Supreme Court of 2004 has been highly criticized for the effect it may have on the independence of the judiciary. Firstly, the Organic Law widened the Supreme Court by adding 12 new justices, appointed by President Chávez, to a Court that had been evenly divided between government and opposition supporters.<sup>34</sup> Secondly, the Organic Law changed the parliamentary procedure by which justices were to be approved or removed. Whereas before, justices were approved or removed by two thirds of the National Assembly, the Organic Law now provides that justices may be approved or removed by a simple majority in case the Assembly fails to obtain a two-thirds majority three times in a row. This change essentially makes it easier for justices to be appointed and dismissed by the National Assembly, endangering the judiciary's independence. The Organic Law also allows justices to be suspended by the "Citizen Branch" of government.

Another area in which judicial independence in Venezuela has suffered is that of the security of tenure of justices. A large number of judgeships in Venezuela have been staffed with temporary or provisional rights, with few of the protections habitually

---

<sup>30</sup> OAS (April 2006) p52.

<sup>31</sup> 'Chávez named presidential victor' *BBC News* (December 5, 2006), <http://news.bbc.co.uk/2/hi/americas/6209258.stm>, accessed on December 13, 2006.

<sup>32</sup> 'European observers sign off on Venezuela vote, but cite complaints by state workers', *International Herald Tribune* (December 5, 2006), available at [http://www.iht.com/articles/ap/2006/12/06/america/LA\\_POL\\_Venezuela\\_Vote\\_Observers.php](http://www.iht.com/articles/ap/2006/12/06/america/LA_POL_Venezuela_Vote_Observers.php), accessed on December 13, 2006.

<sup>33</sup> 'Press Release: OAS Mission Presents Observations On Elections in Venezuela' (December 4 2006) at [http://www.oas.org/OASpage/press\\_releases/press\\_release.asp?sCodigo=EOM-VE-11](http://www.oas.org/OASpage/press_releases/press_release.asp?sCodigo=EOM-VE-11), accessed on December 13, 2006.

<sup>34</sup> Human Rights Watch (2006) p8.

## VENEZUELA

---

awarded to judges with tenure. Nonetheless, the government has committed itself to righting this situation through reforms such as the creation of a new National Magistracy School and the gradual granting of tenure to more judges. By the end of 2005, over 60% of judges had achieved tenure, as compared to fewer than 20% in January 2005.<sup>35</sup> Nevertheless, a recent Inter-American Commission on Human Rights report underlines that judicial officers "continue to be removed through administrative proceedings bereft of sufficient procedural guarantees."<sup>36</sup>

### *Extra-judicial executions and disappearances*

Human rights observers continue to underscore the lack of accountability for extra-judicial executions committed by the state security forces. Estimates indicate that around 6,100 civilians were killed by the security forces in the period 2000-2005, 162 of these in the period from October 2004 to September 2005 alone.<sup>37</sup> Despite this, only 517 officers have been charged for such killings, and only 250 have been placed under arrest.<sup>38</sup> According to the Venezuelan human rights NGO PROVEA, these are often execution-style killings which are then usually blamed on "firefighters"; witnesses who say otherwise are often dismissed.<sup>39</sup> Around 44% of these complaints are traceable to the national security forces directly, with the Criminal Investigation Corps (CICPC) responsible for the most killings among the national security forces.<sup>40</sup> A particularly notorious case is that which occurred in the "Kennedy" area of Caracas in June 2005, when three unarmed students were shot and killed by CICPC officers. The police apparently attempted to plant weapons on the scene.<sup>41</sup> Attempts by the security forces to cover up extra-judicial killings sometimes result in "disappearances": PROVEA reports that 17 disappearances occurred in 2005 alone.<sup>42</sup>

### *Correctional system*

The Venezuelan prison system is notoriously overcrowded and the site of numerous abuses against prisoners. The Venezuelan prison monitoring group OVP notes that Venezuelan prisons should really hold only 60% of the current prison population.<sup>43</sup> In January 2005, 10,000 prisoners went on hunger strike to protest the conditions in which they were being kept.<sup>44</sup>

---

<sup>35</sup> Inter American Commission on Human Rights (IACHR) (2006) paragraph 287.

<sup>36</sup> IACHR (2006) paragraph 302.

<sup>37</sup> PROVEA (2005).

<sup>38</sup> Amnesty International (2006).

<sup>39</sup> PROVEA (2005).

<sup>40</sup> PROVEA (2005).

<sup>41</sup> Human Rights Watch (2006) pp214-215.

<sup>42</sup> PROVEA (2005).

<sup>43</sup> State Department (2006).

<sup>44</sup> State Department (2006).

## VENEZUELA

---

### *The Militarization of Politics and Policy*

Powers have been centralized in other ways as well. The military has been made increasingly accountable to Chávez, building upon constitutional provisions which make the armed forces answerable to the President only. Under the modifications to the National Armed Forces Law in September 2005, the President was given the title of Commander-in-Chief of the Armed Forces.<sup>45</sup> Observers note that the 1999 constitution provided for very little military accountability to civilian rule.<sup>46</sup> After the 2002 coup attempt, Chávez carried out a major reorganization of the army that effectively eliminated many officers not supportive of Chávez.<sup>47</sup> The military has also been used increasingly for the delivery and implementation of key national policy programs, and military officers have been placed in charge of more than one-third of regional governments.<sup>48</sup> Chávez's government has also pursued the build-up of a "citizen militia", as part of its "Mision Miranda" plans for a new military reserve. Government sources claim that this reserve would only be used for national defense, but there are concerns that it could be used to suppress internal dissent.<sup>49</sup>

### *Violent and Intimidating Rhetoric*

The Community of Democracies' Criteria for Participation require that "governments should by all means avoid violence in political speech ... [t]his sort of aggression... leads to a climate of intimidation." Venezuela's political climate is, however, imbued by violent rhetoric, and a deep polarization among political parties. President Chávez repeatedly denounces opposition figures and organizations in very violent terms, implying that they are guilty of treason and other crimes. He frequently uses his weekly television show, *Alo Presidente*, to focus his attacks on civil society and the independent media.<sup>50</sup> Other government figures have also been known to make similar speeches. In November 2006, Rafael Ramirez, the oil minister and head of PDVSA, was taped making a speech in which he argued that those PDVSA workers who were not "with the revolution" should leave the company, or even leave the country.<sup>51</sup> The opposition, however, is not free from blame – it also frequently uses inflammatory and heated rhetoric.

---

<sup>45</sup> *Ley Organica de la Fuerza Armada Nacional*, Official Gazette No. 38.280, 26 September 2005.

<sup>46</sup> Freedom House (2006).

<sup>47</sup> Freedom House (2006).

<sup>48</sup> Shifter (2006) pp48-49.

<sup>49</sup> 'Chávez' 'Citizen Militias' on the March' *BBC News* (1 July 2005) at <http://news.bbc.co.uk/2/hi/americas/4635187.stm>, accessed on November 14, 2006.

<sup>50</sup> State Department (2006).

<sup>51</sup> 'Storm over Venezuela oil speech' *BBC News* (4 November 2006) at <http://news.bbc.co.uk/2/hi/americas/6114682.stm>, accessed on November 14, 2006.

## Freedom of thought, expression, assembly, and association

### *Freedom of Association*

The freedom of association as exercised by civil society organizations has suffered in Venezuela in the last few years. Human rights organizations as well as those linked to the political opposition have experienced growing pressure and harassment.

Non-governmental organizations (NGOs) with foreign funding or connections have been targeted in particular after a Supreme Court ruling in 2000 which declared that foreign-funded NGOs could not engage in political activism.<sup>52</sup> The government is now attempting to enshrine this restriction into national law through a draft Law on International Cooperation, which prohibits direct foreign funding to NGOs. Instead, foreign funding would go through a Fund for International Cooperation which would channel and filter foreign resources, and would be distributed subject to “the priorities of foreign policy and national expediency.”<sup>53</sup> Furthermore, the law creates extensive registration requirements for all NGOs, and would establish an obligation to provide information on their operations to anyone.

NGO members and leaders have already been harassed in various ways. Leaders of the civil society organization *Súmate* are standing trial for criminal conspiracy to undermine the country’s republican government by receiving funding from the U.S. National Endowment for Democracy (NED) and face the possibility of up to 16 years in prison.<sup>54</sup> A criminal investigation was opened in 2005 against Carlos Ayala Corao, the president of the Andean Commission of Jurists and a former chairman of the Inter-American Commission on Human Rights, on suspicion of having participated in the April 2002 coup. The investigation was dropped only after significant pressure from national and foreign sources.<sup>55</sup>

The freedoms of assembly and protest are in danger of being restricted if intended amendments to the penal code, as proposed by the government, are passed. The government’s proposed amendments would ban certain types of protest habitually employed by the Venezuelan opposition, such as *cacerolazos* (loud banging of pots and pans) and the peaceful blocking of streets.<sup>56</sup> However, PROVEA notes that the number of demonstrations that have been banned has been relatively small, and less than the previous year.<sup>57</sup>

The government has cracked down on labor leaders and trade unions, alleging that corruption was widespread among these groups.<sup>58</sup> The leader of the Confederation of Venezuelan Workers was refused recognition by the government in 2004, and a warrant

---

<sup>52</sup> State Department (2006).

<sup>53</sup> Arts. 11-13 of the draft Law on International Cooperation.

<sup>54</sup> Human Rights Watch (2006) p216.

<sup>55</sup> Human Rights Watch (2006) p216.

<sup>56</sup> PROVEA (2005).

<sup>57</sup> PROVEA (2005).

<sup>58</sup> Freedom House (2006).

## VENEZUELA

---

for his arrest prompted him into exile. Under Venezuelan legislation, the CNE and the electoral branch have a right to administer internal elections in trade unions, in direct contravention of international labor standards. The CNE has used these powers to refuse to certify or annul elections held by unions. Oil workers organized under the UNAPETROL union and who had participated in the 2002-2003 national strike were fired for their participation in the strike, and the union's legal status was revoked.<sup>59</sup>

### *Media*

Freedom of the press has suffered a number of problems in Venezuela, some of which have worsened. While the government claims that the media are allowed to criticize the government, regulatory and legal instruments, as well as harassment, have threatened the press' freedom of expression.

In the absence of an opposition role in the principal state institutions, elements of the media have tried to fill this political vacuum by acting as a de facto opposition at times. The OAS post-election report noted the open and partial embrace of an oppositional role by certain private media outlets during the 2005 legislative election campaign. According to the report, this partisan role of the media "reduced the space available for the promotion of an open and plural debate ... and the development of constructive electoral campaigns".<sup>60</sup> At the same time, state-owned media took on a similarly combative role. The tone of debates, according to the report, was often "strident" and laced with personal attacks and lack of respect for the other side.<sup>61</sup>

Defamation (*desacato*) laws, which ban insulting or defamatory speech against the president, have been widened to include other high officials in their protected category, despite the Inter-American Commission on Human Rights' negative opinion of such laws and a continent-wide trend for the repeal of such laws.<sup>62</sup> The penalties for *desacato* provided for in the penal code have become harsher.<sup>63</sup> The enforcement of the *desacato* laws were often accompanied by significant judicial delays.<sup>64</sup> The National Commission for Telecommunications (CONATEL) can even issue precautionary bans against certain reports.<sup>65</sup>

In addition to such traditional obstructions to freedom of speech, the Chávez government has added new legal instruments. In December 2004 the National Assembly ratified the Law on Social Responsibility in Radio and Television, which establishes a system for policing and enforcing a ban against prohibited content, vaguely defined as "incitements to war", "disruptions of the public order", "disrespect toward legitimate institutions and authorities", or "threats to national security".<sup>66</sup> Journalists have to register

---

<sup>59</sup> State Department (2005).

<sup>60</sup> OAS (26 April 2006) p24.

<sup>61</sup> OAS (26 April 2006) p25.

<sup>62</sup> Human Rights Watch (2006) p214.

<sup>63</sup> Freedom House (2005) p218.

<sup>64</sup> PROVEA (2005).

<sup>65</sup> Human Rights Watch (2006) p214.

<sup>66</sup> Freedom House (2005) p218.

## VENEZUELA

---

with the National College of Journalists to exercise their profession legally.<sup>67</sup> Broadcasters have had to transmit government programs, overriding their own scheduled broadcast, and in its place they have been forced to transmit such programs as President Chávez's weekly *Alo Presidente* call-in show. However, sources in the state media also highlight the law's positive aspects, in that it seeks to provide greater popular access to the media, and to reduce the dominance of Caracas-based groups in favor of regional and provincial outlets on such issues as the allocation of radio and TV frequencies.<sup>68</sup>

While physical and verbal harassment against journalists has occurred, PROVEA notes that the number of incidents of physical harassment and aggression has fallen, to be replaced by mere threats.<sup>69</sup>

In early 2007, President Chávez announced that one of the signature reforms of his third term of office would be the nationalization of key sectors of the economy, including the telecommunications industry. Shortly before, Chávez warned that Radio Caracas Television (RCTV), one of Venezuela's oldest private television operators, would not be allowed to renew its license even though RCTV countered that its license was not up for renewal in the near future.<sup>70</sup> International human rights observers accused the Chávez government of attempting to silence a leading voice for opposition criticism of the government, while the government accuses RCTV of producing indecent programmes, as well as having worked with pro-coup forces in April 2002.<sup>71</sup>

#### 4. SUGGESTIONS FOR IMPROVEMENT

---

While President Chávez was elected and re-elected in free and fair elections, and his reforms to the constitutional order were carried out using democratic instruments, severe doubts remain about the government's intentions to stay on the democratic path. The case of Venezuela reminds us that democratic government rests as much upon formal, legal guarantees as upon a normative climate in which all parties respect democratic outcomes and each other as legitimate participants in the democratic process. Without the need to speculate on President Chávez's ultimate objectives or motives, it is evident that he and his allies have contributed to creating a political climate that is inimical to democratic values. The bitter polarization of political opinion and violent rhetoric from the President and his opponents suggests that very little common ground now exists between government and opposition.

Such a climate can have important effects on the formal operation of democratic institutions. The opposition's boycott of the December 2005 parliamentary elections has

---

<sup>67</sup> Freedom House (2005) p218.

<sup>68</sup> OAS (26 April 2006) p 24.

<sup>69</sup> PROVEA (2005).

<sup>70</sup> 'Chávez to shut down opposition TV' *BBC News* (29 December 2007) <http://news.bbc.co.uk/2/hi/americas/6215815.stm>, accessed on January 17, 2007.

<sup>71</sup> 'Pulling the plug on anti-Chávez TV' *Washington Post* (January 17, 2007) at <http://www.washingtonpost.com/wp-dyn/content/article/2007/01/17/AR2007011702003.html>, accessed on January 19, 2007.

## VENEZUELA

---

facilitated the control of President Chávez over all branches of government, a situation that undermines the operation of the separation of powers or checks and balances and actually may have backfired on them, leaving them with very little formal influence in Venezuela's national institutions. However, the opposition's demonstrated ability to rally behind a single candidate for president in the December 2006 elections and its acceptance of the results may portend a much-needed trend toward more constructive tactics.

Nevertheless, the clampdown on the freedom of the press as well as the freedom of association is extremely worrying, as the free media as well as civil society have been acting as some of the last checks on Chávez' rule. The harassment and legal over-regulation of journalists and civil society, as well as the limitations planned on the right to free association through existing jurisprudence and the planned Law on International Cooperation are causes for deep concern. The exercise of the rights to the freedom of speech, of the press and of association is essential to the operation of genuine democracy.

Even though President Chávez has been re-elected in free and fair elections, his increasingly undemocratic exercise of power means that Venezuela requires close scrutiny by the international community. A number of questions remain to be answered about Venezuela under Chávez: How will President Chávez interpret his victory vis-à-vis the political opposition and civil society? Will he work to ease political polarization, or will the election result only embolden the two camps in their rhetorical and political excesses? Will President Chávez interpret his mandate to make it even more difficult for peaceful dissent to be heard? Initial indications are that the trend of Chávez's centralization of power at the expense of democratic norms will continue and deepen.

Another question that remains to be answered is what effect the election will have on President Chávez' often combative foreign policy. Venezuela has participated in all previous meetings of the Community of Democracies, but has worked in diplomatic negotiations to water down or obstruct language that would have strengthened the process (as it is has done in other multilateral settings, notably negotiations to create the new UN Human Rights Council).

There are some indications that the government of Venezuela is open to reform and improvement. The position of tenured judges has been one such improvement, and the CNE's relative openness to dialogue during the 2005 election cycle was another welcome sign.

A number of possible improvements would make an important difference in improving Venezuela's democratic climate. While the December 2006 elections were considered free and fair and no major irregularities were observed, larger problems remain regarding the political and media climate in which elections took place. Given the restrictions placed on freedoms of association and of the press through new legislation, it is difficult to say that the election took place in a climate conducive to a peaceful democratic process. In order to improve Venezuela's political climate, the government should take on a number of reforms.

## VENEZUELA

---

- The government should withdraw the draft Law on International Cooperation. As it stands, the law would lead to a stifling regulatory environment for NGOs.
- The government should drop the criminal charges against the members of *Súmame*, and refrain from any further spurious legal investigations into civil society groups.
- The legal-regulatory situation of the media should be improved. The laws on *desacato* should be repealed. The obligation to register with the National College of Journalists should be lifted. The Law on Social Responsibility in Radio and Television should be repealed, so as to remove its onerous and repressive limitations on the freedom of the press. And the threat to withdraw the license of RCTV should be removed.
- Rule by decree should be suspended and the normal constitutional procedure of parliamentary debate and approval should be reinstated.
- Chávez's plan to bypass local and regional autonomy through the creation of a parallel structure of "Communal Councils" should be dropped.
- Term limits should be retained.
- President Chávez should take the initiative to drop the violent rhetoric he and his supporters have used to attack the opposition and call for a truce in the war of words that is creating a climate of fear and hostility.

### 5. STATISTICS AND INDICATORS

---

World Bank Institute Governance Indicators 2005	Venezuela Score	Key
Voice and Accountability	31.9	Range 0-100 (Lower value indicates weak voice and accountability; higher value indicates strong voice and account)
Political Stability and Absence of Violence	11.8	Range 0-100 (Lower value indicates weak political stability and high violence; higher value indicates opposite)
Government Effectiveness	23	Range 0-100 (Lower value indicates weak government effectiveness; higher value indicates strong govt. effectiveness)
Regulatory Quality	12.4	Range 0-100 (Lower value indicates weak regulatory quality; higher value indicates strong regulatory quality)
Rule of Law	9.2	Range 0-100 (Lower value indicates weak rule of law; higher value indicates strong rule of law)
Control of Corruption	16.7	Range 0-100 (Lower value indicates weak control of corruption; higher value indicates strong control of corruption)

Freedom House: Freedom in the World 2007	Venezuela Score	Key
Political Rights	4	Range 1-7 (Lower value indicates good system of political rights; higher value indicates bad system political rights)
Civil Liberties	4	Range 1-7 (Lower value indicates good system of civil liberties; higher value indicates bad system civil liberties)

## VENEZUELA

---

Status	PF*	3 Categories: F (Free); PF (Partly Free); NF (Not Free) / (*) Indicates electoral system
--------	-----	---

Freedom House: Freedom of the Press 2006	Venezuela Score	Key
Total Score	72NF	Range 0-100 (Lower value indicates total free press; higher value indicates less freedom) / 3 Categories: F (Free); PF (Partly Free); NF (Not Free)

Bertelsmann Transformation Index 2006	Venezuela Score	Key
Stateness	8.8	Range 0-10 (Lower value indicates negative democratic development; higher value indicates positive democratic development)
Political Participation	7.5	
Rule of Law	4.0	
Stability of democratic Institutions	5.0	
Political and Social Integration	5.8	
Total Score Political Transformation	6.20	Range 0-10 (Lower value indicates negative democratic development; higher value indicates positive democratic development) / Arrow shows trend in democratic development (↑Improved; ↓Worsened)
Total Score Political Management	3.03	Range 0-10 (Lower value indicates lower quality of political management; higher value indicates higher quality of political management)

Corruption Perceptions Index 2006	Venezuela Score	Key
Total Score	2.3	Range 0-10 (lower value indicates high corruption; higher value indicates lower values of corruption)

### 6. SOURCES

---

- Amnesty International (2006) *Amnesty International Annual Report 2006*, online at <http://web.amnesty.org/report2006/ven-summary-eng>, (accessed on 25 August 2006)
- Amnesty International (May 2004) 'Venezuela: Human Rights Under Threat' at <http://web.amnesty.org/library/index/engamr530052004>, accessed on August 29, 2006
- Carter Center (February 2005) *Observing the Venezuela Presidential Recall Referendum: Comprehensive Report* Atlanta, GA: Carter Center
- UN Commission on Human Rights (2006) *Report submitted by the Special Representative of the Secretary-General on human rights defenders* (E/CN.4/2006/95/Add.5)

## VENEZUELA

---

- Freedom House (2005) *Freedom of the Press 2005* New York, NY: Rowman and Littlefield
- Freedom House (2006) *Freedom in the World: Venezuela*, online at [http://www.freedomhouse.org/inc/content/pubs/fiw/inc\\_country\\_detail.cfm?country=6862&pf](http://www.freedomhouse.org/inc/content/pubs/fiw/inc_country_detail.cfm?country=6862&pf), accessed on August 25, 2006
- Human Rights Watch (2006) *World Report* New York, NY: Human Rights Watch
- Inter-American Commission on Human Rights (2006) 'Annual Report – 2005' available at <http://www.cidh.org/annualrep/2005eng/toc.htm>, accessed on August 29, 2006
- Organization of American States (26 April 2006) 'Informe Final de La Misión de Observación Electoral de La OEA Sobre Las Elecciones Legislativas Celebradas en Venezuela el 4 de Diciembre de 2005' available at [http://www.sap.oas.org/docs/permanent\\_council/2006/cp\\_inf\\_5342\\_06\\_spa.pdf](http://www.sap.oas.org/docs/permanent_council/2006/cp_inf_5342_06_spa.pdf), accessed on August 29, 2006
- Piccone, T and Youngs, R (2006) *Strategies for Democratic Change* Washington, DC: Democracy Coalition Project
- PROVEA (2005) *Informe Anual 2004-2005*, available at [http://www.derechos.org/ve/publicaciones/infanual/2004\\_05/Informe\\_Anual.pdf](http://www.derechos.org/ve/publicaciones/infanual/2004_05/Informe_Anual.pdf), accessed on August 29, 2006
- Shifter, M (2006) 'In Search of Hugo Chávez's *Foreign Affairs* (May/June 2006)
- United States Department of State (2006) *Country Reports on Human Rights Practices 2005: Venezuela* at <http://www.state.gov/g/drl/rls/hrrpt/2005/61745.htm>, accessed on August 25, 2006
- Walsh, J (November 17, 2005) 'Democracy in Venezuela' – Statement to the Subcommittee on the Western Hemisphere, US House of Representatives International Relations Committee

### News Sources:

- *El País* – <http://www.elpais.com>
- *BBC News* – <http://news.bbc.co.uk>
- *The New York Times* – <http://www.nytimes.com>
- *The Washington Post* – <http://www.washingtonpost.com>