

THE  
CARTER CENTER



**PRELIMINARY REPORT**

**THE CARTER CENTER INTERNATIONAL ELECTORAL EXPERT MISSION**

**Regional and Local Elections, Venezuela 2021**

**December 3, 2021**

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**1. INTRODUCTION**

On July 27, The Carter Center was invited by the National Electoral Council (*Consejo Nacional Electoral*—CNE) of the Bolivarian Republic of Venezuela to send an electoral mission to observe the regional and municipal elections scheduled for Nov. 21. This preliminary report summarizes the findings of the Carter Center’s international electoral expert mission, which began its work remotely in October before continuing in person in Venezuela from Nov. 7 to 27.

The Carter Center signed a memorandum of understanding with the CNE on Oct. 25, 2021, in accordance with the guidelines for election observation established in The Declaration of Principles for International Election Observation and the accompanying Code of Conduct for International Election Observers, both of which were broadly endorsed at a meeting held at the United Nations in 2005.<sup>1</sup>

The Center assessed the Venezuelan electoral process in the light of the national legal framework and the principles and commitments on democratic elections enshrined in the regional and international instruments Venezuela has ratified. The underlying principles of these instruments require guarantees for all citizens that include: a) the requirement of rule of law and access to justice; b) the right of all citizens to participate in the electoral process—as voters and/or candidates; c) the right to associate and assemble in interest groups and political parties in free movement and campaigns; d) freedom of opinion and expression with access to information to the electoral process; and e) citizen security throughout the electoral process.

The Carter Center’s electoral mission focused on key aspects of the Venezuelan electoral process, including the legal framework for elections; the effectiveness and transparency of election preparations; the environment in which election campaigns were conducted, including freedom of the media and respect for fundamental participation rights; the use of social media, including an analysis of

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<sup>1</sup> <https://aceproject.org/electoral-advice/election-observation/declaration-of-principles-for-international>

disinformation on social media; and the CNE's transparency about the electronic voting system, including during vote tabulation.

Although the expert team was present in Venezuela on election day, the mission was not able to evaluate the voting, ballot counting, and tabulation processes because of its limited size and scope.

In January 2022, The Carter Center will publish a more detailed report on critical pre- and post-election aspects, including potential challenges. The report will include recommendations based on the electoral expert mission's findings.

## 2. EXECUTIVE SUMMARY

On Nov. 21, 2021, voters selected candidates to fill 3,082 government offices in Venezuela's regional and municipal elections. Elections were held in all 23 states (for governors and state representatives) and each of the 335 municipalities (for mayors and councilors). Indigenous community representatives were elected on Nov. 26 by indirect voting.

**Political context.** The backdrop to the elections was a widespread socioeconomic and humanitarian crisis (aggravated by the COVID-19 pandemic), a pattern of political repression, severely restricted rights to political participation and freedom of expression, the government's overt use of its political advantage, and an uneven playing field. However, negotiations between some opposition groups and the ruling party resulted in three major changes in the electoral environment: a concerted reshuffling of the election commission by the National Assembly (*Asamblea Nacional*—AN) that gave the opposition more representation; the presence of international observers; and talks between the government and the opposition that began in Mexico City in August.

**Legal framework.** Generally speaking, Venezuela's election legislation provides a suitable foundation for conducting democratic elections and ensures the right of women, indigenous peoples, and people with disabilities to participate. However, legal provisions concerning the media and freedom of expression, the registration of candidates, the suspension of political rights, and the financing of political parties and election campaigns do not comply with international standards for democratic elections and agreements signed by Venezuela.

Furthermore, the competitiveness and general transparency of the process were undermined by the failure to enforce national legislation, including campaign rules; the CNE's reluctance or failure to address blatant legal violations; and the lack of transparency about the criteria used to make key decisions. CNE sessions are not public. Because decisions and other official information are not published on a consistent basis, there is an overreliance on informal channels of information, to the detriment of the principles of transparency, accessibility, clarity, and legal certainty.

Decisions by Venezuela's Supreme Tribunal of Justice (*Tribunal Supremo de Justicia*—TSJ) and the General Accountability Office (*Contraloría General*) directly impacted the legal conditions for the elections, which were marked by the barring of many key opposition candidates and the TSJ's arbitrary replacement of the

executive committees of opposition parties and *Chavista* dissidents. There was also a general atmosphere of political repression, and more than 250 people are being held as political prisoners.

**Election administration.** In May 2021, the National Assembly appointed five officials to the CNE: Pedro Enrique Calzadilla Pérez (president), Enrique Octavio Márquez Pérez (vice president), Tania D' Amelio Cardiet, Alexis José Corredor Pérez, and Roberto Antonio Picón Herrera. These appointments were the result of political negotiations that included the governing party, opposition groups that do have representation in the National Assembly, and civil society organizations. The five appointees include three members linked to the governing party and two with ties to the opposition.

The inclusion of persons tied to the opposition as magistrates in the CNE opened the door to building broader trust in the independence and credibility of the body. It also generated behavior that provided greater predictability and trust in the rules of competition, greater guarantees for the electorate and opposition parties, and a demonstration of greater independence. In general, the political system and civil society consider the arrangement to be an improvement on the previous election administration situation, though concerns persist. The government still maintains power in the CNE, but the commission is less slanted than it has been in recent decades. That said, its makeup shows a clear disregard for the spirit of the constitution, which demands that the CNE have no ties to political parties.

The CNE's attitude helped defuse tensions and made it possible to hold the 2021 regional elections with the participation of the main political forces, a positive shift from recent years. Most of the opposition announced it would participate, after refusing to participate in the 2017 elections and after major sectors of the opposition boycotted the 2018 and 2020 elections.

**Voter registry.** The voter registry contained 21,267,813 million people, including approximately 108,030 registered voters living abroad. That number is low given that reports on Venezuela's migratory crisis indicate that 5.9 million Venezuelans have emigrated, of whom at least 2.8 million are estimated to be registered to vote.

**Registration of candidates.** There were 70,244 candidates, largely nominated by the governing party's Great Patriotic Pole (*Gran Polo Patriótico*—GPP) coalition and five opposition coalitions: the Democratic Alliance (*Alianza Democrática*—AD); the Popular Revolutionary Alternative (*Alternativa Popular Revolucionaria*—APR); the National Independent Coalition with Neighborhood Power (*Coalición Nacional Independiente con Fuerza Vecinal*); and the Democratic Unity Roundtable (*Mesa de la Unidad Democrática*—MUD). While the governing party nominated one candidate per office, the opposition vote was divided between different political alternatives. Some sectors of the opposition continued calling for abstention and did not participate.

**Electronic voting system.** Venezuela's election system is fully automated, and the CNE audits every phase of the process, including the voter registry list, the software's source code, voting machines, transmission centers, satellite antennas, the Movilnet center,<sup>2</sup> and other communications and infrastructure elements, as well as the processes of voting, counting, and transmitting and tabulating results. A series of audits

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<sup>2</sup> Movilnet is a state-owned mobile phone company, whose infrastructure is used for mobile communications to transmit results from polling stations. Results are also transmitted by landline (CANTV) and satellite transmissions.

were held during and after the election process, with the presence of experts, party representatives, and observers. All auditors agreed that the electronic voting system is secure.

**The campaign period.** The campaign period was marked by the governing party's overt use of its incumbent political advantage and indiscriminate use of government funds for election purposes. The governing party exercised its advantage over a divided opposition in a campaign period that was characterized by low voter engagement, lack of funds (particularly for the opposition), and a calm atmosphere, with almost no incidents or clashes between antagonistic political groups. The electoral period saw coordinated partisan propaganda on social media, primarily by the state apparatus. In the last 20 years, the Venezuelan government has set up a legal framework that severely restricts freedom of expression and the right of access to information. The media's role in these elections was marked by polarization, lack of resources, and difficulties for journalists covering campaigns.

**Election day.** The Carter Center's electoral mission was limited in scope and did not assess the voting and counting processes on election day. However, the mission assessed the general environment surrounding the elections. The mission noted that there were no reports of major technical difficulties on the day of the election itself, and none that kept it from unfolding smoothly in an orderly fashion. While most of the country experienced a peaceful election day, in Zulia state, one person was shot to death and local observers and journalists were assaulted. International and national observers noted delays in opening and closing polling places, abuses of the assisted voting arrangement, "red points" (*puntos rojos*) near several voting stations, and conspicuous military presence at every polling center. Red points are ruling party-sponsored locations near polling places where voters report before voting. These locations have been criticized by the opposition as a method to track voters and correlate voting with government benefits.

**Results.** Voter turnout was 42.26%, and as of Nov. 30, the ruling party has won 19 governorships and 205 mayor offices. The opposition has won three governorships and 117 mayoral races. On Nov. 29, the Supreme Tribunal of Justice, in a controversial decision, ordered the suspension of the tabulation of votes for the governorship of Barinas, where the opposition was winning by a few hundred votes, and ordered the CNE to repeat elections for governor on Jan. 9, 2022. The court's decision is a worrying sign and part of a pattern of intervention by the court, which undermines Venezuela's obligation to conduct genuinely democratic elections.

**Acceptance of results.** In the days after Nov. 21, several disturbing incidents took place. Looting was reported in five mayoral offices in the states of Zulia, Bolívar, Monagas, and Miranda. The elected mayor and four other members of his team were arrested in the state of Mérida when they tried to prevent the mayor's office from being looted by pro-government supporters who had lost the election. CNE Magistrate Roberto Picón publicly rejected the arbitrary detention. In the state of Guárico, an attempt was made to arrest newly elected mayor Juan Germán Roscio and the judge who conducted his swearing-in.

### **3. SOCIOPOLITICAL CONTEXT**

#### **A country in crisis**

Venezuela's 2021 regional and municipal elections were held amidst a crisis that is among Latin America's severest socioeconomic, political, and humanitarian crises of the last 100 years.

#### **Political and electoral crisis**

The 2015 legislative election won by the opposition caused a massive political and electoral crisis. The government did not recognize the legitimacy of the opposition, which led to the creation of parallel institutions. To effectively block the opposition majority in the National Assembly (AN), the government held an election in 2017 for a Constituent Assembly (*Asamblea Constituyente*—AC) with biased electoral rules. The opposition did not participate in this election. The Constituent Assembly appropriated legislative powers for itself. In 2018, Nicolás Maduro was reelected as president in elections in which much of the opposition decided not to participate because of the lack of democratic procedural guarantees. Then the majority-opposition National Assembly elected AN president Juan Guaidó as interim president of Venezuela. Guaidó was recognized by more than 50 countries, including many in Latin America and Europe, as well as by the United States of America and multilateral organizations.

The erosion of the credibility of the electoral system during the 2017 and 2018 processes was clearly evident. For this reason, the opposition did not participate in the 2017 Constituent Assembly, and much of the opposition abstained from voting in the 2018 presidential election and the 2020 legislative election. Under these conditions, governing authorities have enjoyed little legitimacy within the country and limited recognition from international actors.

This political and electoral quagmire, together with the socioeconomic crisis, provoked a profound public disenchantment with the process, institutions, and political leaders. Opinion polls show that people are deeply discouraged by the state of the country and unmotivated to participate in elections.

#### **Lead-up to the 2021 regional election**

Between the disputed 2020 legislative election and the call for the 2021 regional elections, at least three important changes were made to the election environment following negotiations between opposition sectors and the governing party, in which organized civil society also played a key role.

First, the Legislative Assembly took concerted action to reshuffle the CNE to give the opposition more representation. Second, international election observers were invited, when in recent elections the government only allowed a restricted number of monitors whose movements and access was limited. Third, the government and majority opposition groups started a round of talks in Mexico City, facilitated by Norway.

#### **Main characteristics of the 2021 regional election**

In the 2021 regional and municipal elections in Venezuela, 3,082 government offices were all to be elected. Elections were held in all 23 states (for governors and legislators) and in each of the 335

municipalities (for mayors and councilors). In addition, local indigenous authorities were elected by indirect voting. Governors and mayors were elected by simple majority. Legislators and councilors were elected under a mixed-member proportional representation system: 60% based on party lists and 40% by simple majority in single-member districts.

More than 70,000 candidates ran for office, largely nominated by political parties that can be grouped into five main coalitions. The first is the governing party's coalition, the Great Patriotic Pole (*Gran Polo Patriótico*—GPP), which includes the United Socialist Party of Venezuela (*Partido Socialista Unido de Venezuela*—PSUV) as its main party. The four opposition coalitions are: the Democratic Alliance (*Alianza Democrática*—AD); the Popular Revolutionary Alternative (*Alternativa Popular Revolucionaria*—APR); the National Independent Coalition with Neighborhood Power (*Coalición Nacional Independiente con Fuerza Vecinal*); and the G4, comprising Justice First (*Primero Justicia*), A New Era (*Un Nuevo Tiempo*), Popular Will (*Voluntad Popular*), and Democratic Action (*Acción Democrática*).<sup>3</sup> The G4 used the Democratic Unity Roundtable (*Mesa de the Unidad Democrática*—MUD) coalition ticket.

While the governing party nominated one candidate per office, multiple candidates from the various opposition groups competed for the same office. Some opposition sectors decided not to participate and called for abstention.

It was not until June 2021 that the CNE reinstated the MUD opposition coalition ticket, which had been declared illegal by the Supreme Tribunal of Justice (TSJ) in 2018.<sup>4</sup> The short time between MUD's reinstatement and election day affected its organizational capacity, especially during initial phases of the process and in registering candidates. In addition, the elections were marked by the barring of many key opposition candidates, the TSJ's arbitrary replacement of the executive committees of opposition parties and Chavist dissidents, as well as the general context of political repression, with more than 250 political prisoners.

#### 4. LEGAL FRAMEWORK

Venezuela has ratified international and regional treaties on human rights and election standards.<sup>5</sup> The constitutional order of priority puts these instruments above domestic law, and they are directly applicable by courts and bodies of the Venezuelan government.<sup>6</sup>

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<sup>3</sup>The historic leaders of Popular Will and Democratic Action are in the G4 coalition, although they do not hold official party registration. The TSJ replaced the executive committees of those political parties and many others with leadership that is more favorable to the government.

<sup>4</sup> According to the TSJ decision, the MUD unity ticket “openly [violated] the prohibition on dual party membership.”

<sup>5</sup> These include the International Covenant on Civil and Political Rights (CCPR) and its optional protocols, the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention on the Rights of Persons with Disabilities (CRPD), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and its optional protocol, Convention No. 169 on Indigenous and Tribal Peoples in Independent Countries (ILO Convention 169). Venezuela is a member of the OAS, UNASUR, and MERCOSUR and is a signatory of the USHUAIA protocol on democratic commitment within the MERCOSUR, the Republic of Bolivia, and the Republic of Chile. Venezuela rejoined the jurisdiction of the Inter-American Commission on Human Rights (I/A Court HR) in May 2019, six years after having withdrawn from the American Convention on Human Rights in 2012.

<sup>6</sup> Article 23 of the Constitution of the Bolivarian Republic of Venezuela.

## I. ELECTIONS

Venezuela's system of laws on parliamentary elections includes the 1999 Constitution of the Bolivarian Republic of Venezuela and the 2009 Organic Law of Electoral Processes (*Ley Orgánica de Procesos Electorales*), supplemented by decisions, instructions, and rules issued by CNE.<sup>7</sup>

The system of laws on elections generally provides a suitable basis for holding democratic elections. However, legal provisions concerning the registration of candidates, the suspension of political rights, and the financing of political parties and election campaigns, as well as those related to national and international observation,<sup>8</sup> do not comply with international standards and agreements signed by Venezuela.

Furthermore, the process's overall competitiveness has been negatively affected by failure to enforce national legislation (including campaign rules); the CNE's reluctance or failure to address blatant legal violations;; the lack of transparency about the criteria used to make essential decisions about the electoral process, such as barring or replacing barred candidates; and the inadequate or nonexistent access to official information from the CNE on key decisions, which undermined the clarity of the process and legal certainty.

The decisions of the Supreme Tribunal of Justice and General Accountability Office also directly affected the election's legal environment. They severely restricted the process's political plurality and competitiveness by interfering with the executive committees of some parties and by stripping prominent members of the opposition and of the dissenting *chavismo* faction of their political rights. These measures were not founded on clear and objective criteria that would justify them, so they are perceived as arbitrary and partisan.

### **The Constitution**

The 1999 constitution guarantees fundamental rights and the freedoms of association, assembly, movement, opinion, and press. It also establishes an independent judiciary, guarantees the right to vote and be elected in periodic elections with universal and fair suffrage by secret ballot, and stipulates that parliamentary elections must adhere to the principles of proportional representation and election by simple majority (articles 63 and 186). The constitution offers an extensive list of human rights and provides formal guarantees for these rights.

### **Electoral Law**

The 2009 Organic Law of Electoral Processes describes the electoral system and details key aspects of the electoral process, like voter and candidate registration. It also addresses electoral campaigns, election administration, and the procedure for election challenges, appeals, and sanctions.

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<sup>7</sup> Other relevant laws include the 1965 Law on Political Parties, Puboppolic Gatherings, and Demonstrations (*Ley de Partidos Políticos, Reuniones Públicas, y Manifestaciones*), the 20092 Organic Law of the Electoral Branch (*Ley Orgánica del Poder Electoral*), and the 2005 Penal Code.

<sup>8</sup> International observation of the 2021 elections was authorized by a special CNE resolution on Oct. 4, 2021. [http://www.cne.gob.ve/web/sala\\_prensa/noticia\\_detallada.php?id=4016](http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=4016).

## **The National Electoral Council (CNE)**

The CNE has broad powers, from setting electoral district boundaries to defining the rights and obligations of national and international observers. The general regulations adopted by the CNE in 2013 were revised on May 20, 2021, six months before the elections, as stipulated by the constitution.

## **The Venezuelan Supreme Tribunal of Justice (TSJ)**

The TSJ is the highest authority in the Venezuelan judicial system and, as such, heads the judicial branch. In election matters, the TSJ has jurisdiction to handle appeal proceedings to protect electoral rights, adversarial proceedings related to elections, and challenges to CNE decisions.

For the 2021 elections, the TSJ actively shaped the process through the decisions of its constitutional and electoral chamber. Of particular note, the TSJ's electoral chamber cited a breach of party bylaws to justify its intervention to replace the executive committees of opposition and dissenting political parties with other leadership bodies without offering clear or objective criteria for its decision. In addition, the TSJ's constitutional chamber repealed provisions of the electoral law governing the election of indigenous representatives<sup>9</sup> and ordered the CNE to fill the "legal vacuum" created by the TSJ's own decision, establishing an indirect voting mechanism that undermines the constitutional principles of direct election, universal suffrage, and voting by secret ballot.

The TSJ's recent decision to suspend the tabulation of votes for the governorship of Barinas is the latest example of its interference in the development of the electoral process. The TSJ called for new elections to be held in Barinas state in January 2022, citing the disqualification of the opposition candidate Freddy Superlano, ignoring the presidential decree of Aug. 31, 2020, which pardoned 110 citizens, including Superlano, making him eligible to run for office.

## **The General Accountability Office**

The General Accountability Office is a constitutionally autonomous body within the citizen branch that exercises fiscal control to ensure proper use of public funds. This office has the authority to strip public officials of their political rights by imposing administrative sanctions,<sup>10</sup> despite the fact that the Article 42 of the constitution states that political rights may only be suspended by a final and unappealable court decision. Moreover, universal and regional standards state that a person may only be deprived of political rights if convicted of a serious crime and in keeping with the principle of proportionality.<sup>11</sup> In addition, in Venezuela, political rights are automatically suspended as penalty ancillary to another criminal or civil penalty.

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<sup>9</sup> Electoral Law, articles 174, 175, 176, 177, 178, 179, 180, 181, 182 and 186.

<sup>10</sup> Article 105 of the Government Accountability Law (*Ley del Contralor General*) establishes the removal and suspension of the political rights of public officials for up to 15 years. The Anticorruption Act (*Ley contra la Corrupción*) (Article 39) provides for the administrative suspension of political rights for up to 12 months (and the court-ordered suspension of political rights for up to 15 years).

<sup>11</sup> The right to political participation: Article 25 of the International Covenant on Civil and Political Rights (ICCPR), Article 23 of the American Convention on Human Rights (ACHR). The right to a fair trial: ICCPR articles 9 and 14, ACHR Article 25.



## II. MEDIA

The constitution recognizes freedom of expression and the right to diverse, truthful, and impartial information (articles 57 and 58). The 2010 Law on Social Responsibility in Radio, Television, and Electronic Media (*Ley de Responsabilidad Social en Radio, Televisión y Medios electrónicos*) sets out the rights and responsibilities of media and journalists and establishes the National Commission of Telecommunications (*Comisión Nacional de Telecomunicaciones*—CONATEL) as the principal regulatory authority. Electoral law governs campaigns, political advertising, and social media.<sup>12</sup>

However, in the last 20 years, the Venezuelan government has set up a legal framework comprising numerous laws, decrees, regulations, and court decisions that have severely restricted freedom of expression and the right to access to information. Based on former President Hugo Chávez’s doctrine of “Communicational Hegemony,”<sup>13</sup> laws have been passed that restrict the actions of private media on the grounds of protecting national security, combating terrorism, or protecting the truthfulness of information. This has led to the shutdown of media outlets, restricted access to resources monopolized by the government (foreign currencies, replacement parts, newsprint, etc.), and criminalized critical opinions, among other consequences.

Furthermore, the ambiguous wording of the laws and regulations allows for arbitrary interpretations and discretionary censorship of media and journalists, without the need for court orders. Moreover, CONATEL has issued directives to black out and censor digital media, and the Law on Social Responsibility on Radio and Television and the 2017 Law against Hatred (*Ley contra el Odio*) give government officials and bodies considerable discretion to restrict reporting and journalism.

## III. PARTICIPATORY RIGHTS

### Participatory rights of women

There are no legal barriers to women’s political participation in Venezuela. Article 21 of the constitution does not allow discrimination on the grounds of sex. Although legislation does not establish affirmative-action measures, the regulatory framework calls for a gender quota of 50% and requires that the principles of parity and alternation be applied to candidate lists.<sup>14</sup> Only when parity is impossible may the list of candidates be registered with a minimum of 40% per gender. This formula applies to both principal and alternate candidates. Furthermore, the regulations provide a process for verifying that the quota has been met, with penalties for non-compliance.

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<sup>12</sup> [http://www.cne.gob.ve/web/normativa\\_electoral/reglamentos/Reglamento\\_General\\_LOPRE.pdf](http://www.cne.gob.ve/web/normativa_electoral/reglamentos/Reglamento_General_LOPRE.pdf)

TITLE VI ON ADVERTISING DURING THE ELECTION CAMPAIGN PERIOD

<sup>13</sup> Chavismo imposed “communicational hegemony” in Venezuela in 2007, according to various experts, among them Marcelino Bisbal (2009), Andres Cañizález (2011), and journalists Alek Boyd, Gonzalo González, and Nelson Bocaranda. Andres Izarra, former minister of information, said that after the suspension of the license of Radio Caracas Television (RCTV) in 2007, “I launched ‘communicational hegemony’ as a reflection of the construct of socialism.”

<sup>14</sup> Special rules guaranteeing rights to political participation with gender parity and alternation of male and female legislators and councilors in the 2021 regional and municipal elections (*Reglamento especial para garantizar los derechos de la participación paritaria, alterna y política de legisladoras o legisladores y concejales o concejales en las elecciones regionales and municipales 2021*) and instructions for implementing these rules.

Despite these legal provisions, The Carter Center was informed that candidacies that did not meet the gender alternation requirement, e.g., where women were relegated to the end of lists in positions where they had little chance of being elected, were allowed to be registered. The change in conditions for registering lists was not formalized by the CNE but was allowed.

### **Participatory rights of people with disabilities**

Article 128 of the Electoral Law stipulates that voters exercise their right to vote as individuals but also allows assisted voting. People of advanced age, who cannot read, are blind, or have any other disability may be accompanied by a person of their choice while voting. In this process, the CNE implemented a series of innovative measures to promote the participation of people with disabilities. It created a voter registry with a total of 447,593 registered voters with disabilities. It then established a special commission for people with disabilities within the CNE. It reserved every first polling station at voting centers, which is the easiest to access, for voters with disabilities. Finally, as part of a pilot project, all technical audits were interpreted into sign language. Despite the good intentions of these measures, international and domestic observers noted that the practice of reserving the first polling stations for voters on the special voter registry created problems on election day because the lists of voters with disabilities were not organized by their identification numbers, resulting in lines and delays.

### **Participatory rights of indigenous peoples**

Indigenous peoples constitute approximately 2.5 percent of Venezuela's total population of 32.9 million people. The constitution recognizes the rights of indigenous peoples and Venezuela as a multiethnic and pluricultural nation and grants official status to indigenous languages (Article 9). The political participation of indigenous peoples at every level of government is guaranteed by law; the national parliament, regional legislative assemblies, and municipal councils have seats allocated for indigenous representatives in districts with indigenous populations. However, these populations continue to experience discrimination, marginalization, and profound economic inequality.

There is no specific voter registry for the indigenous population. People who self-identify as indigenous could vote on Nov. 21 and participate in special elections on Nov. 26 through an indirect voting system. On May 27, 2021, the CNE passed the election rules for the seats allocated to indigenous representatives.<sup>15</sup> The rules establish an election system similar to that used during the 2020 parliamentary elections, which was widely criticized by indigenous groups and representatives. A total of 4,334 spokespersons (*voceros*), representatives of indigenous groups elected in open assemblies (where secret ballots are not guaranteed), selected regional councilors in eight states and a total of 69 municipal councilors on behalf of their communities on Nov. 26.<sup>16</sup> Indigenous associations and groups object on the grounds that the rules established by the CNE are illegal because they violate the principles of universal and direct voting by secret ballot enshrined in the constitution (Article 63).

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<sup>15</sup> Special Rules Governing the Election of Legislators and Councilors for Indigenous Representation (*Reglamento Especial para regular la Elección de Legisladoras o Legisladores y Concejales y Concejales para la Representación Indígena*).

<sup>16</sup> Amazonas (7), Anzoátegui (12), Apure (7), Bolívar (8), Delta Amacuro (4), Monagas (8), Sucre (3) and Zulia (20).

## 5. OBSTACLES TO PARTICIPATORY RIGHTS

International and regional treaties protect the ability of citizens to participate in the public affairs of their country.<sup>17</sup> International and regional treaties protect the right of every citizen to be elected,<sup>18</sup> subject only to objective and reasonable restrictions. Unreasonable restrictions include those made for political or other opinions<sup>19</sup> as well as those based on criminal conviction (both blanket disenfranchisement provisions and those disproportionate to the severity of the crime).<sup>20</sup>

### The suspension of political rights as an administrative penalty

**Disqualifications.** CNE member Roberto Picón reported on Twitter that between May and Nov. 4, the CNE had been informed of 24 people whose political rights had been suspended by the Government Accountability Office, 17 of whom were candidates nominated for the elections who were unable to be registered by the CNE. Most of those affected confirmed that they did not know the reason for the suspension, asserting that they had not been notified in advance of any penalty imposed by the General Accountability Office. Moreover, some candidates claimed that the deadline for barring candidates had already passed but that their registration was rejected all the same.<sup>21</sup> Furthermore, on Nov. 17, after the period for changing and replacing candidates had ended, the General Accountability Office barred another six candidates from the United Communist Party of Venezuela (PCV) and Revolutionary Popular Alternative (APR). The PCV qualified the measure as illegal and late. With 14 candidates barred, the PCV is the party with the largest number of suspensions during this electoral process. A total of 20 barred candidates had to be replaced or had votes for them annulled.

Some of the principal figures of the opposition leadership had their political rights suspended, including Henrique Capriles, Juan Guaidó, Freddy Guevara, Antonio Ledezma, Leopoldo López, María Corina Machado, and Richard Mardo, among others. Between 2002 and 2015, the General Accountability Office stripped 1,401 current and former public officials of their political rights. There is no available data on the current number of suspended individuals. The arbitrariness and lack of clarity about the decision-making processes that led to most disqualifications seriously affects the rights of political participation, the latest example being the case of Freddy Superlano in the state of Barinas.

### The replacement of opposition party leadership by court decision

**Interference.** The executive committees of nine opposition parties and three parties associated with the dissenting *chavismo* faction<sup>22</sup> were removed by the TSJ for breaching their own bylaws and were replaced with new leadership bodies more likely to make compromises with the government, leading some opposition to be perceived as pro-government. Through its interference in political party internal

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<sup>17</sup> U.N., ICCPR, Article 25 (a); AU, AfCHPR, Article 13 (1); OAS, ACHR, Article 23 (1); and CIS, Convention on Human Rights, Article 29 (a).

<sup>18</sup> U.N., ICCPR, Article 25(b); AU, AfCHPR, Article 13(1); OAS, ACHR, Article 23(1)(a); LAS, Arab Charter, art. 24(3-4); CIS, Convention on Human Rights, Article 29(b).

<sup>19</sup> U.N., ICCPR, articles 2 and 25.

<sup>20</sup> OAS, ACHR, art. 23; U.N. (CCPR), General Comment 25, para. 14 ; U.N. (CCPR), Concluding Observations on the United Kingdom and Northern Ireland (2008), para. 28.

<sup>21</sup> <https://efectococuyo.com/politica/aspirantes-quedan-fuera-de-the-megaelecciones-por-estar-inhabilitados/>

<sup>22</sup> The TSJ interfered with at least nine political parties, including six opposition parties: Democratic Action, Justice First Movement, Popular Will, Red Flag, Positive Citizen Action, and Republic Movement, as well as three parties that used to be part of the governing GPP but decided to nominate their own candidates in 2020.

processes, the TSJ not only removed original leaders, but also tasked new leaders with selecting party candidates and granted them use of all elements identifying their party, such as logos, emblems, symbols, and colors. This diminished the genuine political options, gravely affecting pluralism and political competition.

**a. Political prisoners**

Political repression aims to stifle views contrary to those of the government. Political persecution is a serious problem in Venezuela. Political prisoners are people who have been arbitrarily imprisoned for political reasons, either in retaliation for antigovernment attitudes, opinions, or political positions—or to preempt such stances. According to the Venezuelan Criminal Forum (*Foro Penal*), as of Nov. 22, 2021, a total of 251 people were classified as political prisoners, and since 2014, there have been 15,749 political arrests. *Foro Penal* insists that there are an additional 9,000-plus people in Venezuela who remain "subject, arbitrarily, to measures restricting their freedom." In 2021, a total of 42 politically motivated arrests were made, and four of those arrested remain behind bars. On Nov. 3, 2021, the prosecutor of the International Criminal Court reported that the case known as "Venezuela I" had entered a phase of formal investigation of crimes against humanity allegedly committed since at least 2017.

**b. Women**

Women constitute 51.4% of registered voters, and 49.44% of the candidates running for assemblies and councils were women. Of a total of 2,730 candidates for the 335 mayoral posts, 496 were women (18%). Sixty were elected (18% of mayoral posts).<sup>23</sup> A total of 183 candidates competed for the 23 governorships, 20 of whom were women, resulting in the election of two female governors (8.7%). At the grassroots level, women were well represented in election administration and campaigns. No party made an appeal to the female vote, apart from MUD, which, in a tweet, defined itself as the party of housewives, which was immediately criticized by many sides for being sexist. Women in Venezuela remain underrepresented in political life, holding just 33% of parliamentary seats. There is also unequal representation in parties' internal structures, whose executive committees continue to be dominated by men. This gap is wider in opposition parties.

**6. ELECTION ADMINISTRATION**

**a. Electoral structure**

**i. The National Electoral Council (CNE)**

The constitution charges the CNE with organizing electoral processes and grants it the status of an independent branch of the government.<sup>24</sup> The CNE is controlled by five electoral magistrates elected by a two-thirds vote of the members of Parliament for seven-year terms following nominations made by: civil society (3); the schools of law and political science at public universities (1); and the citizens branch (1).

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<sup>23</sup> PSUV: 49; MUD: 2; Democratic Alliance + Let's Change + Neighborhood Power: 7; other parties: 2.

<sup>24</sup> The Venezuelan constitution establishes five branches of government: legislative, executive, judicial, citizens, and electoral.

Officials must be nonpartisan. Nominations of possible candidates are done by those three groups, but the appointment is made by the National Assembly (AN). The decision on who is appointed is political, and the council's makeup shows a clear disregard for the spirit of the constitution.

The institution has three primary bodies: the National Electoral Commission (*Junta Nacional Electoral*), the Civil and Electoral Registry Commission (*Comisión de Registro Civil y Electoral*), and the Political Participation and Finance Commission (*Comisión de Participación Política y Financiamiento*). The CNE has one regional electoral office (*Oficina Regional Electoral—ORE*) in each state, run by a director.

The CNE has broad technical, operational, and logistical latitude to perform essential election work: recognizing parties, registering voters and candidates, assigning polling centers, appointing and training people to run polling centers, purchasing and distributing election materials, making sure voting machines work, accrediting local and international election observers, organizing election day activities, and announcing results. It also runs the Civil Registry Office and coordinates with the Administrative Service of Identification, Migration, and Foreigners (*Servicio de Administración de Identificación, Migración y Extranjería—SAIME*), attached to the Ministry of Internal Affairs, to issue identification documents. The sum of these responsibilities makes it, comparatively speaking, one of the most powerful and authoritative electoral bodies in Latin America.

Although weakened by the departure of qualified personnel, the CNE has sufficient trained staff and infrastructure to satisfactorily conduct the technical organization of an electoral process, even given the fact that the process was carried out during the COVID-19 pandemic.

## **ii. Reshuffling the CNE's composition**

In May 2021, the assembly appointed five electoral magistrates, with 10 alternates, to the CNE. The members of the council are Pedro Enrique Calzadilla Pérez (president), Enrique Octavio Márquez Pérez (vice president), Tania D' Amelio Cardiet, Alexis José Corredor Pérez, and Roberto Antonio Picón Herrera. These appointments were made through a process of political negotiations that included the governing party, the opposition that does not have representation in the National Assembly, and civil society organizations.

As a result, three members linked to the governing party and two linked to the opposition were selected. Their political affiliations are not secret and are referenced openly, even within the CNE. Political and social actors acknowledge and accept this procedure, which created a less unbalanced CNE. This new make-up has meant that, despite sharp divisions, the council has made a notable effort to move forward in a concerted way and signal more openness toward different participants. Meanwhile, this balance generates conduct that makes the rules of competition more predictable, gives greater guarantees for the electorate and opposition parties, and leads to more institutionally independent behavior.

In general, the political system and civil society consider the arrangement to be an improvement on the previous election administration situation, although concerns persist. Likewise, some sectors of the opposition, despite agreeing that there has been progress, do not acknowledge the CNE because its members were selected by an "illegitimate" National Assembly, or else they criticize it because the governing party still has a majority vote and is able to impose decisions.

The CNE's attitude helped diffuse tensions and made it possible to hold the 2021 regional elections with the participation of the main political forces, a positive development.

However, the CNE has critical vulnerabilities. The first is a clear disregard for the spirit of the constitution, which demands that the CNE have no ties to political parties. The second is that, although to date the five council members have shown a clear desire to make concerted progress as an institution, the political divide may reappear during crucial, high-impact votes. The third is the CNE's limited autonomy, in real terms. There is no doubt that the CNE freely makes technical decisions, but those with sensitive political implications are routed through channels outside the institution. Ultimately, the rebalancing of the CNE's national leadership has not filtered down to regional structures, which still have marked ties to the governing party and few counterbalances.

### **iii. Designating and training polling station staff**

The CNE is responsible for randomly appointing polling center workers from among registered voters. Once the names of regular and alternate members have been drawn, the list is published on the CNE portal. The notification process is poor and inconsistent. National observers reported that while some citizens had been informed by the CNE of their appointment as polling station workers, many others were never notified. On election day, a significant number of polling stations opened late because many polling station workers did not turn up.

Vacancies in polling position are filled by reserve members, citizens who offer to assume responsibility in the absence of regular or alternate workers. This practice allows parties to have a direct presence at the polling station through their witnesses. Thus, many polling stations are run not by randomly selected citizens but by political party representatives.

Polling station workers received remote training through online modules to minimize pandemic-related issues. Used in combination with in-person systems, this mechanism is useful; used as the primary system for training, it is inadequate, even inappropriate. Because this training must reach all levels of society, including rural groups and sectors with low levels of education, computer-based training runs into problems such as people's unfamiliarity with the technology, limited or no Internet connection, the impossibility of getting answers to questions, etc.

### **b. Voter Registry**

In Venezuela, voter registration is active, permanent, and continuous—a person can register at any time. However, special days with expanded geographical coverage are organized in the lead-up to elections. This practice sparked controversy in previous electoral processes because registration venues tended to be assigned in a biased way and for short periods of time, offering little chance for sectors deemed antigovernment to register to vote.

In 2021, the CNE took a more inclusive approach. Registration ran from June 1 to July 15 for young people and for those filing changes of address, while the review and approval of the electoral register ran from July 18 to 25. This was a long period of time. The commission also sent 1,000 machines all over Venezuela and chose the location of registration venues based more on demographic and geographic criteria than on political criteria. According to the CNE, this important step allowed 430,038 new voters (mainly young

people) to register in 2021. This segment is still thought to be under-registered, although estimates are complicated by the large numbers of emigrants, who are, by and large, young. Meanwhile, there were 1.052,118 relocations or changes of address, and 203.473 voters who had died and were removed from the registry.

The voter registry ultimately consisted of 21.267,813 voters, of which 21.037,954 were Venezuelan citizens and 229.859 were foreign residents authorized to vote in local elections. As in other Latin American countries, women constitute the largest share of the voter registry (51.4%).

The CNE's voter registry shows 108,030 registered voters living abroad, despite the fact that reports on Venezuela's migratory crisis indicate that 5.9 million Venezuelans have emigrated in recent years. Many of the Carter Center's interlocutors estimate that there are at least 2.8 million emigrants registered to vote, although there are no official figures.

### **c. Registering candidates**

The CNE registered a total of 70,244 candidates representing 130 political organizations, including 42 national, 64 regional, six national indigenous organizations, and 18 regional indigenous organizations.

In June 2021, the CNE reinstated the opposition coalition MUD, which had been declared illegal by the TSJ in 2018. Opposition parties announced that they would participate in the Nov. 21 elections after having boycotted previous elections because of the absence of conditions for holding credible elections.

The CNE granted three extensions of candidate registration at the parties' request. The last phase of registering candidates ended on Nov. 11. Some stakeholders criticized the lack of transparency about the criteria for approving or rejecting candidacies and identified problems caused by the automated nomination system when registering candidates. According to some sources, thousands of nominated candidates were transferred from their customary polling place to the place where they had been nominated, without being informed by the CNE.

### **d. Automated voting system**

Venezuela is one of few countries that uses electronic voting machines for the entire electorate, and since 2012 has also introduced biometric devices (fingerprints) to authenticate voters.

Prior to each election, a series of audits are conducted by technical experts from the government, independent institutions, political party representatives, and observers. They review the software's source code and other essential facilities, such as transmission centers, satellite antennas, the Movilnet centers, and other communications and infrastructure elements, according to the electoral timetable. The Carter Center was informed and witnessed some of this process but did not participate in the actual auditing.

In a new development, representatives from the opposition and the government agreed to conduct an Academic Software Audit (*Auditoría Académica de Software*) with five experts from the governing party and five selected by the opposition to examine the software used to verify and authenticate voters, the votes cast, and the tallying and transmission of results. The academic experts from both sides expressed

satisfaction with the audit and stressed that the report was prepared jointly, with the approval of all parties. At the end of the academic audit, the source code was compiled, and the hash<sup>25</sup> of the final version was recorded to be used as a “baseline” for the audits conducted by the CNE, with participation from political party representatives and independent institutions.

The auditing teams found that the confidentiality, integrity, and accountability of the vote were guaranteed and that the system’s security measures are even stronger than anticipated. However, some stakeholders with whom The Carter Center spoke criticized the CNE for not providing information in advance about the dates and locations where the audits were conducted.

The ballot’s design and the voting procedure facilitate straight-ticket voting but discourage electing individual candidates from different parties for different offices (split-ticket voting). The design reflects the political desires of the governing party and most of the opposition.

#### **e. *Plan República***

*Plan República* is the military deployment that occurs during every electoral process in Venezuela. Its primary aim is to ensure order and security in the process, but the military is also responsible for transporting and safeguarding all election materials and voting machines across the country. In 2021, *Plan República* involved 20% of Venezuela’s armed forces, with 356,568 troops deployed and 23,000 vehicles covering 1,920 strategic points, such as electrical facilities, drinking water supply stations, etc. *Plan República* was launched in June and ended on Dec. 3 with the retrieval of all election materials. The Ministry of Defense is tasked with determining the end of *Plan República*. On election day, access to polling centers is guarded by security forces. The presence of uniformed, armed personnel inside centers is very visible and may be intimidating.

## **7. THE ELECTORAL CAMPAIGN PERIOD**

### **a. Campaign period atmosphere**

Article 71 of the electoral law defines the electoral campaign period and authorizes the CNE to establish its length. Article 72 clearly defines the principles and rights governing the interpretation of campaign period rules, such as an equal playing field and freedom of association and expression, according to international standards for genuine democratic elections.

The electoral campaign period, which ran from Oct. 28 to Nov. 18, was marked by the governing party’s overt use of its incumbent political advantage (*ventajismo*) and indiscriminate use of government funds for election purposes. The governing party took advantage of its incumbency over a divided opposition in a campaign period characterized by low voter engagement, lack of funds (particularly for the opposition), and a calm atmosphere, with almost no incidents or clashes between antagonistic political groups.

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<sup>25</sup> This is a function that makes it possible to take a unique identifying “fingerprint” for any digital document. Thus, if the document is modified, the hash is completely different. This function is used to mathematically ensure that an electronic file has not been altered.



However, an understanding of the political advertising for this election cannot be limited to official campaign dates because the propaganda and activism of candidates and organizations by pro-government parties began earlier and had a significant impact.

Prior to the campaign period, the government was dominant. It controlled the editorial line of public media and created a restrictive environment for private media. It also used social programs to create ties between the government and the groups most vulnerable and dependent on government support. This dual system of control generally benefits all those running under the government banner.

During the campaign period, citizens showed only modest interest in the elections. Most public opinion polls indicated that a significant percentage of the population feels disillusioned and disenchanted with politics, institutions, and actors, so they give little attention to electoral affairs. Local governments have limited powers and, especially, resources, and this lowers the electorate's expectations. Moreover, the widespread scarcity of goods in the country limits the opposition's campaigning prospects. It was difficult for the opposition to obtain some products essential to mobilization, such as fuel and transportation.

The pandemic has made people wary of large events and physical proximity, but there were still gatherings and rallies with hundreds of people. Finally, political forces took different positions on the electoral process itself. While the governing party launched major campaign efforts, the stances of opposition leadership ranged from refusal to vote in the elections—which some felt lacked basic guarantees—to active campaigning to win as much support as possible at the ballot boxes.

#### **b. Media during the campaign period**

International and regional treaties protect freedom of opinion and expression.<sup>26</sup> Free communication of information and ideas by voters and candidates is essential to genuine elections. It includes the right for everyone—including political parties, candidates, and their supporters—to seek, receive, and impart ideas through any means of their choice, including, but not limited to, writing, speech, print, art,<sup>27</sup> or the Internet.<sup>28</sup>

Venezuela has experienced a gradual decline in the number, plurality, and variety of its media in the last decade. Many national television and radio broadcasters are owned or controlled by the Venezuelan government, while print media has seen the number of newspapers in circulation fall sharply.<sup>29</sup> <sup>30</sup> The media's role in these elections was marked by polarization, lack of funds, and difficulties for journalists covering campaigns.

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<sup>26</sup>U.N., ICCPR, Article 19; AU, AfCHPR, Article 9(2); OAS, ACHR, Article 13; LAS, Arab Charter, Article 32; CoE, ECHR, art. 10; CIS, Convention on Human Rights, art. 11; U.N., UDHR, Article 19.

<sup>27</sup> U.N., ICCPR, Article 19.

<sup>28</sup> U.N. (CCPR), General Comment 34, para. 12.

<sup>29</sup> According to a study by the website Prodavinci, the Venezuelan media ecosystem has lost 83% of its printed press: of the 121 newspapers in circulation in 2013, there remain only 22 (16 local and six national). Data about the newspaper crisis in Venezuela (*Los datos de la crisis de los periódicos en Venezuela*). Prodavinci, 2020. <https://datosperiodicos.prodavinci.com>.

<sup>30</sup> The deterioration of the media ecosystem has resulted in the appearance of what the Press and Society Institute (*Instituto de Prensa y Sociedad*—IPYS) of Venezuela refers to as “information deserts:” areas where the population only has access to information broadcast by radio and television stations, with very little informational content. Atlas of Silence: News Deserts in Venezuela (*Atlas del silencio: los desiertos de noticias en Venezuela*). Instituto de Prensa y Sociedad, 2020. <https://ipysvenezuela.org/desierto-de-noticias>

More than half of the newspapers that stopped their printing presses in the last decade have moved online, where a few digital media outlets have also arisen. This online publishing set has sharply criticized the government, so it has been the target of technical reprisals and censorship. Many of these outlets reported selective blackouts before and during the election period that forced their readership to use virtual private network (VPN) gateways to circumvent the blackout and access the censored content.

As for audiovisual media, The Carter Center's analysis found what is often described as self-censorship at radio stations that lead broadcasters to avoid any sharp criticism of the government and prevented guests from expressing criticism, for fear of receiving a warning or fine that could threaten the station's continued licensing. According to CONATEL data, the regulatory body filed disciplinary proceedings against 79 radio stations in the last four years for failure to comply with the Organic Law on Telecommunications' (*Ley Orgánica de Telecomunicaciones*) rules on clandestine use of the radio spectrum (Article 165), and against 19 radio and TV stations for violating the Law on Social Responsibility in Radio, Television, and Electronic Media (Article 27). Article 27, known by the acronym "Ley Resorte" in Spanish, prohibits the broadcasting of messages that promote hate and intolerance or incite crime, as well as those that "foment unease among citizens."

Venezuela has experienced an exodus of media professionals in the last five years, prompted by the difficult economic situation, the precarious nature of media companies, and the increasingly challenging climate for journalists. Based on its analysis, The Carter Center views Venezuela as permeated by hostility toward the press, described by some as an "assault on criticism," from both the governing party and the opposition. This atmosphere has made it difficult to cover a campaign, with complaints of limited access to official sources as well as restrictions on participating in press conferences and receiving credentials for electoral events.

Assaults against journalists have also been recorded. The National Journalists Association (*Colegio Nacional de Periodistas*) reported several acts of violence against the press on election day. According to this association, reporters were denied access to voting centers in at least 25 instances; in another five, they were required to erase recorded materials; and in another two, attempts were made to confiscate their equipment. The association also reported three threats, two incidents of harassment, and one arbitrary detention.

### **c. Social media**

The gradual disappearance of the press from the Venezuela's media stage in the last decade has compelled its citizens to use social media as their main source of information. However, the country's precarious economic situation and internet access problems have also dampened this channel, especially in the last two years, forcing much of the citizenry to choose between using their meager data to communicate with family and conduct personal business or to get their news and information. They tend to choose the former. According to data provided by CONATEL, less than half of the Venezuelan population (47.1%) had internet access in the second quarter of 2021, while two in every three citizens (65.06%) had subscribed to at least one mobile telephone service during this same period.

Nevertheless, Venezuela has an active network of groups operating from both within the country and abroad to monitor social media and analyze disinformation activity.<sup>31</sup> These groups often work under adverse conditions because of a lack of staff and funding, limited internet access, and the frequent outages of the National Electric Power System (*Sistema Eléctrico Nacional*). Even under these conditions, their work during the campaign made clear how important it is to monitor polarized networks in which almost any issue, whether cultural, sports-related, or otherwise, becomes the subject of political debate.

#### d. Online Disinformation

The electoral period was marked by coordinated propaganda in favor of the governing party, essentially by the state apparatus through partisan use of its institutions. Every day during the campaign, the Ministry of Popular Power for Communication and Information (*Ministerio del Poder Popular para la Comunicación y la Información*—MippCI) posted the hashtags that would later be shared by other government bodies, such as ministries and official institutes. These hashtags were also replicated by state television, often from the program *Con el mazo dando*, hosted by PSUV vice president Diosdado Cabello. President Nicolás Maduro often appears on this program. Thus, the entire state apparatus gave a single, amplified voice to slogans that seem innocuous (#FestivalMundialDePoesía, #VenezuelaSevacuna, #LeerIndependiza, #PuebloDignoYSoberano, #VictoriaMusical, #MegaElecciones2021) but are often linked with the governing party's political propaganda.

The Carter Center's analysis found that to implement this type of campaign, a network of Twitter users act in a coordinated way to post and share propagandistic messages.<sup>32</sup> This network is difficult to detect because it does not consist solely of groups of bots (computer programs that automatically disseminate messages). It also uses humans organized on social media and paid via their "Homeland Card" ( *carnet de la patria*), a Venezuelan government program that supplies food and distributes social benefits. In 2019, Twitter removed nearly 1,200 accounts "engaged in a state-backed influence campaign targeting domestic audiences."<sup>33</sup> This measure likely weakened, but did not deactivate, the governing party's propaganda system.

In a preliminary analysis of the campaign on Twitter, The Carter Center found that 7% of users who tweeted or retweeted the main tags of the ruling party were bots. These same bots generated approximately 10% of all interactions of these tags.<sup>34</sup> This proportion can be considered significant in the context of an election campaign but not decisive in terms of manipulation of public opinion. However, the sample analyzed also reveals that only 10% of the most active users – bots or not – generated 88% of all

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31 Citizens Watchman (*Guachimán Ciudadano*; <https://web2.guachiman.org/>), the Probox Digital Observatory (*Observatorio Digital Probox*; <https://proboxve.org/>), EsPaja.com (a project of the EU-funded NGO Transparency International), the Venezuelan Electoral Observatory (*Observatorio Electoral Venezolano*; <https://oevenezolano.org/>), and finally the Observatory on Disinformation, Rumors, and Fake News (*Observatorio de Desinformación, Rumores y Falsas Noticias*) of the Communication Research Institute (*Instituto de Investigaciones de la Comunicación*—ININCO) of Universidad Central de Venezuela, are some of the organizations monitoring and combatting the disinformation campaigns of the governing party and the opposition on social media.

32 The Rise and Fall of the Venezuelan State's Twitter Squad in times of COVID-19 (*Auge y declive del escuadrón tuitero del Estado venezolano en tiempos de COVID-19*). Víctor Amaya. <https://transparency.org.ve/caida-del-escuadron-tuitero-presentacion/>

33 *Empowering further research of potential information operations*

<sup>34</sup> Sample of 2,315,968 interactions – tweets, retweets, impressions – made by 51,083 profiles that promoted at least 30 of the principal pro-government hashtags during the campaign. Botmeter was used for the analysis of bots, a joint Project of the Observatory on Social Media (OSoMe) and the Network Science Institute (IUNI) of the University of Indiana (USA).

interactions, an anomalous proportion that fits into the coordinated operation of propaganda that local monitoring groups denounce and that would include both bots and real users.

On Dec. 2, just 11 days after the elections, Twitter announced that it had removed a network of 277 Venezuelan accounts that amplified accounts, hashtags and topics in support of the government and its official narratives. According the report published on the social network, some individuals of this network would have authorized an application called Twitter Patria to manage their accounts for this purpose. These facts, once again, support the complaints of local monitoring groups.

What appears to be a network organized to poison the information well continued to stoke intense debate on only one issue: the situation of Álex Saab, the Colombian businessman accused of international money laundering, who was detained in Cabo Verde by order of Interpol as part of a money laundering investigation. The drip feeding of news about his captivity has unleashed a wide disinformation campaign by the government, according to experts who regularly monitor social media, as well as a campaign of harassment and character assassination of journalists who exposed or reported on this topic.

Lastly, The Carter Center is analyzing complaints about a Homeland Card (*Carnet de la patria*) mobile app being used to illegally promote voting for the governing party.

## **8. ELECTION DAY AND PARTICIPATION**

On Sunday, Nov. 21, The Carter Center experts visited several polling centers in Caracas and Carabobo. These visits were limited in number and do not provide the basis for evaluating election day processes. However, they did provide the team with general impressions and allowed a comparison to other sources of information from national observation organizations and from the European Union's observation mission. The following findings are based on reports from national and international observers, election day press reports, and the CNE.

Election day took place in a general atmosphere of calm and relative order. However, this characterization does not apply to states like Zulia, where one person was shot to death and a number of local observers and journalists were assaulted.

There were no major technical difficulties on the day of the election itself, and none that kept it from unfolding smoothly. The electronic voting system is well established and widely accepted. Voters are able to vote quickly and simply, especially because the system is designed to encourage straight-ticket voting at every level.

However, the assisted-voting mechanism, which is legal and relevant in many cases, lends itself to abuses of voters' freedom. In addition, "red points" were observed near several voting stations, especially in working-class neighborhoods. Red points are ruling party-sponsored locations near polling places where voters report before voting. These locations have been criticized as a method to track voters and correlate voting with government benefits. They expose the intricate mobilization mechanisms linking the governing party, the government, and the state.

There was a conspicuous military presence at every polling center, as part of the *Plan República*. That presence has become a point of contention because it ultimately intimidates voters and prevents smooth decision-making by venue coordinators and polling station staff, who tend to request support for their decisions.

Official voting hours are 6 a.m. to 6 p.m. However, some polling stations opened late because polling station staff did not turn up and had to be replaced by witnesses or voters. The law states that voting shall remain open as long as voters are waiting to vote. The decision to extend voting hours, without justification, is considered unlawful and is perceived as a last-minute tactic to manipulate the vote, dubbed Operation Top It Off (*Operación Remate*). On Nov. 21, the CNE reported that many voting centers remained open after 6 p.m., even though there were no voters present, and polling station staff did not want to risk closing for fear of being reprimanded. In a tweet at 6:20 p.m., President Maduro invited voters to go to their polling centers to vote and, in another tweet at 7:20 p.m., the CNE reminded voters that only polling stations that had voters waiting in line could remain open.

At a press conference on Nov. 21, the CNE president released an initial official bulletin that showed that 90.21% of results had been transmitted and that PSUV had won 18 governorships and the mayor's office of the city of Caracas, while the opposition groups MUD and The Neighborhood Force had claimed victory in the states of Cojedes, Nueva Esparta, and Zulia. The results of Apure and Barinas were pending.

On Nov. 22, the CNE delivered a second bulletin, when 99.20% of the votes had been tallied, that indicated a voter turnout rate of 42.26% and showed that the PSUV and its allies had obtained 205 mayor offices and the opposition had won 96.<sup>3536</sup> In Apure, the PSUV gubernatorial candidate was proclaimed the winner. On Nov. 29, the electoral chamber of the TSJ ordered the CNE to suspend the procedures related to the totalization, adjudication, and proclamation of the candidates for governor of Barinas and to repeat the gubernatorial elections on Jan. 9, 2022, declaring MUD candidate Freddy Superlano ineligible. Superlano had 37.60% of the votes, while his opponent, Argenis Chávez, had 37.21%.<sup>37</sup>

## **8. COMPLAINTS, CHALLENGES, AND APPEALS**

Venezuela's procedures for appeals and challenges are generally aligned with international agreements and best practices. Electoral legislation establishes the right to reparation of injured parties and the principles of judicial control and appeals.

There are two types of proceedings for resolving election disputes in Venezuela: administrative proceedings conducted by the CNE and judicial proceedings conducted by ordinary criminal courts. The CNE is responsible for overseeing the election process. Therefore, it may act on a petition by an injured party or at its own initiative. Electoral law describes the procedures for challenges at each stage of the election process. Any decision, action, or omission by the election administration may be challenged through the CNE, and the CNE's decisions can be contested by filing an appeal with the Supreme Tribunal

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<sup>36</sup> 59 for MUD and 37 for [Alianza Democrática](#). Other parties claimed 21 mayor offices.

<sup>37</sup> <http://www.tsj.gob.ve/-/sala-electoral-del-tsj-ordena-al-cne-realizar-nuevas-elecciones-para-gobernador-o-gobernadora-en-barinas-para-el-09-de-enero-de-2022>.

(Article 195). Electoral law stipulates that failure to comply with election law constitutes an electoral offense to be handled via ordinary criminal proceedings in ordinary criminal courts (Article 198).

Moreover, electoral law establishes the possibility of repeat elections if the CNE is unable to determine the results of an election (articles 215.3 and 266). The deadline for contesting any act in the electoral process is 15 business days from the date the act occurred. To contest election results, the challenge has to be filed within 15 days from the date the election results were announced.

At its own initiative, the CNE has opened 11 administrative investigations of campaign rule violations based on reports submitted by the media monitoring center authorized for this process. The Carter Center mission has no evidence of any complaint, appeal, or challenge filed during this process, so the mechanisms to protect voting rights and resolve electoral disputes have not been put to the test.

It is striking that, in a process with such a large number of participants, no formal complaints have been lodged for irregularities or legal violations of the legal framework during voter registration, candidate registration, or electoral campaign period. This is a sign of low trust in the system, indicating candidates do not consider it a useful channel for resolving disputes. Furthermore, the corruption, imbalance, and discretionary powers of the courts were cited as factors that discourage people from seeking judicial solutions. National actors and international bodies denounce the judicial branch's lack of independence and impartiality, and it is perceived as an extension of the executive branch. They also denounce the extreme weakness and even absence of rule of law in Venezuela and urgently demand that the judicial branch be reformed.

On Nov. 29, the TSJ ordered the CNE to convene a new election for governor of the state of Barinas, after having admitted the constitutional appeal of a citizen who requested the suspension of procedures related to the tabulation, adjudication, and proclamation of the race for governor of Barinas, claiming that MUD candidate Freddy Superlano was not eligible to run. The CNE proceeded with the order of the TSJ and called for a new election on Jan. 9, 2022.

## **9. ELECTORAL OBSERVATION**

### **a. National observation**

The 2021 election was monitored by both local citizen and international observers. The local entities accredited were: *Asamblea de Educación Red Observación Electoral* (ROAE), Observatorio Electoral Venezolano (OEV), Fundación por un Pueblo Digno, Proyecto Social, Asociación Venezolana de Juristas, and Centro Internacional de Estudios Superiores.

In general, these observers signify greater openness and a spirit of collaboration within the CNE, in keeping with the electoral authority's greater willingness to adhere to higher democratic standards. This willingness was reflected in early accreditation—even the OEV received accreditation after several elections in which it did not—and faster delivery of credentials, as well as greater readiness to dialog. Observers worked under adverse conditions (gasoline shortages, poor internet connections, high costs for sending materials from Caracas, etc., punitive legislation preventing receipt of funds from abroad, and the CNE's limited openness).

In spite of the greater openness noted above, local citizen observers face a range of hurdles that are inconsistent with their right of participation and that should be addressed before future elections. First, the CNE limits the number of observers in each state. Second, the accreditation process is cumbersome and expensive because it requires each association to distribute the credentials to its members.

#### **b. International observation**

In addition, for the 2021 elections, the CNE invited international observers, including the European Union, The Carter Center, and the United Nations. This step was accompanied by guarantees for core elements of the work of election observers: access to all phases of the process as well as freedoms of assembly, movement, and expression, which allowed more meaningful and genuine involvement than the restrictive framework for external delegations, known as “accompaniment” (meaning a restricted presence subject to certain CNE conditions). Beyond semantics, the commitments that the country and the electoral authority made to give the missions full freedom were essential to being able to conduct credible observation

The Carter Center sent an expert mission under the leadership of Jennie Lincoln, the Center’s senior advisor for Latin America and the Caribbean. Also on the team were Andrea Nelli Feroci, an associate director in the Center’s Democracy Program, Salvador Romero (Bolivia), Merce Castells (Spain); Micheala Sivich (Austria), and Pedro de Alzaga (Spain). The European Union sent a large-scale observation mission led by parliamentarian Isabel Santos. The United Nations sent a panel of experts responsible for preparing a report for the U.N. Secretary General. The CNE also invited individual and groups to accompany the process as “veedores” (monitors), who arrived during the week before the elections and departed shortly thereafter. Most did not make public statements about their experiences.

The invitation to observe the election marked the international community’s return to Venezuela’s electoral processes after several years of absence. This was truly an important step, although still limited, given that these conditions were only offered for the 2021 elections. Furthermore, high-profile leaders of the governing party, such as Diosdado Cabello and President Nicolás Maduro, made adversarial statements against the missions, particularly the EU mission.

## **10. CONCLUSIONS**

This preliminary report offers an initial analysis of The Carter Center’s international electoral expert mission, which began work in mid-October and was present in Venezuela from Nov. 7-27. The objective of the electoral mission was to analyze the general context of the elections and the compliance of the electoral process with international standards, with a look toward future elections in Venezuela. A more detailed final report will be presented in January 2022.

The backdrop to the Venezuelan regional and municipal elections was a widespread socioeconomic and humanitarian crisis (aggravated by the COVID-19 pandemic), a pattern of political repression, severely restricted rights to political participation and freedom of expression, the government’s overt use of its incumbent political advantage, and an uneven playing field. However, negotiations between some opposition groups and the ruling party resulted in three major changes in the electoral environment: a

concerted reshuffling of the CNE by the National Assembly (*Asamblea Nacional*—AN); the presence of international observers; and talks between the government and the opposition that began in Mexico City in August.

The new CNE includes two magistrates (out of five) with ties to the opposition, which opened the door to building broader trust in the independence and credibility of the body. It generated the possibility of greater predictability and trust in the rules of competition, guarantees for the electorate and opposition parties, and a demonstration of greater independence. However, the political and legal decisions of the Electoral Chamber of the Supreme Tribunal of Justice and the General Accountability Office undermined any nascent independence of the new CNE. In addition, legal provisions concerning the media and freedom of expression, the registration of candidates, the suspension of political rights, and the financing of political parties and election campaigns do not comply with international standards for democratic elections and agreements signed by Venezuela.

The electoral process took place in a compressed timeframe, with a new electoral administration, a dominant incumbent government with well-developed political machinery that took advantage of state resources against a fragmented opposition that had abstained in recent elections but decided to participate. Voters selected candidates for 3,082 government positions, including 23 governorships, 335 mayoral offices, and state legislature and municipal council memberships. Seventy thousand candidates registered to compete, and the turnout was 42.26%. Although the ruling party won a majority of the positions, the actual vote total favored the opposition by nearly 10%.