

THE  
CARTER CENTER



**VENEZUELA**

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## **Reporting Organization**

The Carter Center is a not-for-profit, nongovernmental organization that has helped to improve life for people in more than 80 countries by resolving conflicts; advancing democracy, human rights, and economic opportunity; preventing diseases; and improving mental health care. The Carter Center was founded in 1982 by former U.S. President Jimmy Carter and his wife, Rosalynn, in partnership with Emory University to advance peace and health worldwide.

The Carter Center's Democracy Program works globally to promote democratic elections and governance consistent with human rights. The Center has monitored more than 120 elections in 46 countries since 1989, forging many of the techniques now common to the field. Recognizing that democratic transitions involve much more than elections, the Center also conducts long-term monitoring of political transitions and works to strengthen civil society organizations to support democratic governance. The Democratic Election Standards (DES) initiative aims to build consensus on standards for democratic elections, based on state obligations under public international law.

## **The Carter Center in Venezuela**

The Carter Center has worked in Venezuela since 1998 observing elections, conducting media training, and undertaking conflict resolution efforts to strengthen peace and democracy. The Carter Center observed elections in Venezuela in 1998, 2000, 2006, 2012 and 2013. The Carter Center joined with the Organization of American States and the U.N. Development Program to help mediate a 2002 political crisis between the government and opposition groups. The mediation led to a recall referendum in 2004, which the Center was invited to observe. In 2014-2015 the Center published a series of Special Reports on the political and electoral context in Venezuela focusing on electoral reforms including the nomination and appointment of the National Electoral Council (CNE) and preparations for primary elections in the context of political conflict.

In 2021, The Carter Center deployed an electoral expert mission to observe regional and municipal elections. 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 disinformation on social media; and the CNE's transparency about the electronic voting system, including during vote tabulation ([The Carter Center's Preliminary Report](#)).

## **Suggested Issues for Consideration**

### **Article 1: The Right to Self-determination.**

During the period under review the Government approved special regulations to govern the election of indigenous representatives to the National Assembly from 2020, which provided that representatives of indigenous people be elected only from the indigenous population. Indigenous peoples constitute approximately 2.5% 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.

During the 2021 elections there was no specific voter registry for the indigenous population. People who self-identified 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 issued the election rules for the seats allocated to indigenous representatives establishing an election system similar to that used during the 2020 parliamentary elections, which was widely criticized by indigenous groups and their 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. 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).

On Nov. 26, elections for indigenous representatives were held at 74 authorized voting centers, where spokespersons previously elected between July 6 and Aug. 13 were authorized to vote: 318 in the state of Amazonas; 174 in Delta Amacuro; 314 in Anzoátegui; 199 in Monagas; 128 in Apure; 189 in Sucre; 244 in Bolívar; and 2,768 in Zulia. The spokespersons voted by filling out ballots by hand and in secret behind partitions. The majority of representatives who won had been put forward by the ruling party and no significant incidents were reported on election day. The Carter Center received complaints of irregularities during these special elections, such as low participation among indigenous peoples in elections for spokespersons, either because the election was not properly called or was held far from the geographical areas of some groups, who could not afford transportation to participate. Other groups decided not to participate in protest of the indirect voting system. Although this system is presumably a temporary solution until the indigenous population is registered—its purpose being to ensure that only members of indigenous peoples participate in electing their representatives—they believe indirect voting is detrimental because it hampers broader participation.

### **Article 3: Equality Between Men and Women.**

There are no legal barriers to women's political participation in Venezuela. In the regulatory framework for the 2021 elections, the CNE established a gender quota of 50% and required that candidate lists follow the principles of parity and alternation. However, the CNE allowed candidate lists that failed to meet gender alternation requirements to be registered. Consequently, many female candidates were relegated to the bottom of the lists in positions where they had little chance of being elected.

Although women constituted 51.4% of the voter registry and 49.44% of assembly and council candidates, and despite the fact that 18% of governor and mayoral candidates were women, women were elected to less than 10% of contested executive offices. Compared to the 2017 elections, the situation for female politicians in Venezuela worsened: the number of female governors and mayors dropped by 40% and 16%, respectively.

Although women were well represented in election administration and campaigns, overall, they remain underrepresented in political life. 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.

## **Articles 19: Freedom of Opinion and Expression and Access to Information**

Freedom of opinion and freedom of expression constitute the foundation stone for every free and democratic society. The right of access to information includes the right of the media to access information on public affairs and the right of the general public to receive media output. Despite the recognition and protection of the right to freedom of expression in the Constitution, the Government falls short of upholding this protection.

### **Right of access to information**

Despite constitutional guarantees of the right to freedom of expression and the right to diverse, truthful, and impartial information (Articles 57 and 58), over the last 20 years, the Venezuelan government has set up a legal framework that has severely restricted freedom of expression and the right to access to information. Based on former President Hugo Chávez's doctrine of "Communicational Hegemony," 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 the criminalization of critical opinions.

The media's role in the 2021 elections was marked by polarization, lack of resources, and impediments for journalists covering campaigns. The ambiguous wording of the laws and regulations allowed for arbitrary interpretations and discretionary censorship of media and journalists, without the need for court orders. Moreover, the National Commission of Telecommunications (CONATEL) 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*) gave government officials and bodies considerable discretion to restrict reporting and journalism. During the election campaign journalists were threatened and harassed, had their equipment confiscated and were arrested. Citizens were arrested for 'tweeting' opinions critical of the government and the common practice of blocking web sites prompted self-censorship which further limited the information available to the public.

These measures and others have caused the media's ideological spectrum to shrink. For example, foreign news channels were removed from the programming schedule, in some cases by presidential decision (NTN 24, CNN). Meanwhile, independent media outlets have closed, have

been handed over to people or companies with close ties to the ruling party, or have shielded themselves through various forms of self-censorship. There are also considerable obstacles blocking online access to information portals.

These developments reduced the diversity of information available to the public, and the remaining media sources tended to conform to the government's party line. Indeed, the government's media supremacy is vast. In addition to state-sponsored media, which clearly acts in line with government views, there are numerous subservient private media outlets. The conspicuous imbalance in reporting results in extensive coverage of the government and the ruling party (PSUV) and minimal opportunities for opposition voices to be heard. In addition, there were no guarantees protecting the use of frequencies, which led private audiovisual media to self-censor. This situation caused many political debates to move to social media.

### **Article 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service.**

According to the State report, Article 62 of the Constitution states that all citizens have the right to participate freely in public life, either directly or through elected representatives. However, during the 2021 electoral cycle, this right was skewed by the Government's overt use of its incumbent political advantage resulting in a clear asymmetry between the ruling party's incumbent political advantage and the adversity faced by the opposition or independent actors.

The disqualification of opposition candidates from running for office and the misappropriation of state resources for campaigning undermined the equal standing of candidates in the elections and provided a practical barrier to public service through elected office.

### **Suspension of political rights as an administrative penalty**

CNE magistrate (rector) 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 General 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>1</sup> 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.

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<sup>1</sup> <https://efectocuyo.com/politica/aspirantes-quedan-fuera-de-las-megaelecciones-por-estar-inhabilitados/>

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, candidate for governor in the state of Barinas.

### **Replacement of opposition party leadership by court decision**

The executive committees of nine opposition parties and three parties associated with the dissenting *chavismo* faction<sup>2</sup> were removed by the Supreme Justice Tribunal (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 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.

### **Political prisoners**

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 March 2023, a total of 283 people were classified as political prisoners, and since 2014, there have been 15,792 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.”<sup>3</sup> 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.

Misappropriation of state resources for campaigning, and the potential disqualification of opposition candidates from running for office has the potential to undermine the equal standing of candidates in elections and provide a practical barrier to public service through elected office.

### **Social and territorial control, incumbent advantages**

The 2021 election highlighted the stark imbalance between the government’s resources and those of the opposition, which goes far beyond the usual tendency in Latin America for the ruling party

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<sup>2</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.

<sup>3</sup> See; Foro Penal, Report on Repression in Venezuela, March 2023 (Published, April 12, 2023), available at: <https://foropenal.com/reporte-sobre-la-represion-en-venezuela-marzo-2023/>

to capitalize on its access to public funds. In Venezuela, the term “*ventajismo*” (incumbent political advantage) is often used to describe this reality.

In particular, food subsidies and specialized social programs were used as key political levers for the participation of vulnerable sectors. The structure of these programs links together the state, the government, and the ruling party at the grassroots level and is subject to meticulous social and territorial controls (*Programa Patria*), ultimately backed by militia groups. In an economic crisis of the scale of Venezuela’s, this government aid is more than just supplemental income and opportunities; it is essential to survival. The most vulnerable and fragile segments of society have little defense against explicit or implicit pressure to align their political actions with the benefits they receive.

Furthermore, the ruling party’s supremacy is based on control over other branches of government and institutions, even those that, by their nature (and including by constitutional mandate), must act independently. No government body is able to avoid a relationship of direct subordination to the government, not even security forces like the Armed Forces, which have received numerous benefits and have overstepped the normal bounds of their duties, making deep inroads into civilian spheres, as is evident in outlying regions and state-owned companies.

### **Arbitrary use of legal provisions for political or partisan ends**

The executive branch’s hegemony over other branches and institutions, coupled with ineffective separation of power, opened the door to arbitrary use of legal provisions for political or partisan ends, and put opposition and independent actors in a vulnerable position. Laws served as a point of reference instead of providing certainty or predictability. Legal uncertainty, which affects the competitiveness of politics and elections, also affects the quality of democracy. The primary stumbling block is not how laws are drafted, although the wording of certain provisions creates grey areas open to individual judgment. Rather, it is how those laws are interpreted and enforced.

Delays by the CNE disadvantaged the opposition. For example, it was not until June 2021 that the National Electoral Council (CNE) reinstated the MUD opposition coalition ticket, which had been declared illegal by the Supreme Tribunal of Justice (TSJ) in 2018. The brief interval between MUD’s reinstatement and election day affected its organizational capacity, especially during initial phases of the process and registering candidates.

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>4</sup> and ordered the CNE to fill the “legal

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<sup>4</sup> Electoral Law, articles 174, 175, 176, 177, 178, 179, 180, 181, 182 and 186.

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 prime example of TSJ interference in the electoral process was the election of government of the state of Barinas. When it was clear that opposition candidate Freddy Superlano had defeated Aregenis Chavez, incumbent governor and brother of Hugo Chavez, the Supreme Justice Tribunal called for a new election based on the disqualification of Superlano. The CNE was unable to contradict the TSJ ruling, and a new election was held on January 8, 2022. With 55.36% of the vote, opposition candidate Sergio Garrido defeated PSUV candidate Jorge Arreaza (former foreign minister) who received 41.27%.<sup>5</sup>

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 elections campaigns do not comply with international standards for democratic elections and agreements signed by Venezuela.

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<sup>5</sup> Deisy Buitrago & Vivian Sequera, Reuters, Venezuela opposition topples ruling party in race in Barinas governorship (Jan. 9, 2022): <https://www.reuters.com/world/americas/venezuelas-barinas-state-birthplace-chavez-begins-re-run-governor-vote-2022-01-09/>