



Follow-up report on the activation of the Presidential Recall Referendum

This document is product of the cooperation effort between The International Institute for Democracy and Electoral Assistance (International IDEA), and the Center for Political Studies at Andrés Bello Catholic University (CEP-UCAB). The purpose of this alliance is to analyze the democratic political process in Venezuela and, especially, the presentation of proposals that contribute positively to its improvement. In this sense, this report aims to describe the process to activate the presidential recall referendum in Venezuela, its problematic aspects, as well as the elections for state governors. Similarly, this reports makes several recommendations in order to improve the levels of electoral integrity in Venezuela.

The process for the activation of the Presidential recall referendum has been marked by a collection of electoral mal praxis that has resulted in obstructing Venezuelans' constitutional right of participation. The main manipulations can be found in the constitutional timelines, the creation of new procedures not contained in the rules, and in the imposition of conditions that curtail the free expression of people to participate in politics. This electoral mal praxis has caused delays in the collection of signatures and therefore, in the referendum itself.

It is worth noting that if the referendum is held before January 10, 2017 and if the option to revoke the president wins, the political outcomes would be entirely different from holding it after the aforementioned date. In the first case, The National Electoral Council must call for presidential elections within 30 days following the publication of results, which would mean a possible change of the government party. In the second case, if it is held after January 11, 2017 and if the option to revoke wins, the Vice-president designated by the sitting President will take office and the government party will stay in power until the next Presidential elections in December 2018.

A. Norms ruling the Recall Referendum

1. One of the fundamental principles of the Constitution of the Bolivarian Republic of Venezuela (CBRV) states: *"The government of the Bolivarian Republic of Venezuela and of the political entities thereof is and shall always be democratic, participatory, elective, decentralized, alternative, responsible and pluralist, with revocable mandates."*(Article 6, CBRV). In compliance with said principle, Article 72 of the Constitution states that:

"All magistrates and other offices elected by the popular vote are subject to revocation. During the midway point of the term for which the official was elected, a number no less than twenty percent of the registered voters in the corresponding circumscription may request the calling of a referendum to revoke such official's mandate. When a number equal to or greater than the number of registered voters that elected the official vote in favor of revocation, provided that a number equal or greater than 25% of the total number of registered voters voted in the referendum, the official's mandate shall be deemed revoked, and immediate action shall be taken to fill the vacancy in accordance with the provisions set forth in this Constitution and the Law.

The revocation of the mandate for the collegiate bodies shall be performed in accordance with the law. During the term to which the official was elected, only one petition to recall may be filled."



2. Since the approval of the 1999 Constitution, the National Assembly has not passed any Law ruling the right to revoke the mandate of offices filled by popular vote. Given this void, the National Electoral Council (CNE), based in Article 33, Numeral 29¹, took over the regulation of the recall process with **Norms to Regulate the Promotion and Request of Recall Referenda of Popular Election Offices**²; approved on September 6, 2007.

B. Stages for the Activation of the Recall Referendum according to the norms³

Activation of Citizen Organizations (First Stage)	Number of days	
Configuration of the citizen organizations	5 days	Work
Approval of the citizen organizations	10 days	Calendar
Activation of the citizen organizations	30 days	Calendar
Submission of fingerprints and signatures for the formation of citizen organizations	5 days	Work
Analysis of the documents resulting from the signature collection to form the citizen organizations	20 days	Work
Petition of the Recall Referendum (Second Stage)		
Verification of the petition documents for the activation of the Recall Referendum	15 days	Calendar
Issue the certification of initiation of the process	2 days	Calendar
Definition of the logistics	15 days	Work
Recollection of signatures	3 days	Calendar
Verification of signatures	15 days	Calendar
Call for the Referendum	3 days	Calendar
Hold the Referendum	Up to 90 days	Calendar

C. Implementation of the Norms in 2016: The activation of the recall process of the mandate of the President of the Republic began in March 2016. The activation of this mechanism of participation has two stages: (1) the creation of the citizen organizations promoting the referendum, which requires the collection of 1% of the registered voters expressing their will, and (2) the activation of the process itself through the collection of 20% of registered voters expressing their will to revoke.

1. **The first stage was triggered by the Democratic Unity Roundtable “Mesa de la Unidad Democrática” (MUD) on March 9, 2016**, when it submitted the activation petition before the Political Participation and Finance Commission (COPAFI). Yet, it was not only until April 7 that the CNE acknowledged having received the petition and asked for new requisites that were submitted on April 12 and accepted on the 14 of the same month. In this part of the process the MUD was requested to hold Citizen Assemblies where participants would delegate in hands of the opposition coalition their expression of intent to activate the Recall Referendum. Quoting the President of the CNE, Tibisay Lucena, “The assembly must approve you as mediators of the voters.”⁴
2. **The response to the petition to collect the signatures was approved on April 25.** However, for this process 1% of the total registered voters had to be attained in each of

¹ Organic Law regulating Electoral Processes. Article 33: *has the power: ...33. Regulating the electoral and referenda laws.*

² See:

http://www.sumate.org/documentos/Normas_para_Regular_Procedimiento_de_Promocion_y_Solicitud_de_Referendos_Revocatorios_de_Mandatos_de_Cargos_de_Eleccion_Popular.pdf

³ See: Martínez, Eugenio (2016). “213 días para realizar revocatorio a Maduro”. <http://puzkas.com/213-dias-para-realizar-revocatorio-a-maduro/>

⁴ See: <http://www.laverdad.com/politica/95045-pj-inicia-asambleas-para-validar-revocatorio.html>



the federal entities, a requisite that is not in the norms in force or in the Constitution that states that the petition shall be made by the voters registered in the corresponding circumscription. In any case, the MUD collected the signatures in each federal entity between April 27 and 30, 2016 consigning them to the National Electoral Council on May 2.

3. **This stage of the process was supposed to go on for 30 calendar days, but the MUD delivered the signatures in only 7 days.** According to the provisions in the *Norms to Regulate the Procedure to Promote and Request Recall Referenda of Popular Election Offices*, the CNE had five calendar days to verify the number of signatures and proceed to their validation with the biometric identification system. Nonetheless, the Board of the National Electoral Council, with the abstention of the rector Luis Emilio Rondón, set up a series of procedures to verify the 1% of signatures.
4. **On May 19 the alternate rector, Carlos Quintero, informed about the new verification procedures for the expressions of will which included:** (1) Transcription of forms, (2) a second transcription thereof, (3) verification of the information of voters calling for a referendum in the Electoral Registry, (4) validation of the fingerprints, (5) verification of the “sensitive fields” such as name and position of the official to revoke. For this procedure the CNE took 39 days from the date of consignment of forms on May 2nd, violating their own rules.
5. **In the Report showing the results of the technological platform to digitize the verification of forms showing the expression of will dated May 31 2016,** the CNE announced that 200.197 forms were digitalized, containing 2.001.970 records. According to this report the forms did contain, 1.957.779 records, 1.352.052 of which were valid representing 69,09%, while 605.727 records were invalidated, which is equivalent to 30,94% of the total.
6. **On June 13 2016, the CNE approved the report of May 31 and announced the verification by means of a biometric device.** For the validation process, the CNE decided to use 300 “capta-huellas” (biometric identification machines), distributed in 124 locations in the 23 federal entities and the Capital District. This process took place between June 20 and 24 from 8:00 am to 12:00 pm and from 1:00 pm to 4:00 pm.
7. **On August 1 the National Electoral Council approved the signature validation report stating that 1% of the signatures was attained in the 24 federal entities of the country.** This first stage of the process to accept the MUD as the citizens’ organization promoting the referendum took approximately 145 days when normally this requires 97 days at the most, therefore, cumulating us to 48 days of delay.
8. **Second stage:** On August 9, 2016 the president of the electoral body stated that if all the requirements were met, the collection of the 20% would begin at the end of October⁵. In her presentation, rector Lucena showed a timetable⁶ indicating that the decision about the legitimacy of the MUD’s request would be on August 24 and the publication of the final timetable on September 16.
9. **On September 21,** 5 days after the date shown in the presentation of rector Lucena dated August 9, the CNE published the final timetable for the collection of the 20%. This time the electoral body indicated⁷:
 - a. The cut of the Electoral Registry to be applied in the process will be the one of April 30, 2016 representing 19.465.638 voters. Being 3.893.128 voters the 20% figure.
 - b. The collection will be done next October 26, 27 and 28 from 8 am to 12pm and from 1pm to 4pm.
 - c. The infrastructure arranged for this exercise was estimated to be sufficient for voters to reach 20% of the electoral registry.⁸ The number of machines for the

⁵ See: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3468

⁶ See: <http://www.cne.gob.ve/web/imagen/publicidad/2016/presentacion.pdf>

⁷ See: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3476

⁸ See: <http://oriente20.com/rector-luis-emilio-rondon-salvo-voto-al/>



collection is 5.392, distributed in 1356 polling stations located in the 335 municipalities of the country and deployed into 776 parishes.

10. Additionally, the CNE board stated that the collection of signatures had to be done by regions. Even if this condition is not explicitly stated in the press release⁹, statements by *rector* Luis Emilio Rondón expressing his disagreement with this condition make us presume that the 20% collection will be required in each federal entity to activate the referendum. In fact, the Electoral Chamber of the Supreme Court of Justice on 17th October 2016, case No. AA70-E-2016-000074, formalizes that activation of the recall referendum must reach 20% of the manifestations of will in all the 23 states and the Capital District¹⁰. In his own words¹¹:

“The call for the recall referendum requires gathering twenty percent (20%) of expressions of will of the electorate in each and every one of the states and the Capital District of the Republic. Uncollected that percentage in any state or the District Capital, would nugatory the valid convening of the presidential recall referendum.”

11. On the other hand, *rector* Rondón also stated that the number of machines assigned for these three days of collection is insufficient, and expressed his concern about the location of the “*capta huellas*” that could eventually be an obstacle to the participation of citizens and slowdown the process.

D. Insufficient electoral infrastructure to exercise a political right^{12,13}

1. The electoral infrastructure in Venezuela is composed of 14.400 polling stations and 39 thousand machines of biometric identification. This infrastructure serves 19.465.638 voters. As indicated above, article 72 of the Constitution states that to activate the presidential recall referendum **a number no less than 20% of the registered voters must sign to request the referendum. In the case of President Maduro, 3.983.128 voters must sign to activate the recall referendum.**
2. Public opinion studies suggest that between 54% and 58% of citizens (approximately 11 million voters) are more than willing to sign in favor of the recall referendum, but the infrastructure offered by the CNE will not allow the participation of all the citizens in favor of the recall referendum¹⁴.
3. According to the estimates of the CNE, each voter will take an average 1 minute and 20 seconds in providing fingerprints and signing the electoral notebooks. This means that 45 people will be able to sign every hour and according to the electoral authority estimates, the daily average will be 315 voters per machine, totalizing 945 voters per machine after three days. Although the referendum rules state that the last day of collection the centers must remain open until everyone who is in line has voted, the CNE decided that the collection stations will stay open only during 7 hours each day from 8:00 am to 12:00 pm and from 1:00 pm to 4:00 pm.
4. If we use as reference the hourly average of the electoral authority 5.095.440 citizens will be able to sign (under optimum operation conditions). However, if we use as reference the process for the 1% in which, the daily average recorded was 273 persons per machine, then the installed capacity offered by the CNE to exercise this citizen right reduces this figure to 4.416.048 citizens. This calculation does not include problems such as mobilization and flow of voters in the geographic zones above described.

⁹ See: <http://efectococuyo.com/politica/recoleccion-del-20-para-el-rr-sera-por-estado-y-se-realizara-el-26-27-y-28-de-octubre>

¹⁰ See: <http://prodavinci.com/blogs/sobre-la-exigencia-del-20-ratificada-por-decision-de-la-sala-electoral-por-jose-ignacio-hernandez/>

¹¹ See: <http://historico.tsj.gob.ve/decisiones/selec/octubre/190852-147-171016-2016-2016-000074.HTML>

¹² See: <http://puzkas.com/aun-es-posible-el-revocatorio-en-2016/>

¹³ See: <http://puzkas.com/120-tardara-cada-elector-en-firmar-por-el-revocatorio-maduro/>

¹⁴ See: <http://prodavinci.com/2016/09/26/actualidad/laminas-vea-aqui-completa-la-mas-reciente-encuesta-de-venebarometro/>



E. Distribution bias with respect to collection centers and the “capta-huellas” machines¹⁵

1. The signature collection processes required for the activation of the recall referendum have been marked by a strong bias in the distribution of the signature collection centers. In the case of the geographic location of the signature collection centers for the 1%, the CNE deployed 300 “capta-huellas”, even though the norm presupposed 1.400 machines nationally distributed with some criteria other than population, electoral and voters’ density. Of the 300 machines distributed by the CNE, 100 were located in areas of the country where only 21.172 voters signed for the 1% process. Other 97 machines were distributed in regions where only 106.000 people signed and only one third of the “capta-huellas” were located in zones with high electoral density and therefore with high volume of signatures. Specifically, 103 machines were in municipalities where 490.000 voters signed.
2. The situation is not at all different for the gathering of expressions of will of the 20% of voters. In the national distribution of centers and machines it is estimated that the municipal average will be 3.600 voters per machine during the three days of collection. Yet, if we analyze the electoral behavior of the 1.356 polling stations that will be enabled, one may conclude that the majority corresponds to electoral circuits where the “chavismo” won in the last parliamentary election.
3. According to the preliminary analysis made by the electoral technicians of the opposition, the electoral infrastructure proposed by the CNE is insufficient to satisfy the demand of voters who wish to politically participate, besides the clear bias against the parishes that vote other than the government party assigning less machines where the results are unfavorable to the government.
4. On the other hand, the analysis of the location of the polling centers enabled for voters who wish to sign in favor of the recall referendum shows that at the level of parishes the polling stations selected are in general those with results less favorable to the MUD. Electoral centers in the periphery, marginal areas or areas with a high crime rate are abundant; additionally we must add the fact that those who are willing to mobilize must remain outside the perimeter of the polling stations, increasing significantly the risk to participate.
5. In the polling stations enabled for the signature collection where the PSUV won in the last election, the infrastructure assigned for the 20% is way above the average of one machine per 3.600 voters. In fact, of the 1.356 polling stations enabled, 729 centers totalize 2.909 “capta-huellas”. In centers where the government won in the 6D election, 6.930.902 voters will be able to sign at an average of 2.382 voters per machine. Whereas in the stations where the opposition won in the parliamentary election, the electoral infrastructure assigned for the 20% is way below the average of one machine per every 3.600 voters. Of the 1.355 polling stations that will be enabled, 625 stations correspond to stations where the opposition won on the 6D. In these stations 2.483 machines will be operative for the 12.542.016 voters who wish to express their will. This gives an average of 5.051 voters per machine.
6. It is important to note that the norms applied to convoke the recall referendum (Article 10, numeral 7G) state that for the collection of the expressions of will, a biometric identification platform must be provided (“capta-huellas” machine) for every 1.000 inhabitants, therefore, assuming that the 19.465.638 voters registered in the electoral registry have the right to participate in the collection process for the 20%, a total of 19.466 machines should be deployed throughout the country, a number that is far superior to the 5.392 assigned by CNE for October 26,27 and 28.

F. Deficiencies in the Process

1. Systematic delays in the different stages of the legitimating process of citizens who wish to call for a referendum, and in the 20% collection process. This has caused more than 80 days delay in both stages.

¹⁵ See: <http://prodavinci.com/blogs/analisis-del-sesgo-politico-en-la-distribucion-de-centros-de-validacion-del-20-que-anuncio-el-cne/>

2. Sudden imposition of norms and procedures not provided for in the Constitution or the rules in force.
3. Regionalization of the 1% of expressions of will to legitimate the MUD as the entity convoking the referendum and probably the 20% to call the President's recall referendum, endorsed by the Electoral Chamber of the Supreme Court. This means that if this 20% of expressions of will is not attained in one federal entity the recall referendum will not take place even if said percentage of voters is surpassed nationally. It is worth noticing that this condition contravenes the provisions set forth in the Constitution for the election of the President of the Republic since the circumscription for which the President is elected is national, regardless if the relative majority of votes are attained or not in all the federal entities.
4. Very little transparency of the National Electoral Council in its decision-making process and lack of compliance with its own timetables and procedures.
5. The electoral infrastructure is insufficient to guarantee the right to participate of voters who wish to express their will to call for a recall referendum.
6. Bias in the distribution of stations for the collection of signatures and biometric machines, in areas of difficult access, high level of crime and electorally pro-government.
7. Lastly, it is necessary to point out the existence of several judicial appeals asking for the suspension of the signature collection processes, arguing that the opposition committed fraud in the previous stage. In this sense, the continuity or suspension of the process is in the hands of the Supreme Court¹⁶.

8. State and municipal elections

On October 18th, the board of the National Electoral Council published the schedule of electoral activities for 2017¹⁷. In this regard, they pointed out that State elections will be held at the end of the first half of 2017, while municipal elections will be held late in the second half of that year. It is important to note that these elections should be held before December 16, 2016.

It is worth noting that Article 160 of the Constitution of the Bolivarian Republic of Venezuela states that "... The Governor shall be elected for a term of four years by the majority of people who vote ...". Thus, the constitutional period of the heads of federal entities, as well as members of the Legislative Councils of each State, is four years. That is why this announcement is extemporaneous and violates the Constitution, by failing to hold State elections before the completion of the mandates of the governors.

We must remember that, since the adoption of the Constitution, regional elections have consistently held every four years (2000, 2004, 2008 and 2012). The last were celebrated on December 16, 2012. Hence, since the beginning of 2016, it was expected that the National Electoral Council would announce the poll date and timetable for the election of governors for the period 2016-2020. In this vein, the unjustified stalling of these elections, in the context of the call for a presidential recall, may have an impact on citizen participation.

9. Recommendations

With the idea of making a constructive contribution to the strengthening of the democratic process in Venezuela and to achieve a democratic, constitutional, and peaceful solution of the political and social conflicts that the Venezuelan society is facing, we propose the following:

1. That all stakeholders of electoral processes, including political parties, government, and electoral arbitrator respect the Constitution, the law and norms in force; their main

¹⁶ See: <http://www.panorama.com.ve/politicaeconomia/Hector-Rodriguez-Esperamos-que-tribunales-se-pronuncien-por-fraude-de-recoleccion-del-1-20161003-0066.html>

¹⁷ See: http://www.cne.gob.ve/web/sala_prensa/noticia_detallada.php?id=3482



function is to allow citizens to express their political preferences in a timely, peaceful and electoral manner.

2. Approval of a Law regulating very precisely the different stages and procedures leading to calling and holding referenda, whatever their nature, as set forth in the 1999 Constitution. The absence of specific ruling leads to uncertainty and divergent interpretations of the existing norms and rules impacting the right of citizens to participate.
3. The approval of a comprehensive electoral reform with the agreement of all the political sectors about electoral rules that promote the freedom, competitiveness, transparency and equity required throughout the electoral process.
4. It is urgent that the National Electoral Council adapts its behavior and decisions to the dispositions contained in its own *Norms to Regulate the Procedure to Promote and Request Recall Referenda of Popular Election Offices*, and assure that the work is done in the most transparent and fair manner for the benefit of the citizens.
5. Finally, it is necessary that the National Electoral Council ensures that the elections of different levels of government be held within the constitutionally established periods, as non-compliance with the provisions of the Constitution poses a threat to electoral integrity of these electoral processes. We celebrate that the National Electoral Council has contemplated municipal elections in the corresponding period. However, we regret that it did not act with the same diligence in the case of the regional elections.