

2011 FDA Electoral Fairness Audit of Venezuela's Federal Electoral System

Executive Summary: Venezuela received an exceptional overall score of 85 percent for electoral fairness. This score means that Venezuela's constitutional and legislative basis for democracy is exceptional, innovative, and progressive. The source of Venezuela's highly democratic basis is its *Constitution* which puts significant emphasis on individual rights and societal plurality, cooperation, and respect. These core values extend consistently through Venezuela's electoral laws. Further, as a source of innovation and fairness, the Venezuelan National Electoral Council has the power legally and financially to ensure a fair diffusion of electoral propaganda, and thereby prevent wealthy citizens, legal entities, candidates, and parties from dominating electoral discourse.



THE FOUNDATION FOR
DEMOCRATIC ADVANCEMENT

Electoral Fairness Audit Completed May 27, 2011. Updated July 7, 2011.

About the Foundation for Democratic Advancement:

The Foundation for Democratic Advancement ("FDA")'s mission is to advance fair and transparent democratic processes wherever elections occur. The FDA believes that fairer electoral systems and a more informed public will help ensure the election of candidates who truly represent the will of the people. The FDA fulfills its mission by performing detailed electoral audits on political candidates and parties to inform the public, objectively and impartially, about their electoral choices. Also, the FDA audits electoral legislation in terms of fairness and equity, and conducts ground level assessments of democratic processes. (For more information on the FDA visit: www.democracychange.com)

Purpose of Electoral Fairness Audit:

The purpose of the FDA's electoral fairness audit (the "Audit") is to determine a grade and ranking for electoral fairness in Venezuela at the federal level of government. (This Audit is part of the FDA's global audit of electoral fairness involving all countries which hold political elections.)

This non-partisan, independent determination aims to give the citizens of Venezuela an informed, objective perspective of the fairness of the Venezuelan federal electoral system. The views in this electoral fairness audit are the views of the FDA only.

The FDA's members and volunteers are in no way affiliated with the Venezuelan National Electoral Council or any of the Venezuelan registered/non-registered political parties.

The Audit is an independent assessment based on objectivity, transparency and non-partisanship. The FDA assumes no responsibility or liability for any errors in the calculation of its audit results or inaccuracies in its research of relevant Venezuelan legislation.

Methodology for the Electoral Fairness Audit:

The FDA focuses on four key areas of electoral fairness:

- 1) Laws and regulations on the political content of media including newspapers, broadcasters and online media before, during, and after elections;
- 2) Laws and regulations on the equality of candidates' and parties' influence before, during and after elections, such as national televised debates, restrictions on candidate nominations, party registration requirements, etc.;
- 3) Laws and regulations on electoral finance, such as party and campaign donation limits, third party spending limits etc.; and
- 4) Laws and regulations on the equality of voter say before, during, and after an election. The FDA looks at how Venezuelan laws and regulations promote equality of voter say in the media, at the polling booth, etc.

The FDA decided to evaluate these four areas of electoral fairness because, in our opinion, they are often ignored or overlooked by the international community in determining electoral fairness.

Moreover, these four areas cover broad aspects of the electoral process in which fairness could be compromised significantly.

The FDA acknowledges that electoral laws and regulations may not necessarily correspond to the implementation of those laws and regulations or the public's response to them. The implementation and response could be positive or negative, in terms of electoral fairness.

Nevertheless, laws and regulations provide the foundation for democracy, framework for the electoral system, and an indication of electoral fairness. Also, a country's constitutional and electoral laws are part of the reality of its democracy.

A further study which tracks the actions of mainstream media and the enforcement or non-enforcement of electoral laws and regulation, for example, would provide a more reliable overall determination of electoral fairness.

The FDA researched current Venezuelan legislation, in relation to the four areas of electoral fairness being examined. Following which, the FDA audited the research results via the FDA electoral audit team and established FDA scoring scales for the four areas of electoral fairness.

Weighting and Scoring:

Overall, the FDA scoring is guided by an inherent valuation of the concepts of soundness and relevancy.

Each area of electoral fairness has a score range between 0 and 10, and each area is counted equally.

The total averaged score will provide an indication of the level of electoral fairness in Venezuela.

The FDA electoral audit team deliberated on the research for each area of electoral fairness, and then attempted to reach consensus on the final score. Where no consensus could be reached, the individual scores of the team were averaged.

The final score for each section must be supported by the more sound reasons and correspond to the established FDA scoring scale.

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Information Sources:

The following information was consulted and utilized in this audit report:

First Amendment to the Constitution of the Bolivarian Republic of Venezuela.

Constitution of the Bolivian Republic of Venezuela

Organic Law of the Electoral Procedure

Organic Law of the Civil Registry

Organic Law of the Municipal Power

Law for Political Parties, Public Meetings and Demonstrations

Regulation No. 5 of the Organic Law Electoral Process Field of Control of Campaign Finance

Regulation No. 6 of the Organic Law Electoral Process Field of Propaganda During the Electoral Campaign

Venezuelan Embassy in Canada (FDA received information from the Venezuelan Embassy on specific electoral legislation.)

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Chapter One: Political Content of Media

Chapter one will focus on the research and audit results of Venezuelan laws and regulations with respect to the political content of media, including newspapers, broadcasters and on-line media, before, during and after elections.

Executive Summary:

Venezuela received an exceptional score of 90 percent for equality of political content. Venezuela has specific and highly democratic laws on the fairness of political content, and complete and balanced electoral coverage. Public and private media and broadcasters are required legally to be impartial. Media impartiality will encourage an equal playing field for political candidates and parties and a broad electoral discourse, and ultimately empower Venezuelan voters by expanding their electoral choice.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

Article 80. **The media may not refuse to broadcast election propaganda.** In case of doubt or dispute, interested or concerned may request the National Electoral Council to determine whether the electoral propaganda the requirements of these rules, and its decision shall be compulsory.

Article 81. The mass media and private information will be given a complete and balanced coverage of related information and without distorting the reality of the campaign. To this end, observe a strict balance in time and space dedicated to information relating to activities carried out by the candidate or candidates.

Prohibition of publication of opinion polls

Article 82. It is prohibited to publish or disclose, through any social media or other media, during the period of seven days prior to voting, the results of opinion polls or surveys that aim to present preferences or voting intentions of electors or voters. It prohibits the publication of surveys that do not have sheet.

Article 75. Do not be permitted electoral propaganda:

1. Outside the electoral campaign period established by the National Electoral Council.
2. Attack the honor, privacy, intimacy, self-image, confidence and reputation of individuals.
3. Promote war, discrimination or intolerance.
4. Promote disobedience to the law.
5. Data allowing identification of the sponsor or promoter of electoral propaganda and the Fiscal Information Registry (RIF).
6. The hired or performed by natural or legal persons other than authorized by the candidates and

candidates.

7. Discourage the right to vote.
8. Make degrading obscenities against the bodies and entities of public power, institutions and public officials or public servants.
9. Use the image, sound or the presence of children or adolescents.
10. Use national or regional symbols of the nation or the image of the Founding Fathers of the Bolivarian Republic of Venezuela, or the colors of the national flag or regional.
11. Use the image, name or names of any citizen, as well as colors and symbols that identify an organization with political purposes, groups of citizens or citizens without their consent.
12. Violate the rules laid down in legislation on animal protection.
13. The publicly funded other than as provided in these rules.
14. Is funded from abroad.
15. Is privately funded not declared to the National Electoral Council and the National Integrated Customs and Tax Administration (SENIAT).
16. Actions against the mental health of citizens.
17. Promote stereotypes of gender discrimination or otherwise

Chapter III

Social Electoral Propaganda in Social Media

Financing

The National Electoral Council may finance part or in full, the diffusion of electoral propaganda in the media of radio, television or printed, in accordance with regulations established for that purpose.

Impartiality of the media

Article 79. The media, public or private and independent producers can not make on their own any type of propaganda aimed at supporting a candidate or a candidate, or to encourage or discourage voting or vote constituencies for or against any of the nominations. Obligation to disseminate electoral propaganda

Article 80. The media may not refuse to broadcast election propaganda. In case of doubt or dispute, interested or concerned may request the National Electoral Council to determine whether the electoral propaganda meets the requirements of these rules, and its decision shall be compulsory.

Coverage

Article 81. The mass media and private information will be given a complete and balanced coverage of related information and without distorting the reality of the campaign. To this end, observe a strict balance in time and space dedicated to information relating to activities carried out by the candidate or candidates.

Prohibition of publication of opinion polls

Article 82. It is prohibited to publish or disclose, through any social media or other media, during the period of seven days prior to voting, the results of opinion polls or surveys that aim to present preferences or voting intentions of electors or voters. It prohibits the publication of surveys that do not have sheet.

Prohibition of dissemination of election results before the first newsletter

Article 83. Is prohibited dissemination of election results by any means of social communication before the National Electoral Council issued its first bulletin, which ordered the telecommunications regulator for the immediate termination of the signal to social media violate this article.

Free space broadcast

Article 84. The National Electoral Council shall have charge of an area of up to five minutes daily in service providers and radio and cable television as well as a daily page in newspapers of national circulation, regional or local level in order to disseminate messages about the electoral process.

Chapter IV

Propaganda Electoral Administrative Investigations on Electoral Propaganda Start administrative inquiry

Article 85. The National Electoral Council may order ex parte or on its own, before a public and notorious fact, the initiation of administrative investigations of violations of electoral propaganda rules.

Filing of complaints

Article 86. The complaints were filed in writing to the Commission on Political Participation and Financing or to the Regional Electoral Offices concerned. In cases where the complainant or is not domiciled or resident in the Metropolitan Area of Caracas refer the case to the Board of the National Electoral Council which, to find sufficient evidence, administrative inquiry starts. Otherwise, reject the complaint and ordered filed.

The requirements for handling complaints will be established in the regulations of this Law
Verifying Requirements

Article 87. The Committee on Political Participation and Financing, or commission designated for this purpose the National Electoral Council, after receiving the complaint or known to the alleged violation, shall verify compliance with the requirements of the regulation within two working days by remitting the case to the National Electoral Council, which, to find sufficient evidence, administrative inquiry starts. Otherwise, reject the complaint and ordered filed.

Ascertainment

Article 88. Started administrative inquiry, the National Electoral Council may direct the Commission on Political Participation and Financing, or the commission to designate for that purpose, that through an act of opening the record form and substance of the inquiry.

On receipt of the guarantee of due process and the right to defense, there will be notifying the alleged offender or the alleged offender, so that within five working days following notification, present the arguments and evidence in his defense. After this period, within ten working days, the Commission on Political Participation and Financing, or commission designated for that purpose, presented a draft resolution to the National Electoral Council for its consideration and decision within five working days.

Monitoring of the electoral propaganda

Article 89. The National Electoral Council will monitor the electoral propaganda, in accordance with the rules adopted in this regard.

Preventive measures

Article 90. The National Electoral Council, during the administrative proceedings, including the opening act, may or upon request, issue the following preventive measures: order the media, as the case suspension or immediate withdrawal of electoral propaganda in violation of its obligations under this Act.

Agreed preventive measure, the alleged offender or the alleged infringement and other stakeholders or interested in the proceedings that are directly affected by these measures, may object to it orally or in writing within five working days from the date of notification . In case of opposition, will open within five working days to claim and promote everything in his favor and protection deemed appropriate, and within five working days to take evidence. After this period, a decision motivated by act within five working days.

TITLE V ADMINISTRATIVE PROCEDURE FOR INQUIRIES PROPAGANDA ELECTORAL ADVERTISING ARTICLE 20 .-

The National Electoral Council may order the start of administrative investigation procedure, a complaint.

The administrative investigation procedure automatically be incurred by decision National Electoral Council.

Article 21 .- The complaints were filed in writing, before the Committee Political Participation and Financing or to the Regional Electoral Offices

The complaints they receive the Regional Electoral Offices be incorporated into the Automated Control System in the opportunity receipt and subsequently sent to the Commission's original Participation

Policy and Financing the business day following receipt

22 .- The written complaint must contain:

1. The identification of the complainant or, where appropriate, the person acting as its representative and the document evidencing the alleged representation;
2. The narrative summary of the facts or acts constituting the alleged violation;
3. The identification, if possible, the person allegedly responsible;
4. The identification of social media that broadcast and other modes billboards, posters, pamphlets, posters, stickers, etc.;
5. Location verified facts or acts complained of;
6. Copies of the supports or attachments such as videos, photographs, tapes and others;
7. Signature of the complainant or the person acting as legal representative or and address where notifications will be practiced.

Not be dealt with complaints that do not meet the requirements set out above

Penalty system

Article 31 .- Without prejudice to criminal liability, civil or administrative for failure to comply with the provisions contained in the Act and the this regulation will result in the application of sanctions under the Act Organic Elections.

ARTICLE 32 .- In accordance with the provisions of Article 74 of Law Organic Elections, in accordance with Article 4 of this candidates or candidates, political organizations, the

Voters groups or communities and indigenous organizations not comply with the obligation to inform the National Electoral Council data identification of natural or legal persons authorized to engage election propaganda shall be punished by a fine equivalent to five hundred Tax Units (500 UT) to seven hundred tax units (700 UT) or arrest proportional basis of one day of arrest for Tax Unit, in accordance as provided in Article 233 of the Organic Law of Elections.

Article 33 .- Those who violate the regulations under Article 5 of this Regulation on electoral propaganda is not allowed, shall be punished a fine of five thousand tax units (5,000 TU) to seven thousand units

Tax (7,000 UT), in accordance with the provisions of Article 232 paragraph 4 Organic Law of Elections.

Article 34 .- Those who violate the regulations stipulated in Articles 6 and 7 hereto, shall be punished by a fine of fifteen units Tax (15 UT) to fifty tax units (50 UT), or arrest proportional basis of one day of arrest for Tax Unit, in accordance with the provisions of Article 230 paragraphs 4 and 5 of the Organic Law Process Election.

Article 35 .- Those who violate the regulations stipulated in Articles 8 and 9 of this regulation will be fined five hundred units Tax (500 UT) to seven hundred tax units (700 UT) or arrest proportional basis of one day of arrest for Tax Unit, in accordance with the provisions of Article 233 of the Organic Law of Elections.

Article 36 .- The mass media, public or private, and independent producers who comply with the provisions set out in Articles 79 of the Organic Law of Elections and 12 of this (5.000 Regulation will be fined five thousand tax units (5,000 UT) to seven thousand tax units (7,000 UT), in accordance with the provisions Article 232 paragraphs 4 and 7 of the Organic Law of Elections.

Article 37 .- In light of the provisions of Article 232 paragraph 1 of Law Organic Elections, the managers and administrators, or those responsible for social media, public or private, shall punished by a fine of five thousand tax units (5,000 TU) to seven thousand Tax Units (7,000 UT), in case of breach of the provisions of Article 80 of the Organic Law on Elections and Article 13 of this Regulation.

Article 38 .- In light of the provisions of Article 232 paragraph 6 of the Act Organic Elections, social media, public or (5.000 private, will be fined five thousand tax units (5,000 UT) to seven thousand tax units (7,000 UT), in case of failure to laid down in Article 81 of Law Electoral Processes in Organic relationship with Article 14 of this Regulation.

Article 39 .- Those who violate the regulations provided for in Article 82 of the Organic Law of Elections, and Article 15 of this Regulation; will be fined five thousand tax units (5,000 UT) to seven thousand tax units (7,000 UT), in accordance with the provisions of article 232 paragraph 3 of the Organic Law of Elections.

Article 40 .- The social media to disseminate information regarding the results of the election process prior to the issuance of the first newsletter official from the National Electoral Council, contrary to the provisions of

Article 83 of the Organic Law on Elections and Article 16 of this Regulation, not least out of the provisions of said Article 83 of the Act; will be fined five thousand tax units (5,000 UT) to seven thousand tax units (7,000 UT) tax units, in accordance with laid down in Article 232 of the Act.

Electoral Fairness Audit Results for Media and Broadcasters:

Score:

The FDA electoral fairness audit team reached consensus on a score of 9/10.

Rational for Score:

7 days prior to election day, the media must stop the dissemination of polling results.
No use of flags and colors of flags, national symbols and historical leaders etc., part of electoral propaganda.

Emphasis on fairness of political content.

No phone call intrusions of the public during an election period.

No intrusion of the public outside of electoral period.

No mention of quantity of political content.

TV and radio networks have to be non-partisan.

Media must give a complete, balanced electoral coverage.

Detailed process for the enforcement of regulations on political content and election propaganda.

The score of 90 percent would have been higher if there were more specifics as to how the National Electoral Council monitors media and broadcasters in regard to political content and election propaganda. The high score reflects the emphasis on the impartiality of the media and broadcasters, which is essential to establishing political equality and electoral fairness.

Chapter Two: Candidates' and Parties' Influence

Chapter two will focus on the research and audit results of Venezuelan laws and regulations with respect to the equality of candidates and parties' influence before, during and after elections.

Executive Summary:

Venezuela received an exceptional score of 90 percent for equality of candidate and party influence. Venezuela has a range of laws and regulations which protect voters from undue political influence, and thereby allow voters the opportunity to make their own electoral choices. Also, public and private media and broadcasters are required to be impartial. The National Electoral Council has the power legally and financially to ensure a fair diffusion of electoral propaganda, in order to offset private electoral spending. Further, party registration is based on .5 percent of popular support, and therefore is a democratic barrier to entry. There are no unreasonable restrictions on public marches, meetings, and rallies. Overall, there is a near equal playing field for candidates and parties to compete for political representation of the people.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

Article 75. Do not be permitted electoral propaganda:

1. Outside the electoral campaign period established by the National Electoral Council.
2. Attack the honor, privacy, intimacy, self-image, confidence and reputation of individuals.
3. Promote war, discrimination or intolerance.
4. Promote disobedience to the law.
5. Data allowing identification of the sponsor or promoter of electoral propaganda and the Fiscal Information Registry (RIF).
6. The hired or performed by natural or legal persons other than authorized by the candidates and candidates.
7. Discourage the right to vote.
8. Make degrading obscenities against the bodies and entities of public power, institutions and public officials or public servants.
9. Use the image, sound or the presence of children or adolescents.
10. Use national or regional symbols of the nation or the image of the Founding Fathers of the Bolivarian Republic of Venezuela, or the colors of the national flag or regional.
11. Use the image, name or names of any citizen, as well as colors and symbols that identify an organization with political purposes, groups of citizens or citizens without their consent.
12. Violate the rules laid down in legislation on animal protection.
13. The publicly funded other than as provided in these rules.
14. Is funded from abroad.
15. Is privately funded not declared to the National Electoral Council and the National Integrated Customs and Tax Administration (SENIAT).

16. Actions against the mental health of citizens.
17. Promote stereotypes of gender discrimination or otherwise

Article 79. The media, public or private and independent producers can not make on their own any type of propaganda aimed at supporting a candidate or a candidate, or to encourage or discourage voting or vote constituencies for or against any of the nominations.

Article 80. The media may not refuse to broadcast election propaganda. In case of doubt or dispute, interested or concerned may request the National Electoral Council to determine whether the electoral propaganda meets the requirements of these rules, and its decision shall be compulsory.

Prohibition of publication of opinion polls

Article 82. It is prohibited to publish or disclose, through any social media or other media, during the period of seven days prior to voting, the results of opinion polls or surveys that aim to present preferences or voting intentions of electors or voters. It prohibits the publication of surveys that do not have sheet.

Article 10. The regional parties will be formed by registration in the registry that purpose by the Supreme Electoral Council.

1. Registration applications must be accompanied by the following documents: List of party members no fewer than 0.5percent of the population registered on the electoral register of the respective entity. [Venezuelan population as 2011 27,635,743 almost 140,000 members]

The list will specify their names, age, address and identity card

2. 2. Manifestation of the will of party members belonging to it.
3. 3. Three copies of its statement of principles of its Charter, its political action program and its statutes.

One of these copies are filed in the Supreme Electoral Council file another will be sent to Ministry of Interior and the third will be submitted to the Government concerned.

4. 4. Description and drawing of the symbols and emblems of the party
5. 5. Indication of the supreme bodies of the party leaders, who charge it up and play within them

Reform of Presidential Term Limits

Article 230 of the 1999 Constitution establishes that the presidential term limit will be of six years and that any president can be re-elected once. Under the proposed reform, the presidential term would be extended to seven years and any sitting president would be allowed to seek another consecutive term.

Propaganda election is all advertising elements and parts, disseminated and displayed by all means at its disposal that election messages express the organizations and their candidates and candidates for popular election, during the course of a presidential campaign.

Electoral Notification to the National Electoral Council Organic Law of Electoral Processes

Article 71. The term campaign of public activities carried out by candidates, political organizations and groups of electors whose purpose recruit, encourage or persuade voters to vote for a candidate or a candidate within the period designated by the National Electoral Council.

Principles and Rights

Article 72. The interpretation and application of these standards will be subject to the principles and rights:

1. Participants in the electoral process.
2. Liberty of thought and expression.
3. Communication and information free, diverse, pluralistic, accurate and timely.
4. Prohibition of censorship without prejudice to any further generated.
5. Democratization, participation and full exercise of popular sovereignty.
6. Respect for the honor, privacy, intimacy, self-image, confidence and reputation of individuals.
7. Social responsibility and solidarity.
8. Respect of different ideas and the promotion of tolerance, transparency, peaceful coexistence, political pluralism, democracy and the observance of human rights.
9. Respect of the Venezuelan state institutions.
10. Equal access to social media.

Chapter II

Election Propaganda

Propaganda election is all advertising elements and parts, disseminated and displayed by all means at its disposal that election messages express the organizations and their candidates and candidates for popular election, during the course of a presidential campaign.

Electoral Notification to the National Electoral Council

Article 74. Representatives of candidates and candidates must report in writing to the National Electoral Council, within five days following the call, the identification data of the natural or legal persons authorized by them to employ propaganda.

The identification data must include full names, identity card or Tax Information Registry (RIF), the capacity in which they operate and address or address for the purpose of any notification. The list of authorized persons is published by the National Electoral Council.

Propaganda Electioneering is not allowed

Article 75. Do not be permitted electoral propaganda:

1. Outside the electoral campaign period established by the National Electoral Council.
2. Attack the honor, privacy, intimacy, self-image, confidence and reputation of individuals.
3. Promote war, discrimination or intolerance.

4. Promote disobedience to the law.
5. Data allowing identification of the sponsor or promoter of electoral propaganda and the Fiscal Information Registry (RIF).
6. The hired or performed by natural or legal persons other than authorized by the candidates and candidates.
7. Discourage the right to vote.
8. Make degrading obscenities against the bodies and entities of public power, institutions and public officials or public servants.
9. Use the image, sound or the presence of children or adolescents.
10. Use national or regional symbols of the nation or the image of the Founding Fathers of the Bolivarian Republic of Venezuela, or the colors of the national flag or regional.
11. Use the image, name or names of any citizen, as well as colors and symbols that identify an organization with political purposes, groups of citizens or citizens without their consent.
12. Violate the rules laid down in legislation on animal protection.
13. The publicly funded other than as provided in these rules.
14. Is funded from abroad.
15. Is privately funded not declared to the National Electoral Council and the National Integrated Customs and Tax Administration (SENIAT).
16. Actions against the mental health of citizens.
17. Promote stereotypes of gender discrimination or otherwise

Article 76. Is prohibited outdoor advertising, drawings, advertisements or other means of election propaganda:

- 1. The buildings where power organs and public bodies.**
- 2. The churches, clinics, hospitals and homes.**
- 3. The public monuments and trees.**
- 4. The public places where they prevent or impede the free movement of people and vehicles.**
- 5. The public places for children's activities.**
- 6. The preschools, primary and secondary.**
- 7. The public goods and the goods to services.**
- 8. Parties homes or private buildings without the express consent of its owner or owners or occupiers, who may remove the advertising or electioneering to be placed without his consent.**

Prohibition of destruction of propaganda

Article 77. Is hereby prohibited during the campaign period, removal or destruction of all or part of any electoral propaganda, except as set for this purpose the National Electoral Council in accordance with the provisions of this Act, without prejudice to any action to reserve the National Electoral Council to comply.

Chapter V: Political Advertising

Article 30. The political associations have the right to advertise by any means of dissemination of ideas, oral or written, with the limitations established by the evidence and the law.

Article 31. The political propaganda through loudspeakers mounted on vehicles or carried by any other means, may be made prior participation in the civil authority for the purposes of inviting the public to public meetings or demonstrations.

Excepted from the provisions of the Electoral Act during the elections.

Article 32. The fixing of posters, drawings and other propaganda materials may be in buildings or houses, with the consent of the occupants. Not be allowed in public buildings or monuments, not temples.

Prohibiting the use of patriotic symbols and portraits or pictures of the heroes of our independence in party propaganda.

Article 33. The violators of the provisions contained in the two preceding articles shall be punished by arrest for a fortnight without prejudice to any action that such acts could lead.

Article 34. Do not allow anonymous political publications or those which violate human dignity or offend public morals or which are intended to promote the disobedience of the laws, without which this can restrict the analysis or criticism legal precepts.

Any publication of a political nature must take the corresponding imprint.

Police authorities must contain all propaganda and publications made in contravention of this section, subject to the liabilities they may incur actors.

Article 35. The publications, radio stations, television and other off

Chapter II: From the Constitution of the Parties

Article 8. Citizen groups desiring to form a political party shall engage the civil authority of the district or department with details of local offices to be established, whose fronts and visible to the public, posted notice or nameplates provisional name of acting.

Premises will be closed associations or political groups to operate without complying with the requirements prescribed in the first part of this article. Citizens' associations which run candidates in the electoral process, in accordance with the provisions of the Electoral Act, may be local or office and organize as political parties, during the electoral process, after fulfilling the requirements of this article.

Article 9. The political parties may be national or regional

Article 10. The regional parties will be formed by registration in the registry that purpose by the Supreme Electoral Council.

1. Registration applications must be accompanied by the following documents: List of party members no fewer than 0.5% of the population registered on the electoral register of the respective entity.

The list will specify their names, age, address and identity card

2. 2. Manifestation of the will of party members belonging to it.

3. 3. Three copies of its statement of principles of its Charter, its political action program and its statutes.

One of these copies are filed in the Supreme Electoral Council file another will be sent to Ministry of Interior and the third will be submitted to the Government concerned.

4. 4. Description and drawing of the symbols and emblems of the party

5. 5. Indication of the supreme bodies of the party leaders, who charge it up and play within them

1: The members of the party to appear on the payroll referred to the ordinal 1 of this Article shall be domiciled in the respective Entity

Paragraph 2: The leaders of the party authorized by signing the above actions, in accordance with its Statute.

Paragraph 3: The application form may be transmitted by the interested parties directly to the Supreme Electoral Council or through the Government of the respective entity.

ARTICLE 14 .- The media will give a public and private and balanced coverage of the information related and without distorting the reality of the campaign. To this end, observe a strict balance in time and space dedicated to information relating to activities undertaken by the candidate or candidates.

TITLE V

ADMINISTRATIVE PROCEDURE FOR INQUIRIES

PROPAGANDA ELECTORAL ADVERTISING

ARTICLE 20 .-

The National Electoral Council may order the start of administrative investigation procedure, a complaint.

The administrative investigation procedure automatically be incurred by decision National Electoral Council.

Article 21 .- The complaints were filed in writing, before the Committee Political Participation and Financing or to the Regional Electoral Offices
The complaints they receive the Regional Electoral Offices
be incorporated into the Automated Control System in the opportunity
receipt and subsequently sent to the Commission's original Participation

Policy and Financing the business day following receipt

Article 22 .- The written complaint must contain:

1. The identification of the complainant or, where appropriate, the person acting as its representative and the document evidencing the alleged representation;
2. The narrative summary of the facts or acts constituting the alleged violation;
3. The identification, if possible, the person allegedly responsible;
4. The identification of social media that broadcast and other modes billboards, posters, pamphlets, posters, stickers, etc.;
5. Location verified facts or acts complained of;
6. Copies of the supports or attachments such as videos, photographs, tapes and others;
7. Signature of the complainant or the person acting as legal representative or and address where notifications will be practiced.

Not be dealt with complaints that do not meet the requirements set out above

Organic Law of the Electoral Power Chapter VI, Ord. 64, Art. 66:

ARTICLE 66: The Commission on Political Participation and Financing has the following functions:

1. To organize the registration and registration of political organizations, groups and voter, associations of citizens and citizens, and monitor for them to perform their constitutional and legal provisions governing their status of democratization, organization and management.
2. Create mechanisms to facilitate the participation of citizens in the electoral process and other popular referendums.
3. Monitor compliance with constitutional and legal provisions in relation to the funds and the financing of electoral campaigns of political organizations, constituent groups, associations of citizens or citizens, and the candidate or candidates on their own initiative.
4. Investigate the origin and destination of economic resources used in election campaigns of political organizations, group of voters, citizens or citizens' associations and the candidates or candidates nominated or nominated by their own initiative, in accordance with the provisions of law.
5. Request the National Electoral Council beginning of investigations of alleged administrative irregularities committed in the elections, referendum and other consultations, where they are elements that might be considered crimes or misdemeanors.
6. Order the withdrawal of all advertisements for direct or indirect election, deemed a violation of the law.
7. Arrange with the National Electoral Council the credentials of the observer or national or international observers in electoral processes, referendums and other popular national, in accordance with the provisions of the law.
8. Process before the National Electoral Council, or the credentials of the witnesses of the organizations whose record will compete in the elections, referendums and other popular consultations in accordance with the provisions in the Act
9. Supervise permanent training centers, education and election information.
10. The other functions stipulated by law and regulation

Electoral Fairness Audit Results for Equality of Candidates and Parties:

Score:

The FDA electoral fairness audit team reached consensus on a score of 9/10.

Rational for Score:

National debates are open to all registered parties and their leaders, as part of the impartiality of media, and fair, complete and balanced electoral coverage.

Sound restrictions on the disbursement of election propaganda to the public, which protects the privacy and interests of the public, without inhibiting their ability to be informed electorally. Political content in media must be non-partisan—complete and balanced.

Party registration based on popular support and not money--.5% of corresponding voting population. Venezuela has two dominant national parties and 5 or more small national parties. (In the FDA's opinion,.5% percent as a barrier to entry to receive party registration is democratic, in the sense it focuses on popular support rather than money. Also, the barrier of entry is necessary because of the electoral privileges from being registered including fair media access and exposure.)

The media cannot refuse election propaganda from a registered party.

Venezuelan laws and regulations create an equal playing field for political candidates and parties: every party has same access to the media, the media itself has to be non-partisan, foundations and corporations cannot donate to parties, and opinion polls must be stopped 7 days prior to the Election Day. In addition, the National Electoral Council has the power to intervene to ensure a complete and balanced electoral coverage: "The National Electoral Council may finance in part or in full, the diffusion of electoral propaganda in the media of radio, television or printed, in accordance with regulations established for that purpose." However, the regulations guiding the National Electoral Council's intervention for fair diffusion of electoral propaganda are not present in any of the documents the FDA looked at. Nor are the regulations present in the list of legal and regulatory documents on the National Electoral Council's website.

The score of 90 percent would have been higher, if there were specifics on the regulations of the National Electoral Council's intervention to ensure fair diffusion of electoral propaganda.

Chapter Three: Electoral Finance

Chapter three will focus on the research and audit results of Venezuelan laws and regulations with respect to the equality of Venezuelan laws and regulations with respect to electoral finance.

Executive Summary:

Venezuela received a very satisfactory score of 80 percent for electoral finance. There are few limits on electoral spending, although the National Electoral Council can intervene to ensure a fair diffusion of electoral propaganda. Also, legal entities are disallowed from donating directly to the political party, and public political subsidies are disallowed as well. The score would have been higher if there were more specifics on the intervention of the National Electoral Council.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

Matters relating to the financing of and private contributions to associations for political purposes shall be regulated by law, as shall the oversight mechanisms to guarantee propriety as to the sources and handling of such funds.

Law shall regulate as well, political and election campaigns, the duration thereof and spending limits with a view pursuing its democratization.

Article 75. Do not permit electoral propaganda:

13. The publicly funded other than as provided in these rules.

14. Is funded from abroad.

15. Is privately funded not declared to the National Electoral Council and the National Integrated Customs and Tax Administration (SENIAT).

Only individuals may donate to political parties.

Chapter III

Social Electoral Propaganda in Social Media

Financing

The National Electoral Council may finance part or in full, the diffusion of electoral propaganda in the media of radio, television or printed, in accordance with regulations established for that purpose. [The National Electoral Council is legally obligated to ensure a complete and balanced coverage in diffusion of electoral propaganda.]

Coverage

Article 81. The mass media and private information will be given a complete and balanced coverage of related information and without distorting the reality of the campaign. To this end, observe a strict balance in time and space dedicated to information relating to activities carried out by the candidate or candidates.

Venezuela National Constitution:

Chapter V: Electoral Power

Article 292: Electoral Power is exercised by the National Electoral Council as governing body, and by the latter's subordinate organs, the National Board of Elections, the Civil Status and Voter Registration Commission and the Commission on Political Participation and Financing, with organization and functioning as established under the pertinent organic law.

(9) To control, regulate and investigate the funds raised to finance organizations for political purposes.

Organic Law of the Electoral Power Chapter VI, Ord. 64, Art. 66:

ARTICLE 66: The Commission on Political Participation and Financing has the following functions:

1. 1. To organize the registration and registration of political organizations, groups and voter, associations of citizens and citizens, and monitor for them to perform their constitutional and legal provisions governing their status of democratization, organization and management.
2. Create mechanisms to facilitate the participation of citizens in the electoral process and other popular referendums.
3. Monitor compliance with constitutional and legal provisions in relation to the funds and the financing of electoral campaigns of political organizations, constituent groups, associations of citizens or citizens, and the candidate or candidates on their own initiative.
4. Investigate the origin and destination of economic resources used in election campaigns of political organizations, group of voters, citizens or citizens' associations and the candidates or candidates nominated or nominated by their own initiative, in accordance with the provisions of law.
5. Request the National Electoral Council beginning of investigations of alleged administrative irregularities committed in the elections, referendum and other consultations, where they are elements that might be considered crimes or misdemeanors.
6. Order the withdrawal of all advertisements for direct or indirect election, deemed a violation of the law.
7. Arrange with the National Electoral Council the credentials of the observer or national or international observers in electoral processes, referendums and other popular national, in accordance with the provisions of the law.
8. Process before the National Electoral Council, or the credentials of the witnesses of the organizations whose record will compete in the elections, referendums and other

- popular consultations in accordance with the provisions in the Act
9. Supervise permanent training centers, education and election information.
 10. The other functions stipulated by law and regulation.

Electoral Fairness Audit Results for Venezuelan Election Finance:

Score:

The FDA electoral fairness audit team reached consensus on a score of 8/10.

Rational for Score:

With no electoral spending limit on citizens, including campaign donations and third-party advertising, the wealthy citizens have an advantage in influencing the outcome of elections. However, the National Election Council has the power to ensure a complete and balanced coverage of election propaganda.

Corporations and unions are disallowed from making donations to political parties, which helps lessen the impact of no spending limit on citizens.

No public financing of candidates or parties, which helps prevent electoral unfairness like in Egypt (under Mubarak) and Cameroon, where the governments through the use of public funds favor parties aligned with the state.

In addition to voting, citizens have an opportunity to express themselves further through electoral spending. Freedom of expression versus electoral unfairness. The freedom of expression of Venezuelan citizens coupled with restrictions on corporations and unions overcomes any resulting electoral unfairness, but only to a level of more electoral fairness than electoral unfairness. Further, the intervention of National Electoral Council offsets electoral unfairness from unequal electoral spending, and a resulting imbalance and incomplete coverage of election propaganda.

With more specifics to the Venezuelan electoral finance laws on the National Electoral Council's "diffusion of electoral propaganda", the score of 80 percent would have been higher.

Chapter Four: Voter Say

Chapter four will focus on the research and audit results of Venezuelan laws and regulations with respect to the equality of voter say laws and regulations before, during and after an election.

Executive Summary:

Venezuela received a very satisfactory score of 80 percent for equality of voter say. Venezuela has specific and detailed laws protecting its citizens from the political elements of society. There are no unreasonable restrictions on the freedom of expression of voters, including no limits on citizen donations to parties. Also, corporations and unions are disallowed from donating directly to parties, which helps prevent unbalanced electoral influence. The score would have been higher if there were more specifics on the intervention of the National Election Council to ensure a fair diffusion of election propaganda.

Research Excerpts:

The following excerpts were identified by the FDA researchers as relevant. The FDA researchers made some excerpts bold to emphasize high relevance:

Article 57: Everyone has the right to express freely his or her thoughts, ideas or opinions orally, in writing or by any other form of expression, and to use for such purpose any means of communication and diffusion, and no censorship shall be established. Anyone making use of this right assumes full responsibility for everything expressed. Anonymity, war propaganda, discriminatory messages or those promoting religious intolerance are not permitted.

Article 65: Persons who have been convicted* of crimes committed while holding office or other offenses against public property, shall be ineligible to run for any office filled by popular vote, for such period as may be prescribed by law after serving their sentences, depending on the seriousness of the offense.

Article 125: Native peoples have the right to participate in politics. The State shall guarantee native representation in the National Assembly and the deliberating organs of federal and local entities with a native population, in accordance with law.

Article 72. The interpretation and application of these standards will be subject to the principles and rights:

1. Participants in the electoral process.
2. Liberty of thought and expression.
3. Communication and information free, diverse, pluralistic, accurate and timely.
4. Prohibition of censorship without prejudice to any further generated.
5. Democratization, participation and full exercise of popular sovereignty.
6. Respect for the honor, privacy, intimacy, self-image, confidence and reputation of individuals.

7. Social responsibility and solidarity.
8. Respect of different ideas and the promotion of tolerance, transparency, peaceful coexistence, political pluralism, democracy and the observance of human rights.
9. Respect of the Venezuelan state institutions.
10. Equal access to social media.

Venezuelan Constitution:

Article 2: Venezuela constitutes itself as a Democratic and Social State of Law and Justice, which holds as superior values of its legal order and actions those of life, liberty, justice, equality, solidarity, democracy, social responsibility and, in general, the preeminence of human rights, ethics and political pluralism.

Article 3: The essential purposes of the State are the protection and development of the individual and respect for the dignity of the individual, the democratic exercise of the will of the people, the building of a just and peace-loving society, the furtherance of the prosperity and welfare of the people and the guaranteeing of the Fulfillment of the principles, rights and duties established in this Constitution. Education and work are the fundamental processes for guaranteeing these purposes.

Article 57: Everyone has the right to express freely his or her thoughts, ideas or opinions orally, in writing or by any other form of expression, and to use for such purpose any means of communication and diffusion, and no censorship shall be established. Anyone making use of this right assumes full responsibility for everything expressed. Anonymity, war propaganda, discriminatory messages or those promoting religious intolerance are not permitted.

***** Article 67:** All citizens have the right of association for political purposes, through democratic methods of organization, operation and direction. Their governing organs and candidates for offices filled by popular vote, shall be selected by internal elections with participation of their members. No financing of associations for political purposes with State funds shall be permitted.

Matters relating to the financing of and private contributions to associations for political purposes shall be regulated by law, as shall the oversight mechanisms to guarantee propriety as to the sources and handling of such funds. Law shall regulate as well, political and election campaigns, the duration thereof and spending limits with a view pursuing its democratization. Citizens*, on their own initiative, and associations for political purposes, shall be entitled to participate in the electoral process, putting forward candidates*. The financing of political advertising and election campaigns shall be regulated by law. The authorities of associations for political purposes shall not enter into contracts with organs in the public sector.

Article 65: Persons who have been convicted* of crimes committed while holding office or other offenses against public property, shall be ineligible to run for any office filled by popular vote, for such period as may be prescribed by law after serving their sentences, depending on the seriousness of the offense.

***** Article 70:** Participation and involvement of people in the exercise of their sovereignty in political affairs can be manifested by: voting to fill public offices, referendum, consultation of public opinion, mandate revocation, legislative, constitutional and constituent initiative, open forums and meetings of citizens whose decisions shall be binding among others; and in social and economic affairs: citizen service organs, self-management, co-management, cooperatives in all forms, including those of a financial nature, savings funds, community enterprises, and other forms of association guided by the values of mutual cooperation and solidarity.

The law shall establish conditions for the effective, functioning of the means of participation provided for under the present article.

Electoral Fairness Audit Results for Equality of Voter Say:

Score:

The FDA electoral fairness audit team reached consensus on a score of 8/10.

Rational for Score:

Venezuelan natives are guaranteed National Assembly seats and thereby representation in the Assembly.

Voters have freedom of political expression within reasonable limits of the law.

Venezuelan's electoral finance laws favor the wealthy, thereby create electoral unfairness. This inequality reduced the score from 10 to 8. However, the National Electoral Council has the power to intervene to ensure a fair coverage of electoral propaganda. Nevertheless, some voters through financial and media access will have an opportunity to have more say than other voters. It is questionable that the National Electoral Council could fully offset this inequality, which can take many forms and when the National Electoral Council does not know the views of all voters with less means for say.

Venezuelan legislation protects society and citizens from unreasonable, disrespectful, aggressive election campaigning.

Venezuelan citizens are protected from election propaganda outside of election periods. This legislation protects citizens from badgering, harassment etc. and allows them to form their own opinions and give them reprieve from the political elements of society.

Chapter Five: Audit Results

Chapter five will set out the FDA's scores for each of the areas of the Venezuelan electoral system as set out above.

1. Research and audit results for Venezuelan laws and regulations on the political content of media including newspapers, broadcasters, online media, before, during, and after elections.

9/10

2. Research and audit results for Venezuelan Laws and regulations on the equality of candidates and parties influence before, during and after elections.

9/10

3. Research and audit results for Venezuelan laws and regulations on electoral finance.

8/10

4. Research and audit results for laws and regulations on the equality of voter say before, during, and after an election.

8/10

Total score: 34/40

85 percent

Chapter Six: Analysis

Chapter six will provide a brief analysis of the FDA's findings.

Venezuela's 85 percent overall score for electoral fairness means that the Venezuelan federal electoral system, in terms of laws and regulations, is exceptionally more fair than unfair. From the FDA electoral fairness grade scale, an A+ grade refers to outstanding electoral laws and regulations for the country (overall flawless and original laws and regulations on the equality of political news coverage on mainstream media (including broadcasters and newspapers), equality of campaign finances, equality of candidate and party influence, and equality voter influence. (An A+ grade equates to greater than 84.99% and less than 100.1%))

Venezuela scored 90 percent in two of the FDA's four categories for electoral fairness, and 80 percent in the other categories.

To put Venezuela's electoral fairness score in context, the United States received a failing overall score of 30 percent and Egypt (under Mubarak) received a failing overall score of 0 percent.

The 15 percent short of 100 percent for electoral fairness means that there are areas in Venezuela's laws and regulations which can be improved.

In the equality of political content in the media section, Venezuela's score would have been 95 percent to 100 percent if there were more specifics on how the National Electoral Council monitors the political content of media and broadcasters in order to enforce the standard of impartiality.

In the equality of candidate and party influence section, Venezuela's score would have been 95 percent to 100 percent if there were specifics on the regulations of the National Electoral Council's intervention, financially, to ensure a fair diffusion of electoral propaganda.

In the electoral finance section, Venezuela's score would have been 90 percent to 100 percent if there were specifics on the regulations of the National Electoral Council's intervention, financially, to ensure a fair diffusion of electoral propaganda.

In the equality of voter say section, Venezuela's score would have been 90 percent to 100 percent, if there were more specifics as to how the National Electoral Council can overcome the inequality of voter say through unlimited electoral spending (which favors wealthy voters) and unequal media access.

Venezuela's legal and constitutional emphasis on fair political content and the rights of citizens extends, consistently, through its electoral laws.

Chapter Seven: Conclusion

Chapter seven will provide a summary of the FDA's findings.

Based on Venezuela's overall score of 85 percent for electoral fairness, 90 percent score for two of the audit sections, and 80 percent for the other sections, Venezuela's electoral laws and regulations are exceptionally fair, and thereby highly democratic.

The source of Venezuela's electoral fairness starts with the Venezuelan Constitution which emphasizes the rights of citizens, and a cooperative, pluralistic, and respectful society.

Moreover, in Venezuela, unlike in the United States and Canada for examples, there is a clear separation between the Venezuelan government and private media and broadcasters. This separation, in the opinion of the FDA, creates the impetus to ensure fair, equitable political content in the media and on broadcasters during elections. Whereas, the lack of separation between government and media in the USA and Canada creates an undemocratic relationship between government and public and private media and broadcasters, and a corresponding choke on democracy through the domination of government (i.e. dominant parties) and the major media and broadcasters. The American and Canadian electoral systems put no restrictions on the political content of the private media and broadcasters, and in their Constitutions and electoral laws, there is no mention of electoral fairness and political equality.

As long as Venezuela's election laws are enforced, the potential issue from the union of government and public and private media and broadcasters can be avoided.

To maintain Venezuela's exceptional standard of democracy in its electoral laws, it is imperative that there continues to be a separation between government and private media and broadcasters.

Chapter Eight: Recommendations

Chapter eight will set out the FDA's recommendations on how Venezuela can improve its electoral fairness score and thereby its electoral fairness.

- 1) Venezuela's electoral laws need to be more specific regarding the role the National Electoral Council in monitoring the impartiality of the media and broadcasters. Also, Venezuelan electoral laws need to be more specific regarding the role of the National Electoral Council in ensuring a fair diffusion of electoral propaganda through financial intervention.
- 2) Venezuela needs to identify a way to ensure the separation of government and private media and broadcasters. One way is to enshrine the concepts of political equality, electoral fairness, and fairness of political content in the Venezuelan Constitution. The current statement from Article 67 of the Constitution, "the financing of political advertising and election campaigns shall be regulated by law" needs to be more direct and specific.
- 3) The Venezuelan government through laws and their enforcement must ensure that state TV and Radio conforms to the same impartial standards of private media and broadcasters. To allow a partisan state TV and Radio will create significant electoral unfairness, just as a partisan private media and broadcasters would do as well.

The FDA believes that electoral fairness is at the heart of pure democracy. The more fair electorally a country is, the more democratic the country will be.

Therefore, the FDA believes that by improving electoral fairness, pure democracy in Venezuela will be advanced which in turn will improve the status of Venezuelans as a whole.