

Testimony Prepared for the Hearing on “Venezuela: Looking Ahead”
House Committee on Foreign Affairs, Subcommittee on the Western Hemisphere
July 17, 2008

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Chairman Engels and Committee Members, thank you for the opportunity to address the committee on the current state of Venezuelan politics and relations with the United States. My written testimony will do three things:

- Analyze the background, goals and challenges of the Chávez administration’s “Bolivarian Revolution, focusing on democracy and governability.
- Address two issues of current concern as requested by the committee: the disqualification of candidates for the upcoming subnational elections and the implications of the information in the FARC laptops.
- Suggest some changes for U.S. policy towards Venezuela and Latin America.

I. Background, Goals and Challenges of the Chávez administration’s “Bolivarian Revolution”

Venezuela democracy and governance must be understood in the context of the demand for radical change expressed by the voters in the 1998 election of Hugo Chávez. A near tripling of poverty rates from the 1970s to the 1990s had produced a serious social dislocation, and a profound rejection of the traditional political elites that led to the collapse of what had been one of the strongest political party systems in the region. Venezuela today remains in a transitory state, as one political system was dismantled and another is still being created. The constitutional “refounding” promised by Hugo Chávez in his campaign initiated a process of sweeping elite displacement, major redistribution of economic and political resources, and experimentation with new forms of participatory democracy. Venezuela is the first of several Latin American countries seeking a fundamental change in the balance of social relations in the 21st century. This process has been very conflictive. Venezuela has not yet achieved a new social contract including all sectors of the society, and the society remains polarized.

The process referred to by its proponents as the Bolivarian Revolution actually retains many of the basic traits of the previous democratic period known as the “Punto Fijo” political system (1958-98): dependence on oil revenues; highly centralized decision-making structures, with a new set of privileged actors displacing the traditional elites; reliance on the distribution of oil rents; and failure to restore the regulative and administrative capacities of the state (though there is increased tax collection capability). The changes lie in the centralization of decision-making in one person (Chávez) rather than two hierarchical political parties; a new emphasis on class divisions rather than

cross-class alliances; an emphasis on confrontation and elimination of opponents to achieve change rather than consensus-seeking to achieve stability; and the dismantling of traditional representative institutions and weakening of checks and balances in favor of new forms of participatory democracy and accountability.

In broad terms, the “Bolivarian Revolution” is an attempt to reformulate the political economy to be more inclusive of those who perceived themselves to be excluded in the latter half of the Punto Fijo period (which included urban poor, middle class civil society organizations, intellectuals, and junior ranks of the military). It is full of contradictions: nationalistic and integrationist, top-down and bottom-up change, centralized and participatory. It seeks to move beyond representative, liberal democracy to achieve a new form of participatory, protagonistic democracy which in its utopian form allows for empowered citizens to hold the state accountable without intermediary institutions. It follows a Bolivarian inspiration comprised of both a Latin American integrationist dream and a centralization of domestic power. Foreign policy is fundamental to the project, with its goal of counter-balancing U.S. global and regional hegemony with a more multipolar world. Like its domestic version, Venezuela’s foreign policy is confrontational and conflictive.

Chávez’ reelection with 63% of the vote in 2006 apparently encouraged him to propose even more radical change in a second constitutional project in 2007, which was ultimately rejected by the voters. Institutionally, the 2007 (failed) constitutional reforms would have deepened the executive control of the political system, concentrating power to an extraordinary degree. Since then he has reached out to dissidents within his own movement; reshuffled his cabinet to attempt to address severe problems in government services, crime, and inflation; and restored relations with neighboring Colombia while calling on the FARC to end kidnapping and unilaterally release hostages. The retreat from “deepening the revolution” is most likely aimed at the November 2008 mayoral and gubernatorial elections, in which the government faces stiff competition if the opposition unifies. It does not mean that the government or the president has abandoned the goals of “21st Century Socialism”.

State of Democracy

In formal terms, Venezuela is a constitutional democracy whose citizens have the right to change their government peacefully through regular elections based on universal suffrage. Democratic legitimacy in Venezuela is based on electoral legitimacy and popular participatory mechanisms. The concerns lie in an erosion of separation of powers and mechanisms of horizontal accountability (checks and balances), and the dominance of the governing party in representative institutions.

A dozen elections and referenda have been conducted in the ten years of the Chávez administration. President Chavez has consistently won between 56% and 63% of the popular vote in every election in which he has participated since 1998.

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The perceptions of social inclusion, political representation and personal empowerment and hope provided by Hugo Chávez to the majority of impoverished citizens are a powerful factor, often ignored in external evaluations of Venezuelan democracy. The Chávez administration has accepted elections as a mechanism for citizen participation and choice, and they will continue to provide the best opportunity to achieve pluralistic representation at local, regional and national levels.

Electoral Processes.

After a period of politicized electoral processes, erosion of public confidence, and abstention by the opposition, Venezuela's electoral processes are regaining widespread confidence and include one of the most advanced electronic systems in the world. Continued focus on improving equitable campaign conditions (finance, control of use of state resources) can provide more options to voters while enhancing the legitimacy of the victorious candidates.

The November 2008 elections for governor and mayor present an opportunity for additional political leaderships to develop, both within chavismo and outside of it, thus providing a route for a healthy dynamism and generational renewal within Venezuela's political class.

Participatory mechanisms.

Direct democracy mechanisms and experimental community-based political organization provide important opportunities for citizen participation, but have mixed reviews to date.

Venezuelans have voted in at least four significant referenda on constitutional reforms and presidential recall. Further, one of the hallmarks of the Bolivarian Revolution has been the experimentation with various forms of citizen organization and community-based political organization, from the early Bolivarian Circles to the Election Battle Units to local Water Committees and the more recent Community Councils (now an estimated 30,000). The effectiveness of these experiments in terms of bringing citizen empowerment, technical expertise, autonomy and sustainability, and their ability to hold the government accountable has been mixed to date.

Political Party System.

The recomposition of the political party system is another challenge for Venezuela, after the collapse of the Punto Fijo party system in the 1990s. The ability of the small, new opposition parties to challenge the current hegemonic position of the governing party remains to be seen.

Chávez' own party started as a clandestine movement within the military, then morphed into a political-electoral movement, then a political party within a coalition, and finally (in 2007-08) an attempted single official party (PSUV).

The opposition parties are now led by Primero Justicia (a relatively new young, technocratic party), Un Nuevo Tiempo (based in Zulia and led by Zulia's governor and

2006 presidential candidate Manuel Rosales), and MAS (one of the few remaining parties from the Punto Fijo years), while Podemos has left the governing coalition and occupies a centrist position. The two dominant parties of Punto Fijo – Acción Democrática and Copei – have virtually disappeared.

Party identification of voters with the opposition parties totals only 10%, and the government's party obtains about 20% identification, with the bulk of the population claiming to be independents (Datanalisis, February 2008). The possibilities of re-creating a pluralist political system in Venezuela rest today on creating equitable campaign conditions and on the opposition's ability to do two things: i) convince its supporters to vote after years of alleging fraud and sowing distrust in the electoral system; and ii) craft a convincing message that the opposition provides a credible alternative that will work to achieve social inclusion and redistribution as the Bolivarian Revolution has promised.

State of Rule of Law

Traditional mechanisms of horizontal accountability under liberal democracy – separation of powers and independent organs of control – are largely absent in Venezuela today.

Due to electoral weakness of the opposition and the decision to boycott the 2005 National Assembly elections, the government coalition controls 100% of the legislative seats and the vast majority of the elected gubernatorial and mayoral posts. The National Assembly, in turn, appoints the other independent powers of the Supreme Court, the National Electoral Council, and the “Citizen’s Power” made up of the Ombudsman, Attorney General and Comptroller General. All of these institutions are widely perceived today to be partisan in favor of the government. The ability of the democratic institutions to protect individual civil and human rights and provide equality before the law has thus been questioned.

Civil Rights

The government generally respects most civil liberties, with some concerns of infringements on assembly, dissent and speech.

One current concern is the attempt by the government to introduce legislation requiring NGO registration and regulating foreign funding of NGOs. A similar provision was included in the defeated constitutional reforms of 2007. The draft law is currently in the National Assembly.

Additionally, there is strong debate over the degree of freedom of speech and of the media. Venezuelan media have long been politicized, but with the polarization and conflict beginning in 2002, both private and public media, especially television, took on overt political roles. Two virtual realities of the country were presented in the media, and the opposition and the president engaged in public discourse and mutual accusations through the airwaves. After the 2004 recall referendum, several changes occurred: the government opened several new television stations and sponsored hundreds of

community radio programs, changing the balance from overwhelmingly oppositionist media to a majority of official broadcast media; the National Assembly passed the Social Media Responsibility law to regulate violence and pornography during primetime television; and some media decided to make peace with the government and take on a less political role.

Vigorous criticism of the government and the president in the private media continues, and there is no formal censorship. Nonetheless, legal, economic and regulatory mechanisms create a climate of self-censorship. The state-owned media is characterized by strong pro-government politicization, while private media continue to be anti-government. Private media complain that they are denied equal and full access to government facilities and official events. Perhaps even more concerning, reforms to the criminal code in March 2005 increased the penalties for libel and defamation of public officials from a maximum of 30 months to 4 years in prison, directly counter to the direction of most of the rest of the region and the rulings of the Inter-American Court of Human Rights. Human Rights Watch reported that in 2007 at least eight reporters were charged with libel, defamation or related offenses (Human Rights Watch 2008). Nevertheless, international watchdog groups report that from 2002-2006, only 2 journalists were reported killed while working, and none were imprisoned or missing, a considerably better record than either of Venezuela's neighbors (Committee to Protect Journalist, Reporters Without Borders).

The government also places restrictions on the media through its administration of broadcasting licenses, which is not always transparent and may be motivated by political concerns. On May 28, 2007 the government declined to renew the broadcasting license of the country's oldest commercial network and most vocal critic, Radio Caracas Television (RCTV), for allegedly supporting the 2002 coup and violating broadcast norms. In addition, under the Law of Social Responsibility in Radio and Television, media outlets that fail to comply with regulations can receive large fines and risk suspension of their broadcasts.

State of Governance

Weak state capacity, long deteriorating public services, political instability, and a continual climate of electoralism plague the government's ability to respond to the needs of the populace through effective governance.

Venezuela's public services have been deteriorating since the 1970s, causing much of the dissatisfaction with the prior Punto Fijo regime and increasingly with the current regime. Both regimes have relied on external petroleum rents to finance a distributive policy and failed to develop effective regulatory policies. Venezuela's oil booms have historically fueled a paternalistic state and petrodplomacy in foreign policy, and the external criticism of Chávez' programs as unsustainable populist give-aways have been directed to past governments as well.

The government gained political control over the petroleum industry in 2003 after the 2-month oil strike, and has since used the rise in oil prices to fund many newly-

created social programs or *misiones*. The government has not only maintained the proportion of central government spending spent on pro-poor programs, but has added direct social spending by the petroleum industry. Thus, the percentage of pro-poor spending as a proportion of GDP appears to have increased under Chávez.

In addition to personal insecurity and unemployment, a new problem has emerged in 2007 and 2008 as a pressing problem in public opinion polls: food shortages. A combination of foreign exchange controls, price controls, rising consumer demand and lack of producer confidence have created serious food shortages in milk, oil, sugar, eggs and meat. With worldwide demand and food prices rising, Venezuela's traditional reliance on imported food is becoming a real vulnerability for the government. The rise in social spending has contributed to inflationary pressures making Venezuela the country with the second highest inflation in the world (expected to reach 25-30% in 2008).

Despite all these issues, satisfaction with democracy in Venezuela, perhaps surprisingly, has risen over the last five years and is now the second highest in Latin America with 59%, while the average for the region is 37% (Latinobarometer, The Economist 2007). Moreover, Venezuelan citizens' approval of their government is 66%, while the average for Latin America is 39%, and their confidence in the president is 60%, while the regional average is 43% (Venezuela Information Center 2007). These numbers reveal that Venezuelans, compared to the rest of the region, have a generally positive perception of their democratic system.

II. Two Issues of Current Interest

Venezuela's Relationship with the FARC

The laptop computers captured by the government of Colombia in the March 1 raid into Ecuador have spawned a number of news stories about the alleged relationship between Venezuela, Ecuador and the FARC. Interpol was asked to investigate the laptops in order to ascertain whether they had been tampered with after the capture, but it did not investigate the content of the materials. The Government of Ecuador asked the OAS to investigate the content of the materials with reference to Ecuador. Interpol released their report in May, but the OAS has not yet released a report.

The Interpol report concluded three things about the captured laptops, CDs and memory sticks: that the materials were not handled according to international standards during the first two days of Colombian government possession; that they were handled properly during subsequent days, when copies were made and accessed rather than the original files directly accessed; and that no evidence of manipulation of the files after they were captured was found. The report also said that Interpol would make no evaluation of the veracity of the content of the files, the origin of the files, or interpretations of the files that various governments might make.

The report asserts that the Colombian government did not introduce the files, but it does not prove that Raul Reyes actually wrote the files, nor whether the statements in the files are true. The latter will require corroboration from other sources – that is, a full investigation that may not be physically or politically feasible.

There are issues of evidence and perception. The evidence thus far rests in the files of guerrilla leaders intimating offers of material and financial support from the government of Venezuela. Corroborating evidence would require viewing the responses of the Venezuelans, evidence of approval at the highest levels, and evidence of actual support. Some of the interpretations of the information leaked from the laptops has been found to be false (e.g. the alleged photo of an Ecuadoran minister turned out to be an Argentine), and others to be true. In addition, the timing of the emails suggests an increase in contacts during the fall of 2007 when President Chávez was authorized by President Uribe to negotiate a hostage exchange.

Nevertheless, expressions of solidarity with the FARC from Venezuelan officials and the early 2008 request by President Chávez for the international community to recognize the FARC as a belligerent force give the impression of at least ideological solidarity. The recent change in policy expressed by President Chávez in his request to the FARC to unilaterally release the hostages is most likely a result of two things: a) an attempt to distance himself from the perception of close ties with the FARC; and b) the need to reestablish a more cooperative relationship with the government of Colombia for pragmatic reasons of trade, as evidenced in the July 11 meeting between Uribe and Chávez. Bilateral trade between the two countries is extremely important and Venezuela is dependent on Colombian food imports during the current food shortages.

Given the stakes of the United States declaring a country to be a state-sponsor of terrorism (affecting the vital oil trade with Venezuela), it is extremely important to base such a decision on firm evidence rather than perception.

Disqualification of Candidates

A current controversy involves the disqualification (*inhabilitación*) of 386 individuals from holding appointed public office, or running for elected office. ***The controversy includes both legal questions and questions of political bias.***

The disqualification is an administrative sanction applied by the Controller General according to the Law of the Controller General, approved by the majority of the National Assembly, including many opposition representatives, in 2001 in order to curb corruption. Article 105 of that law gives the Controller General not only the right to apply a fine when an administrative irregularity (corruption) is documented, but also to remove the person from an appointed position and to prohibit the person from running for elected office. The Supreme Court previously ruled that this latter sanction would apply to an elected official only at the *end* of their current term, prohibiting them from running for reelection or another position for the specified time period. Some of the potential candidates for the municipal and state elections on November 23, 2008 are on the list.

There are currently at least 15 appeals in front of the Supreme Court of Justice requesting nullification of the finding of irregularity in specific cases, nullification of specific disqualifications, and nullification of the Article 105 of the law as unconstitutional. These appeals include both pro-government and opposition persons. It is hoped that the Supreme Court of Justice will rule on these issues before the August 5-12 period for candidates to register to compete in the November 23, 2008 elections. The National Electoral Council has thus far said that it will abide by the Controller General's list of disqualified candidates unless the Supreme Court rules otherwise.

The problem is that the law appears to contradict the constitution. The constitution specifies that the political right to run and be elected to office can be disqualified only by a judicial sentence, and that those sentenced for crimes while in public office or damaging public patrimony are not eligible to run (Articles 42 and 65) . The constitution also gives the Controller General the authority to investigate and apply administrative sanctions for irregularities against the public patrimony (Article 289).

The second issue has to do with the definition of “administrative sanction” and whether that should include only monetary fines, or can include the right to hold office. The appeals before the Supreme Court argue that an administrative sanction impeding the right to hold office in the absence of a criminal sentence by the courts violates both the constitution and the Inter-American Convention on Human Rights.

Clearly, Venezuela needs a resolution of the legal questions from the Supreme Court. In addition to the legal questions, however, is the perception of political bias. Although the list of persons having received administrative sanctions includes many *chavistas*, perhaps a majority, and several have been removed from their public positions, it is not as evident that there are aspiring *chavista* candidates for elected office being disqualified. The persons most in the news or traveling to international circles are well-known opposition candidates. There is a perception, then, that these are popular candidates with viability to be elected who are being disqualified in order to prevent true competition with government-sponsored candidates. This perception has the potential to damage the legitimacy of the November 23 elections and those elected in them, particularly if the legal issues are not resolved by the Supreme Court before the candidate registration period.

III. International Engagement with Venezuela – 2009 and Beyond

In general, international leverage over a resource-rich state is strictly limited.

Political conditionality of loans and aid is unavailable as a foreign policy or a democracy-promotion tool. Venezuela itself is becoming a donor to neighboring states, and even to the United States, with discounted oil payment terms to Caribbean and Central American countries, cheap heating oil in parts of the U.S., significant bond purchases in Argentina, and barter trade through its Bolivarian Alternative for Latin America (ALBA).

On the other hand, mutual commercial dependence between Venezuela and the U.S., as well as with its neighbors, both encourages moderation and prevents serious threats between Venezuela and its neighbors. For example, 11-14% of the oil imported into the U.S. comes from Venezuela; Venezuela sells about 55% of its oil exports to the U.S. Colombia is Venezuela's other major trading partner, the importance of which was demonstrated during the brief break in diplomatic relations after Colombia's incursion into Ecuador in March 2008. The disruption of Venezuelan-Colombia trade (and especially imported food) contributed to Venezuela's rapid restoration of ties with Colombia, despite deep political disagreements.

A change in U.S. attitude and policy toward Latin America can reduce the impact of Venezuela's anti-Americanism in the region, and may gain receptivity within Venezuela as well.

Chávez' anti-Americanism resonates at home and abroad because of general antipathy toward U.S. unilateralism and perceived bullying. The new nationalism led by Hugo Chávez and joined by other Latin American countries seeks to assert greater independence of U.S.-dominated multilateral organizations such as the IMF and World Bank, and greater control and equity in their own natural resources (reflected in the renegotiation of contracts and rise in royalty and tax payments for extractive industries). A more consultative and responsive American foreign policy that addresses the agenda of Latin America would ameliorate the negative attitudes towards the U.S., opening the door over time to greater receptivity of U.S. ideas and assistance in Venezuela and elsewhere.

Several lessons from U.S. policy toward Latin America and Venezuela over the last eight years are evident:

- U.S. neglect of the region since 2001 left a political vacuum which Venezuela has been able to enter, primarily by providing alternative ideas on organizing the polity, economy and foreign relations.
- The U.S and Venezuela have engaged in a Western Hemisphere "Cold War" in recent years, attempting to divide up countries among them. This is counterproductive. Latin governments do not want to be forced to choose between the U.S. and Venezuela, and U.S. attempts to strong-arm Latin governments into isolating Venezuela failed miserably, as shown in the drawn-out affair to elect a new Secretary General of the Organization of American States.
- The U.S. lost much of its moral authority in the realm of democracy promotion in Venezuela with its welcoming of the 2002 coup against Chávez, leading to a deepening suspicion of U.S. intent to carry out "regime change" in Venezuela and a radicalization of Venezuela policy toward the U.S. In Latin America more broadly, the U.S. unilateral policy on Iraq, in which "regime change" aims were promoted as democracy promotion, and the attempt to strong-arm Chile and Mexico in the UN Security Council to vote for the invasion was resented.

- The Bush Administration has learned to ignore rather than respond to much of Chávez' inflammatory rhetoric. This change in attitude will help to mitigate the U.S. role as a "foil" to Venezuela's anti-imperialist stance and should be continued.
- The U.S. refusal to extradite to Venezuelan citizen Luis Posadas Carriles on charges of terrorism (accused of masterminding the 1976 bombing of a Cuban plane) presents a U.S. double-standard on issues of terrorism.

Lessons for the future – what can and should the U.S. do?

A new U.S. administration offers the opportunity to begin anew with Venezuela in a more amicable and cooperative relationship. However, Washington should not expect major change given the fundamental foreign policy goals of the Chávez administration and the Bolivarian Revolution: to increase Venezuela's national autonomy, to increase the global South's autonomy vis-a-vis the North, and to lessen U.S. dominance in the region and the world. Venezuela will continue its attempts to diversify its oil export markets and to build coalitions to create a more multipolar world and a more integrated South.

A new U.S. foreign policy toward Venezuela should start with positive signals and focus on pragmatic concerns of interest to both countries – commercial relations, counter-narcotics, and security on the Venezuelan-Colombia border. The U.S. should make clear that it respects the sovereign right of the Venezuelan people to choose their leadership (as they have done consistently in voting for Hugo Chávez) and that the U.S. has no intent to engineer regime change in Venezuela. A more consistent policy across the executive branch would help to reinforce this message, as in the past the Pentagon has continued negative descriptions of the Chávez administration even while the State Department tried to moderate its rhetoric.

In analyzing Venezuelan democracy, U.S. policymakers should recognize the social roots of the political change happening in Venezuela and Latin America, and acknowledge the pressing demand for jobs and personal safety, for poverty reduction and closing the huge income gap. We need to understand the hunger for recognition and inclusion by populations marginalized from economic and political power. Procedural democracy is not a priority for many in this situation. Having greater control and participation in the forces that determine their daily lives is.

Finally, the U.S. should recognize and have confidence in the capacity of Venezuelan citizens to provide their own constraints on their government when it crosses their threshold of acceptable change, as evidenced in the 2007 constitutional referendum vote. Given the limited direct influence that the U.S. can have in Venezuela in terms of its political-economy choices, a focus on providing the space and mechanisms for the Venezuelan people to determine their own direction should be a guiding principle for U.S. policy, working through multilateral forums and broader regional networks.