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Venezuelan Referendum in Doubt

by LADB Staff

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When Venezuelan President Hugo Chavez passed the half-way point in his presidency on Aug. 19, the event was commemorated by both supporters and opponents. Chavez's supporters celebrated the third anniversary of his 2000 re-election as president under the 1999 Constitution, while opponents hoped it marked the beginning of the revocatory-referendum process that would remove the controversial president from office. The opposition is now betting everything on the referendum, after neither a short-lived coup in April 2002 nor a 63-day "work stoppage" in December 2002-January 2003 succeeded in ousting Chavez.

On Aug. 19 and the days that followed, both groups held marches in Caracas, demonstrating again the deep divisions that characterize the Venezuelan society. A huge pro-Chavez rally on Aug. 23 made it clear that removing Chavez would not be easy.

The president touted surviving both the coup and the strike as major successes of his "Bolivarian revolutionary" government. "We have cleaned the armed forces of coup-mongers, fascists, and traitors," he said, "and we have retaken for the people the principal industry of the country, which was in the hands of people with no loyalty to the country," said Chavez. He said other achievements included the "democratization of the economy and education" and the passage of "laws that bring social justice."

Capping off their celebration, the opposition Coordinadora Democratica (CD) brought to the headquarters of the Consejo Nacional Electoral (CNE) what they said were more than 3 million signatures of people supporting the referendum. But Chavez loyalists, and more than a few opponents, argue that the signatures are invalid because they were collected before the Aug. 19 half-way date set by the Constitution for a referendum.

On Aug. 20, during a visit to Buenos Aires, Chavez said it would be very difficult to hold a referendum this year. "Those signatures are not valid from any point of view because they were collected in February." Chavez also accused the opposition of electronically transferring many names from lists of bank and cellular-telephone clients, without the clients' authorization. "I cannot say that there will not be a referendum, but the possibility is very low," he said.

Marisol Plaza, Venezuela's prosecutor general, said on Aug. 20 that she does not consider the signatures valid because, "only as of today can the process begin. What the opposition is doing is staging a publicity show."

Constitutional expert Jorge Olavarria, also a member of the opposition, said, "The signatures collected in February are not valid. The heading [of the forms] is not a request but rather a usurpation of the faculties of the electoral council." The forms did not ask the CNE to organize

the vote, but said, "We have decided to convene a referendum." "If the government is bad, the opposition is worse," said Olavarria. "It failed [with the coup] in April 2002, nearly committed suicide with the two-month general strike, and if there is no referendum this year, it has only itself to blame."

Court finally names new CNE

The CNE must eventually decide on the validity of the signatures and on all other matters regarding the referendum. However, the Asamblea Nacional, responsible for naming members to the CNE, was deadlocked for months regarding naming new members. Finally, in early August, the Tribunal Supremo de Justicia (TSJ) gave the Asamblea a 10-day deadline, saying it would name the members if the legislature did not.

On Aug. 25, the TSJ named the new CNE, headed by the dean of the Universidad del Zulia law school Francisco Carrasquero Lopez. The other members are Ezequiel Zamora, Oscar Battaglini, Jorge Rodriguez, and Sobella Mejias. Carrasquero is considered an independent, Battaglini and Rodriguez pro- government, and Mejias and Zamora represent the opposition. TSJ president Ivan Rincon said the positions were "provisional," and would end when the Asamblea Nacional named permanent members to the CNE.

Chavez welcomed the appointments and called on all Venezuelans to respect them. "We are confident this is the best decision," the president said. "Without a good referee with a good whistle, the game cannot be concluded." The new CNE seems to have the confidence of both supporters and opponents of Chavez, as well as the OAS, the Carter Center, and the Grupo de Amigos, which includes Brazil, Chile, Mexico, Portugal, Spain, and the US.

The appointment of the CNE is only one step toward a referendum. In theory, the CNE has 30 days to validate the petition and then set a date for a vote within 60 days. But there is a strong chance the petition will be declared invalid on a legal technicality, requiring a fresh effort by opponents to collect the necessary signatures. A recall referendum must have the support of at least 20% of registered voters, and the votes for removal must be more than the total votes that put the official in office in the first place. In Chavez's case, 2.4 million signatures in support of the revocatory referendum are needed, and, if a referendum is then held, at least 3.8 million people must vote in favor of his removal.

On Sept. 2, CNE president Carrasquero said the CNE would rule on the validity of the signatures within two weeks. If the referendum is held before August 2004 and Chavez is removed from office, Venezuelans would have to elect a new president to serve out the rest of the term. Any later than that, the vice president would succeed him.

Local elections could also cloud the process. If the referendum is not held until 2004, said opposition analyst and newspaper editor Teodoro Petkoff, "there will be no way to keep it from mixing with the regional and municipal elections scheduled for next July, and it will be relegated to the background."

CNE faces many challenges

The opposition CD wants the CNE to authenticate the signatures within 30 days and to convene the recall referendum in November or December. But the process is complicated, and government officials and constitutional experts doubt that the referendum could be held before the end of the year. In addition to the drive to hold a referendum to recall Chavez, 74 other requests for recalls against municipal and regional authorities are awaiting a CNE decision. The CNE is also likely to face government demands that the country's electoral roll be updated.

Petkoff also criticized the CD for presenting the signatures gathered in February, saying it should have held a new signature drive instead. "All the Chavez administration has to do is present reasonable doubts which have been stated even by members of the opposition, like Olavarria if it wants to initiate challenges to postpone the process," Petkoff said. Another option mentioned by some observers is that Chavez might resign, the logic being that he would lose a recall but if he resigned and an open election followed, he would beat the fragmented opposition.

Polls show he still commands between 30% and 35% support, more than any other candidate. Chavez has certainly given no indication that he is considering this option, however. While expressing support for the CNE, Chavez also said that, if the CNE validates the signatures that the president claims are invalid, he will appeal to the courts, including to the TSJ.

Some analysts ask whether, with all the pitfalls, a recall might not cause more problems than it would solve. "It's a mistake to try to have a recall to remove someone when the elected official is not that unpopular and the opposition doesn't have a viable replacement," said Steve Ellner, a professor at Venezuela's Universidad de Oriente. "Things are not easy to predict."

New wrinkle appears

On Sept. 1, a TSJ decision dated Aug. 28 was published that said Chavez could not be a candidate in any subsequent presidential elections if the recall referendum won. Later that same day, however, the TSJ said part of the ruling, precisely the part referring to a Chavez candidacy, was a forgery and did not say what the original had said. The TSJ said the Sala Constitucional of the TSJ would launch an investigation into the apparent tampering.

On Sept. 2, Vice President Jose Vicente Rangel blamed "gangster-style" elements for the alleged forgery. He said it was the work of those who would "stop at nothing" in their efforts to "denigrate the institutions [that represent] the state of law and democracy."

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