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A Victory for Chavez in Court

by LADB Staff

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Venezuelan President Hugo Chavez has won a new victory in his effort to stay in office. On Sept. 12, the newly appointed Consejo Nacional Electoral (CNE) ruled that the signatures collected by Chavez's opposition could not be used to call a revocatory referendum (see NotiSur, 2003-09-05). The decision was a blow to opposition hopes of removing Chavez from office this year.

"The Consejo Nacional Electoral...declares inadmissible the petition for a referendum presented Aug. 20," CNE president Francisco Carrasquero told reporters. He said three members of the group voted against the validity of the petition, while the other two members abstained. The ruling declared invalid the more than three million pro-referendum signatures presented Aug. 20 by the opposition Coordinadora Democratica (CD). The CD had collected the signatures in early February at the end of the two-month strike and business lockout that battered the economy but failed to force Chavez to resign.

Carrasquero said the signatures were invalid because they should have been collected after Aug. 19, the halfway point of Chavez's current term. Carrasquero said that the CNE found numerous conceptual and formulary errors, which made it impossible to set in motion the mechanism for holding a referendum. Problems included the wording, which was not that of a formal petition addressed to the CNE, but rather a CD proclamation to hold a referendum, which it did not have the power to do.

One of the most serious findings within the CNE ruling was that, in presenting the signatures and the call for a referendum, the CD had "violated" the May 29 written agreement between the government and the opposition. That agreement was sponsored by the Organization of American States (OAS), the UN, and the US-based Carter Center, and backed by the Grupo de Amigos de Venezuela Brazil, Chile, Mexico, Portugal, Spain, and the US (see NotiSur, 2003-06-20).

While hundreds of Chavez supporters outside the CNE headquarters in Caracas cheered the announcement of the decision, the CD, which had anticipated the negative ruling, announced that on Oct. 5, it would begin a new drive to collect signatures, promising this time to collect 5 million signatures calling for a referendum.

Carrasquero said on Sept. 18 that the CNE would announce formal guidelines for a referendum process the following Monday. He said that the regulations would establish the steps and timeline that must be followed by anyone calling for a referendum against any elected official.

New issues raised

The CNE decision has set off a debate on whether the opposition can legally try again. Movimiento V Republica (MVR) Deputy Cilia Flores said the CD cannot have a second chance because the

Constitution clearly establishes that "during the period for which an official is elected, a petition for revocation of their mandate can only be submitted once." Flores also said that, given the different understanding regarding this point, the MVR would file a motion for interpretation with the Tribunal Supremo de Justicia (TSJ).

Even if the CNE tackles the issue when it publishes the regulations covering referendums, the Sala Constitucional of the TSJ will have the final word. The possibility that the TSJ could rule that the opposition cannot try again to call a referendum has opened the CD to criticism even from other Chavez opponents. They have questioned the wisdom of the CD in submitting the signatures that many within their own ranks considered inadmissible. Whatever regulations are set up, it will be difficult to call a referendum before next year, even if the courts rule that the CD is legally entitled to a second try.

The CNE will have to approve the process set up to collect signatures, verify their authenticity, and set the date for the referendum. The time required for each step in the process, and the legal responses that could cause further delays, mean that, in the opinion of many legal experts, the earliest a referendum could be carried out would be in the first quarter of 2004.

Chavez supporters are betting that the process will not be completed until well into 2004, when political interest will have shifted to the regional and municipal elections scheduled for July 2004. Those elections are vitally important for the parties that are part of the CD, since at the moment they provide the parties their only political power base.

Scarcity of opposition candidates

Even if the opposition is given a green light and gathers the required 2.5 million valid signatures, the Constitution requires that, for the referendum to win, Yes votes must exceed the absolute number of votes that Chavez received in the last election, which he won with a 60% majority. And, if the opposition wins a new election, Chavez would most likely be eligible to run. Chavez's strongest card is the lack of a strong opponent.

Most leaders of the opposition, whose boastful promises to oust Chavez made them stars of the local news media and heroes to those fed up with the president, are now exiles, following events in Venezuela on television or the Internet. They include Pedro Carmona, the former leader of business organization Fedecamaras, who swore himself in as president during the brief 2002 coup; Carlos Ortega, former head of the Confederacion de Trabajadores de Venezuela (CTV); and Carmona's replacement in Fedecamaras, Carlos Fernandez, who led the devastating two-month strike.

Carmona is now in exile in Colombia, where he follows from a distance events in the country he so briefly headed. Fernandez is now in Miami considering asking for political asylum. Several dissident military officers who were involved either in the coup or the strike have been granted asylum in countries across the continent. Ortega played a key role in leading the work stoppage that cost Venezuela's economy more than US\$7 billion before it fizzled in February. While Ortega gave daily predictions of Chavez's imminent downfall, thousands of businesses closed permanently and hundreds of thousands of people lost their jobs.

Chavez, meanwhile, not only did not fall, but emerged strengthened, and Ortega was granted exile in Costa Rica. On Sept. 10, a spokesperson for Ortega said he would return to Caracas to "support the revocatory referendum" against Chavez. "Ortega will come to assume his responsibilities, but also to back the revocatory referendum," said Manuel Cova, secretary-general of the CTV. Cova did not say when Ortega would return to Venezuela, where he supposedly fears for his life, according to a letter he made public after being granted asylum in Costa Rica.

US ambassador angers Chavez government

Meanwhile, relations between Venezuela and the US have become more tense, with Chavez saying on Sept. 7 that the US has "excessive concerns" about the internal situation in the country. Government officials said evidence of the "excesses" included the visit by US Ambassador to Caracas Charles Shapiro to the newly constituted CNE on Sept. 3 even before local public officials had done so. "This is a sovereign nation, ambassador, and you must respect this country," Chavez said on his radio show the following Sunday.

Foreign Minister Roy Chaderton said that Shapiro's visit was "a hurried and extemporaneous initiative of US authorities." CNE president Carrasquero told the local press that he had "expressly" told the ambassador that the CNE "did not accept" interferences.

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