Democracy in Venezuela

Statement of

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On behalf of the Washington Office on Latin America (WOLA), I thank you for inviting me to testify today. I am honored to be here and I look forward to a constructive exchange of views on this important issue. I am the Senior Associate for the Andes at WOLA, and I have been following the situation in Venezuela closely in recent years.

The state of Venezuelan democracy is an important topic, the consideration of which is dramatically affected by Venezuela's fiercely polarized social and political climate. In such a context, it is easy to fall into simplistic, black and white views, and all the more important to seek a more nuanced appreciation of the complex issues at play. In no small measure, gaining such an appreciation involves understanding how Venezuelans themselves view the state of their democracy. Assessments of the functioning of democracy in Venezuela should also take into account historical and regional contexts.

With this in mind, I will touch very briefly, even cursorily, on a number of aspects of the broad topic of Venezuelan democracy. Free and fair elections are of course key to democracy, but other important elements to consider include the separation of powers; the rule of law and human rights; and the role of civil society. In addition, consideration of U.S. policies with respect to democracy in Venezuela requires an appreciation of the state of U.S.-Venezuelan relations.

Before proceeding further, I would like underscore the importance of taking into account Venezuelans' own views about democracy in general, and their appraisals of the functioning of their own government institutions in particular. A recent survey of public opinion in 18 Latin American countries, undertaken in August and September 2005 and

coordinated by the well-respected Chilean non-profit Latinobarómetro, sheds some light on these questions. Among the survey's most notable results is the obvious preference of Venezuelans for democratic governance, and – in what may come as a surprise to observers in the United States – the relatively high levels of satisfaction that Venezuelans express with the functioning of their own democracy.

Specifically, 76 percent of Venezuelan adults consider democracy to be preferable to any other form of government (confidence interval of plus or minus 3 percent). The 18-country average was only 53 percent, and Uruguay (77 percent) was the only country that recorded a higher preference for democracy than Venezuela. Indeed, since 1996, the preference for democracy as measured by the Latinobarómetro survey has eroded in 13 of the 18 countries, while the largest increase in preference for democracy was recorded in Venezuela (up from 62 percent in 1996).

Even more notably, the survey indicates that Venezuelans regard their country as being in fact quite democratic. On a scale of 1 to 10, where 1 signifies "not democratic" and 10 signifies "totally democratic," Venezuelans scored their country at 7.6, the highest of any of the 18 countries. Uruguay was the only other country with a score of more than 7, and the 18-country average was 5.5. Moreover, the survey found 56 percent of Venezuelans to be very satisfied or satisfied with the functioning of democracy in their country, well above the 18-country average of 31 percent, and again trailing only Uruguay (63 percent).

Of course, these survey results do not exhaust the topic of the status of democracy in Venezuela. But it is surely important to keep these findings in mind, and to appreciate their significance in light of each state's fundamental right to self-determination, explicitly enshrined in the Charter of the Organization of American States (OAS): "Every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State. Subject to the foregoing, the American States shall cooperate fully among themselves, independently of the nature of their political, economic, and social systems" (article 3e).

Elections and the Electoral Process

Venezuelans have gone to the polls frequently in recent years. The intense polarization and zero-sum character of the political conflict in Venezuela have led to significant international attention and monitoring of these elections. On balance, the elections have been deemed free and fair enough to faithfully express the preferences of the majority of voters in Venezuela. By no means have the elections been flawless, and international and Venezuelan monitor groups continue to cast doubt on the impartiality of Venezuela's electoral institutions. On the other hand, the elections have not been stolen. While there should be little doubt that irregularities have occurred, the consensus among international observers has been that such irregularities have not been on the scale to affect outcomes. Indeed, the Carter Center and the OAS both deemed valid the results of the hotly

contested August 2004 recall referendum, won by President Hugo Chávez with 59 percent of the vote.

To be sure, democracy consists of more than elections, and the truest test of a leader's commitment to electoral democracy comes with the reaction to defeat, not victory. In that regard, those sectors of the Venezuelan opposition responsible for the April 2002 coup attempt against President Chávez demonstrated a profound contempt for democracy. The strength of Chávez's own commitment to democracy has not been tested by defeat, though his own leadership of a failed coup attempt in 1992 against an elected government leaves room for doubt.

At the same time, it is beyond any doubt that Chávez is the legitimate elected leader of Venezuela, and that he continues to enjoy strong popular support. The Latinobarómetro survey found that 65 percent of Venezuelans approve of the way in which Chávez is leading the country, an approval rating significantly higher than the 18-country average of 49 percent. For the record, Chávez initially won election to the presidency in December 1998, with 58 percent of the vote. His allies won 62 percent of the vote (and 93 percent of the seats) in July 1999 elections for a constituent assembly to draft a new constitution. In December 1999, the new constitution was approved by 72 percent of the voters. Chávez then won new elections in July 2000 with 59 percent of the vote, and, as noted above, prevailed in the August 2004 recall referendum, again with 59 percent of the vote. His allies are poised to win convincingly in next month's National Assembly elections, and no candidate has yet emerged as a viable challenger to Chávez for the December 2006 presidential elections.

Democracy entails not only that the majority should rule, but that the minority's rights should be protected. While Chávez's margins of electoral victory have been consistently large, the size of the minority of Venezuelans voting against Chávez is far from insignificant, and it is crucial to the health of Venezuelan democracy that their views find adequate expression through peaceful, democratic political processes. This requires both that President Chávez and his government recognize the legitimate place of the political opposition, and that the opposition participate in the political process.

Disappointingly, President Chávez has not consistently signaled his tolerance of political disagreement. At the same time, unfortunately, many in the opposition have found it difficult to accept their electoral defeats, and have been slow to develop a positive political agenda with the potential to appeal broadly to Venezuelans. The opposition has been burdened by the blatantly anti-democratic actions of some Chávez opponents, immensely complicating their task of trying to appeal to the country's pro-Chávez majority. Both sides should be encouraged to take more constructive positions.

While international monitors have endorsed the results of Venezuela's recent elections, they have also raised serious concerns over the lack of transparency within the country's electoral institutions, specifically the National Electoral Council (CNE). In the events surrounding the controversial August 2004 recall referendum, the CNE came to conduct business along party lines, with pro-Chávez members consistently outvoting opposition-

aligned members by three to two. Since then, the composition of the CNE has become even more pro-government, with Chávez supporters holding four of the five seats. This clear domination of a key electoral institution increases the chances that election rules will be made and interpreted in ways that favor Chávez and his allies at the expense of the opposition.

Boosting confidence in the basic fairness of electoral institutions is crucial, lest perceptions of unfairness prompt those opposed to the Chávez government to conclude that the electoral avenue to political power is no longer open. Fortunately, the question is one of degrees, and many of those who are opposed to Chávez and have little confidence in the impartiality of the CNE see little alternative but to participate in electoral politics, along the way negotiating the best set of rules they can. Arguably, the Chávez government, whose rightful claim to legitimacy stems from its electoral performance, has much to lose if the credibility of the electoral system falls further into doubt. The government therefore would appear to have important incentives at least to ease some of the opposition's concerns over lack of transparency, and some observers suggest that this appears to be occurring in the negotiation around provisions for the December National Assembly elections.

The international community should continue to monitor electoral processes in Venezuela, to encourage both President Chávez and his opponents to abide by agreed-upon rules of the game.

Rule of Law and Human Rights

In Latin America generally, inefficient, corrupt and politicized justice systems have been significant obstacles to the consolidation of democracy, and have facilitated the impunity that perpetuates crime and undermines public trust in government. Historically, there has been little confidence that all will be treated equally before the law, and Venezuela has been no exception. Nevertheless, Latinobarómetro found relatively strong support in Venezuela (60 percent) for the proposition that justice arrives slowly, but arrive it does. By comparison, the 18-country average was only 48 percent.

Still, Venezuelan and international human rights monitors have pointed to serious concerns regarding the rule of law in Venezuela, including but not limited to concerns about the independence of the judiciary from the other branches of government; the impact of new media and penal laws on freedom of expression; impunity for para-police groups responsible for extrajudicial executions; and the use of the justice system to harass political opponents, most notably in the case of Súmate. Though these issues will only be mentioned briefly here, each has occasioned volumes of commentary (for example, the annual report of PROVEA, a prominent Venezuelan human rights NGO, runs to more than 600 pages).

Some observers have expressed concerns that new laws governing the media, combined with a revised penal code, are resulting in self-censorship of political views that might be seen as running afoul of the law or risking reprisals. It is important to evaluate these new

laws and their likely impact on freedom of expression in light of the behavior of the Venezuelan private media. Most of the major media operated in a highly partisan fashion, supporting efforts to dislodge Chávez, especially during the April 2002 coup attempt and the subsequent oil strike. At a time when viable opposition political parties did not exist, the private media took on an overtly partisan political role. This role was sharply at odds with its responsibilities to provide a balanced view of events.

To date at least, it is also clear that, notwithstanding the new laws, freedom of expression remains alive and well in Venezuela. But if the restrictiveness of the new laws should not be exaggerated, neither should the potential for self-censorship be discounted. Given the value of freedom of expression, in and of itself, as well as its importance in guaranteeing other political liberties, the debate over the role of the media and how it ought to be regulated by the state can be expected to continue apace in Venezuela.

Venezuelan human rights monitors and the Inter-American Commission on Human Rights (IACHR) have drawn particular attention to the lack of independence and impartiality of the judiciary. As noted above, a weak judiciary is nothing new in the region or in Venezuela. Even so, the very high proportion (more than 80 percent) of Venezuelan judges with only temporary or provisional appointments, vulnerable to rapid dismissal, gives rise to the concern that the judiciary is subservient to the will of the legislative and executive branches. The Chávez government has acknowledged that such a high proportion of provisional judges poses one of the most serious problems facing the judiciary, but provisional appointments continue. Human rights monitors have also raised concerns over a 2004 law empowering the National Assembly, by simple majority vote, to alter the number of judges in the different chambers of the Supreme Court and revoke the appointments of individual justices. As President Chávez looks set to build on his advantage in the National Assembly, the 2004 law, combined with the already tenuous job security of judges throughout the Venezuelan judiciary, makes it increasingly easy for the executive and legislative branches to exercise political control over the judiciary.

Respect for Separation of Powers, Limits on Presidential Power

Well-established international norms do not exist with respect to separation of powers, which can very widely from country to country. The executive's power vis-à-vis the legislature varies, and how presidents wield their power when they have strong legislative majorities also varies from country to country and from president to president.

That said, there is a long tradition of strong, often autocratic presidents in Latin America, a tradition that should make the international community sensitive to issues about the limits of presidential power in Latin America. There is reason for concern, therefore, about how far President Chávez may seek to go in concentrating power, especially if, as expected, he wins a strong majority in the upcoming National Assembly elections. The international community should urge President Chávez not to seek to concentrate power unduly. All parties should keep in mind the low tolerance of Venezuelans for authoritarian government: Latinobarómetro found only 11 percent support in Venezuela

for the proposition that, in certain circumstances, an authoritarian government can be preferable to a democratic one.

Civil Society

Venezuelan civil society has been deeply polarized, with some organizations strongly in favor of President Chávez, and some strongly opposed. The polarization has made it difficult to seek a middle ground position, critical of both sides, without being labeled an extremist by one camp or the other. In this difficult environment, funding provided to some Venezuelan civil society groups by U.S. government agencies such as the National Endowment for Democracy (NED) has proven extremely controversial within Venezuela.

On the one hand, Venezuelan civil society groups should be free to seek and receive international support, assuming that they are engaged in what are otherwise legal, peaceful and democratic activities. If so, their work should be judged on its merits. At the same time, however, given the obvious role of the U.S. government in Venezuela's political conflict, and the well-founded skepticism about Bush administration intentions with respect to Chávez, it is difficult to see how U.S. funding in support of democracy can be productive at this juncture. It seems more likely to be counterproductive, increasing the polarization rather than easing it.

Social Programs

President Chávez has used Venezuela's surging oil wealth to implement a number of domestic programs, including the highly popular food, health and literacy programs, known as the "missions." These programs contributed to Chávez's victory in the 2004 recall referendum and continue to pay political dividends, as is clear in Chávez's high approval ratings.

Abroad, we often focus on Chávez's provocative rhetoric and anti-U.S. statements. But Venezuelans are responding to these social programs, and, at a deeper level, poor Venezuelans are responding to a leader who they regard as the first to take them and their priorities seriously. As a result, Chávez has tapped into an enormous reservoir of good will among poor Venezuelans, many of whom feel energized to take part in and promote the "missions" in their communities. Whether Chávez can institutionalize these programs in a way that sustains their on-the-ground benefits and their political payoffs remains to be seen. But as Venezuelans evaluate the state of their own democracy and evaluate the performance of the Chávez government, it is obvious that the missions are crucial. Rather than seek to discredit such programs, the Venezuelan opposition will have to convince their fellow citizens that they will confront the issues of poverty, unemployment, crime and other social problems better than Chávez.

U.S.-Venezuela Relations

Obviously, relations between the Chávez and Bush governments are troubled. Chávez's provocative rhetoric, his opposition to U.S. initiatives – especially the Free Trade Area of

the Americas – and his close friendship with Fidel Castro are especially grating to the Bush administration. At the same time, we should be aware that the U.S. government – the Bush administration in particular – is not viewed favorably by most Venezuelans. Latinobarómetro found that only 41 percent of Venezuelans have a good opinion of the United States, compared to an 18-country average of 61 percent. The Bush administration's doctrine of pre-emptive military action, the U.S.-led war in Iraq, and revelations of detainee abuse have undoubtedly tarnished the image of the U.S. government in Latin America. In Venezuela, skepticism about U.S. support for democracy and human rights is all the more acute given the apparent U.S. support for the failed coup against Chávez in April 2002.

Despite the distrust on both sides and the escalating rhetoric, U.S.-Venezuelan commercial relations, particularly with respect to oil, remain stable. The Bush administration, for its part, can ill-afford disruptions in the flow of oil from Venezuela, especially given the ongoing turmoil in the Middle East. By the same token, the Chávez government relies heavily on the U.S. market for Venezuela's oil, the proceeds of which are funding the social programs that have boosted Chávez's domestic popularity. In the longer run, as both governments seek to reduce their dependence on one another, the oil-based relationship as it has existed may be altered. But for now, this mutual dependence on the continued flow of oil lends some stability to the relationship.

As the U.S. government and the American people look at Hugo Chávez, we should recognize that he is a legitimately elected president with strong support in Venezuela. He is pursuing foreign policy goals sometimes sharply at odds with the desires of the Bush administration; while some may not like this, we should recognize that he has a right to do so. U.S. policy toward Chávez ought not be directed at confrontation. We should not refrain from expressing genuine concerns about democracy, human rights and rule of law issues in Venezuela, but neither should we exaggerate them. And we should seek dialogue with Chávez and with the hemisphere as a whole about our foreign policy differences.