



*February 2006*

*Report on  
NLG Legal  
Delegation to  
Venezuela*

## **DELEGATION OBJECTIVES**

The joint delegation including members of the National Lawyers Guild, National Association of Latina/o Law Students, and a representative of the NAACP National Voter Fund, embarked on the Venezuelan mission with the following goals and objectives:

1. To become familiar with the history and context of the Bolivarian revolution and how the rule of law, including the adoption of the 1999 Bolivarian Constitution, relates to the Bolivarian process.
2. To meet with representatives of different sectors to measure representative impressions including those of:
  - a. The poor and previously excluded-- especially women, children, and workers;
  - b. Neighborhood leaders and leaders of the missions in health, education, and social welfare;
  - c. Elected officials of the National Constituent Assembly
  - d. Members of the Venezuelan Supreme Court
  - e. Members of the Venezuelan National Election Commission
  - f. Members of human rights organizations
  - g. Members of opposition political parties
  - h. Members of opposition civil society organizations
  - i. Members of the media including television, print, and radio
  - j. Lawyers and other professionals including doctors and nurses
3. To investigate reports of external (foreign) interference with Venezuelan sovereignty, including reports of direct United States funding and support for opposition parties and campaigns;
4. To experience and document the level of political discourse, debate, and freedom of expression, press, and religion;
5. To make organizational contact with progressive legal workers in Venezuela.
6. To document and report on the delegation's findings and to register concerns about the apparent growing level of tension and friction between the United States government and the Venezuelan government;
7. To encourage and promote non-violent conflict resolution, dialogue and negotiation as imperative pillars of the diplomatic relations between the United States and Venezuela.

Because delegation members were from various cities in the United States, we also gained knowledge of each other's professional work, Guild work, and other organizational work.

As the following report reflects, we succeeded in gaining access to the various sectors, organizations, and leaders with whom we sought meetings. We were afforded great hospitality from all sectors and found the level of discourse to be principled and respectful among all parties and interest groups.



## INTRODUCTION

At a time of heightened tension and escalating rhetoric by Bush administration officials against the government of Hugo Chavez of Venezuela, members of the National Lawyers Guild (NLG), the NAACP Voters Rights Fund, and the National Latino/Latina Law Students Association organized a delegation to Venezuela. (See Appendix A, Delegation Members.) The delegation visited Caracas from January 30<sup>th</sup> until February 4<sup>th</sup> 2006.

During that week, through appointments set up by Lisa Sullivan of the Venezuela Information Office and Susan Scott of the NLG, we met with a wide range of Venezuelan society, including opposition spokespeople, NGOs both critical and supportive of the government, representatives of the news media, members of the National Assembly, Justices of the Supreme Court, members of the National Electoral Council, representatives of the Attorney General, residents of some of the poorest neighborhoods in Caracas, owners and workers at cooperatives, progressive Venezuelan attorneys and many people on the streets of the capital. (See Appendix B, Delegation Agenda; and Appendix C, Summaries of Meetings.)



While we were in Venezuela, the U.S. government spokespeople made several statements which increased tension between our countries. Secretary of Defense Donald Rumsfeld publicly likened President Chavez to Adolf Hitler, and Director of National Intelligence John Negroponte stated that Venezuela posed the most serious threat to U.S. interests in Latin America. These spokesmen are outside the diplomatic arena, indicating that Venezuela is now the province of those in charge of intervention and war. In the face of these events, we consider it critical that voices conveying a more accurate picture of the Venezuelan process be heard.

The United States has a long history of intervening and overthrowing those governments in Latin America whose political and/or economic policies it views as contradicting US interests. NAFTA, CAFTA and the FTAA constitute the latest US attempts at economic control of Latin America, and Hugo Chavez has made clear his intention to opt out of US dominated plans for economic development in the region.

Consistent with the Bolivarian Constitution's prohibition against privatization of resources and vital services, the Venezuelan government has rejected so-called "free trade agreements" in favor of the use of oil dollars to finance initiatives to help the poor in Venezuela and to aid positive development in other Latin American countries.

Venezuela has proposed the 'Bolivarian Alternative for the Americas' (ALBA) – which would base the integration of Latin America and the Caribbean on fair trade, respect for sovereignty and exchange in many areas, including culture and education. This independent economic and foreign policy has earned Hugo Chavez the animosity of the Bush administration.

One allegation appearing regularly and stridently in the U.S. press is that (although Chavez and his policies and allies have won NINE elections since 1998) Hugo Chavez is essentially a dictator. Any review of history will demonstrate that the U.S. has certainly helped to install and support many Latin American dictatorships that were amenable to our policies. Therefore, this expressed concern for Venezuelan democracy is extremely suspect. Beyond that, however, as attorneys trained with a special capacity for critical analysis, it is incumbent on us to question this portrayal, and investigate and report our findings to the American public.

Venezuelans call developments in their national life in the new Bolivarian Republic 'the process' ("el proceso"). Our delegation's findings should serve to clarify what that important process signifies, both to the Venezuelans and to people throughout the hemisphere.

## BACKGROUND

Hugo Chavez is not an accident of history.

Venezuela is an oil rich country of 25 million people, two thirds of which have been chronically impoverished despite the nationalization of the oil industry in 1975. (See the Timeline at Appendix D.)

After the early 19<sup>th</sup> century, when Simon Bolivar fought to liberate Venezuela, Colombia, Ecuador, Bolivia, Peru and what is now Panama from Spain, Venezuela was ruled by a series of dictators. In 1958, a massive popular revolt supported by liberal elements in the army, overthrew the last dictator and wrote a new constitution, guaranteeing social and political rights. For the next 40 years, pursuant to the infamous Punto Fijo agreement, two major parties -- the social democratic Accion Democratica (AD) and the conservative Christian Democratic (COPEI) -- traded political power and secured a grip on power that excluded leftist parties. The nationalization of the oil industry and iron mines in 1978 was followed by an oil boom and massive industrialization and modernization plans that attracted rural people to the cities, shrinking the rural population by 90% and resulting in 87% of the country's population living in the cities. When Chavez was elected in 1998, Venezuela was importing 70% of its food.

With the advance of corporate globalization, the social democratic consensus that had characterized the early Punto Fijo regime lost ground to a more neoliberal, market-driven approach. The two parties were increasingly isolated from the vast majority of the population, while those who governed and ran the country's economy identified with the cosmopolitan elite.

Contemporary politics began with the 'Caracazo' of February 27/ 28, 1989 -- an explosion of political rage by the poor in Caracas and several other cities against the neo-liberal program imposed by then president Carlos Andres Perez. This venture into the free market and international competition resulted in an increase in the price of domestic fuel and transportation. Meanwhile, the price for oil on the world market had declined, resulting in cuts in social welfare. In response, the worst nightmares of the more privileged classes were realized when the poor descended from the hillsides surrounding Caracas and engaged in a week of looting. Between 500 and 2000 people were killed during the military repression which followed and the incident lives on in Venezuelans' hearts and minds.

Three years later, on February 4, 1992, Colonel Hugo Chavez made his appearance on the national scene as the leader of an attempted coup. Chavez, like many poor and working class Venezuelans, had joined the army in 1971 as a 17 year old officer cadet in order to get an education. He and many other fellow officers were inspired by ideas for radical alternatives advocated by former guerilla leaders who had survived the fierce counter-insurgency campaigns of the 1960s and 1970s. Important sectors of army officers were radicalized during those campaigns, both by being forced to take part in the repression, as well as seeing the conditions in the Venezuelan countryside. They were further alienated by the orders to massacre the poor in

the 1989 Caracazo rebellion. Simon Bolivar's vision of an anti-imperialist, united Latin America served as an important source of inspiration for those supporting Chavez.

When it became clear that his attempt at a takeover would not succeed, Chavez was given ninety seconds on television to urge his supporters to put down their arms. He said that "for now" ('por ahora') they had not been able to achieve their objectives. The phrase "por ahora" was taken up as a sign for optimism by many Venezuelans. Chavez was taken off to prison, but the people believed he would return at a future time to continue the struggle.

Although the 1992 coup was unsuccessful, many Venezuelans identified with the desire to sweep away the two parties which had rotated power for decades. They were seen as deeply corrupt and unable or unwilling to seek solutions for the vast impoverished majority.

Although Chavez spent two years in prison for his role in the attempted takeover, his ideas continued to gain popularity. When he was released, he began to travel around the country to meet with peasants and workers who had traditionally been excluded from the political process. Venezuela's economy continued to suffer while oil prices were kept low to benefit the US. Chavez's criticism of the corrupt two party model and the economic model of globalization imposed by the United States soon landed him on top of public opinion polls during 1996 and 1997. Although only about 35 percent of the registered electorate turned out to vote in December of 1998, Chavez won with a strong 56 percent. Since 1998, he and his programs and supporters have prevailed in nine elections, including the first recall election of a sitting president in history.



## **PARTICIPATORY DEMOCRACY & THE BOLIVARIAN CONSTITUTION**

Elections are clearly not the only indicator of democracy. The US government defines democracy as elections plus "free trade". In Venezuela, democracy is elections plus the intense involvement of the vast majority of the previously ignored and excluded people. The Venezuelans call it "Participatory or Protagonist Democracy" and distinguish it from the so-

called “representative democracy” that they experienced for 40 years and that amounted under the Punto Fijo agreement to a trade-off between two parties of the elite.

Chavez’ first order of business immediately after his election in 1998 was to announce a national referendum to decide whether elections should be held for a Constitutional Assembly to draft a new constitution. The existing constitution of 1961 had no provision for drafting or approving a new constitution, and the Supreme Court ruled that a referendum for a Constituent Assembly was the appropriate vehicle. The public’s lack of faith in existing governmental institutions resulted in a resounding 88% ‘yes’ vote. In July 1999, elections were held for the Constituent Assembly, followed by one of the most impressive grassroots processes ever conducted to develop a new constitution.

Today, the 350 article, pocket-sized Bolivarian Constitution is carried by a huge number of citizens, used to teach literacy in the barrios and rural areas, and sold on the street corners, along with the rainbow of laws passed pursuant to it.

Our delegation was impressed and touched by the apparent attachment of the people to their basic law. (For an English translation of the Bolivarian Constitution, see the website at [www.vHeadline.com](http://www.vHeadline.com).)

Public support for developments under the new Bolivarian Constitution was demonstrated when fresh elections were held in July of 2000 to confirm or reject every elected official in the country, including the president. Chavez was re-elected with an increased majority of 59 percent, while his supporters won a majority in the new National Assembly and 15 of 23 state governorships. Today there are only two governors who do not support the Bolivarian project; and, due to the opposition boycott of the December 2005 National Assembly elections, there are now no representatives in the National Assembly that do not support the ‘proceso’.

### The Process of Drafting the 1999 Bolivarian Constitution

There had been talk of drafting a new constitution for many years, but it was not until Chavez was elected that the plans came to fruition.

First, the Supreme Court (whose members were appointed before Chavez’ election), had to approve a process for drafting a new constitution, as the old constitution did not provide guidance. Once the Supreme Court approved the process, national and regional direct elections were held for the Constituent Assembly (CA). The alliance supporting Chavez won 125 of the 131 seats. National elections were held for 24 seats, regional elections were held for 104 seats and 3 seats were set aside for indigenous candidates. The process of writing the text was not limited to elected members of the CA, however, but was open to public participation. Proposals were circulated in forums, internet pages, popular assemblies, study groups and public debates. Privately owned media, universities, civic and social organization, human rights organizations, trade unions, political parties and NGOS all brought their suggestions to the attention of CA members elected from their region. Although the short period allotted for the actual drafting (three months) limited the amount of public debate, the process was remarkably transparent. No

one committee was able to write independently of the public or of the other committees. The full CA came together to incorporate recommendations and drafts of each committee into a final document that was then widely disseminated to the Venezuelan people before the next national referendum. Ratification took place by a vote of 71 percent on December 15, 1999.

Unique in modern history, the Bolivarian Constitution was developed with massive popular participation and approved by popular vote, resulting in a document broad enough to include the rights, needs and ideals of almost every social group.

### The Provisions of the Bolivarian Constitution

The Bolivarian Constitution, consisting of 350 articles, is a monumental document, but is printed in a pocket size and written in a popular language that has endeared it to the people and has made it a good vehicle for teaching literacy throughout the country. Unlike the negatively phrased rights in the US Bill of Rights (“Congress shall not...”), the Bolivarian Constitution promulgates a proactive role for government in guaranteeing rights. (“The law shall guarantee legal and administrative conditions such as to make equality before the law real and effective; shall adopt affirmative measures for the benefit of any group that is discriminated against, marginalized or vulnerable; shall protect in particular those persons who, because of any of the aforementioned circumstances, are in a manifestly weak position; and shall punish those who abuse or mistreat such person.”)

In addition to basic political and civil rights – freedom of speech, religion, and association, and the right to information without censorship - the rights established in the International Covenant on Economic, Social and Cultural Rights are also embedded in the Bolivarian Constitution. There is widespread excitement about many of the new provisions. Health care is established as a fundamental social right and a responsibility of the State. Access to education, housing and employment with a salary sufficient to allow “a life with dignity, covering the family’s basic material, social and intellectual necessities,” is guaranteed, as is freedom from discrimination of all kinds. Women’s work in the home is recognized as producing economic and social wealth, deserving of compensation in the form of Social Security.

Not all of the rights guaranteed in the Constitution have been fully implemented in legislation, but while we were in Caracas, the first Social Security payments for homemakers were issued with much fanfare. (See the section on Oil and Misiones to read about programs to implement the right to healthcare, education, and other social rights.)

The provisions protecting indigenous and environmental rights also set very progressive standards. The state commits itself to protect and promote indigenous culture and languages, including funding of bilingual education. Demarcation of indigenous lands is mandated, as is the political representation of indigenous people in the National Assembly and other elected bodies. It is guaranteed that exploitation of natural resources found on indigenous land will not have a negative impact on its people.



The Constitution also commits the state to protection of the environment, biological diversity, genetic resources, ecological processes and national parks. Nuclear weapons -- their production or possession -- are prohibited, as are foreign military bases, and Venezuela is proclaimed as an area of peace. Also prohibited are the death penalty or any prison sentence of over 30 years, patenting of the genome of a living being and the privatization of water or medical facilities.

In addition to guaranteeing the right of private property, the Bolivarian Constitution also recognizes communitarian forms of property ownership, such as worker cooperatives. It not only reaffirms national ownership of the petroleum industry but also prohibits its privatization, taking the country and its resources in a radically different direction than that which was in operation when Chavez was elected, and leading Venezuela on a collision course with multinational oil companies and their state sponsors.

### Participatory and Protagonist Democracy

One of the most innovative and unique aspects of the Bolivarian Constitution is the framework that it sets up for direct grassroots involvement in governing. Instead of a tripartite government in which various bureaucratic elements (executive, legislation and judicial) battle each other for control in a dance called “balance of power”, the constitution envisioned by Simon Bolivar has five separate powers, with the people fully in control of each. In addition to the Executive, Legislative and Judicial branches there are two new branches of government – the People’s/Citizens/Moral Power and the National Electoral Commission. The People’s Power consists of the federal prosecutor (Attorney General), the people’s defender (Ombudsman) and the Controller. All are nominated by committees composed of representatives of diverse sectors of the population, independent of the Executive, and ratified by two thirds of the National Assembly. In every municipality, an office for Attention to Citizens has been created so that people can bring public complaints, to which the Ombudsman is required to listen and respond.

The Executive is elected directly by the populace for a maximum of two 6 year terms and can be recalled by the populace after serving 3 years (as was unsuccessfully attempted against Chavez in 2004). The National Assembly is a unicameral, proportionally-elected body. The Judiciary is a federal system.

Unlike the US, in Venezuela the Executive has no power to appoint Supreme Court justices or the Attorney General. Justices are selected and appointed for 12 years pursuant to a popular process, including nominations by civil society, public hearings, and National Assembly confirmation. Lower court judges are appointed by the Supreme Court so the Executive has no power over the judiciary. As for the Executive’s ability to control the legislative branch, there is no presidential veto comparable to our own system. Although the president can require the National Assembly to reconsider legislation, there is no 2/3 override requirement. Moreover, the switch from a bi-cameral to a uni-cameral National Assembly elected by proportional voting puts less focus on creating a “representative” political class and encourages grass roots groups to organize around their own issues.

Another constitutional innovation is the possibility of referenda to consult the citizenry in certain circumstances. Consultative referenda -- initiated by 2/3 of the National Assembly, the President, or 10 to 20 percent of the electorate (depending on the type of referendum) -- are designed to ask the population non-binding questions such as whether the country should join a free trade agreement or allow abortion. Recall referenda can be initiated by petition of 20 percent of registered voters and applied to any elected office, including the presidency, after half their term has been completed. Unlike the previous system, political parties are no longer the sole administrators of state power. Local communities, civil society organizations, rural land committees and cultural groups are empowered to play an active role in a wide range of state institutions and programs.

It is envisioned that through the constitutional right to participate and observe the government directly, the people of Venezuela will be able to provide unique political pressure and oversight to politicians. The new participation contemplated by the Constitution involves grassroots action: helping set up government programs in local communities, workers helping to co-manage state-owned factories; creating planning councils that work with local government to develop public policy. Local budgets are to be set by politicians together with community councils, including anyone who wishes to participate. The federal government rewards those local governments that are most participatory with additional resources.

#### Implementation of the new Bolivarian Constitution

After the Constitution was overwhelmingly ratified, the National Assembly gave Chavez "fast-track" authority for up to a year to begin implementing the principles of the Constitution. Chavez proposed 49 laws -- including land reform and hydrocarbons laws-- all fiercely opposed by the middle and upper middle classes who feared the loss of their economic privileges and provoked splits with more moderate supporters. Many supporters of the Bolivarian process consider the manner in which the 49 laws were passed to have been unnecessarily confrontative, but it is clear that the laws governing land reform and hydrocarbon management have played an essential role in furthering the participation of the people in the political and economic life of the nation.



### Oil and the Missions

For the first few years after Chavez' election and the adoption of the Bolivarian Constitution, resistance to changing priorities was encountered from the existing agencies and bureaucracies. When Chavez wanted to bring doctors and literacy workers from Cuba, he was met with a Supreme Court that agreed with opposition arguments that they were not properly qualified to work in Venezuela. The solution was to run the new programs parallel to the state health and education bureaucracies, using the oil revenues from the state oil company PdVSA. Resistance within the PdVSA management lead ultimately to the coup of 2002. (See Section on Past Challenges.)

Since the aborted coup of 2002, Chavez has been using revenues from the state owned oil company, PdVSA, as well as from the more advantageous terms negotiated with foreign investors since passage of the new hydrocarbons law, to fund extraordinarily popular "missions" for sectors of society that lack access to basic necessities. Although nationalized in 1976, PdVSA had been run increasingly as an independent, private company before Chavez's election in 1998. In many instances, PdVSA executives had larger salaries and more bodyguards than the government ministers responsible for overseeing them. Its resources were focused on foreign investments and acquisitions and its information technology functions were contracted out to a US company run by ex CIA officials.

Before the new government's reform of the industry with the Hydrocarbon Law of 2000, PdVSA paid just 39 cents on every dollar of gross revenue to the government. In December of 2001 the law obliged the company's foreign affiliates to pay dividends for the first time. Starting a few weeks after our visit, on April 1, 2006, all operating contracts with foreign oil companies have been re-negotiated as joint ventures -- with PdVSA holding a 60% share, and private companies

paying royalties at 30% and income tax at 50%. PdVSA employees continue to receive some of the highest salaries in the nation, but instead of focusing its resources outside the country, the company has become the leading funder of the government's massive national social programs, as well as development and diversification of the Venezuelan economy.

The social programs (called 'missions') have had a profound impact in the barrios, in rural settlements, and across every sector of the working population. They have played a decisive role in driving Chavez's public approval rating above 70 percent by May of 2005. To receive the oil funding to operate missions in a particular community, members of the community must form a local committee to plan and help direct the services. Through participatory democracy on the ground the government hopes to fulfill campaign promises in areas such as health, education, food, housing and employment without relying on institutions and bureaucracy that have often proved corrupt. Too numerous for all to be detailed here, some of the most important missions are:

**Barrio Adentro** (Inside the Barrio) is a comprehensive program based on Cuba's successful model of free, universal health care with emphasis on preventive care in areas that previously had little or no access even to rudimentary services. It offers 24 hour a day attention, including consultations and medicines, with a focus on prevention. Some 20,000 Cuban and Venezuelan doctors, dentists and sports trainers attend to the health needs of nearly 17 million Venezuelans – approximately 70 percent of the population, many of whom had never even seen a doctor before, - at no direct cost to the patients. The government recently began developing Mission Barrio Adentro II, which includes specialized procedures at clinics which have X-ray facilities, ultrasound, dental and optometry clinics, intensive-care centers and obstetrics. The goal of six hundred comprehensive diagnostic centers with an equal number of rehabilitation centers, and thirty three hi-tech clinics has been 40 percent accomplished.

**Mission Milagro** (Miracle) has restored sight to some 100,000 Venezuelans by sending them to Cuba for surgery and assisting them with other vision impairments. An additional 70,000+ people from other South American counties have also benefited from this program.

Education Missions are named after heroic Venezuelan independence leaders:

**Mission Robinson** was founded in July 2003 to combat illiteracy which was at about 6 percent or 1.5 million adults. More than 2 million adults had not finished primary school – high numbers for a country with Venezuela's resources. By October 2004, the government declared Venezuela 'illiteracy free' and Chavez recently received a prize from UNESCO for this achievement. Mission Robinson II enables graduates of the original literacy mission to finish primary education through the sixth grade.

**Mission Ribas** has enrolled more than 800,000 participants working to finish high school, irrespective of age.

**Mission Sucre** provides postsecondary studies for those who never had access to universities.

Some 40 percent of the Venezuelan population, close to ten million people –including three million in the missions- are currently enrolled in some form of education supported by these programs. Students in the missions who require government support to enable them to complete their education are given monthly stipends of approximately \$100.

**Mission Habitat** was created to address the serious problem of substandard housing in Venezuela. The government began a new credit policy in 2005 for the middle class to lower mortgage rates and provide a one time down payment subsidy. A low income construction program was also launched, prioritizing helping homeless families with children and communities that organized themselves into construction teams. This housing plan aims to provide a safe, stable environment for all Venezuelans, pursuant to the Constitution, and to eliminate the dangerous and isolated shantytowns that have no access to basic public services. A fifteen year timeline has been set for this goal.

**Mission Vuelvan Caras** is designed to fight unemployment. Participants organize themselves into cooperatives based on areas of economic activity and their networks of cooperatives form ‘endogenous development nuclei’. The nuclei have focused on the areas of agriculture, industry, tourism, infrastructure, services and strategic government industries. The government provides loans and technical training and support for the cooperatives as a way to reduce unemployment. Millions have been trained in a range of service and production jobs. Cooperatives are given initial grants with the goal of forming self-sufficient parts of a market economy. The cooperatives, which receive preference in credit ratings and state contracts, now number more than seven thousand, involving close to three hundred thousand Venezuelans.

**Mission Mercal:** This program focuses on maintaining an affordable food supply for consumers. Over 13,000 distribution centers now supply nearly half of all food sold in the country. Discounts of up to 50 percent protect the country’s poorest citizens from malnutrition. Centers known as Bolivarian Kitchens also serve balanced meals daily to approximately 600,000 Venezuelans living in extreme poverty.





**Mission Guaicaipuro** focuses on helping the indigenous population to obtain titles to their land, and to access services.

**Mission Miranda** trains and educates the military reserves as well as assigning them to work projects supporting social programs.

Two of our delegation members traveled to several other parts of the country and prepared their own report on the missions they visited. (See App E.)

### Land Reform

Pursuant to the land reform laws, urban residents are benefiting from a government initiative to give them legal title to the small plots of land on which they live. Community members in each barrio have formed an urban land committee to improve housing and secure title for residents.

In the countryside, land reform is directed at addressing solving the problem of Venezuela's excessive reliance on imported food. Due to the migration of rural workers to the cities during the oil boom of the 1970's and the concentration of 75% of the arable land in latifundias held by 5% of the population, Venezuela imports approximately 70% of its food, the most of any country in the hemisphere. Over 5 million acres of state-owned land has been transferred to over

130,000 newly-formed co-ops as part of a major agricultural reform effort, and the government has begun the longterm judicial process of transferring unused privately-held land as well. Because of the history of latifundismo, in which a wealthy person purchases a piece of land and fences all the land surrounding it, many latifundia owners are unable to prove their title to all of the land they claim, resulting in expropriation under the new procedures. An inactivity tax on landowners who fail to use more than 80 percent of their land is also being used to encourage redistribution to small farmers. One of the on-going problems associated with the land reform policies is the government's inability to protect campesinos from attack and assassination for settling on land which has been declared public.

### ALBA and Alternatives to Neo-Liberalism

Perhaps the one feature of the Bolivarian democratic project being implemented in Venezuela that presents the greatest threat to US corporate interests is its opposition to the "free trade" policies of the so-called "Washington Consensus". While US officials seek to change the definition of "democracy" in the OAS charter to require support for free trade principles and Condoleezza Rice praises "the twin pillars of democracy and free trade", Chavez just says no. His critique of the US-sponsored Free Trade Area of Americas (FTAA) and other such corporate-driven initiatives has helped to stall it, and he promotes his alternative vision of economic integration and endogenous development (ALBA). While Latin American exports have increased during the past 25 years of corporate globalization, the region has experienced a marked reduction in per capita income growth (less than .5%) since 1980 (compared with 4% in the previous 20 years). Even the Wall Street Journal's editors have conceded that the results of trade liberalization and privatization in Latin America have been "disappointing."

Although any visitor can see that private enterprise is alive and well in Venezuela, "privatization" is a dirty word for the Bolivarians. While a basic goal of the neoliberal model is to reduce the role of the state in domestic policymaking and increase the control of foreign capital over domestic economies, Chavez argues that the state must maintain a role in promoting economic development through strategic use of tariffs and government subsidies to protect agriculture and nascent industries and promote local development of jobs. ALBA programs such as the trade of Venezuelan oil for meat, dairy and soybeans from Argentina and Bolivia benefit struggling farmers from those countries while helping Venezuela to achieve food security.

On the micro-economic front, while there has been no effort to nationalize private industry, the Bolivarian project is committed to "endogenous development" whereby the government supports the creation of cooperatives and sustains small businesses by offering micro-credit and giving them preference in supply contracts. The basic idea of endogenous development is that development should be something inspired by the people, responding to their needs and using their own resources and capabilities, rather than something brought about from outside, as is the case with neo-liberal development models. In addition to supporting thousands of co-ops and small businesses, the Chavez government has created hundreds of "Endogenous Development Nuclei", one of which we visited in Caracas, with two large coop factories producing T Shirts and shoes, a large clinic, classrooms, sports arenas and community gardens.



## **PAST CHALLENGES TO THE CHAVEZ GOVERNMENT**

In spite of his enormous popularity, Chavez has already faced three major challenges to his government.

### April 2002 Coup

A combination of business associations representing corporate interests, the elite military command and certain 'company' labor unions carried out a coup against Chavez and the Bolivarian Constitution in April of 2002. They were assisted by the private media, which is owned by powerful economic groups, which helped organize an opposition march and broadcast false claims of government violence and Chavez' resignation. High level U.S. State Department officials, such as Otto Reich (then Deputy Secretary for Western Hemispheric Affairs) and Ambassador Charles Shapiro met with the opposition leaders, Chamber of Commerce (Fedecamaras) head Pedro Carmona and CTV labor leader Carlos Ortega, in the weeks before the coup, and George Bush's press secretary openly cheered the news that Chavez had been physically removed from the presidential palace and was in captivity at a secret location. When Carmona declared himself president of the "Republic of Venezuela" (deleting the word "Bolivarian" that had been added with the 1999 Constitution) and decreed the dissolution of the National Assembly, the Supreme Court, and the abolition of the new Constitution, the U.S. stood isolated in its recognition of Carmona as a legitimate head of state. The OAS, CARICOM and nations of the European Union, with the exception of the then right-wing Spanish government of Jose Mario Aznar, all issued statements or comments condemning the coup. Three days later, the word got out through faxes and cell phones that President Chavez had in fact not resigned, and he was returned to the presidential palace by a massive popular uprising of the Venezuelan poor in combination with support from within the military.

### 2002-2003 Economic Sabotage/Oil Strike

As explained above, prior to Chavez, the state-owned oil company had been run for the benefit of its employees and managers, with the profits being invested outside the country. The company was being readied for privatization, which pleased most of its engineers and directors who would have benefited from stock options. The Bolivarian Constitution blocked this plan, specifying that Venezuela's mineral and hydrocarbon deposits are property of the republic and prohibiting their alienation or privatization.

A few months after the ill-fated coup of April 2002, the opposition tried a different tactic. In December 2002, the opposition-led labor federation CTV, whose membership included management of the state-owned oil company PdVSA and whose leader Carlos Ortega was one of

the sponsors of the coup, tried to shut down the oil industry and bring the economy to a halt. Although frequently described as a “strike”, it was actually more of a lockout, as the initiative came from the Chamber of Commerce and management of the oil industry rather than rank and file workers. Carlos Ortega now lives in Miami and has called publicly for the assassination of Hugo Chavez.

Although oil production was devastated, some businesses closed and the nation’s economy suffered a multi billion dollar hit, the action did not have the political impact its organizers expected. Many Venezuelans took to the streets, surrounding buildings and pressuring management to call off the strike. Workers broke into their workplaces to prevent damage to production equipment. When several schools joined the opposition efforts, parents and students in the barrios organized to keep them open. Eventually, in January of 2003, the army was brought in to guard the installations, the ports and the pipelines, and Chavez announced that troops would be sent in to stop food hoarding, as well as to keep schools and banks open.

Ironically, the economic sabotage had the effect of mobilizing the poor of Venezuela firmly behind the Chavez government. In its aftermath, the oil industry was reorganized, and nearly half its work force replaced.

#### 2004 Recall Election and SUMATE

After the failures of the coup and the attempt at economic sabotage, the opposition decided to try a democratic approach. One of the unique provisions in the new Bolivarian Constitution allowed for referenda and recalls.

In early 2003, the opposition organization SUMATE gathered signatures for a referendum against Chavez. But the Supreme Court ruled that the signatures were invalid because they were in support of a recall and the Constitution provided that recall elections could only occur after the official had served at least one half of his/her term.

Although SUMATE’s first recall attempt was invalid, in November 2003, it again began to gather signatures to force a recall election, and the CNE and Supreme Court permitted the election to go forth when the requisite number of signatures had been collected. Millions of new voters were registered by both sides, and in August 2004, Chavez won a 59.25% victory in an election declared free and fair by the Carter Center and observers from the OAS. (See Electoral Section.) SUMATE hired Washington political consultants to conduct an exit poll and then claimed fraud when that poll stood alone predicting success for the recall.

It turns out that the US is implicated in this premature and invalid attempt to remove Chavez, and in SUMATE’s ongoing and ultimately successful effort to hold a recall election. SUMATE received a grant of \$53,000, from the National Endowment for Democracy (NED). In May 2005, the director of SUMATE, Maria Corina Machado, was given a public reception at the White House by George W Bush, the first – and to date only -- Venezuelan to be received at the Bush White House.

As in the US, foreign interference in the electoral process and electoral campaigns is illegal in Venezuela, but the law in Venezuela, unlike the US law, only prohibits “political parties” from taking foreign money. We met with the lawyers who are defending the SUMATE leadership against charges that they took foreign funds to overthrow the government. SUMATE acknowledges their receipt of U.S. funds from the NED. They claim, however, that they were not acting as a “political party”, or in the alternative, if facts show that their behavior was that of a party, then the actual funds received from NED were used merely for ‘voter education and registration’ and not for gathering signatures. Although they admit they gathered signatures, they argue that they had already spent the funds from NED before the signature drive began. Finally, they argue that if the recall was legal (which of course it was, being prescribed in the new Constitution), it cannot be illegal to use foreign funds to promote it.

Although Condoleeza Rice attempted (unsuccessfully) in March 2006 to mobilize EU governments against Venezuela by calling the SUMATE trial “a kangaroo trial” and “a disgrace”, the legal proceedings SUMATE leaders face for using foreign funds to interfere with the Venezuelan electoral process will take place in an open courtroom, under democratic norms, and the SUMATE directors are free pending trial. The American Bar Association has sent an observer, as has the EU. The information likely to surface at the proceedings in the SUMATE case will undoubtedly reveal more about U.S. involvement in Venezuela’s internal politics and for that reason, may never come to trial.

## **CURRENT INTERNAL CHALLENGES TO THE CHAVEZ GOVERNMENT**

As the story of the NED funding of SUMATE indicates, one cannot draw a bright line between internal and external threats to the Chavez government. And although several of the opposition organizations are closely allied with the US government (see Section on US Interference), there are internal challenges to the Bolivarian project that are independent of US control and relate more to historical factors than to current geopolitics.

The main challenges we identified in our visit were challenges to the electoral system, the judicial system, the role of media, and the role of US interference. The opposition groups focus on problems with the electoral and judicial systems while human rights groups focus on prison conditions and political persecution. Indigenous groups and environmentalists see environmental destruction and pollution as key problems, related most of all to the prevalence of extractive industries.

We met with members of the National Electoral Commission (CNE), the Supreme Court (TSJ) and Attorney General’s office, as well as human rights groups working with prisons and refugee populations (Observatorio de Prisiones, Red de Apoyo). We also met with the two most powerful opposition groups -- *SUMATE* (“Sign up”) and *Primero Justicia* (“First, Justice”). Due to time and transport constraints we were unable to travel outside the city and were not able to meet with indigenous groups or visit the mines or petro zones. But we were alerted to serious environmental problems that one would expect from a country that relies on extractive industries for its economic well-being.



## **Electoral Issues**

Perhaps because Hugo Chavez and his supporters have won so many elections in Venezuela and another one is coming up this year, the opposition parties focus much of their criticism on the electoral process and the composition of the National Electoral Commission (CNE).

In the latest election, the National Assembly election of December 2005, the opposition withdrew within days of the election, causing Chavez' supporters to win 100% of the seats. The hardest line opposition groups justified their decision to withdraw on what they said was bias on the part of the CNE, although even the US press reported that the CNE had capitulated to all opposition demands before the election. The General Secretary of *Primero Justicia* told us that his party made a decision (that he now claims to regret) to unite with all opposition parties on one slate for each district. When the most hardline opposition parties decided to withdraw, it necessitated the withdrawal of all opposition parties.

Opposition complaints have ranged from claims that the CNE is biased and was wrongly appointed, the voting machines can be hacked (despite the paper trail), to the complaint that the polls were kept open too long. When the government developed a fingerprint system to respond to opposition claims of fraudulent identification, the opposition complained that the fingerprints could be used to see how people vote. The week we were in Caracas, the newspapers were full of opposition calls to boycott the next election if the government doesn't abolish the machines. ("Zero Maquina!")

SUMATE has accused the government of fraudulent manipulation of vote counts in the 2004 presidential recall election, despite the fact that the election was observed by over 800 national and international representatives, including the OAS, the EU, the Carter Center, and electoral boards from all over Latin America. Both the Carter Center and the OAS certified the result and conducted an extensive audit of the election. The Carter Center, in fact, has spent a great deal of time in Venezuela. When former President Jimmy Carter met with CNE authorities regarding the signature verification process developed for the recall process, he remarked that "Venezuela's political future rests on the shoulders of the CNE authorities. We are satisfied and gratified by the job carried out by them, and we think that their decisions are consistent with the law and the Constitution of this country." (When asked if the Carter Center would consider monitoring the 2004 U.S. presidential election, Carter remarked that "some basic international requirements for a fair election are missing in Florida".) While the U.S. would be loathe to consider foreign observers of our elections process, Chavez informed Carter that Venezuela welcomes foreign observers because "we have nothing to fear".

*Primero Justicia* has vowed to participate in the December 2006 Presidential elections and has already put forward its candidate, Julio Borges. As of June 2006, up to 11 opposition candidates have announced their intention to run against Chavez. SUMATE's effort to unite the opposition with a primary election has apparently failed, perhaps because of internal differences, perhaps because it smacks too much of US intervention in Venezuela's elections, reminiscent of the NED funded UNO campaign in Nicaragua's 1989 elections. But rumors abound that the strategy will

once again result in a last minute withdrawal if the opposition groups do not come up with a single viable candidate.

### The National Electoral Commission (CNE)

The CNE is the body governing the Electoral Power branch (one of the five independent branches of government under the Bolivarian Constitution), and its three subordinate organs, the National Board of Elections (*Junta Electoral Nacional*), the Civil Status and Voter Registration Commission (*Comision de Registro Civil y Electoral*), and the Commission on Political Participation and Financing (*Comision de Participacion Politica y Financiamiento*) (Article 292). All three are presided over by a member designated by civil society. We met with Humberto Castillo, an alternate member of the CNE and director of the National Board of Elections, and two agency attorneys.

The 5 CNE members and 10 alternates are nominated by an Election Nominations Committee made up of representatives of the various sectors of society, as provided for by the Constitution. CNE members cannot be activists in any political party; three of the five are nominated by civil society, one by the law and political science schools of national universities, and one by the Citizen Power branch of government. (We noted that in Venezuela, elections could not be administered -- as they were in the U.S. presidential elections in Florida in 2000 and in Ohio in 2004 -- by commissioners who were actively involved in a candidate's campaign.) A two-thirds vote of the National Assembly is required and CNE members hold office for seven years in staggered terms. Members of the CNE are subject to removal by the National Assembly, following a ruling of the TSJ.

After approval of the new Constitution in 1999 and election of the new National Assembly in 2000, the National Assembly was unable to muster a 2/3 vote for CNE members. Ultimately, opposition deputies demanded that the Supreme Court appoint a transitional CNE, which it finally did in August 2003. The opposition now complains of the irregular process. The CNE is the only branch of the government not yet elected according to the Constitution, but the National Assembly has recently appointed new members to the CNE, over half of whom are female and only one (Humberto Castillo) is from the previous Commission.

### Elections in Venezuela

We were impressed by the regularity and security of the Venezuelan electoral system. All polling sites have the same voting machines, with software passwords shared with opposition parties, and every voter gets *a paper receipt* to check and deposit in a box for audit purposes. In the December election, 47% of the votes were audited -- despite the fact that an audit rate of 3% is statistically acceptable, and 1% is the standard used in California.

While 14 million Venezuelans over the age of 18 are registered to vote, more than half the country's population of 26 million, the CNE is working to further increase participation. The CNE is conducting educational programs to increase participation, assessing how to track those who are not participating and understand why, and marketing the electoral system to make it

accessible and easy to understand for the country's indigenous populations. Polling sites have increased from 11,000 in 2003 to 27,000 in 2005, and the number of registered voters has increased from 10.9 million in 2003 to 15 million in 2005 – despite the culling of 700,000 deceased and fraudulent voter names. A media campaign to motivate voters and explain the technology involved is underway, as is a media-based effort to educate the populace on the content of the Constitution.

When we asked why, even given the withdrawal of the opposition, only 25% of the electorate had bothered to come to the polls in the December National Assembly elections, we were told that this was the greatest turnout in Venezuelan history for a non-presidential election. “Venezuelans are a very presidential people”, CNE alternate member Humberto Castillo told us. After so many years of exclusion under a bipolar political system and with so many more opportunities for local participation, participation in elections for national representatives will take time.

Castillo left us with a message: “We are creating real justice for the first time in our country. Laws must equal justice, not manipulation. We will not allow attempts to de-legitimize our institutions in favor of creating a favorable environment for outside influence.”

## **Judiciary**

The Chavez government inherited a judiciary recognized by international watchdog agencies as ridden with political interference and corruption. A 1998 survey by the United Nations Development Program found that only 0.8% of the population had confidence in the judiciary. Under the 4<sup>th</sup> Republic, judges were appointed by the political party then in power, and approximately 80% were provisionally appointed, subject to removal by party bosses at any time. Broad political support existed for the suspension of corrupt judges by a commission of the new National Constituent Assembly in 1999.

The opposition groups *SUMATE* and *Primero Justicia* claim that the judiciary is hopelessly under the thumb of the Chavez administration, despite the fact that the President does not nominate or appoint members of the Supreme Court and the Court's budget is independent of any other branch of the government. The main complaint is that the judiciary was improperly appointed, although both groups claim to support the Bolivarian Constitution and neither denies that corruption and incompetence was rampant in the judiciary before Chavez' election. Although agreeing that the vast majority of judges from the 4<sup>th</sup> Republic were corrupt, the opposition disputes the process used to replace them. We heard arguments on both sides as to whether the current judges had been selected on the basis of merit; but even the US State Department's latest Human Rights report states that, unlike before, the majority of the current judges are now tenured (and therefore independent of political pressure). Justice Vegas from the Supreme Court, whom we hosted to tour the US in April in order to speak with lawyers and law students and media representatives, says that he expects at least 85% of Venezuela's 1900 judges will have “titularity” (permanent, lifetime positions) by the end of 2006.

The Supreme Court (TSJ) was expanded to six separate chambers under the Bolivarian Constitution -- political/administrative, electoral, civil, penal, social/labor and constitutional -- with most cases assigned to only one chamber. The Constitutional Chamber can review legislation and decisions of the Executive and the other TSJ chambers for compliance with the Constitution. There are currently five judges assigned to each chamber (except the Constitutional Chamber, which has seven.)

In 2004, a measure was passed in the National Assembly increasing the number of TSJ justices from 20 to 32. This occurred in part because of its greatly expanded workload under the new Constitution and laws and partly because of popular concern that the Court was undermining the Bolivarian process. Interminable delays and refusal to resolve cases arising under the new Constitution and laws were exacerbated by the TSJ's 2003 ruling declining to prosecute leaders of the attempted violent overthrow of the government in 2002 -- finding that there had been no coup, but merely "a vacuum of power" into which the coup leaders had stepped. Some of the leaders of the attempted coup had gone on to organize the economic sabotage in December of 2002, which caused such tremendous hardship and damage to the economy.

*SUMATE* and *Primero Justicia* both object to the expansion (calling it "court packing") and the way the justices were chosen. *SUMATE* showed us their video of the opening ceremonies of the TSJ's 2005 session, in which a spontaneous and exuberant pro-Chavez chant could be heard, presumably voiced by some of the hundreds of people (judges, staff and family) in attendance. Unlike the U.S. system, however, we note that the Venezuelan Executive has no role in choosing members of the high court. Justices of the TSJ are nominated by a legally prescribed nominating committee of civil and professional society and confirmed by vote of the National Assembly, giving the pro-Chavez/pro-Bolivarian majority in the National Assembly an important role in the future of the Court.



We also learned of a controversy over the suspension of judges on one chamber which reviewed and nullified various measures vital to the new government's legislative agenda. This included a ruling that Cuban doctors spearheading the government's efforts to provide primary health care to Venezuelan's poorest citizens – one of its most popular programs - could not lawfully practice medicine in Venezuela. There were also charges of corruption and conflict of interest against members of that tribunal. However, we note that the Supreme Court has ruled against the executive and legislative branches in a number of instances, including interpretation of important land reform legislation and electoral decisions.

As recent Human Rights Watch reports have acknowledged, many new courts have been opened to afford increased access to justice. When Chavez took office, 75% of prisoners in Venezuela had not been sentenced; within 3 years that number dropped to 43%. The time limit that suspects could be held without charges after arrest has been reduced from 16 days to 48 hours. The new Constitution upholds a presumption against pre-trial confinement, so even people who are charged with trying to overthrow the government are free to come and go to the US or wherever they chose, pending their trial.



## Media

Much has been made in the U.S. press about “threats to freedom of the press” in Venezuela. In order to evaluate these claims it is essential to understand who controls the Venezuelan media and what their role has been during the current government.

It is hard for North Americans who have not been to Venezuela to understand the level of vituperation and disrespect leveled by the mainstream press at President Chavez and members of the current government -- far beyond anything seen in the U.S. mainstream press’ treatment of our own government. Nonetheless, even after boldly instigating and supporting the 2002 coup and subsequent economic sabotage, none of the media outlets lost their broadcasting privileges or faced government intervention.

Almost all Venezuelan national broadcast media is owned by wealthy families and powerful economic groups that oppose the Bolivarian project. Only one national television station is state owned. The print media is similar, although the one daily paper that prides itself in taking a “balanced” approach between Chavez and the opposition, *Ultimas Noticias*, is the paper with the highest circulation in the country. We met with the editor and staff of *Ultimas Noticias* and were impressed with their commitment to “balance”, especially when compared to the other national dailies – El Universal (which has an English language edition) and . The issue that appeared on our last day in Caracas provided full page maps for pro-government and anti-government demonstrations being held that day in downtown Caracas (even though over 1 million people attended the pro-government rally and only a few thousand came to the anti-government rally...)

Media has moved into the vacuum created by the discrediting of the two traditional political parties. They have serious financial stakes in defeating Chavez. Their campaign against him began during his first election campaign. Accustomed to wide powers and privileges, including substantial power over appointment of government ministers and tax exemptions, the media claimed it was under attack when President Chavez refused to continue these accommodations.

The April 2002 coup has been called a “Media Coup” In the days leading up to the April coup in 2002, all four private television stations replaced regular programming with relentless anti-Chavez speeches, interrupted only for commercials calling on viewers to take to the streets: “Not one step backward. Out! Leave now!” Although the ads were sponsored by the oil industry, the stations carried them free, as “public service announcements.” On the night of the coup, one station hosted meetings among the plotters, including Carmona. The president of Venezuela’s broadcasting chamber co-signed the decree dissolving the elected National Assembly and the Supreme Court, renaming the country and canceling the Bolivarian Constitution.

While the stations openly rejoiced at news of Chavez’s ‘resignation,’ a total news blackout was imposed when pro-Chavez forces mobilized for his return. When Chavez was finally returned to the presidential palace, the stations gave up on covering the news entirely, and aired movies and cartoons.

Eight months later, during the sixty two days of 2002-2003 economic sabotage, all of the privately owned media suspended their regular programming to dedicate coverage to the effort to force President Chavez to resign. During those two months, the four leading TV stations in the capital transmitted 17,600 public announcements against the government (71 per channel per day, roughly one announcement every twenty minutes). This does not include regional TV stations, print or radio media.

We met with a group of lawyers who have formed their own “Frente de Abogados Bolivarianos” as an alternative to the anti-Bolivarian national bar association. They have filed suit against the owners of the private TV station “Globovision” for violating the constitutional rights of the Venezuelan people by using the public airways to encourage the violent overthrow of their duly elected government. They gave us copies of their pleadings, and we have invited them to attend the annual NLG convention in Austin, Texas, in October of 2006.

In response to the events of 2002-2003, the government has carried out a series of investigations into the behavior of the leading private media channels, including tax audits and the application of rarely enforced articles of communications law. The opposition argues that these actions are politically motivated and intended to create a climate of ‘self-censorship.’

Legislation entitled ‘Social Responsibility in Radio and Television Law’ was passed in November of 2004. Some parts of this statute are vaguely worded, including rules against incitement of breaches of public order, which can theoretically result in suspension or license revocation. There are also requirements that up to 40 percent of air time be used for the work of independent producers, and radio stations are required to play at least one Venezuelan song for every foreign song played. Increases in penalties and scope of long-standing (before Chavez) Penal Code “desacato” provisions, common throughout Latin America, have also been promulgated, penalizing insult or disrespect for the president or other top government officials. We were interested to learn that Chavez had in fact opposed these changes and, subject to the provisions of the Constitution, sent the legislation back to the National assembly with his recommendation not to increase the penalties. But the legislature easily overcame his objections, as a 2/3 override is not required by the new Constitution.

Despite the controversy over this legislation, however, the actual content of media broadcasts has hardly changed; the most noticeable difference has been the announcement of explicit language or graphic violence before certain programs. Although the language creates space for the government to legally restrict speech in times where it feels threatened, the law is similar to legislation in other democracies around the world, including France and the United Kingdom.

The Chavez government has also had a positive media strategy. ‘Alo Presidente’, is a sensationally popular Sunday television show during which President Chavez takes calls from citizens, sings and reads from classic texts, and explains his social and economic programs. (Spanish speaking North Americans with a high speed internet connection can enjoy it streaming on line by googling “alo presidente hugo chavez” between 7 and 11 a.m. Pacific time.) But the private media has far more resources and technology than the state-owned channel. In turn, the state has increased its number of radio transmitters and expanded its newswire agency.

Hundreds of training courses for community based radio transmitters have been funded, and a school has been founded to stimulate independent in depth news production. In addition to expanding National Radio of Venezuela to reach from Canada to Chile, Chavez, with the support of Cuba, Argentina and Uruguay, has also developed a satellite-broadcast alternative to CNN, called *Telesur*, serving as an alternative voice and vision for Latin America. (Available streaming live on [www.telesurtv.net](http://www.telesurtv.net).) Because the cable lines are owned by the opposition and they refuse to broadcast Telesur, only satellite owners are able to see it. We were able to view it at our hotel and found it comparable to satellite stations LINK TV and Free Speech TV in the US, with an artistic and grassroots approach to life and politics throughout Latin America.



It is clear to anyone who visits that public discourse and freedom of speech are alive and well in Venezuela. Private media continues to vigorously attack the government, claiming at the same time that freedom of the press has disappeared. Despite the role that media played in the coup and devastating economic sabotage of 2002-2003, not a single journalist is in prison for his or her work or opinion, and not a single private media outlet has been shut down or faced state intervention in its editorial policy.

### **Civil Liberties**

One of the opposition's most adamant refrains relates to what they claim to be discrimination by the government against them. The proof they say is the publication of what is called the Tascon List. When SUMATE and other opposition groups gathered the requisite signatures for the

recall election in 2004, a pro-Chavez legislator named Tascon posted the over two million signatures on the internet. (He got the list from SUMATE's own data base.) Although the list was a public document, when it became clear that some government agents were retaliating against signatories Chavez demanded that the list be taken off line. We met with an anti-Chavez human rights worker from the (opposition-run) Catholic University Center for Human Rights, an organization that specializes in, among other issues, advocacy for people who were discriminated against for signing the recall petition. Despite opposition press reports that retaliation was an ongoing problem, she said they had had only 18 complaints and were pursuing only two cases, out of the two million plus signatories. Perhaps, as she said, there were others who feared further retaliation. But there was no evidence of retaliation against her claimants and it would be logical to think that someone who suffered a grievous denial of employment or benefits would welcome the opportunity to get relief with the help of this Center.

### **Human Rights/Prisons**

Although the opposition groups with whom we met did not mention it, we found perhaps the most worrisome challenge to the Bolivarian project to be police abuse and the situation in the prisons, abuses which pre-existed the Chavez government but continue to plague the country. Although there seems to be general agreement that there are no political prisoners in Venezuela and the number of people incarcerated as a percentage of the population is small compared to the US, there is a serious unsolved problem with violence and brutality. According to one of the human rights groups we met with, the prisons in Venezuela are the most violent in the hemisphere, perhaps in the world.

Humberto Prado, a human rights lawyer and director of the Observatorio de Prisiones, said that this situation pre-existed the Chavez government and that a big effort was made shortly after Chavez' election to rectify the problem of detainees who had not been tried, reducing the percentage from 75% to 43% within 3 years. But Venezuela clearly continues to have a systemic problem with violence in the prisons, and Prado believes the only solution is to put the prisons under the control of local political systems, instead of the Federal government and National Guard. We were told by representatives of the Attorney General that the government is seeking to prosecute abusers and train the guards, but that regional prosecutions are difficult in such a centralized judicial system. Because one of the main tenets of the new Constitution is decentralization, it is likely that progress will be made on that front as well.

Another issue that we raised with the representative from *Primero Justicia* was the allegation made in Venezuelan terrorist Luis Posada-Carriles' immigration hearing in Texas that if Posada-Cariles were deported to Venezuela he would be tortured in prison. We were told that it was unlikely that a Venezuela prisoner would be tortured, much less for political reasons. Perhaps less likely than for a prisoner in Guantamo or one of the US-run prisons in Iraq or Afghanistan...



## **US Interference**

Since 1846, the US has carried out no fewer than 50 military invasions and destabilizing operations in Latin America, involving 12 different Latin American countries.

Hugo Chavez speaks often of a US invasion of Venezuela, but it is clear that invasions can be accomplished in many different ways.

As this report was being prepared, the newspapers were announcing “Operation Partnership of the Americas”, in which a flotilla of warships and fighter planes under the US Southern Command will spend April and May off the coast of Venezuela performing “military exercises”. Meanwhile, hundreds of millions of US taxpayers’ dollars are committed each year to Colombia, which shares a 1400 mile border with Venezuela. Plan Colombia has cost US taxpayers \$4.5 billion between 2000-2005 to bring US military equipment and personnel to spray chemicals on coca leaf and assist the Colombian military, a military with a shameful human rights record, to defeat an insurgency and protect oil pipelines. Less than a year ago, US military “trainers” were accused of selling arms to the very paramilitary groups that our funds are supposed to be decommissioning.

Regardless of the purpose or effect of the US military operations in the region, there is no question but that the US government is providing vital support to the Venezuelan political opposition, despite the fact that the current Venezuelan government and its programs have been confirmed in nine free and fair elections.

The budget for the U.S. “democratization” program, initiated under the Clinton administration and intensified under George W. Bush, has risen from \$2 million in 2001 to \$9 million in 2005. Disguised as activities to ‘promote democracy’ and ‘strengthen civic life’, it consists of money, training, counsel and direction to a network of political parties, NGOs, mass media, unions and businessmen opposed to the Bolivarian project.

Our delegation met with US/Venezuelan attorney Eva Golinger, author of “the Chavez Code” (See Resource List). Golinger, through aggressive pursuit of Freedom of Information Act requests, has unearthed uncontrovertible documentation of US complicity with the leaders of the 2002 coup against Hugo Chavez. Her book incorporates numerous communiqués between US government (St Department and CIA) officials and the opposition leaders behind the 2002 coup

against Chavez and the subsequent economic sabotage. Meetings in Washington in the month leading up to the coup were followed by a close web of transmittals, and the US mainstream press was overflowing with immediate US official – and public -- support for Carmona and his “new government”. Editorials in the NY Times, Chicago Tribune and Newsday all cheered the ouster of Venezuela’s democratically elected president. The Washington Post was one of the few major US papers whose initial reaction was to condemn the coup outright.

In 2001 to 2002 the National Endowment for Democracy (NED), a federally mandated government entity funded primarily by U.S tax dollars and initiated as an alternative to the contra war in Nicaragua, gave out over \$1.5 million to “promote democracy” in Venezuela through funding of opposition groups such as *SUMATE*. In 2002, shortly after the failed coup, the U.S Department of State issued an extra grant of \$1 million in “special Venezuela funds” to the NED. The NED issued these extra funds to the same groups that just played key roles in the coup against President Chavez. From 2000 to 2005 NED has used a total of \$4,729,770 of U.S public funds to “promote democracy in Venezuela” through providing financial support to various opposition groups in the country.

In addition to financing NED for its campaign to oust President Chavez, the Federal government has also utilized the United States Agency for International Development (USAID) to provide financial support to opposition movements in Venezuela. The U.S Congress established USAID in 1961 initially to aid humanitarian development around the world. However, eventually USAID, like NED, had large portions of its funds diverted to support political movements aligned with U.S. interests. USAID has established the Office of Transition Initiatives (OTI) to intervene in nations that are experiencing a “crisis that threatens democracy.” Shortly after the April 2002 attempted coup against President Chaves, the State Department ordered the placement of a USAID OTI office in Venezuela in June 2002. The OTI program in Venezuela had an initial budget of \$2,197,066 for just six months to operate its programs of increasing political polarization in Venezuela. As part of its initiative OTI awarded over \$10,061,062 to Development Alternatives Inc, a private U.S consulting company to help establish and monitor these OTI programs supporting opposition movements in Venezuela. In short, from 2002-2005 USAID has used \$22,445,735 of U.S public finds for “promoting democracy in Venezuela” through financial support of various opposition groups in the country.

In conclusion, based on what has been reported, over \$25 million of U.S tax dollars have been used since 2002 to “promote democracy” in Venezuela by providing financial support exclusively to opposition groups working to oust the freely and fairly elected President Hugo Chavez. Of course, this is only the tip of a very large iceberg, when one considers the additional billions spent for Operation Partnership of the Americas and Plan Colombia. (See App G – Impact on US Budget)

Presumably, US intervention in Venezuela would not be possible if it were perceived by the US populace as another imperial effort reminiscent of recent US involvement in Chile, Argentina and Central America. The US press, vastly consolidated in the past few decades, is solving that problem for the Bush administration.



As reported by media watchdog FAIR (Fairness and Accuracy in Reporting) last year in a survey covering April 2002 to October 2004: *The New York Times*, *The Miami Herald*, *The LA Times*, *The Chicago Tribune* and the *Christian Science Monitor* quote pro-opposition spokespeople over five times more often than spokespeople supporting the Venezuelan government. Given the Bush administration's penchant for paying journalists to promote its policies through the media (Armstrong Williams, Maggie Gallagher, etc.) and the fact that many of the infamous directors of Iran-Contra have been incorporated into the Bush Administration (including Otto Reich, the Cuban-American of the infamous Office of Public Diplomacy, resurrected as Assistant Secretary of State for Western Hemispheric Affairs --denied Senate confirmation but eventually appointed in recess by Bush), the distorted news coverage must be carefully scrutinized by all North Americans who want to let Venezuelans run their own country and solve their own problems pursuant to their own lights.

The Wall Street Journal's recent editorial (6/23/06) opposing Venezuela's bid for a non-permanent seat on the UN Security Council is a classic example of US media attitudes toward Venezuela: "A Vote for Venezuela is a Vote for Iran."

## CONCLUSIONS

During our trip, we were able to see a vibrant democratic process at work in Venezuela. Sectors of the population that had been traditionally ignored are being incorporated through initiatives that have immediate and dramatic impact on their lives – economically, politically and socially.

For the first time the wealth produced by Venezuela's oil industry is actually being used to benefit its population. Land reform is being carried out and alternative forms of development are being implemented in a mixed economic model. The country's majority are clearly benefiting from the new emphasis on education, health care, housing, subsidized markets and employment.

Political institutions have been revitalized. Parties that had dominated the political life of the country for decades but were corrupt and bankrupt in terms of vision for the future are now irrelevant. Chavez and his political measures have been approved through a record breaking number of elections and referenda. Recent elections – overseen by the new electoral branch of government – have been remarkably fair and free of corruption. Chavez and his program appear to be extremely popular with the vast majority of the Venezuelan people. People are excited about provisions in the new Constitution that they see as responding to concerns relevant to their lives. Access to the government and the justice system are facilitated through a fifth branch of government, created to protect citizen's rights and assist them in dealing with state authorities.

As a result of these historic reforms, an unprecedented movement of participatory democracy has taken root. The programs of social investment and fundamental democratic institution-building have resulted in the mobilization of an invigorated and active civil society. While there remains political polarization and outspoken opposition to the Chavez presidency, the process has been peaceful. Compared to other civil society and armed uprisings in the Americas, Venezuela stands as a model of peaceful, democratic transformation.

The opposition – including most of the media that played such an inflammatory role during the attempted coup against Chavez in 2002 – are free to broadcast and publish without censorship. Opposition leaders and NGOs critical of the government operate freely and openly. They demonstrate and are given access to the streets of Caracas – even on the same day Chavez addresses his supporters. The leaders of *SUMATE*, which is financed and championed by the U.S., are facing charges of using foreign funds to interfere with the electoral process and overthrow the republic. They played a major role in the 2004 recall referendum against President Chavez. Their defense that U.S. funds were used only for ‘voter education’ will be fully presented at an open trial with due process guarantees. They are at liberty pending trial, as are the leaders of the 2002 coup attempt.

Venezuela’s firm stand against the economic models and free trade agreements for the region that are favored by the United States has earned it the animosity of the Bush administration. Venezuela continues to encourage foreign investment, but is exacting more favorable terms and standing firmly against privatization of its greatest resource – the oil industry. It has also offered to use the wealth generated by that industry to fund development projects under very favorable terms for its neighbors.

The Chavez government has been an active OPEC member, and has established relationships with other oil producing nations including but not limited to Iraq, Iran, Mexico, and others. These economic and political relationships are protected by the United Nations Charter and should be respected as the legitimate right of a sovereign nation to build and maintain such relationships.

The new “Bolivarian Economic Model” has been criticized for driving a wedge in the plans and progressions of neo-liberal economists and the U.S. government. As a delegation, we concluded that any dissonance that has been created between Venezuela, its allies, and the U.S. government should be addressed through diplomatic channels in the form of principled dialogue and negotiation. The peaceful nature of the self-determined direction of the Venezuelan government warrants informed discourse and not threats of destabilization or war. We find it curious that the United States government has condemned Venezuela through statements issued by the Secretary of Defense and not through the normal course of diplomatic dialogue and discourse. The proclamations and actions of the U.S. Defense Department provide fodder to fuel the fears of those who believe that the United States government has developed military options to derail the democratically elected government of Venezuela.

The result of the economic and political independence the Chavez government is demonstrating is an ominous drumbeat of increasingly hostile rhetoric from U.S. government spokespeople. Millions of U.S. dollars are currently funding a network of opposition organizations. One has only to imagine reaction in the United States to a foreign country funding a political campaign against our elected president, to understand how unacceptable this kind of intervention is to the vast majority of Venezuelan citizens. The tactics being used by the U.S. in Venezuela are very reminiscent of the models used against the Popular Unity government of Salvador Allende in Chile and the Sandinista government in Nicaragua. It is not far-fetched to conclude that the

groundwork is being laid for future military intervention. It is the responsibility of informed citizens in the United States to firmly support the right of the Venezuelan people to self-determination, and to oppose all forms of intervention in Venezuela's internal affairs.

*In closing, we urge you to ensure that the government of the United States bases its actions toward Venezuela on respect for democracy. For a government that we hear described as a dictatorship, Venezuela under Chavez has held a record breaking number of elections. As we explained earlier, each of them affirmed the current direction of the government in that country. Furthermore, there are extraordinary examples of citizen participation at the grass roots level of society in setting priorities for local communities and carrying out policy. The Chavez government has faced dramatic challenges – a coup attempt in 2002, the economic strike led by the oil industry and the recall campaign of 2004. Each time the vast majority of the Venezuelan people has made clear, in words and deeds, their support for the current government. This has proven true, even when physical danger and significant economic hardship were at stake.*

*According to all recent polls Chavez's approval ratings remain high. Datanalysis – the opposition Venezuelan polling firm - reported his support at 68% in December of 2005. In February of 2006 a poll conducted by North American Opinion Research Inc., found 66 percent of Venezuelan respondents saying they would vote for Chavez in the election later this year. The Chilean polling firm Latinobarometro found that more people in Venezuela considered their country 'totally democratic' than any other nation in Latin America. In a study released on June 26, 2006, the National Opinion Research Center at the University of Chicago, ranked Venezuelans second only to U.S. citizens in "patriotism" – largely because of pride in the Bolivarian project.*

*During our trip, opposition spokespeople met with us, not in clandestine locations but openly in well equipped offices. They had no fears about being filmed and recorded as they freely outlined their activities, including the receipt of funding from the U.S. government. Broadcasting and publishing daily, without prior censorship, are television and newspaper stations firmly opposed to Chavez's government. On Feb 4, our last day in Caracas, separate marches were called by Chavez supporters and opponents. Both routes were published, with full descriptions of the organizers' political positions. The opposition was allowed to march without interference or repression.*

*Venezuelans of all political persuasions are anxious and able to make their opinions known. There is hope in their faces, energy in their voices, and expression of friendship for the people of the United States. Whether one agrees with everything that is happening in Venezuela is not the issue. Respect for principles of self-determination by a people attempting to replace bankrupt and corrupt institutions of government should determine our policy. There is growing fear among many Venezuelans based upon the increasingly hostile statements by U.S. government spokespeople and the support given to anti-government organizations. Foreign interference in the electoral process is illegal in Venezuela, as it is in the U.S. The Venezuelan people have the right to carry out their 'process' free of outside intervention and in peace.*



## RECOMMENDATIONS

1. We recommended and have followed through with the creation of a Task Force for the Americas, as part of the International Committee of the National Lawyers Guild. The Task Force will focus initially on Venezuela, especially in light of the upcoming presidential elections there in December of 2006, with the goal of exposing and preventing U.S. intervention in that process. It is anticipated that the Task Force would respond to similar threats throughout the region, as various countries are electing progressive governments that claim the right of self-determination.
2. Educational materials in the form of articles and power point presentations should be developed to educate the U.S. public and dispel some of the misinformation campaign in the press. This effort should include articles and interviews by delegation members, as well as the dissemination of this report and the film documentary of the delegation, to be prepared by Emily Kunstler.
3. Delegation members will continue to monitor the U.S. media treatment of Venezuela and attempt to respond to misinformation about Venezuela with letters to the editor and op ed pieces.
4. Speaking tours should be organized in the U.S. for representatives of various sectors of Venezuelan society and government. We invited Fernando Vegas Torrealba of the Venezuelan Supreme Court to visit New York, Washington DC, Chicago, Milwaukee, Los Angeles, Sacramento and the San Francisco Bay Area, to meet with lawyers, judges, law students and media between April 2 and 19, 2006, and have arranged for Justice Vegas, Eva Golinger and a representative of the Frente de Abogados Bolivarianos to participate in a series of workshops at the October 2006 NLG Convention in Austin.

5. Future delegations should be organized for people living in the United States to witness developments in Venezuela firsthand. This should include future delegations by National Lawyers Guild members and should involve the Frente Nacional de Abogados Bolivarianos as hosts and guides.
6. The National Lawyers Guild should develop relations of interchange and support with sister legal organizations in the Americas, including the Frente Nacional de Abogados Bolivarianos.
7. Legal proceedings against opposition members should be monitored by experts in constitutional and international law to provide impartial information and analysis.
8. Peaceful dialogue and negotiation between U.S. and Venezuelan government representatives should be promoted.
9. Any covert or overt military, diplomatic, or economic sanctions against Venezuela should be condemned and challenged by filing complaints with international courts and commissions.
10. The use of U.S. tax dollars or other foreign resources to influence the internal political processes in Venezuela, including elections, opposition parties, or other interest groups, should be publicly condemned and challenged by filing of complaints with international courts and commissions.

## Appendix A

### Legal Delegation Members

Sharon Adams

Mercedes Castillo

Sarah Coffey

Peter Graham Cohn

Robert Collins

Justin Dargin

Sandra Edhlund

Laura Safer Espinoza

Jim Fennerty

Eileen Hansen

Arthur Heitzer

Nagwa Ibrahim

Jimmy Leas

Cassandra Lopez

Dan Mayfield

William Wheeler Monning

Michael Dean Ray

Matthew Rinaldi

**Susan Scott**

Michael Sorgen

Monica Yriart

\*\*\*\*\*

**Emily Kunstler, filmmaker**



## Appendix B

### **Schedule of Legal Delegation to Venezuela -- 1/29/06-2/5/06**

Monday	Telesur -- meeting with Aram Aharonian Barrio 23 de Enero visit Dinner with Alexandro Carrillo (former Deputy Obudsman/Defensor)
Tuesday	Gerardo Blyde, Primero Justicia (major opposition party) Fiscal General (Attorney General) -- visit with staff Humberto Prado, Observatorio Venezolano de Prisiones
Weds	Eva Golinger – talk about US intervention and role in 2002 coup Editor Eleazar Diaz Rangel and staff of daily newspaper with greatest circulation, <i>Ultimas Noticias</i> National Assembly – Francisco Torrealba (previous leader of UNT labor federation), and Carlos Escarra (Constitutional lawyer)
Thursday \ 	Humberto Castillo, CNE (national electoral commission) Human Rights Panel – Red de Apoyo, Jesuit Relief Service, Funda Latin, Catholic University Center for Human Rights Visit to Nucleo Endogeno Fabricio Ojeda (coop and clinic) SUMATE (opposition group) meeting with lawyers defending SUMATE in treason prosecution by government
Friday	TSJ (Supreme Court) – Justice Fernando Vegas Torrealba of the Electoral Sala and other justices Press Conference at Hilton Simon Gomez, from TSJ staff, discussion about constitutional drafting process and transition
Saturday	Strategy session Dia de Dignidad-- marcha Frente de Abogados Bolivarianos meeting/dinner

## Appendix C

### **SUMMARIES OF MEETINGS**

#### **Telesur**

Meeting with Aram Aharonian, Director

Telesur is the new satellite station initiated last year by Venezuela, Uruguay, Brazil and Cuba. Called the CNN or Al Jazeera of Latin America, the intention is to draw on a Latin American identity.

They now have 9 offices: Buenos Aires, Brazil, Montevideo, Bogota, Caracas, Havana, Mexico City, Washington DC, and Haiti.

Offices will open in Nicaragua, Santiago, Lima, Quito, Trinidad, and the Dominican Republic.

We talked about how editorial decisions are made (an editorial board based in Caracas) and how successful they have been in trying to get Telesur to the people. (Not very in Venezuela, because of opposition control of cable networks.)

#### **Barrio 23 de Enero**

Reception by large group of barrio dwellers in a private house in huge barrio overlooking Caracas, built by Venezuela's last dictator (Perez- Jimenez) and named for the date in 1958 when he was overthrown by a popular rebellion. People spoke about life before and after Chavez' election. We met old and young, men and women, and spoke with a Cuban doctor assigned to this section of the barrio.

#### **Primero Justicia**

Meeting with Gerardo Blyde, General Secretary of Party.

PJ is fastest growing opposition party in Venezuela and only one that has announced a candidate to run against Chavez for President in December 2006. (Since our visit two more have announced.)

Membership mainly young professionals from Caracas.

Blyde explained criticisms re judicial system. While agreeing that judges were corrupt and provisionally appointed under old system, Blyde complained about process used to replace corrupt judges and emergency process used to appoint Supreme Court and stated that 67% of the judges are still provisionally appointed (US St Dept report says majority are now permanently appointed.) PJ wants a merit system whereby judges would be screened by law faculties and trained by special judicial academies. They want high taxes for owners of latifundias, instead of expropriation. They claim to have opposed privatization of PdVSA. He agrees that Chavez will continue to allow a mixed economy so long as oil prices bring enough money to pay for his programs for the poor. Regarding NA elections in December 2005, he admitted that PJ had made a mistake going in on joint slates with the rest of the opposition and said that they had no choice but to withdraw because the rest of the slate withdrew. He criticized GW Bush for not understanding the Latin people and disagreed with an immigration court decision denying deportation of Luis Posada-Carriles to Venezuela on the grounds of likely torture in Venezuela.

### **Attorney General's Office**

We met with the Director of Fundamental Rights (Alys Boscan) and the Director General of Legal Support (Elizabeth Galindo), as well as a member of the International Unit.

They discussed the role of the Attorney General – part of the “Citizen’s Power” branch of the government under the new Constitution – to prosecute crimes and corruption and guarantee human rights under the constitution. Under the accusatory system of justice, the AG formulates the charges and decides whether a person should be accused and takes the charge to the court with their evidence. For penalties of less than 4 years, they have a single judge bench trial and for greater penalties, they have a professional judge and two community members try the case. (Venezuela used to have 9 member juries but that was eliminated there and in other parts of Latin America.)

They are currently engaged in a national crusade against political corruption, and they are actively engaged in prosecuting companies for crimes against the environment, such as dumping waste into the rivers and lakes and buying and selling animals threatened with extinction. Now that they have doctors in the barrios, they hope to be able to bring a case against companies who pollute the air and cause asthma in children.

They talked about prosecution of domestic violence crimes and said the majority of complainants drop their cases to give their men another chance. They also described the emergency executive decree to improve prison conditions.

**Observatorio de Prisiones** We met with Humberto Prado, Civil Rights lawyer and Director of Prisoner Rights NGO. He showed us an impressive video of prison conditions and statistics comparing Venezuela’s prison conditions to other countries, showing an inordinate number of deaths in detention. He said that there are more deaths in Venezuela’s prisons than in the prisons of Mexico, Argentina, Colombia and Brasil combined, although there are 500,000 prisoners in those countries and only 17,000 in Venezuela. The video contained shocking images of burned and mutilated prisoners, including youths. He gave a presentation and answered our questions, indicating some reluctance to place the blame on the Chavez administration, possibly because of fear of retaliation. He denied that his organization was receiving funds from the US or NED, although the NGO that owns the building where they are housed does receive NED funding.

**Eva Golinger** Eva is a U.S. attorney and dual citizen of the U.S. and Venezuela who now lives in Venezuela, after living most of her life in New York city. She and a colleague collected information through the Freedom of Information Act about the US involvement in the 2002 coup against Chavez, and published a book which will come out in an English edition this year: “the Chavez Code.” She gave us a lecture on the history of the National Endowment for Democracy and the USAID programs that are being used to support the opposition in Venezuela. We have invited her to attend and speak at the 2006 NLG Convention in Austin.

**Ultimas Noticias** We met with the Editor, Eleazar Diaz Rangel, and several top staff writers of this daily paper -- the daily national paper with the highest circulation in the country (160,000 M-F and 280,000 on Sunday). Their revenues come 70% from advertising and 30% from sales,

and they receive no subsidies from the government, the U.S., or corporate owners. *Ultimas Noticias* is known as the only daily paper to have a “balanced” approach to reporting the news as it relates to the government. We discussed “balance” in journalism, something which they pride themselves in bringing to this extremely polarized media market. And we were told of their efforts to make the news relevant to “the woman on the street, sitting under the umbrella, selling chicarrón.” Although the editor is sympathetic to Chavez, most of the staff are quite critical and the paper reflects multiple points of view. Editor Rangel told us that the big news agencies (AP, Reuters, etc) have a negative attitude toward the Bolivarian ‘proceso’ because most are based in the U.S.

After the meeting, several of our members were interviewed for an article which appeared in the following day’s paper.

**National Assembly** We met with three members of the recently (December 2005) elected National Assembly, including Carlos Escarra, a Constitutional scholar, and Francisco Torrealba, one of the founders of the new popular (and pro-proceso) labor federation (UNT). Escarra explained the process for developing and approving the Bolivarian Constitution and commented that common citizens have a better understanding of its provisions than law professors. He also answered our questions about the appointment process for TSJ (Supreme Court) members and described some of the TSJ’s more controversial decisions. Torrealba described how the new pro-proceso labor federation (UNT) was created, its relationship with other progressive labor organizations in other countries, and how it has overtaken the membership of the old opposition federation (CTV). He described the process for future constitutional reform, including extending specific protections to Afro-Venezuelans and gays, and proposals for popular referenda on abortion, homosexual rights, and changes in term limits for the President (currently limited to two six-year terms).

**National Electoral Commission (CNE)** We met with Humberto Castillo (Alternative CNE member and Chair of the National Electoral Board – and the only member who was re-appointed by the National Assembly in its recent selection process for the new CNE) and an attorney for the CNE. Castillo explained the structure of the CNE and put it into historical context, describing how before 1998, the national electoral board was traditionally controlled by the two ruling political parties AD and COPEI. He explained the current election process and verification and audit procedures, and the controversies which have arisen about fingerprint machines in the past year. He noted that more than 800 foreigners monitored the 2005 elections and found them to be free and fair. He described the registration and education programs that have brought the vast majority of the population into the electoral system and explained the low turnout at the December National Assembly (NA) elections, when the opposition pulled out at the last minute and all pro-proceso candidates were elected. The opposition pulled out -- even after the CNE had agreed to all their demands. But even with the opposition withdrawal, NA election turnouts have never been higher than 25% because “somos un país muy presidencial” and Venezuelans historically only turn out for presidential elections. He said the CNE was committed to changing that historical reality.

**Human Rights Panel (Red de Apoyo, Jesuit Refugee Services, Catholic University Center for Human Rights)** We met with a panel of human rights workers from several different NGOs, most of whom were critical of Chavez and the Attorney General for not taking their concerns sufficiently seriously. Alfredo Ruiz, an attorney from Red de Apoyo, an NGO that has specialized in police abuse and police training, complained about the continued impunity for police abuse (he said of 500 families of victims who were detained, tortured or killed in the past 20 years, only 10% have been successful in bringing the abusers to justice.) He had numerous complaints about delays in the judicial and legislative process and corruption in appointment of judges. Alfredo Infante from Jesuit Refugee Services described how the civil and military conflict in Colombia has affected Venezuela and the humanitarian issues arising from refugee populations on the border. Although Colombian refugees are not being deported, only 200 of the 2000 who have applied have been given protective refugee status. Maria Gabriela Cuevas from the Catholic University Center for Human Rights talked about her work defending freedom of expression and political participation and complained that although the government purported to have an open door policy, economic resources were not provided to follow up on complaints. She admitted that the president of Catholic University (her employer) was an outspoken opponent of the Bolivarian government but said she had experienced a lack of respect for human rights defenders. We invited her to have lunch with us after the panel to talk about issue of the infamous Tascon List. This list of over two million signatories to the 2003 and 2004 recall petitions, originally published by the opposition group SUMATE, is alleged to have been used by government functionaries to deny government benefits. She said her organization had received 18 complaints of discrimination and had filed actions in

**Nucleo Endogeno Fabricio Ojeda** We visited this resident-run complex in a large barrio in Caracas, with two large co-ops (making shoes and T shirts for the education missions), a large and well-equipped clinic, community gardens and after school sports facilities for children.

**SUMATE** We met with the lawyers who are representing this opposition NGO in the government's prosecution of its leadership for treason for using U.S. funds from the National Endowment for Democracy to gather signatures for the 2004 presidential recall. They had a power point presentation about the judiciary, the transition between the old and new constitutions, and the Organic Judicial Law that they claim has led to judicial corruption and incompetence. They cited to critical reports by the InterAmerican Commission on Human Rights and Human Rights Watch and criticized decisions of the TSJ. They admitted that the pre-1999 judiciary was corrupt and subject to political pressure, but claimed that over 80% of the lower court judges still had "provisional" appointments, so that they continued to be subject to political pressure. [We later learned that the actual figure has been reduced in the past year to 40% and is expected to sink to 15% by the end of 2006, due to a vigorous effort to qualify judges]. To prove that the judiciary is not independent, they showed us a video of the opening ceremonies of the 2006 TSJ term, in which the President of the Court gave a talk which was followed by a spontaneous pro-Chavez chant by the large audience, comprised of judges, court staffers and family members. They also laid out their defense to the treason case against SUMATE's directors, saying that Venezuelan law only prohibits use of foreign funds for "political parties" and claimed that they are not a political party, even when they are promoting and collecting signatures for a

presidential recall. Their fallback position is that even if they are considered to be a political party, they use the NED dollars to fund electoral workshops and other funds to collect the signatures for the recall.

When questioned, SUMATE's representatives denied that they had supported the 2002 coup, despite the fact that their director Maria Corina Machado was present at the celebratory gathering in the presidential palace at which coup-meister Pedro Carmona declared himself the new President, dissolved the Supreme Court and National Assembly and changed the name of the country from the Bolivarian Republic of Venezuela to the Republic of Venezuela.

**Venezuelan Supreme Court (TSJ)** We met with Justice Fernando Vegas Torrealba of the Electoral Chamber and two other justices. They described the differences between the previous (pre-Chavez) high court and the current one, especially in the manner of appointment under the 4<sup>th</sup> Republic (by political party in power) versus that under the 1999 Constitution (by civil society nomination and 2/3 approval in National Assembly). They also explained how appointments were made during the transitional period between the old and new constitutions and told of the resignation of several justices who disagreed with the ruling to allow a referendum to elect a Constituent Assembly to draft the new constitution. They also described the 2004 Organic Law of the Judiciary, which expanded the court from 20 to 32 members and explained why the previous court's 11-9 decision in favor of generals involved in the 2002 coup would be reconsidered by the new court. In defense of their claim to be independent, they proudly asserted that whereas only 20% of the lower court judges had permanent appointments under the old system, now 60% of the judges were permanent and over 85% were expected to be approved for permanent appointment by the end of 2006. Justice Vegas emphasized that it was the people, not the jurists, that are at the heart of the Bolivarian Revolution, preventing it from being undermined by its enemies.

**Simon Gomez of TSJ** Simon Gomez works as a Clerk in the Constitutional Chamber of the TSJ and gave us a lecture on the jurisprudence of the transitional period between the old and new Constitution, explaining the Supreme Court's rationale for allowing a referendum for a Constituent Assembly. He responded to our questions about the existence of political discrimination in the court staff by telling us that there were lawyers on the TSJ staff that did not support Chavez and had signed the recall petition in 2004.

**Frente de Abogados Bolivarianos** On our last day in Caracas, we happened to notice a table on the street near a pro-Chavez demonstration bearing the sign "Frente de Abogados Bolivarianos." We had heard of the group and invited them to come to our hotel and tell us about their organization. Much like the Guild, the Frente was created as an alternative to the national bar association, which was controlled by advocates for corporate and elite interests. Unlike the Guild, however, they are strong supporters of the government and its programs. They have set up legal clinics in barrios throughout the country and have filed a major lawsuit against the TV network Globovision for media manipulation in support of the 2002 coup and economic sabotage. We have continued to be in contact with them and will be inviting one or two of their leadership to come to Austin for the Convention.



## TIMELINE

- 1498 Christoforo Columbus lands on Venezuela's coast and two years later Spain begins colonizing the area.
- 1821 Spain recognizes Venezuela's independence after El Libertador Simon Bolivar wins decisive military victory against the royalists
- 1917 Discovery of oil in Maracaibo basin, making V one of the oldest oil producing countries in the world.
- 1958 Venezuela's last military dictator is deposed and a period of 40 years of trading power between two oligarchic parties, the AD and the COPEI, begins
- 1961 A new constitution guarantees political and social rights but the Punto Fijo agreement ensures that the two parties of the oligarchy will have a lock on political power
- 1070s Oil boom
- 1976 The petroleum and the iron industries are nationalized and the national oil company, PdVSA is formed.
- 1982 Hugo Chavez Frias and other young officers build a secret cell within the military concerned with the political corruption fostered by the oil boom
- 1980's As price of oil falls and corruption in government and the state owned oil company rises, conditions worsen for the over 600,000 rural people who migrated to the cities.
- 1983 The government stops propping up the national currency, resulting in "Black Friday" and a national financial crisis.
- 1989 On February 16, two days after taking office, President Carlos Andres Perez reverses his campaign promises and announces a series of "neo-liberal" structural adjustment policies recommended by the IMF, including a sharp rise in the gas prices and the cost of transportation and food staples, a decrease in social services, and the elimination of social subsidies.
- 1989 On February 27 and 28<sup>th</sup>, massive protests against the neo-liberal policies by shanty-town dwellers shut down Caracas in a rebellion called the *Caracazo*. The military is called in to restore order, leading to somewhere between 500 and 2000 civilian deaths. There are an average of 4.5 protests per day for the next three years.
- 1989-97 Purchasing power reduced by 35%

- 1992 On Feb 4, then Lieutenant Colonel Hugo Chavez leads an unsuccessful military coup attempt. Chavez takes responsibility in a national television address and becomes a national hero – but is sent to jail.
- 1992 On Nov 27, a second military coup attempt also fails
- 1993 President Carlos Andres Perez is impeached.
- 1994 Hugo Chavez is pardoned and released under newly elected president Rafael Caldera and spends the next few years traveling around the country, meeting with campesinos, indigenous, workers in mining camps and urban barrios, talking up the need for deep institutional change and forging his Movement for the Fifth Republic.
- 1998 Chavez is elected President of Venezuela with the largest majority in four decades of elections, 56.2 %.
- 1999 Chavez takes office and immediately calls for a referendum to convoke a constitutional assembly
- 1999 Elections are held for the 131 members for the constituent assembly and Chavez' supporters win 125 seats
- 1999 On December 15, the new Bolivarian Constitution is approved by national referendum, after 5 months of a national drafting process.
- 1999 December – two weeks of torrential rains caused massive flooding and landslides affecting 1/3 of the country, killing over 30,000, including 20,000, and leaving 85,000 homeless.
- 2000 Venezuela is named Secretary General of OPEC, a position Saudi Arabia had held for the previous 27 years.
- 2001 President Chavez decrees the 49 enabling laws, including the Land Law, the Hydrocarbon law, and Microfinance Law. These laws radicalize the opposition
- 2002 On his Alo Presidente show on April 6, Chavez gives notice to the top management of the state oil company, PdVSA, that they will be replaced
- 2002 On April 11, massive protests against the Chavez government set up a coup attempt led by Pedro Carmona Estanga, president of the Venezuela Chamber of Commerce (Fedecameras). The coup plot is supported by the old national labor federation (CVT), dozens of generals in the armed forces and the private media, and is financed and supported by the US State Department and the USAID, the CIA, the AFL-CIO, and the National Endowment for Democracy (NED).  
Carmona decrees the dissolution of the National Assembly and Supreme Court and other officers, the nullification of the new Constitution and removes the word “Bolivarian” from the name of the country. The US and

- Spain are the only countries to recognize the new “government” of Venezuela.
- 2002 On April 14, President Chavez returns to power thanks to widespread popular protests and the unity between the loyal members of the military and the people in the streets.
- 2002-3 In December, the opposition declares a national strike and locks out the workers in the oil and heavy industries, lasting 62 days and causing over \$4 billions of dollars of damage to the economy, including billions of dollars of damage to oil wells and refineries.
- 2003 Workers loyal to Chavez retake control of the national oil industry installations, and Chavez fires some 19,000 members of PdVSA’s management and staff who had supported the strike and converts one of their office buildings into the new free Bolivarian University of Venezuela (UBV).
- 2003 The misiones (social programs) are founded, including free primary health care, a massive literacy and educational campaign, discounted food, etc.
- 2004 August 15 Recall Election – In an election certified as free and fair by Carter Foundation and OAS monitors, Chavez wins with 59 % of the vote, despite funding of the opposition by the NED and USAID
- 2004 Regional Elections – pro-Chavez coalition wins 274 of Venezuela’s 334 mayoral races (210 from Chavez’ MVR movement); pro-Chavez candidates win 20 of the 22 state governorships
- 2005 In May, polls show popular support for Chavez at an all-time high of 70.5%
- 2005 National Assembly elections -- opposition parties withdraw within days of the election, after National Electoral Commission capitulates to all their demands and pro-Chavez candidates win all seats, with a 25% turnout.

## Appendix E

### **Report on the Missions (for NLG delegation Report)**

Attorneys Arthur Heitzer and Sandra Edhlund, in addition to being with the National Lawyers Guild delegation to Venezuela, were also part of a group of U.S. activists who visited rural areas of Venezuela the week prior to the VI World Social Forum. Here are their comments, focusing on the social missions under the new Bolivarian Republic of Venezuela.

The peaceful revolution, which began with the election of Hugo Chavez in 1998, followed by the writing of the new constitution as a participatory process of all citizens in 1999 and the defense of this process against the coup in 2002, is seeing fruition with the influx of medical doctors, new schools, the achievement of universal literacy, and the settling of land titles. Rather than reform or replace the state bureaucracy, the government has developed a parallel structure to bring the poor, a great majority of whom support the President, immediate and concrete gains showing that they are a part of the process.

PDVSA is the national oil company, which has for many years been controlled by the elites and had entered into contracts which did not benefit the majority of Venezuelans. In 2002, shortly after the thwarted coup, the managers locked down the oil company and destroyed or disabled its computer software, causing great financial hardship for the country. Consequently the government fired the managers and reorganized the company. From its profits, PDVSA pays the costs of numerous missions that have been established. We spoke with the officer in charge of the Missions at the PDVSA headquarters. Dressed in his combat fatigues, Internal Director Col. Dester Rodriguez told us how he directs oil profits to the various missions. A prerequisite, before a community can receive many of these services, is that the residents must organize themselves into committees to participate in the planning and support for the program, whether it is the introduction of free medical care, or government support to provide services, building upgrades, and legal title for residents of squatter developments

**Mission Robinson** (named after Simon Bolivar's tutor) is a mass literacy campaign inspired Cuba's example, which was launched in June 2003. In October 2005, the United Nations declared Venezuela an illiteracy-free territory. It is estimated that 1.5 million adult Venezuelans learned to read and write in that time.

**Mission Robinson II** is the second stage of the process to educate the previously excluded. Its objective is to guarantee that those who have achieved basic literacy can obtain a primary education after two years of study.

**Mission Ribas**, begun in November 2003, offers over a million adult citizens the opportunity to complete secondary education. We witnessed a class at a community center in Barquisimeto, working on their computer skills.

**Mission Barrio Adentro** is a comprehensive program based on Cuba's successful model of free, universal health care with emphasis on preventive care. Some 17,000 Cuban doctors have

moved into distinctive, two story octagonal brick structures in poor urban neighborhoods or in the countryside. They reside upstairs, with a doctor's office on the ground floor containing the equipment necessary to treat common illnesses and offer primary and preventive health care. When we were in poor neighborhoods in Caracas, from any spot we could see up to three such buildings. The Cuban doctors are enormously popular and respected for the quality of their care and their sensitivity. (In Barquisimeto, Venezuela's 4<sup>th</sup> biggest city with c. 1 million people, located in the state of Lara, we also met one of some 3,500 sports trainers from Cuba who lend their expertise, especially to the youth of both sexes in poor communities.)

**Barrio Adentro II** is the second stage, which is building integrated diagnostic and rehabilitation centers near the communities, for the more complicated medical cases. We saw one center in the process of construction near Barrio 23<sup>rd</sup> de Enero in Caracas. More demanding health situations can then be referred to a third level for expert diagnosis and treatment.

One extremely popular program is **Mission Milagro** (Miracle Mission), which has restored eyesight to some 100,000 Venezuelans. They lacked medical attention to address their severe vision problems, but have now been diagnosed and given free operations in Cuba.

Related to this is the **expansion of medical education for Venezuelans**. In the state of Lara, we visited Monte Carmelo, a small rural community of 180 families in the mountains, which now has two students studying medicine in Cuba, and two more studying with Cuban doctors working in Venezuela, as part of a program to enable Venezuela to maintain these expanded services without long term dependence on Cuba.

**Mission Habitat** has as its goal the delivery of decent housing to every Venezuelan by 2021. The mission includes a pilot program in the vicinity of the Caracas-La Guaira highway.

**Mission Balboas Caras** was created in 2004 to promote the cultural transformation of social relations and production. It completes the goals of the educational missions by incorporating the unemployed participants into the local development processes. Local citizens are trained to recognize local economic potential, to organize in cooperative movements to develop this potential and to determine what government assistance they require. The cooperatives receive support, organization counseling and financial support from micro financial institutions created by the government. We visited a cooperative in Monte Carmelo administered by a woman who had completed the educational programs, having begun with a sixth grade education, who is now a college graduate. She and other women in the village make and preserve jams, jellies and salsa for both local and national markets. With the assistance of various educational missions, and using the proceeds of their cooperative, they have created a high school in the village, in a spacious meeting room over the canning cooperative, where high school students can study a full high school curriculum as they observe breathtaking views of the Andes.

**Mission Mercal** combats hunger by supporting direct sale of food at subsidized prices to the poor, strengthening local food production (Venezuela imports about 70% of its food) and facilitating connections to agricultural cooperative producers.

**Mission Zamora** is the long term focus for food and land security program, focusing on the distribution of land and promoting the connection with the consumer programs under Mission Mercal. In 2003 over two million hectares of land were distributed, benefitting over 130,000 families.

**Mission Guaicaipuro** is aimed at fully incorporating the indigenous people by promoting the demarcation of their territories and creating proper living conditions with respect for their ways and customs. In August 2005, the first collective land titles were distributed to these communities.

The “process” is marked by local involvement in forming policy and much experimentation with different models. What we witnessed in all the communities of the poor is the effect the entire process has had on the previously excluded citizens. They are now coming to the realization, as one woman barrio resident with pride in her eyes said to us, “now we matter, our children matter”. The millions of Venezuelans who now feel such dignity and involvement are sure to exercise a powerful influence as this peaceful Venezuelan revolution continues to develop.



## Appendix F

### Electoral Law (by Eileen Hansen)

As provided for in **Title IV of Venezuela's Constitution, Public Power** (*Del Poder Publico*), Public Power is distributed between Municipal Power, State Power and National Power:

- **National Public Power** addresses international and national policy and legislation. The National Assembly has the power, through majority vote, to delegate certain matters “under national competence” to States or Municipalities “in order to promote decentralization” (Article 157).
- Under **State Public Power**, “Legislative Authority shall be exercised in each State by a Legislative Council consisting of no more than fifteen and at least seven members, who shall proportionally represent the population of the State and the Municipalities” (Article 162).
- The management of state services and powers is transferred to **Municipal Power**, as appropriate. “Municipalities constitute the primary political unit in the organization of the nation” (Article 168). Leadership is provided by a Mayor elected by majority vote for a term of four years, with one additional, immediate term possible, and an elected Council (Articles 174, 175).

Elections for the **National Assembly** are through “universal, direct, personalized and secret ballot with proportional representation, using a constituency base of 1.1 % of the total population of the country” (Article 186). Terms are for five years, with the possibility of re-election for one term (Article 192).

National Assembly Deputies cannot be “proprietors, administrators or directors of business enterprises that enter into contracts with public sector juridical persons, so that they shall have no private beneficial interest in dealing with it” (Article 190).

**Title V of Venezuela's Constitution, Organization of National Public Authority** (*De la Organizacion del Poder Publico Nacional*), governs Electoral Power (*Del Poder Electoral*). As noted in Chapter V, Article 293, components of Electoral Power are constructed to “guarantee the equality, reliability, impartiality, transparency and efficiency of electoral processes, as well as implementation of the personalization of suffrage and proportional representation.” Article 294 goes even further, with a succinct and specific description of the governance principles of Electoral Power: “organic independence, functional and budgetary autonomy, separation of the electoral organs from the political parties, impartiality and citizen participation, as well as decentralization of electoral administration, transparency and expeditiousness of the voting process and tallying of votes.”

The following are functions of Electoral Power, among others, as contained in Article 293:

- Regulation and interpretation of election laws and resolution of unregulated areas
- Preparation and autonomous management of its own budget
- Issuance of binding directives and penalties regarding political and electoral advertising and financing
- Declaration of elections null and void, either in whole or in part
- Direction of all elections to fill public offices by popular vote, as well as referenda
- Organization of elections for labor unions, professional associations and organizations pursuing political purposes; organization of electoral processes for other organizations in civil society, either at their request or by order of the Electoral Division of the Supreme Tribunal of Justice
- Direction and maintenance of the Civil and Electoral Registry
- Registration and compliance monitoring for organizations pursuing a political purpose, determination of their legitimacy, and decisions regarding their applications for founding, renewal and closure
- Control, regulation and investigation of funds raised to finance organizations for political purposes

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**For English copy of Bolivarian Constitution:**  
[www.vHeadline.com](http://www.vHeadline.com)

**For comparative study of Latin American Constitutions and old and new Venezuelan constitutions:**  
<http://www.georgetown.edu/pdba/Constitutions/constudies.html>

