Venezuela's Legislative Elections: Arm Wrestling with Hugo Chávez

Alejandro Tarre

In the months preceding Venezuela's September 26, 2010, legislative elections, President Hugo Chávez confronted deep challenges: an escalating crime wave that, by some estimates, made Venezuela deadlier than Iraq, and Caracas one of the most dangerous cities in the world; a scandal surrounding 130,000 tons of food imported by the government and subsequently left to rot in containers across the country; an economy mired in recession while neighboring countries were rebounding from the global financial crisis with robust growth rates; and a series of power outages and water shortages, combined with the continent's highest inflation. Together, these problems eroded President Chávez's approval rating to around 40 percent, his lowest in seven years. Even under more favorable circumstances, incumbent parties of well-functioning democracies would face the possibility of losing their legislative majorities. But Venezuela is not a normal democracy. This is illustrated by the fact that a week before the election, some analysts did not expect the opposition umbrella group, the Mesa de la Unidad Democrática (MUD—"Coalition for Democratic Unity"), to win more than a third of the legislature, even though polls showed a virtual tie between the MUD and Chávez's Partido Socialista Unido de Venezuela

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(PSUV—"United Socialist Party of Venezuela"). Once it became clear on the day of the election that the president's party had won nearly 60 percent of the seats in the country's unicameral, 165-member National Assembly, the opposition celebrated as if it had won. Meanwhile, President Chávez refrained from addressing his followers from the presidential palace, despite having initially planned to do so before the results were announced.

In the end, both sides claimed victory. Chávez did so for an obvious reason: even though his adversaries made important gains, the PSUV won a solid majority of seats. Besides, the opposition was bound to earn seats in the assembly after having boycotted the last legislative election in 2005 due to a perceived lack of transparency. But the MUD claimed that it had won more than 50 percent of the popular vote, saying that if this vote count did not translate into a majority of seats, it would be because of the unfair election rules approved by the Chávez-dominated National Assembly and Electoral Council in 2009. Even if it did not win a majority of the vote as it claimed, the president would now have to negotiate with MUD deputies who constituted more than a third of the assembly, enough to block critical legislation and top federal appointments.

Whether the opposition obtained the majority of the popular vote is open to debate. Chávez rightly says his party won around 100,000 more votes than the MUD. Although this might be a small difference with eleven million votes cast, it is still a difference. However, the MUD argues that if one combines the votes for the MUD with those for the small left-wing dissident party, Patria Para Todos (PPT—"Fatherland for All"), the *chavistas* would become a minority. The president fired back that the MUD cannot "steal" the PPT votes, but PPT's leaders—former supporters of Chávez that have become critics—did not refute the MUD's argument, and have assumed a strong stance against the government. In fact, before the elections Chávez himself had called the members of the PPT "traitors" and "counterrevolutionaries," and said that it was impossible to simultaneously support him and Henri Falcón, a PPT leader and popular governor of the western state of Lara.

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What is less open to debate is the opposition's claim that the electoral playing field is far from level. The 2010 electoral results made this clear. With more or less the same percentage of the vote, the MUD won only 39 percent of the seats, while the president's United Socialist Party won 59

percent. Despite obtaining the highest number of votes since Chávez was elected in 1998, the opposition umbrella won thirty-three fewer deputies than the PSUV. In a press conference after the election, a journalist from Radio France Internationale asked the president about this discrepancy. Chávez's (lack of) response was telling. Unable to give a convincing explanation, he skirted the question and heaped abuse on the reporter.

WHY LOSING COUNTED AS WINNING

The discrepancy between votes garnered and seats won stems from newly biased electoral rules that illustrate how Chávez manipulates the law to stay in power. Venezuela has a mixed system for electing members of congress, in which nominal elections (of specific candidates) are combined with proportional representation through list voting. Venezuelans vote at least twice in legislative elections—first for the nominal candidate of the district in which they live and then for state-wide party lists. Until recently, the electoral law linked the results of nominal elections with those of list voting. If a state elected three deputies (two of whom were nominal) and "Party A" obtained 70 percent of the vote while "Party B" won the remaining 30 percent, list voting would ensure that "Party B" got one deputy. This compensation mechanism protected proportional representation, which is enshrined in the Venezuelan Constitution.[1]

But a reform of the electoral law passed by the National Assembly in 2009 eliminated this safeguard for proportional representation and augmented the number of nominal deputies relative to list deputies. It also enabled the Electoral Council to aggressively gerrymander the electoral map to favor the PSUV. These modifications, combined with a constitutional provision that ensures a minimum number of deputies in each entity—which disproportionately favors rural, sparsely populated states where Chávez's support is strong—explain the landslide victory of the PSUV.[2] In the urban states of Carabobo and Miranda, for example, the opposition coalition obtained fewer seats than the PSUV despite having won more votes. In the Capital District, the PSUV lost the popular vote but won seven out of ten deputies. The government's strategy backfired in the western state of Zulia, where it won three out of fifteen deputies with 40 percent of the vote. But overall, as the final results show, the electoral rules favored the PSUV. According to *Súmate* ("Join Up"), a Venezuelan non-profit electoral watchdog, the MUD and the PPT would have won eleven more deputies without the electoral reform.[3]

The biased electoral system, though, was not the only burden imposed

on the opposition. As in previous elections, the government relied on voter intimidation, campaign sabotage, and the massive use of state resources. The army set up official electoral rallies. The government dispensed half-priced Chinese household appliances, food credit cards, and subsidized tourism packages ahead of the polls, a move many perceived as vote-buying. As is his custom, Chávez made constant use of *cadenas*—through which all TV and radio stations are legally obliged to broadcast his messages simultaneously—to inaugurate government projects, promote the PSUV's candidates, and demonize the opposition, claiming that the opposition would eliminate social programs if it won. Government-run media, including six television channels, acted as the propaganda arm of the ruling party, giving blanket coverage to the PSUV's campaign and either attacking the opposition candidates or ignoring their rallies.

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On top of this, the opposition had to confront another challenge: the president's charisma. Chávez is a formidable campaigner who maintains a strong emotional link with a significant portion of the electorate. Although his popularity has diminished, it has proven resilient, still high for an incumbent of twelve years. Some critics explain away his popularity by saying that his government has benefited from the biggest oil boom in Venezuela's history, which allowed Chávez to invest heavily in social programs and reduce poverty rates and inequality. This argument is not false, but it understates Chávez's rapport with many Venezuelans, especially the poor. Though many poor Venezuelans think that the government has been unable to solve their problems, they believe Chávez at least cares about them and is "one of them." This complex reality reveals itself in polls showing a clear discrepancy between the president's popularity and the high percentage of the population that thinks the country is going in the wrong direction.

It is against this backdrop that the opposition's performance in the legislative election becomes impressive. Even if it did not win a majority in the assembly, it went toe to toe with *chavismo* in the popular vote and managed to frustrate the president's ambition of retaining a two-thirds majority. After failing to reach this majority, Chávez cannot—at least in theory—appoint the attorney general, the comptroller, and members of

the electoral authority, nor pass or amend laws that affect constitutional rights, without the opposition's consent.

THE BENEFITS OF UNITY AND PARTICIPATION

In achieving this small but important victory, the MUD benefited, no doubt, from Venezuela's growing economic and security problems, as well as from the corruption scandals and the crisis in public services. But the opposition also adopted the right strategy.

First, its multitude of constituent groups, including eighteen parties and about a dozen political movements, hammered out a single list of candidates after months of bruising negotiations, a spectacular achievement that political observers generally underestimate. In the 2008 regional elections, disunity unnecessarily cost the opposition the state of Bolívar and many municipal posts because several candidates split the anti-Chávez vote. This time, the opposition worked hard to avoid the same mistake.

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Second, although the opposition's campaign was not brilliant, its message was much more focused and disciplined. Instead of reacting to whatever Chávez said or did and letting him set the terms of the national debate, the opposition picked a few resonant themes—including violent crime and the food corruption scandal—and zeroed in on them with rare electoral discipline, which put the president on the defensive and allowed the opposition to effectively control the campaign agenda for the first time.

Third, and most importantly, the opposition has gradually learned an important lesson about how to fight back against a government that has shown little respect for republican institutions. In a country where the president has sought to consistently consolidate his power, often at the expense of the rule of law, the temptation to abstain from voting is strong. It is also an understandable urge. Voting might seem like a waste of time if the government can bend or violate rules to manufacture victory out of defeat; if the state apparatus promotes one side and attacks, intimidates, and blackmails the other; or if the government has a history of disregarding electoral results. For example, Chávez lost a constitutional reform

referendum in 2007. But after the election, the president rammed through congress or decreed into law many of his rejected reforms, some of which were highly controversial, thereby disregarding the will of the majority. Similarly, after the opposition won several densely populated urban states and the mayoralty of Caracas in the 2008 regional vote, Chávez stripped newly elected state governors and the metropolitan mayor of many of their powers and much of their budget.

What the opposition learned is that, even if electoral participation and democratic resistance might seem futile, they are nevertheless the *best options.* The governments that preceded Chávez, especially the ones that ran the country since the late 1970s, deserve much criticism. But a great legacy of the old order is that it left the country with democratic structures and practices that have helped to thwart Chávez's authoritarian ambitions. By boycotting the legislative elections in 2005, the opposition intended to make a moral statement about the unfairness of the vote. The unintended effect was that it ceded to Chávez supermajority control of the National Assembly, enabling him to pass sweeping legislation and to fill posts that otherwise could have checked his power. By ceding these institutional spaces, the opposition made it easier for Chávez to continue to weaken democratic structures, asphyxiate the private sector, and concentrate ever more power in the executive branch.

In contrast, participation in electoral processes has had the opposite effect. In 2007, for example, Chávez proposed to superimpose a series of "regional vice-presidents"—appointed directly by him—over the structure of elected governors as part of his project to reform the constitution. Although the reform project was clearly unconstitutional, the opposition decided to confront Chávez at the polls and won the referendum, defeating the president for the first time since his ascent to power. A year later, the opposition won several important states and municipalities in the regional elections. Chávez reacted predictably, stripping powers from these elected opposition officials and assuming direct control over their budgets. However, by voting down the reform in 2007 and filling important posts at the state and municipal level, the opposition has made it more difficult for Chávez to deconstruct the federal power structure of Venezuela. It is only through this sort of democratic pressure and institutional presence that the MUD can aspire to peacefully resist Chávez's authoritarianism and preserve at least the minimum number of democratic mechanisms and guarantees to allow for a peaceful transition of power in the presidential elections of 2012.

Still, the challenges ahead for the opposition are enormous. Since the legislative election, the government has been on a nationalization spree,

illegally seizing around thirty companies in the private sector despite the fact that a majority of the country opposes expropriations. In November, a top general, Henry Rangel Silva, said that the army would not tolerate anyone but Chávez as president since a hypothetical opposition government "would amount to selling away the country." When leaders of the opposition and the secretary general of the Organization of American States protested this statement, the president responded by promoting the general to general-in-chief.[4]

As of this writing, Chávez is taking radical steps to further undermine the opposition and diminish the power of the new deputies, who assume their functions in early January. The lame duck National Assembly recently approved an enabling law that gives Chávez special powers to enact legislation without congressional approval, greatly reducing the new legislature's functions during the first eighteen months of its five-year period. It approved several laws restricting civil rights, including controversial reforms to two media laws that could seriously limit freedom of expression, and a law that threatens deputies wishing to switch parties in Parliament with suspension and a ban on holding elected office. The National Assembly also seems likely to approve a group of five laws that will significantly alter the structure of government, introducing a parallel power structure—ultimately controlled by the president—that could gradually assume control of the functions and resources of the national legislature as well as local and regional governments. In addition, Chávez still controls the courts, the armed forces, the Electoral Council, the attorney general, and the crucially important oil industry, all of which will surely aid him in finding new ways to bypass the new Congress and to chip away at the country's democratic structures.

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But these bold measures, which once again reveal Chávez's disregard of electoral results, were not unexpected, and the MUD's leaders were perfectly aware of these risks before the legislative elections. The greater risk for the opposition was a poor result in the popular vote on September 26, which could have revived the ghosts of division, abstention, and demoralization. In order to confront the big challenges ahead, the opposition needs

to stay combative, energetic, united, and confident in its ability to win the majority of the vote in 2012, despite the Chávez's increasing authoritarianism.

So far, it has. ■

ENDNOTES

1 For more on Venezuela's electoral system and its history, see Luis E. Lander, "*La circunscripciones electorales y las elecciones de septiembre*," *Revista Sic*, March 2010.

2 Although the Electoral Council heavily gerrymandered the electoral districts to favor the PSUV, this strategy backfired in some states, almost balancing out the "gerrymander effect" between the two forces. The opposition was primarily harmed by the combination of the disproportionate representation of sparsely populated states and the abolition of the system of proportional representation. For further reading on the effects of the electoral reform, see Francisco J. Monaldi, "*2 + 2* no son cuatro: por qué con menos votos el oficialismo obtuvo menos diputados en Venezuela," Prodavinci, September 30, 2010 <http://prodavinci.com/2010/09/30/2-2-no-son-cuatro-porque-con-menos-votos-el-oficialismo-obtuvo-mas-diputados-en-venezuela/> (accessed December 18, 2010).

3 Roberto Abdul, President of the Directive Committee of *Súmate*, interview by author, October 2010.

4 For more on Rangel Silva's statements and the reaction of the secretary general of the OAS, José Miguel Insulza, see Andrés Oppenheimer, "Latin American militaries playing with fire," *The Miami Herald,* November 22, 2010.