

# Securing Venezuelans' Votes in the 2024 Presidential Election: Navigating Legal, Technical, and Political Challenges

Eugenio G. Martínez

A reliable voter registry is a fundamental pillar for upholding the integrity of any election.

A robust registry must ensure inclusivity, safeguard electoral rights and adhere to legal obligations.

While it is evident that the voter registry is directly influenced by demographic characteristics and changes within the population at a given time, the sociopolitical dynamics and decisions made by the administering organizations also significantly impact the design of these databases.

Updating the Electoral Registry for the 2024 presidential elections is pivotal to the electoral process. This involves acknowledging the decisive participation of Venezuelan migrants, whether they are granted the opportunity to vote abroad or face restrictions on exercising their political rights.

The Bolivarian Constitution of the Republic of Venezuela<sup>1</sup> confers the right to vote upon all citizens who are eighteen years of age from the cut-off of the Electoral Registry to the day of the election, provided that such registration is completed before the cut-off date.

However, Article 124 of the Organic Law of Electoral Processes (Lopre) restricts the right to vote outside the country ‘to voters who have residency or any other legal status indicating their permanence outside Venezuela.’ This limitation poses a challenge in the analysis of voter registration in Venezuela.

Under electoral legislation<sup>2</sup>, the voter registry is intended to be a continuous process, allowing citizens to sign up or update their data anytime.

In practical terms, this option is constrained outside of electoral periods, as updates within Venezuela can only be

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1 Article 68 of the Constitution of the Bolivarian Republic of Venezuela (CRBV) states: “Suffrage is a right. It is exercised through free, universal, direct, and secret ballots. The law will guarantee the principle of personalization of suffrage and proportional representation.”

Article 64: “Electors are all Venezuelan men and women who have reached the age of eighteen and are not subject to civil interdiction or political disqualification.”

2 Article 28 of the Organic Law of Electoral Processes (LOPRE): “The following principles will govern the Electoral Registry: 1, Public in nature: All people can access and obtain the information contained therein, with the limitations established by law. To guarantee each person’s right to privacy and intimacy, access to data related to residence will be limited and can only be obtained through requests from judicial or administrative authorities. 2. Continuous in nature: It is not susceptible to interruption due to the conduct of an electoral process. All people can register or update their data at any time, as well as request the rectification of data that is erroneous or affects their right to vote.” [Own translation].

undertaken at the National Electoral Council (CNE) offices in state capitals. For a voter to register or request a change of voting center, they must visit the Regional Electoral Office of the CNE in the capital. Venezuelans abroad must travel to their respective consulate or embassy.

Although the CNE, through the Civil and Electoral Registry Commission, holds legal and operational control over the civil registry of Venezuelans (births, deaths, marriages, etc.), there are still no automated processes to include individuals in the voter registry upon turning 18 or, conversely, remove them from this database upon death.

This persists despite the Organic Law of Civil Registry mandating the automatic incorporation of citizens' data into the Electoral Registry once they reach voting age. However, both the Organic Law of Electoral Processes and the General Regulations of the Lopre stipulate that registration in the Electoral Registry is a voluntary process initiated at the request of voters before a registration and updating agent of the CNE.

For Venezuelans abroad, the process is even more complex. Logistically, it is limited to electoral processes and the availability of consular personnel. However, the primary obstacle lies in meeting the requirements outlined in the Organic Law of Electoral Processes to be recognized as a voter abroad.

## **Twelve years of backlog**

The legal and operational challenges faced by most Venezuelans abroad in exercising their right to vote played a decisive role in the 2013 presidential elections, resulting in Nicolás Maduro's victory over Henrique CaprilesRadonski by a margin of

230,000 votes. At that time, only 100,495 citizens were registered outside the country, despite conservative estimates indicating that the number of eligible Venezuelans abroad was around 800,000.

Official data from the National Electoral Council reveal that 92% of votes cast abroad favored CaprilesRadonski in that election. It is crucial to note that the Electoral Registry of Venezuela, despite the provisions in the National Constitution, is characterized by its discontinuity and backlog.

The potential reactivation of political negotiation mechanisms presents a valuable opportunity to address electoral issues at the negotiation table. Given the intricacies of the registry stemming from internal discrepancies and the scale of migration, it is imperative to approach this matter with sufficient notice and a spirit of cooperation.

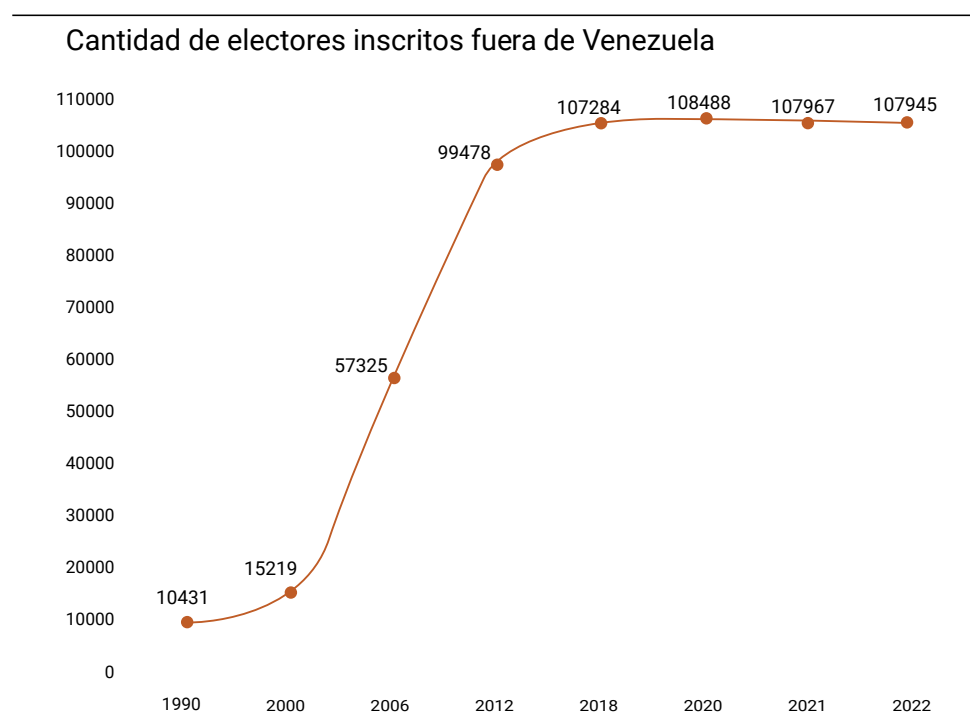


Illustration 1 Evolution in the number of people registered in the Electoral Registry to vote outside of Venezuela

While CNE data indicate that the Electoral Registry comprises 21,129,519 voters, only 107,892 are authorized to vote abroad. This implies that, in the event of national elections this week, only this small fraction would have the right to vote from overseas.

The situation becomes even more dire when considering that 36,000 of those eligible to vote abroad are registered in the United States, where there are no recognized diplomatic representations of the Venezuelan government.

The number of voters registered abroad starkly contrasts with data provided by the Coordination Platform for Refugees and Migrants of Venezuela, jointly led by UNHCR and the International Organization for Migration. Their estimate puts the number of Venezuelans abroad at 7,134,132, equivalent to 21.3% of the population estimate provided by the National Institute of Statistics of Venezuela for 2022.

Among the total number of Venezuelans abroad (7,134,132), it is estimated that 4,897,709 citizens, representing 68.98% of Venezuelans abroad, are over 18. However, only 2% of those over 18 years old (107,904) are registered in the Electoral Registry abroad and could potentially vote in a presidential election.

### **The causes of the problem abroad**

The distortion of extraterritorial suffrage is primarily attributable to four main factors: (i) restrictive legal regulations contradicting constitutional foundations and international suffrage standards; (ii) a complex migration situation exacerbated by the Venezuelan humanitarian emergency; (iii) deficient administrative practices severely limiting the issuance of identification documents –such as identity cards and passports–

to Venezuelans both within and outside the national territory; and (iv) an irregular and inefficient administrative practice of electoral registration through the foreign service. This practice fails to provide suffrage abroad with the same guarantees as suffrage within the national territory.

The main impediment to extraterritorial voting by Venezuelans revolves around the requirement of legal and permanent residence in the receiving country. This condition applies to both registration or updating in the Electoral Registry and the actual exercise of the vote. Such a requirement is deemed disproportionate, unjustified and therefore arbitrary.

Six guidelines for action have been recommended by Venezuelan civil society organizations to guarantee that Venezuelans abroad can participate in the 2024 elections:

1. Overcome the main obstacle of determining legal residence

The legal residence requirement for voting abroad should be interpreted expansively. All Venezuelans residing outside the country, aged 18 and above, and not subject to civil interdiction or political disqualification, have the right to vote and consequently should be eligible for registration in the Electoral Registry. The legal residence condition specified in the Organic Law of Electoral Processes must be construed broadly and in a manner favorable to exercising the right to vote.

In this context, legal residence should be understood as the status of a migrant who fulfills the permanence requirements set by the receiving State, irrespective of the conditions under which they entered that country. Legal residence encompasses not only

situations where migrants gain and maintain status through formal authorization (such as visas or permits) but also includes migrants considered legal in the receiving State, irrespective of possessing a visa or permit. This includes situations arising from direct protection mechanisms (such as refugees and asylum applications), complementary ones (special and temporary residence permits, as in Colombia and the US), or people benefiting from regularization processes.

## 2. Revise the powers of consular offices

Clearly define the scope of authority for diplomatic and consular offices as auxiliary and occasional electoral bodies, ensuring that their interpretation of the normative acts of the National Electoral Council does not lead to the imposition of additional restrictions on the updating of the Electoral Registry and the exercise of suffrage abroad.

In certain instances, diplomatic offices have taken on the responsibilities of immigration authorities in the host countries, determining the criteria for legal permanence and demanding additional documents beyond those stipulated by law for updating the voter registry. This practice should be curtailed to maintain the integrity of the electoral process and uphold the rights of citizens abroad to participate in the electoral system without unnecessary hindrances.

## 3. Incorporate international agreements

The specific regulations governing overseas voting should mandate the National Electoral Council to enter into institutional agreements, soliciting the collaboration of international entities throughout various phases of the electoral process for Venezuelans

residing abroad. These agreements may be in the form of memorandums of understanding or pacts with (i) the host country, (ii) international or regional entities, such as IOM, UNHCR, or other UN bodies, or (iii) non-governmental organizations involved in assisting refugees and forced migrants or organizations specializing in electoral cooperation. This collaborative approach ensures a more comprehensive and inclusive electoral process for Venezuelans abroad.

#### 4. Rely on international observers

It is imperative to enhance international and national electoral observation mechanisms to uphold transparency and integrity throughout every stage of extraterritorial elections, aligning with global standards. Adequate regulations must be implemented to facilitate international and national electoral observation, enabling the assessment of the legitimacy of the electoral process across all phases. These mechanisms should be able to gather and process information and subsequently generate evaluative reports and recommendations in a public and transparent manner, as endorsed by the MOUE in its Final Report on the 2021 elections.

#### 5. Update the registry

Prompt initiation of online registration and continuous in-person registration at official centers in all diplomatic and consular representations.

Immediate execution of comprehensive citizen identification operations, both domestically and internationally, to streamline voters' acquisition of identity documents, particularly identity cards and/or passports. If required, the National Electoral Council may engage in inter-institutional or inter-administrative



agreements with relevant administrative bodies and autonomous services responsible for identification and migration matters and consular representations to facilitate the expedited issuance of these identity documents. This proactive approach aims to enhance accessibility and ensure the timely documentation of voters within and outside the national territory.

#### 6. Enhance documentation flexibility

Enhance the flexibility of documentation requirements for the Electoral Registry abroad. For registration or updating in the Electoral Registry outside the country, it should be deemed adequate for the voter to present either (i) the laminated identity card, whether current or expired, or the original, current, or expired Venezuelan passport; and (ii) any documentation demonstrating residency or any other arrangement indicating the legality of their permanence. This approach involves applying the presumption of good faith of residence, as stipulated by the law regarding the Electoral Registry, a provision that has hitherto not been extended to the Electoral Registry abroad.

### **Migration vs. internal displacement**

Over the past decade, Venezuela has undergone significant transformations in population dynamics that are bound to impact the Electoral Registry. Factors such as internal displacement stemming from the country's complex humanitarian crisis, migration patterns, and demographic changes due to a prolonged decline in fertility have all contributed to these noteworthy changes.<sup>3</sup>

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3 Demographic consistency report of the Electoral Registry. 2012

The traditional sources used to track population trends and assess the demographic coherence of the voter registry are currently outdated. The existing population projections rely on data from the 2011 Population and Housing Census, while mortality statistics and the country's entry-exit records are neither centralized nor accessible to electoral oversight bodies.

The absence of population projections based on the Census, which should have been conducted in 2021, results in a substantial lapse of time and a lack of updated data. Consequently, the projections available for evaluating voter registration carry significantly high margins of error due to the considerable temporal gap used as a reference point for their calculation.

Furthermore, the lack of updated data exacerbates the challenges when attempting analyses with increased disaggregation, leading to a further escalation of margins of error. According to demographic data shared by the National Electoral Council with political parties participating in the 2020 parliamentary elections, Figure 2 illustrates the age distribution within the registry. Notably, the pyramid's base highlights the delayed voter registration in the age range of 18 to 30 years.

### Composición etárea del Registro Electoral

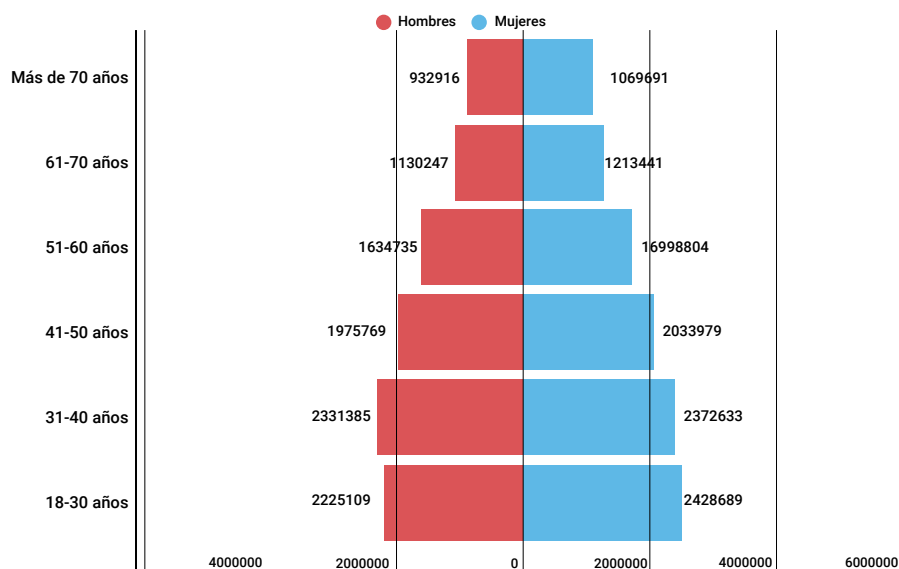


Illustration 2 Age composition of the Electoral Registry<sup>1</sup>

National demographics' characteristics and changes over the last decade, together with the sociopolitical dynamics that have generated an unprecedented migration in Venezuelan history and substantial internal displacement, render the procedures used to keep the Electoral Registry as similar as possible to the population universe ineffective.

### How to purge the voter registry?

As previously indicated, the Civil and Electoral Registry Commission of the CNE is responsible for managing the Electoral Registry<sup>4</sup>. This database contains the following personal data:

<sup>4</sup> Organic Law of the Electoral Power. Article 57: The Civil and Electoral Registry Commission is the body in charge of centralizing the information on the civil status registry of natural persons, which is formed in the manner provided for in the respective law. They also assume the civil and electoral registry's training, organization, supervision, and updating. [Owntranslation].

- Name and last names,
- Identity card number,
- Date of birth,
- Nationality,
- Sex,
- Address,
- Assigned voting center,
- Indication of disability and literacy,
- Fingerprints.

According to the National Electoral Council, fingerprints of 96% of registered voters are included in the electoral registry. However, it is crucial to note that the last comprehensive audit of the Electoral Registry occurred in 2005, the last audit of the fingerprint database was conducted in 2015, and a comprehensive review of the File of Venezuelans and Cedulated Foreigners has not been carried out for over two decades.

As highlighted earlier, despite the Electoral Registry being a permanent feature, in practice, this option is severely limited outside of the special operations conducted before electoral processes. Moreover, these operations have often exhibited partisan bias in their geographical deployment.

The following fundamental courses of action are recommended to enhance the Electoral Registry's demographic correspondence to the overall population universe:

- Conduct a comprehensive audit, evaluating its consistency with demographic trends.

- Initiate an independent registry or census of voters abroad.
- Conduct a thorough assessment of diplomatic and consular missions, determining their adherence to the voter registry's registration and data updating processes. Establish an ad hoc commission within the National Electoral Council to oversee the entire process of voter registration and voting abroad, modeled after the formation process of regional electoral offices.
- Promote the municipalization of voter registration efforts.
- Develop targeted information campaigns tailored to specific audiences.
- Engage in discussions to evaluate potential legal changes in the medium and long term aimed at safeguarding the integrity of processes related to the administration of the Electoral Registry.
- Implement substantial operational changes in the activities involved in forming and maintaining the Electoral Registry to ensure efficiency and accuracy.

#### General audit

Electoral oversight organizations have proposed that all voter registry review processes adhere to two fundamental random criteria or tests. These assessments should gauge both the presence of “ghost voters” (deceased individuals, duplicate names with distinct voter ID cards, and foreigners) and the improper exclusion of eligible citizens (individuals who have registered but are not included on the list as they should be).

The primary field tests for the voter registry should encompass two key areas:

1. “Person-registration” tests: These tests aim to assess the currency of the voter lists. The goal is to identify instances where individuals are included on the list but should not be, such as deceased individuals, or where information may be outdated due to marital status or residence changes. Testing staff endeavors to locate citizens from a randomly selected voter list sample to determine the accuracy and timeliness of their personal information.
2. “Persons-registration” tests: These tests aim to evaluate the thoroughness of the voter lists. The objective is to identify cases where individuals should be on the lists but are not. Testing staff randomly select eligible voters in public locations and then scrutinize whether these voters are included in the registry and whether their personal information is correct.

A broad review of the Electoral Registry has never been conducted in Venezuela. However, in 2006, Capel executed<sup>5</sup> an international review comprising six modules:

1. **Electoral Registry:** The database information was compared to the last official cut published at 100%.
2. **Fingerprints:** Each fingerprint of the selected sample was compared to the fingerprint linked to the ID number of the AFIS system (Automated Fingerprint Identification System).

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5 IDHH/Capel. Auditoría Internacional al Registro Electoral de Venezuela. 2005

3. **Deceased files:** The sample of the deceased file of the National Institute of Statistics was compared against the ER.
4. **Update sheets:** The ER update movements during the last five years were analyzed.
5. **Verification of ID cards:** The voters' information with no movements in the ER before the five-year registration check-up was reviewed.
6. **Comparison of birth certificates:** Of the voters without movements within five years of the review, a sample was systematically prepared to locate their birth certificates and compare them with the registry

In addition to conducting fundamental field tests for the registry (registration/person and person/registration), the audit of the voter database should encompass a thorough review of individuals' addresses. This review should involve cross-referencing with the Civil Registry to ensure accuracy. Additionally, the audit process should include purifying records for deceased individuals, handling objections, updating data for citizens who have moved nationally or internationally, and registering new voters.

For this review to be effective, the CNE must allow full access to the data contained in the RE database:

- Names and lastnames
- Fingerprints
- Addresses
- Contact information

- If there are any objections to the voter (deceased, disqualified, deprived of liberty, membership of a political party, etc.)
- Voter participation in all previous electoral processes.
- Date and place of data entry into the system
- User who entered the data into the system or made the corresponding modification

Moreover, to safeguard the integrity of the Electoral Registry audit, it is imperative to conduct a preliminary examination of the specific attributes of the ER Database, outlining the design of routines that will facilitate the documentary statistical analysis. These routines should be applied meticulously, encompassing all the data contained in the ER. Defining the equipment and computer applications supporting the required processing capabilities is crucial, ensuring their independence to uphold the technical reliability of the data detected in such situations. Any audit conducted on the ER must:

- Identify aspects of the ER that might compromise the reliability, security, quality, and outcomes of electoral processes. This involves evaluating the current composition of the ER and its overall and specific statistics at various levels of aggregation (Voting Centers, Parishes, Municipalities, States, National).
- Estimate and quantify potential inconsistencies and omissions within the ER, comparing with prior versions and conducting segmentations based on categories (e.g., geographical divisions) and types of situations to be studied (e.g., repeated IDs, names, and surnames, addresses, relocations, exclusions, inclusions, internal and external migrations, double ID cards, among others).



### Special audit

A special exhaustive review of the Civil Registry of those registered in the Electoral Registry between January 1, 2004, and December 31, 2015, is also recommended. This review is pertinent to verify that the income reported in the Electoral Registry corresponds to voters.

Additionally, periodic reviews of the following elements are required:

- Homonyms (voters who share the same identity card number)
- Reversal of Unsolicited Relocations
- Purification of deceased
- Criteria for the creation of new voting centers and the closure of others
- Log of ER movements by user and equipment used
- Detail of claims made, both corrected and rejected

### Municipalization of the Electoral Registry

The re-institutionalization of the CNE necessitates the implementation of public policies geared towards enhancing electoral processes. In the context of the Electoral Registry, the law underscores administrative efficiency and automation as guiding principles for governing this process.

The National Office for the Supervision of the Civil Registry and Identification must coordinate and disseminate ample information through various channels about session scheduling for issuing and delivering identity cards concurrently with the

planning of registration and update sessions in the Electoral Registry.

At this juncture, it is imperative to consider regions within municipalities that pose accessibility challenges, developing special plans in coordination with other state institutions.

The immediate undertaking of achieving the municipalization of the voter registry involves the following steps:

1. Collect information categorized by municipality and compile the registry of registration and update centers based on:
2. Accessibility for voters
3. Presence in hard-to-reach sectors
4. Inclusivity for all segments of the population.
5. Prepare and publish the registration and update centers list, specifying the center's address, the names of the respective registration and update agents, and operating hours.
6. Develop a profile for registration and update agent selection. These agents should undergo training provided by the National Electoral Registration Office.
7. The Civil and Electoral Registry Commission, through the National Electoral Registry Office, should create information categorized by municipality, containing details about the address of registration centers, responsible agents, periods, and schedules, given the public nature of the ER.
8. Establish a profile for the selection of registration and update agents.

9. Organize electoral education courses at the municipal level targeting individuals designated as registration and updating agents. These activities should be evaluated regarding attendance and the performance of those selected.
10. Expand citizen verification to counteract involuntary relocations.
11. The Civil and Electoral Registry Commission must maintain strict control over the authorization of mobile centers.
12. As part of the motivational and informative campaign directed at those needing to register in the ER, we recommend using text messages and social networks for communication.