

DEMOCRATIZATION IN VENEZUELA: THOUGHTS ON A NEW PATH

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Prologue

This report results from an extensive process of virtual discussions and exchanges over several months among Venezuelan, US, and European thought leaders concerned about Venezuela's political, economic, social and humanitarian crises. It aims to offer fresh and up to date analysis of what has impeded democratic political change in Venezuela and to explore options to enhance the chances for future democratization, civil harmony, and economic recovery.

The Venezuela Working Group, assembled by the Latin American Program of the Woodrow Wilson International Center for Scholars, includes experts from diverse disciplines and perspectives on Venezuelan politics, economics, civil society, public policy, and international relations, as well as authorities on democratic transitions in other countries. The Group's discussions probed Venezuela's descent into authoritarianism; opposition strategies; incentives for various actors to try to change Venezuela's crippling status quo; and the relative strengths and weaknesses of the regime and the opposition. Working Group members prepared studies to improve understanding of the armed forces, the nature of chavismo, civil society, the political opposition, the legal and illicit economies, and the lessons for Venezuela of transitions from authoritarianism to democratic governance elsewhere. All these and other materials contributed to the report's evolving draft.

The Working Group members whose names appear below affirm that this report reflects the consensus of its participants. Even though individual signers may not necessarily agree with every phrase in the text, they all endorse the report's overall content and tone and support its principal findings and recommendations. Members of the Working Group participated as individuals, not as representatives of any institution, organization, or government; the affiliations listed below are for identification purposes only.

Report author Michael A. Penfold incorporated significant materials, contributions, and feedback on successive drafts from members of the Working Group. We are grateful to Sara Torres for superb research assistance; and to Beatriz García Nice and Oscar Cruz of the Latin American Program staff for their valuable support.

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Executive Summary

Venezuela's economic collapse, polarization, repression and stalemate have deepened for years, with no end in sight. Four attempted negotiations have failed, each time with both sides accusing the other for bad faith.

With active Norwegian diplomatic mediation, a new round of dialogue and negotiations began in Mexico City in August 2021. It opened with an agreed statement of objectives and procedures, suggesting that both Venezuela's government under President Nicolás Maduro and the "interim government" established by the democratically elected National Assembly agreed that concerted effort is required in the interests of all Venezuelans to confront the country's grave economic, social and public health crises and move toward resolving the country's problems and rebuilding democracy. Representatives of both sides confirmed after each of the initial meetings that they were making progress on procedures and finding common ground on issues. But the Maduro government announced in mid-October that it would not attend the next scheduled round of talks in protest over the extradition to the United States of a close Maduro associate, accused of multiple counts of money laundering.

This report departs from a fundamental premise: that Venezuela's dire and destructive impasse cannot be resolved until both the Venezuelan government, led since 2013 by Nicolás Maduro, and the opposition interim government established in 2019 under Juan Guaidó, recognize that their strategies have failed to solve key practical problems faced daily by Venezuela's impoverished population, and that each lacks enduring public support to chart a credible path forward.

A negotiated accord, reinforcing democratic norms and institutions and promoting cooperation across political divisions, is in the interest of those who have supported the *chavista* movement, those who have opposed it, and the rest of Venezuelans. The report provides historical background to clarify how and why the movement led by retired Col. Hugo Chávez came to power, built popular support by incorporating marginalized sectors of the Venezuelan population, undertook radical social and economic programs, widely distributed the benefits of the large increase in oil prices, and moved Venezuela away from liberal democracy toward authoritarian governance while expanding corruption and the powers of a politicized military sector. We also discuss the techniques that opponents of *chavismo* employed to counter these trends, only to be faced by an increasingly repressive state. We do not evaluate the past nor assess blame. Rather, we try to account for Venezuela's divisions and then to explore whether constructive and feasible paths can be fashioned to help social and political actors within Venezuela, from its diaspora, and members of the international

community, commit to concrete steps aimed at peaceful coexistence, economic recovery, and the rebuilding of democratic institutions and civil society.

None of the proposed paths we discuss would be easy, short, likely to be smooth, or assured. But the pragmatic, strategic, incremental, step-by-step approach we recommend has a considerably better chance over time to reverse Venezuela's downward spiral and make progress toward a more peaceful, prosperous, and democratic Venezuela than the course that has been followed thus far by Maduro's government, the organized opposition, diffuse Venezuelan public opinion, and salient actors from the international community, each with its own perspective and interests, but with no shared positive vision or concrete plans for the future.

The heavy lifting to halt the country's decline and change its course must be undertaken primarily by Venezuelans, including those who have thus far been active in public life and those who have felt alienated and incapable of positively shaping the country's future and their own. The approach we recommend will take mature and thoughtful leadership and, equally important, will require broad participation by civil society organizations and citizens. No foreign power will take the risks and devote the resources needed to resolve Venezuela's multiple crises, but several nations have interests and resources that could engage with and support strong Venezuelan efforts.

Assuring and protecting free, fair, and credible elections with agreed rules and procedures and adequate monitoring is clearly necessary and should be advanced incrementally. Given the nature of the Maduro government, the full achievement of such elections may occur in stages over time. Venezuelan democrats should grasp every opportunity to insist on fair elections. This entails participating and working with civil society organizations and international monitors to assure that negotiated improvements in campaign and electoral procedures are enforced and necessitates rebuilding their networks throughout Venezuela to gain the electoral strength required to transform potential openings into further democratization. This approach entails taking political risks—making use of windows of opportunity rather than waiting for optimum conditions sometime in the future. The opposition will need to accept that there are tradeoffs between what is desirable over the long term and what is feasible now that the quick path toward democratization they had anticipated has been blocked. A rapid political transition that restores democratic rights, decisively tackles crimes and corruption and ends all human rights abuses—the swift and comprehensive solution captured in the phrase “end the usurpation”—is not achievable given the consolidation of the Maduro regime.



Maduro can probably continue to resist external pressures and deepen his authoritarian rule, even though that would entail political and social risks in the medium and long term. The idea that Maduro will leave power swiftly and that his government will not protect itself from persecution if he loses an election may be a natural aspiration but it is not a political reality. The opposition should concentrate on negotiating a limited political opening that could potentially contribute to a transition process, if and when the opposition is able to reunite and build substantial popular support.

We understand that many observers are skeptical that the Maduro government—with its authoritarian characteristics, including human rights violations, corruption and deep involvement in illegitimate economies, and intolerance of contrary lines of thought and political engagement—will allow an opening toward mutual coexistence among people of diverse opinions, that they have no incentives for allowing measures that would liberalize Venezuelan politics, even if the international community is prepared to drop or reduce sanctions to encourage such liberalization.

We argue that, despite its authoritarian nature, the Maduro regime might negotiate a political opening that leads to a gradual relaxation of international sanctions and to substantially greater humanitarian aid and access to international credit and foreign private investment. Maduro faces a dilemma: his government can remain in power at high social cost, or it can improve Venezuela's conditions by achieving a gradual easing of international restrictions. As long as Maduro remains in power, the only way out of this dilemma is through negotiations with the democratic opposition that are endorsed and supported by the United States and the international community.

Democratization in Venezuela: Thoughts on a New Path

By Michael A. Penfold¹

With the rise to power in 1999 of a charismatic elected leader, the retired army colonel Hugo Chávez, Venezuela's democracy gradually deteriorated. Twenty years later, Venezuela's descent into an authoritarian regime is undeniable. From systematic democratic backsliding under Chávez (1999–2013) to Nicolás Maduro's two controversial, and at times outright repressive, terms in office, Venezuela's democratic checks and balances have been effectively dismantled.² Many Venezuelans in all walks of life have suffered socially, politically, and economically. Both peaceful protesters and opposition figures have been jailed. The latter have also been stripped of their political and civil rights.

Confronted by these abuses, many Venezuelans have fought back, albeit unsuccessfully. Since Maduro came to power, there have been three major rounds of nationwide street protests that have lasted for months and left scores dead.³ The country's latest and most dramatic attempt to restore constitutional rule came in 2019, when Juan Guaidó, the head of the democratically elected National Assembly, swore himself in as interim president, arguing that there was a vacuum of power after Maduro's sham victory in the 2018 rigged presidential elections. Guaidó's move garnered widespread support from governments—including the United States, Canada, and many in Latin America and in Europe—and eventually led to broadening international sanctions designed to exert economic and social pressure to force Maduro and his entourage out of power.⁴ Almost three years later, Maduro remains as president. Aided by the military, as well as by the staunch support of international allies—including Cuba, China, Russia, Iran, and Turkey—he rules with an iron fist.⁵

Why and how—despite severe economic collapse, an abysmal record of human rights violations, the largest exodus of emigrants in the Western Hemisphere, and strong international condemnation—has *chavismo* been able to checkmate Guaidó and his backers? This question has no simple answer—a complex one (to

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² Javier Corrales and Michael Penfold, *Dragon in the Tropics: The Legacy of Hugo Chávez and the Bolivarian Revolution* (Washington, DC: Brookings Institution Press, 2015).

³ Cynthia Arnson, Benjamin Gedan, Michael Penfold, et al., "Postcards from the Edge," *Wilson Quarterly*, Winter 2020, <https://www.wilsonquarterly.com/quarterly/the-power-of-protest/postcards-from-the-edge/>.

⁴ Abraham F. Lowenthal and David Smilde, "Venezuela: Is there a Way Out of Its Tragic Impasse?" Wilson Center, Washington, DC, July 2019, <https://www.wilsoncenter.org/article/venezuela-there-way-out-its-tragic-impasse>.

⁵ Cynthia Arnson, ed., *Venezuela's Authoritarian Allies: The Ties That Bind?* Woodrow Wilson Center Reports on the Americas, No. 43, 2021, <https://www.wilsoncenter.org/publication/venezuelas-authoritarian-allies-ties-bind-no-43>.

be found below) is linked to the very nature of the regime. However, the political reality in Venezuela is that the prospects for political change, which many opposition leaders believed could lead to a sudden breakdown and a rapid democratic transition thanks to international pressure and diplomatic isolation, has in practice evaporated. As the prospects for democratization diminished, Guaidó's popularity rapidly fell to almost the same level as Maduro's.⁶ Today a majority of Venezuelans identify with neither the government nor the opposition parties.⁷ Faced with daily hardships, citizens not only struggle to survive but also perceive that the likelihood of political change (even if they support it) has seriously decreased.

With a strict nationwide lockdown prompted by the COVID-19 pandemic, Maduro successfully demobilized society. Maduro was also able to justify granting the military greater control over the territory by entrusting it with enforcement of lockdown rules.⁸ The regime was able to skillfully turn US president Donald Trump's policies and oil sanctions to its favor in the court of Venezuelan public opinion. The opposition, with international support, was applying what some of them referred to as "maximum pressure" — including secondary sanctions on third parties trading oil with Venezuela, international indictments of top leaders of both *chavismo* and the armed forces, and even a failed mercenary incursion from Colombia. But the Venezuelan government was able to overcome these actions, and it emerged stronger. Further, because Guaidó lacked the support of the armed forces, which distrusted his political discourse, the interim leader appeared ineffective as the military enforced a nationwide lockdown.

This opposition strategy, which was strongly backed by the Trump administration, seriously backfired. Key groups within the official coalition, including the Socialist Party (PSUV) and the military, rallied around Maduro against what they perceived to be international interference that sought to divide and persecute them.⁹ The uncertainty fostered by the opposition-led initiatives exacerbated the perception among key actors that the costs of exiting the Maduro coalition, even if desirable, were too high on both the domestic and international fronts. Their willingness to enter or support any transition process became seriously constrained. The regime also took advantage of this situation to strip opposition leaders from the administrative control of their political parties and force a large number of legislators into exile, further reducing their political and civil rights.

Confronted by these realities, several parties within the opposition called for a renewed effort at negotiations with the Maduro government, with international

⁶ According to Datanálisis polls conducted in February 2021, Maduro's approval ratings remained stable, at about 14 percent, while Guaidó's popularity fell to almost 17 percent.

⁷ According to the same pollster, Datanálisis, in August 2021 more than 62 percent of citizens identified themselves as politically independent.

⁸ Joe Parkin Daniels, "Under Cover of Coronavirus, Maduro Is Consolidating Control," *Foreign Policy*, August 10, 2020, <https://foreignpolicy.com/2020/08/10/coronavirus-maduro-consolidating-control-venezuela/>.

⁹ Lowenthal and Smilde, "Venezuela."

facilitation.¹⁰ Other opposition figures and parties still view any negotiation effort with skepticism, citing four previous processes (including one facilitated by Norway in mid-2019) that failed. In August 2021, Norway aided the resumption of talks in Mexico; and the United States and European Union aligned their foreign policies to support the Mexico roundtable and address the humanitarian crisis, accepting that the best exit would be an agreed-on electoral route that restores political and civil rights and that can evolve in phases. But Maduro abruptly broke off the talks in mid-October 2021, following the US extradition of a close ally, Alex Saab, on money laundering charges, thus initiating a new round of US-Venezuelan recrimination.¹¹

At the time of this writing in mid-October 2021, the freeze in the negotiations could potentially impact regional and municipal elections scheduled for November 21. But if anything, the set-back in talks makes even more urgent the following questions about Venezuela's future: at a time when the opposition holds less bargaining power than ever before, what exactly is a realistic road map for democratization in Venezuela? What changes could the opposition make in order to overcome fragmentation and improve its strategic coordination and organizational effectiveness? What might be the regime's incentives, considering its internal stresses, to open the country's political system, and could it realistically do so? And if the regime does open up politically, what would a realistic path toward democratization look like?

This report identifies initiatives and strategies that could increase the chances for effective political change in Venezuela. It considers the constraints intrinsic to the nature of Venezuela's particular brand of authoritarian regime. It also accounts for the opposition's strengths and weaknesses at this political juncture, whether or not both sides sit opposite one another at the negotiation table. Ultimately, the opposition will need to accept the trade-offs between what is desirable and what is feasible; especially as the type of path toward democratization that they had anticipated remains elusive. What is desirable is a political transition that restores democratic rights, tackles criminality and corruption, and ends human rights abuses. But such a comprehensive and swift solution, captured in the phrase

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¹⁰ Alberto Barrera Tyszka, "Venezuela: El largo retorno a la negociación," *New York Times*, May 30, 2021, <https://www.nytimes.com/es/2021/05/30/espanol/opinion/venezuela-maduro-oposicion.html>.

¹¹ In retaliation, Maduro sent back to prison six executives of the PDVSA affiliate, Citgo, who previously had been released to house arrest.

“end the usurpation,” is not possible given the consolidation of the Maduro regime.

Thus, the report attempts to lay out not only a critique of why the previous strategy failed but also a path forward—reflecting the adage that politics is the art of the possible—in light of the asymmetry of power between the regime and the opposition, but also the assets and limitations of each side. The first section provides a brief description of the civil-military alliance that sustains Maduro’s rule. We consider how the nature of the regime limits the opposition’s ability to successfully put into motion what was, until very recently, its preferred theory of change: pressure leading to division or collapse. They will now need to accept choices that are, given the nature of the regime, riskier, costlier, and perhaps much slower. Chances are that negotiations might deliver some political opening and will need to progress in stages.

The second section explores whether the regime today has incentives to seriously engage in a negotiation process and whether those supporting *chavismo* would allow the opposition to make any political opening possible and, ultimately, reinforce a transition process. The third section provides a description of the current dilemmas that civil society and political actors are coping with in order to build an alternative road map for political change, in the context of the struggles experienced by Venezuelans living through one of the most severe humanitarian crisis in modern Latin American history.¹² And the fourth section concludes with specific recommendations for what could constitute an alternative set of initiatives that should, potentially, increase the chances for Venezuela’s democratization efforts to succeed.

The Nature of the *Chavista* Regime

Venezuela has been under *chavista* rule since February 1999, after the charismatic Hugo Chávez won the December 1998 presidential election in a landslide. During the years he ruled, until dying of cancer in 2013, democracy in Venezuela was gradually undermined. In a slow yet steady transformation, Chávez, backed by an oil bonanza, was able to repeatedly win elections but simultaneously erode the credibility of the country’s democratic institutions.¹³

During the first stage of the *chavista* regime (1999–2013) Chávez rewrote the Constitution to empower and consolidate a hyperpresidentialized political system and later succeeded in passing constitutional reform to include indefinite

¹² Emmanuel Abuelafia and José Luis Saboin, *A Look to the Future for Venezuela* (Washington, DC: Inter-American Development Bank, 2020), <https://publications.iadb.org/publications/english/document/A-Look-to-the-Future-for-Venezuela.pdf>.

¹³ David Smilde: “From Populist to Socialist Authoritarian *Chavismo*: Obstacles and Opportunities for Democratic Change,” Wilson Center, Latin American Program, September 2021, <https://www.wilsoncenter.org/publication/populist-socialist-authoritarian-chavismo-obstacles-and-opportunities-democratic-change>.

reelection.¹⁴ He also progressively dismantled the checks and balances of horizontal and vertical accountability. *Chavismo* was consistently able to outperform the opposition at the polls, thanks to clientelistic distribution of oil rents, the overrepresentation of rural areas, and the weakening of electoral competition through judicial mechanisms that targeted opposition leaders. Chávez used his executive powers to limit or increase access to fiscal resources to foes and allies, respectively, repress specific political and civil society organizations, and approve laws that prevented the opposition from governing in key regional and local spaces that could threaten *chavismo* at the national level.

Chavismo's initial high levels of popularity and electoral competitiveness began faltering during Chávez's final years in power, even though his figure as the founder of the revolution and his approach to governance retained high approval even after his death. This deterioration accelerated under the leadership of his handpicked successor, Nicolás Maduro. During what can be considered the regime's second stage (2013–21)—an economic depression resulting from the state-controlled economy operating in a context of price controls, high public debt, falling international oil prices, and plummeting oil production—*chavismo* lost considerable popular support.¹⁵ Maduro made use of more open authoritarian mechanisms to contain social dissatisfaction while limiting electoral competition even further.¹⁶ To achieve the latter, Maduro used judicial mechanisms that sought to neutralize the opposition-led National Assembly elected in December 2015; not only did he strip the opposition of its supermajority in the legislature and limit the parliament's constitutional prerogatives but he also persecuted opposition political parties.

During this same period, the Maduro regime also relied more heavily on mechanisms of repression and social control to quash the waves of protests by civil society.¹⁷ The National Guard, special police forces, and para-state armed groups linked to the official party became crucial actors.¹⁸ This repression was widely extended to the popular sectors through the use of special police forces (Fuerzas de Acciones Especiales de la Policía Nacional Bolivariana, FAES) and nonstate armed actors (*colectivos*), along with conditioning access to food programs and public services such as cooking gas in exchange for political and

¹⁴ Michael Penfold, "La Democracia Subyugada: El Hiperpresidencialismo en Venezuela," *Revista de Ciencia Política* 30, no. 1 (2010): 21–40. See also Harold Trinkunas, "Civil-Military Relations in Venezuela after 11 April: Beyond Repair?" US Naval Postgraduate School, Center for Contemporary Conflict, 2002, <https://apps.dtic.mil/sti/pdfs/ADA527182.pdf>; and Orçun Selçuk, "Strong Presidents and Weak Institutions: Populism in Turkey, Venezuela and Ecuador," *Southeast European and Black Sea Studies* 16, no. 4 (2016): 571–89.

¹⁵ Leonardo Vera, "Cómo Explicar la Catástrofe Económica Venezolana," *Nueva Sociedad*, no. 274 (2018); see also Francisco Monaldi, Igor Hernández, and José La Rosa, "The Collapse of the Venezuelan Oil Industry: The Role of Above-Ground Risks Limiting FDI," Working Paper in the Role of Foreign Direct Investment in Resource-Rich Regions series, Rice University, Baker Institute for Public Policy, 2020.

¹⁶ Javier Corrales, "The Authoritarian Resurgence: Autocratic Legalism in Venezuela," *Journal of Democracy* 26, no. (2015).

¹⁷ Alfredo Romero, *The Repression Clock: A Strategy Behind Autocratic Regimes*, Woodrow Wilson Center Reports on the Americas, No. 20, 2020, <https://www.wilsoncenter.org/publication/repression-clock-strategy-behind-autocratic-regimes-no-40>.

¹⁸ Venezuela Investigative Unit, "The Armed Groups Propping Up Venezuela's Government," *InSight Crime*, March 1, 2019, <https://www.insightcrime.org/news/analysis/armed-groups-propping-venezuelas-government/>; Javier Ciurlizza and Phil Gunson, "Venezuela's Dangers Spill across the Colombian Border," International Crisis Group, July 27, 2016, <https://www.crisisgroup.org/latin-america-caribbean/andes/colombia/venezuela-s-dangers-spill-across-colombian-border>; John Polga-Hecimovich, "Organized Crime and the State Under *Chavismo*," in *The Criminalization of States: The Relationship Between States and Organized Crime*, ed. Jonathan Rosen, Bruce Bagley, and Jorge Chabat (Washington, DC: Lexington Press, 2019), 189–207.

social acquiescence.¹⁹ Last, the combination of oil rents and heavy state regulation became key factors in consolidating support among the armed forces and private-sector groups.²⁰ Under Chávez, corruption grew exponentially; but during Maduro's rule, the country ticked all the boxes of a traditional kleptocracy. It became one of the most opaque and corrupt of all oil-producing countries and rentier states.²¹

In effect, Maduro strengthened the civil-military alliance that Chávez had been building over three consecutive presidential reelections.²² He built closer ties with the military, giving it greater control of major state industries, and granting more political posts to former military officers.²³ He widened the armed forces' presence in his executive cabinet and gave them leadership positions in important state agencies. He increased his control over key state-owned enterprises and the number of corporations under the leadership of the armed forces. And he offered former military members greater political control over the party's directorate, including its political leadership. Likewise, he expanded the number of retired military officers in governorships across the country. By granting the armed forces a protagonist role in the country's key economic sectors—primarily in oil, mining, and agriculture—he turned the military into a political ally with high stakes for backing the regime.

Maduro also introduced diverse mechanisms for political control to help him balance military power. He strengthened the surveillance capacity in the different factions of the armed forces with the support of Cuban personnel and technology. This allowed him to purge and repress officials or potential dissident movements that could jeopardize regime stability.²⁴ He also introduced organizational reforms to fragment decisionmaking. By considerably increasing the number of high-ranking officials, including generals, and creating special security zones throughout the territory, he limited the coordination capacity between military actors, even if this meant sacrificing operational capacity. Finally, the regime expanded the power of para-state groups, namely of the *colectivos*, and relaxed controls on the presence of irregular groups at the border as a form of protection against potential coups or incursions by neighboring countries. These same irregular groups have been allowed to share part of the revenues they reap from the illicit economy with other key actors in the regime. This same reasoning led to

¹⁹ Thairi Moya Sánchez, "Grupos civiles en Venezuela: ¿Actores de un 'aparato organizado de poder'?" ANDIP 6, 2018: 110–44, <http://dx.doi.org/10.12804/revistas.urosario.edu.co/anidip/a.7160>.

²⁰ Asdrúbal Oliveros and Guillermo Arcay, "Impactos de los Incentivos a los Corruptores: Análisis Cuantitativo de las Principales Actividades Económicas Ilícitas en Venezuela," in *Informe Corrupción 2018*, ed. Transparencia Internacional Venezuela, 302–9, http://sinergia.org.ve/wp-content/uploads/2019/05/Informe-Corruptores-C3%B3n-2018-Transparencia-Venezuela_compressed.pdf.

²¹ According to the Corruption Perception Index in 2018, Venezuela ranked 168th, close to other oil-producing nations such as Angola, Libya, and Iraq. It was considered by this same index as the most corrupt country in Latin America.

²² Harold Trinkunas, "The Transformation of the Bolivarian Armed Force," in *The Routledge Handbook of Civil-Military Relations*, ed. Thomas C. Bruneau and Florina Cristina Matei (New York: Routledge, 2012).

²³ Harold Trinkunas, "Venezuela's Bolivarian Armed Force: Fear and Interest in the Face of Political Change," Wilson Center, Latin American Program, August 2021, <https://www.wilsoncenter.org/publication/venezuelas-bolivarian-armed-force-fear-and-interest-face-political-change>.

²⁴ Heather Martin, "Coup-Proofing and Beyond: The Regime-Survival Strategies of Hugo Chávez," *Latin American Policy* 8, no. 2 (2017): 249–62.

the expansion of the role and number of militias, which became a formal component of the armed forces.²⁵

Today, *chavismo* has all the characteristics of an authoritarian regime in the broadest sense of the concept, including the regime's extensive and systematic human rights violations, which have now been officially documented and verified by the United Nations.²⁶ A similar process is under way in the International Criminal Court in The Hague, pending the Attorney General's decision to move the process towards a formal investigation and potential prosecution. However, the regime is not a personalist dictatorship, but rather a dominant party and military form of electoral authoritarianism, built with its own secretive logic and fed by a growing illicit economy. Venezuela has the highest levels of corruption in the region, with irregular and even criminal groups having a territorial presence.²⁷ These "shadow" components, which provide the context in which the regime has consolidated its grip on power, make it opaque and difficult to characterize. The shadow economy, which uses sophisticated technological mechanisms such as crypto-currency, offers ways to "bypass" the strong international sanctions (financial, petroleum, and secondary) imposed by the United States with the strong support from international allies. The interaction between the political regime and the shadow economy has led to greater opacity, reduced public-sector capacities, and weakened state control over the national territory, particularly in the border regions with Brazil and Colombia—regions where illegal gold mining and narco-trafficking have surged.²⁸

Obstacles to Change

Considering the characterization of the nature of the regime and drawing on a wide comparative transitional justice literature review, it is possible to identify the challenges the opposition faces as it promotes a political liberalization process that could lead, in turn, to an effective process of democratization. Among the challenges political and social actors will face as they seek political change in the Venezuelan case are these five considerations:

First, given the corporate role the military plays in the regime, the armed forces are only likely to support gradual political change that they can influence and that allows them to preserve their organizational and key economic interests. The only path toward democratization that could persuade the military to aid a democratization process is one that is grounded in the Constitution, that offers it

²⁵ "Maduro incorpora la Milicia Bolivariana a la Fuerza Armada," Infodefensa.com, October 4, 2021, <https://www.infodefensa.com/texto-diario/mostrat/3127881/maduro-incorpora-milicia-bolivariana-fuerza-armada>.

²⁶ Office of the UN High Commissioner for Human Rights (OHCHR), *Human Rights Violations in the Bolivarian Republic of Venezuela: A Downward Spiral with No End in Sight* (New York: United Nations, 2018), https://www.ohchr.org/Documents/Countries/VE/VenezuelaReport2018_EN.pdf.

²⁷ Paul D. Angelo, *The Day After in Venezuela* (New York: Council on Foreign Relations, 2020), <https://www.cfr.org/report/day-after-venezuela>.

²⁸ Venezuelan Investigative Unit, "Colombia and Venezuela: Criminal Siamese Twins," *InSight Crime*, June 27, 2019, <https://www.insightcrime.org/investigations/colombia-venezuela-criminal-siamese-twins/>.

The only path toward democratization that could persuade the military to aid a democratization process is one that is grounded in the Constitution, that offers it a relevant role in the state-building process, and that preserves its legitimate organizational interests while creating a bold policy to force it to withdraw from their illegitimate enterprises.

a relevant role in the state-building process, and that preserves its legitimate organizational interests while creating a bold policy to force it to withdraw from its illegitimate enterprises. Counting on the military to remove *chavismo* by force is unwise because it is highly unlikely and could result in internal fragmentation and greater political uncertainty. A fractured military would be unable to control the speed of the transition process and repel actions that threaten its survival. Granting the military these assurances assumes that living with some of the legacies of the authoritarian years will be part of any democratization

process in Venezuela. It is an inherent limitation, commonly seen in other Latin American countries with similar transitional justice experiences, that can make civilian control over the armed forces difficult at first, and that inherently tends to have a high fiscal cost. Over time, this process will need to separate legitimate organizational military interests from illegitimate economic interests, reforming education and promotion systems and also targeting accountability.

Second, if the key actors that sustain the Maduro regime perceive an existential threat, internal or external, that seeks a rupture that might in turn generate a political transformation that they cannot control, they will most likely continue to coalesce, even if they recognize the need for a change. Given the importance of actors like the military and the more moderate disillusioned factions within *chavismo*, it is crucial to accept that alternative theories of change must understand that any democratization process will be long, gradual, and negotiated; “pulling rather than pushing” is a better way to arrive at a concession that leads to a political opening, and that eventually and hopefully leads to a democratic transition.

Third, to assume that Maduro is an insubstantial political actor or a reflection of the internal alliances in the *chavista* coalition misjudges his role. Maduro has shown himself to be an astute political actor, capable of exerting ample control over institutions, as well as secure access to diverse resources that allow him to rebalance the civil-military alliance in response to changes in the political, social, and economic context. This means that any negotiations will need to treat Maduro as the country’s president, even though he is authoritarian; take into account his desire for a legacy; and be sensitive to the tensions among the different internal factions within his ruling coalition in order to obtain relevant institutional and political concessions.

Fourth, as a result of international sanctions (individual sanctions, in particular), and the judicial indictments taking place in the United States and the International Criminal Court at The Hague, actors related to *chavismo* value the Venezuelan jurisdiction and the domestic institutions they control and that protects them temporarily from international trials over their criminal actions. The same is true for illicit activities. This limitation supposes that any political process will need to incorporate transitional justice measures and plan for an institutional restructuring of the Venezuelan judicial system. This process would probably occur through constitutional reforms that offer them some protection within the national territory from these types of accountability measures, while at that at the same time addressing human right violations. A rapid transition that fails to offer some form of judicial guarantees, even if it includes recognizing these serious violations, is also unlikely.

And fifth, due to the characteristics of the regime, *chavismo* will refuse to delegate the implementation of any agreement to the opposition, especially, to its hardline factions. *Chavismo* will always seek terms that presuppose that it is in charge of implementing any concession. Because the exit costs are so high and uncertainty so extreme, it feels it cannot relinquish control over the implementation phase. Given this, the chances of success of any negotiations increase if the opposition relies more heavily on its moderate wing and other third-party actors, like the international community.

Is It in the *Chavista* Regime's Interest to Negotiate?

Given the type of authoritarianism that Nicolás Maduro has consolidated, does the ruling civil-military alliance have any incentives to negotiate or to facilitate a political exit? Many argue that some of the regime's authoritarian characteristics, including human rights violations and its use of illicit economies to finance its different operations, mean that it has very little incentives to leave power.²⁹ Its strong ideological stance against a liberal conception of democracy reduces its openness to any type of checks and balances and even any type of power-sharing arrangement. According to this view, the incentive for the regime to commit itself to forging a political agreement with the opposition is practically nonexistent, even with the support of the international community.

Nevertheless, based on the nature of the regime explained in the previous section, *chavismo* could have very specific incentives to negotiate a political liberalization, even with an internally weak opposition, that could move toward a process of

²⁹ "Almagro no descarta una intervención militar en Venezuela," *DW*, September 14, 2018, <https://www.dw.com/es/almagro-no-descarta-una-intervención-militar-en-venezuela/a-45496563>. See also Voz de América, "Analistas dudan que nueva negociación traiga un cambio a corto plazo," <https://www.vozdeamerica.com/a/6067043.html>.

democratization, if this opportunity is skillfully managed by the opposition leadership.³⁰ It is possible to identify five concrete incentives that could lead to possible political concessions and, more broadly, to wider negotiations with the opposition:

First, negotiations that translate into regime change are an unlikely option for a *chavismo* that feels it has beaten the opposition, at least in the local arena. The military also believes it successfully disproved the idea, prescribed by the United States and other international actors, that external pressure would create fissures within its ranks so strong that it would eventually fracture. Yet if a political opening leads to a gradual relaxation of international sanctions and to greater humanitarian aid, the regime may engage with a negotiation process, particularly with regard to the electoral framework. The military might also feel as if it could pressure *chavismo* into negotiations that lift sanctions, thus protecting some of its organizational interests in order to reduce potential external threats. Even though they have proven resilient in the face of external pressures, the armed forces would still prefer to operate without sanctions. Put simply, both *chavistas* and the armed forces face a dilemma: they can remain in power at a high social cost, or they can obtain greater governability with the gradual easing of international restrictions. As long as Maduro remains in power, the only way out of this dilemma is through negotiations with the democratic opposition that are endorsed by the United States.

Second, changes in the international context may create incentives that make negotiations more likely. For example, electoral changes in Latin America that favor a less belligerent view toward *chavismo*, without openly supporting its undemocratic behavior, may lead to more favorable diplomatic mechanisms for a negotiated political solution. In the case of the United States, the Biden's administration appears to be more open to accepting a multilateral approach toward Venezuela, especially if it is well coordinated with Europe and other Latin American nations. The United States has already publicly stated that its objective is not to remove *chavismo* but rather to ensure free and fair elections, without necessarily requiring a specific electoral timeline. A senior US official has stated that the Biden administration is committed to upholding its sanctions against the Maduro regime if it does not restore electoral guarantees and reestablish political and civil rights in Venezuela. Administration officials have also indicated that changes to the sanctions will be conditioned by humanitarian considerations as well as progress in negotiations between the Maduro government and the Unity Platform—that is, the opposition coalition.

Third, like Chávez, Maduro may aspire to a third presidential election in 2024, or perhaps he might try to orchestrate an internal transition within his own ranks. As

³⁰ Geoff Ramsey, Keith Mines, David Smilde, and Steve Hege, "Negotiating a Return to Democracy in Venezuela: Insights from the Participants in the 2019 Oslo-Barbados Talks," Washington Office on Latin American and US Institute of Peace, Washington, DC, July 2021, <https://www.wola.org/wp-content/uploads/2021/07/WOLA-USIP-Report.pdf>.

long as the political conflict continues and international sanctions remain unsolved, internal pressures from the regime against Maduro's leadership could increase. This might push *chavismo* to explore leadership alternatives, although immediate concessions to the opposition may not necessarily be granted. This potential scenario of a new face of *chavismo* in the Miraflores Palace could present an opportunity for the international community to establish a new political phase for the regime, both internally and externally. Another potential scenario would be that these same internal pressures continue escalating, even after January 2023. If that were the case, Maduro's hypothetical resignation after the fourth year of his second term would not necessarily lead to new presidential elections, but would instead lead to the vice president's appointment as president, as stated in the Constitution. *Chavismo* would thus be preparing for an internal transition without risking losing control of the presidency to the opposition, which could be even further weakened by then. Against these two possible outcomes, it would be in Maduro's interest to show that he was not only able to resist the "imperial aggression" of the United States but was also able to reach a political settlement with the opposition that allowed the relaxation, even if gradual and partial, of international sanctions. With that, he might obtain "internal approval" to run for his third reelection. Even if he does not run for a third term, he would want to claim that he successfully stabilized the revolution after Chávez's death and managed his own succession.

Fourth, Venezuela's oil production plummeted due to a lack of public and private investment, the dismantling of its technocratic managerial teams, the lack of transparency and ubiquitous corruption, and PDVSA's high levels of foreign debt. This gradual process of decline has recently been exacerbated even further by financial, oil, and secondary sanctions toward the industry in the last four years. Secondary sanctions affected the production activity of key global oil operators in the country, including Russia's Rosneft, to such an extent that some of them have left the country. If sanctions remain in place, *chavismo's* prospects of restoring the oil industry are slim, even if the government allows local and foreign operators to control oil projects. If PDVSA is to regain access to the North American oil market, it is vital for *chavismo* to see sanctions relaxed, even if partially, or under an oil-for-food program of some sort.

And fifth, Maduro's regime faces judicial indictments by the United States and a criminal case before the International Criminal Court at The Hague. These judicial proceedings could be an incentive for the regime to seek negotiations that grant it judicial guarantees that reduce the consequences it faces in the proceedings, at least in the Venezuelan jurisdiction. Negotiations would not only involve giving concessions to the opposition on the electoral and political fronts, but would also allow for the design of transitional justice mechanisms that could work for those that feel threatened by these international proceedings.



All the factors noted above could be incentives for an authoritarian hegemonic political system like Venezuela’s to seriously engage in negotiations. None of the incentives are strong enough for *chavismo* to voluntarily abandon power, but in the best of scenarios, it might accept a political liberalization process that gradually leads to a political transition through new free and fair elections, as stipulated in the Constitution.

All the factors noted above could be incentives for an authoritarian hegemonic political system like Venezuela’s to seriously engage in negotiations. None of the incentives are strong enough for *chavismo* to voluntarily abandon power, but in the best of scenarios, it might accept a political liberalization process that gradually leads to a political transition through new free and fair elections, as stipulated in the Constitution.³¹ If that were the case, both presidential and National Assembly elections would be scheduled for 2024 and 2025, respectively; and a possible presidential recall could be activated beginning in January 2022. Maduro’s main interest in negotiations would be to keep the

electoral timeline intact, as stipulated in the Constitution—and for neither presidential nor legislative elections to be repeated, even if they were to be considered illegitimate internationally—in exchange for making political and electoral concessions to the opposition and accepting international monitoring of the entire electoral process. In response, *chavismo* would demand the dismantling of both economic and individual sanctions by the United States; and could also demand a transitional justice framework of some sort.

With this potential scenario in mind, if the opposition really wants to obtain substantial concessions that are institutionally credible in any dimension of the agreement, it will need to expand its bargaining power beyond the sole use of international sanctions. The United States will also need to show that it is truly committed to gradually lifting these international constraints on the *chavista* regime, even if the opposition fails to gain ground in the electoral arena. The only real solution to this conundrum will involve some institutional agreement that might include constitutional changes, as well as steps that can be rapidly implemented and are easily verifiable, rather than an agreement whereby Maduro continues to rule without a few internal checks and that is rolled out during a longer period. In short, the agreement will need to provide credible commitments to democratic coexistence.

Civil Society and the Venezuelan Opposition

As discussed above, in its effort to promote a transition, the opposition adopted a hardline strategy that, along with increased international pressure, sought to

³¹ Abraham F. Lowenthal, “Venezuela’s Elusive Transition,” Wilson Center, Latin American Program, August 2021: <https://www.wilsoncenter.org/publication/venezuelas-elusive-transition-toward-new-path>.

rupture the *chavista* coalition.³² Despite enjoying considerable domestic and international support, the opposition failed and its strategy badly miscarried.³³ Increasing international economic and individual sanctions, activating both sealed and unsealed indictments, and threatening the regime with the potential use of military force—without offering an attractive alternative to the internal factions of *chavismo*—failed to dismantle the governing coalition. Instead, it led to further cohesion in the regime.

Ironically, it also led to the internal fragmentation of the opposition, which split into moderate and “maximalist” factions primarily over the issue of electoral participation. Indirectly, during the waves of social unrest that followed Guaidó’s rise to power, the regime justified its use of repressive mechanisms, incarcerating several opposition leaders and pushing others into exile.³⁴ The arrival of the coronavirus pandemic in March 2020 allowed the regime to further demobilize the population and gave the armed forces greater control over the movement of goods and people across the national territory.³⁵ It was precisely in this adverse context of the pandemic that the regime consolidated its grip on power domestically.

After the end of the National Assembly’s five-year constitutional term in December 2020, the opposition faced important challenges in justifying the interim presidency’s legitimacy before the international community. Notwithstanding, the opposition decided to continue boycotting its participation in elections, alleging that, like the previous presidential contest, the legislative election was also fraudulent.³⁶ As a result, it decided to extend the National Assembly’s period for an additional year, to operate under the Delegate Commission with the objective of maintaining Guaidó’s position as acting president. As a consequence, several countries that previously recognized the National Assembly stopped doing so—

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³² Phil Gunson, “Where Does the Venezuelan Opposition Go From Here?” Wilson Center, Latin American Program, September 2021, <https://www.wilsoncenter.org/publication/where-does-venezuelan-opposition-go-here>.

³³ Brian Ellsworth, “Venezuela Opposition Shifts Strategy, Will Take Part in Elections,” Reuters, August 31, 2021, <https://www.reuters.com/world/americas/venezuela-opposition-partake-elections-strategy-shift-2021-08-31/>.

³⁴ “La Policía bloquea protesta liderada por Guaidó en Caracas,” *Deutsche Welle*, February 10, 2020, <https://www.dw.com/es/la-polic%C3%ADa-bloquea-protesta-liderada-por-guaid%C3%B3-en-caracas/a-52711973>; “Los venezolanos vuelven a protestar en las calles en contra del régimen de Nicolás Maduro convocados por Juan Guaidó,” *Infobae*, April 10, 2019, <https://www.infobae.com/americas/venezuela/2019/04/10/los-venezolanos-vuelven-a-protestar-en-las-calles-en-contra-del-regimen-de-nicolas-maduro-convocados-por-juan-guaido/>; Patricia Ramos, “Juan Guaidó convoca manifestaciones en Venezuela,” *CNN Latinoamérica*, January 8, 2020, <https://cnnespanol.cnn.com/video/juan-guaido-protestas-venezuela-patricia-ramos-realidades-en-contexto-cnnee/>.

³⁵ “Venezuela: Estado policial avanza en el contexto del Covid-19,” *Human Rights Watch*, August 28, 2020, <https://www.hrw.org/es/news/2020/08/28/venezuela-estado-policial-avanza-en-el-contexto-del-covid-19>.

³⁶ Brian Ellsworth and Sarah Kinoshian, “Vote for What? Venezuelan Opposition Boycotts Parliamentary Election,” Reuters, December 6, 2020, <https://www.reuters.com/article/us-venezuela-election-idUSKBN28G056>.

leaving the United States and a handful of countries as the only ones to formally recognize Guaidó as the legitimate president of Venezuela.³⁷ However, none of those countries that stopped recognizing the interim presidency recognized the new National Assembly—now controlled by a super-majority of *chavista* legislators. Venezuela entered into a greater institutional vacuum, with the opposition even more dependent on the United States.

This crisis led to significant fissures in the opposition and the disillusionment of leading civil society organizations, which have all but withdrawn their crucial support. On one hand, more moderate factions in the opposition parties began to question the hardline strategy backed by Guaidó and whether abandoning the electoral route continued to make any sense. On the other hand, diverse groups and organizations from civil society began to demand political agreements that could start to address the complex humanitarian crisis exacerbated by the COVID-19 pandemic. The most pressing needs for both groups thus became negotiations, strengthening the opposition in the electoral arena, and addressing the humanitarian crisis. These demands were an important contrast to the more hardline political wing, which insisted on exerting “maximum pressure,” even if this would translate into higher social costs.

In early 2021, the more moderate wing of the opposition, with support from civil society groups openly critical of the “maximum pressure” approach, took advantage of this internal juncture to seek partial agreements with the regime, including the release of more than 110 political prisoners.³⁸ Another key step forward were negotiations that made possible appointing the new National Electoral Council (CNE).³⁹ Although the new CNE is still dominated by *chavismo*, it also includes the participation of actors linked to the democratic movement with appropriate credentials. The European Union endorsed the decision, considering it a step in the right direction. The United States’ tacit acceptance of the new CNE surprised the hardliners within the opposition, which had questioned the relevance and pertinence of these secret negotiations. On the humanitarian front, Venezuelan civil society managed to reach agreements with the ruling party for the purchase of COVID-19 vaccines, the entry of the United Nations World Food Program to feed more than 1.5 million students and teachers in public schools, and the necessary diplomatic steps for a preliminary assessment of the Venezuelan electoral system by the European Union.⁴⁰

³⁷ “EU No Longer Recognizes Juan Guaidó as Venezuela’s Interim President,” *Euronews*, January 7, 2021, <https://www.euronews.com/2021/01/07/eu-no-longer-recognises-juan-guaido-as-venezuela-s-interim-president>; Michael Stott, “EU Drops Recognition of Juan Guaidó as Venezuela’s Interim President,” *Financial Times*, January 6, 2021, <https://www.ft.com/content/aa372f3a-a1ac-41da-848a-46355fc3ec4f>.

³⁸ Ana Alonso, “Maduro indulta a 110 presos, entre ellos 50 políticos, para blanquear sus elecciones,” *El Independiente*, September 1, 2020, <https://www.elindependiente.com/politica/2020/09/01/maduro-indulta-a-110-presos-entre-ellos-50-politicos-para-blanquear-sus-elecciones/>; Andreína Itriago, “El indulto, la astuta jugada de Maduro de cara a las elecciones,” *El Tiempo*, September 1, 2020, <https://www.eltiempo.com/mundo/venezuela/regimen-de-maduro-concede-indulto-a-110-perseguidos-y-presos-politicos-535154>; Naky Soto Parra, “Gobierno libera presos políticos y levanta medidas,” *Cinco8*, September 1, 2020, <https://www.cinco8.com/periodismo/liberadas-110-personas-presas-investigadas-con-medidas-cautelares-y-hasta-en-libertad/>.

³⁹ Florantonia Singer, “Venezuela elige un nuevo consejo electoral con mayor presencia opositora,” *El País*, May 4, 2021, <https://elpais.com/internacional/2021-05-05/venezuela-elige-un-nuevo-consejo-electoral-con-mayor-presencia-opositora.html>.

⁴⁰ “Actores de la sociedad civil exigen a políticos cumplir acuerdo para acceder a vacunas,” *Efecto Cocuyo*, March 27, 2021, <https://efectococuyo.com/politica/actores-de-la-sociedad-civil-exigen-a-politicos-cumplir-acuerdo-para-acceder-a-vacunas/>; “WFP to Provide School Meals in Venezuela,” United Nations World Food Program, April 19, 2021, <https://www.wfp.org/news/wfp-provide-school-meals-venezuela-0>.

Partly due to this series of events, the interim government had to change its “maximum pressure” policy and speak publicly of the need to seek a negotiated political solution facilitated by the international community.⁴¹ Guaidó presented the National Salvation Plan (Plan de Salvación Nacional), which rests on three main points: the international community’s disposition to gradually ease sanctions if an acceptable electoral timeline is established; the reestablishment of electoral guarantees, including reversing the intervention in political parties and ending the use of disqualifiers; and finally, the need to introduce transitional justice mechanisms that reduce the risks associated with any form of political transition.⁴² These three points, or pillars, rested on the premise that any negotiations should be comprehensive and integral, rather than incremental, and would count on the international community as guarantor, with the facilitation of Norway.

In the following months, the Maduro regime publicly expressed its interest in exploring negotiations, once again, with the support of Norway.⁴³ It also stated that it would not make real concessions unless sanctions were dismantled first and that the opposition accepted the need to design partial rather comprehensive agreements. Maduro also stated that he would not be willing to negotiate any form of electoral timeline that was not already established by the Constitution. Finally, the regime stated that it would not accept under any circumstances direct negotiations with the interim presidency; talks facilitated by Norway needed to be held only with opposition actors not directly related to Guaidó’s interim presidency.

Although some of these demands do seem excessive, given the depth of the governability crisis in the country, they do signal that Maduro will not engage without serious concessions from the United States and without the opposition openly accepting that the idea of an interim presidency has been defeated. These demands, even if unrealistic, pressured Norwegian diplomats to redesign a negotiation process with an agenda and a format different from the failed 2019 negotiations that were held in Oslo and Barbados.

⁴¹ Ana Rodríguez Brazón, “Venezuela: Gobierno y oposición firman acuerdo para inicio de diálogo,” *El Tiempo*, August 14, 2021, <https://efectococuyo.com/politica/actores-de-la-sociedad-civil-exigen-a-politicos-cumplir-acuerdo-para-acceder-a-vacunas>.

⁴² “Acuerdo de Salvación Nacional: La propuesta del gobierno interino para alcanzar la democracia,” *El Diario*, May 11, 2021, <https://eldiario.com/2021/05/11/acuerdo-de-salvacion-nacional-propuesta-juan-guaido/>.

⁴³ Yurany Arciniegas, “El Gobierno de Venezuela y la oposición inician la segunda fase de sus diálogos en México,” *France24*, September 4, 2021, <https://www.france24.com/es/américa-latina/20210904-venezuela-dialogos-oposicion-gobierno-crisis>.

The Mexico Negotiations and Beyond

The Venezuelan opposition recently accepted that, despite all the international support it has, and the pressure that international sanctions have put on Maduro's regime, its only option is to negotiate. The talks that began in early August 2021 in the Museum of Anthropology of Mexico City, and once again mediated by Norway, marked the beginning of a new round of negotiations.⁴⁴ The new round of talks was backed by all the countries that have been, in one way or another, directly involved in the Venezuelan political conflict, including the United States, most European nations, Russia, Turkey, and China. Both sides nominally agreed, in a joint statement, that the main objective of the negotiations is to build a process that restores democratic coexistence and constitutional rule.⁴⁵ The regime's suspension of talks in October 2021 demonstrated the fragility of the process and the continuing deep distrust between the parties.

Yet the path toward successful negotiations is extremely fragile. While the opposition has no real alternative to the negotiating table, the Maduro regime can continue resisting external pressures and deepen its authoritarian rule, even if that incurs political and social risks in the medium to long term.

However, like the opposition, there is strong reason to conclude that key sectors within *chavismo* also realize that negotiations are necessary, mainly because they recognize that they cannot dismantle the international sanctions against them or obtain any form of political recognition without an internationally endorsed political settlement. Maduro has invested many resources and employed repression to deepen the divisions within the opposition—including his attempt to build and coopt a loyal opposition. His government has also tried to

negotiate directly with the United States without any kind of opposition intermediation. So far, all these efforts have failed. The *chavista* regime has apparently accepted that the only way it can normalize politically and reintegrate internationally is through an agreement with the opposition, which includes both its moderate and hardline factions, and is facilitated by Norway.

Yet the path toward successful negotiations is extremely fragile. While the opposition has no real alternative to the negotiating table, the Maduro regime can continue resisting external pressures and deepen its authoritarian rule, even if that incurs political and social risks in the medium to long term. The idea that the regime will leave power in the short term, or that it will not protect itself politically if it loses an election, is more aspiration than a reality. At best, the opposition will

⁴⁴ “La agenda que el régimen de Maduro y la oposición negocian en México,” *Semana*, September 3, 2021, <https://www.semana.com/mundo/articulo/la-agenda-que-el-regimen-de-maduro-y-la-oposicion-negocian-en-mexico/202156/>.

⁴⁵ US Department of State, Office of the Spokesperson, Media Note, “US-EU-Canada: Joint Statement on Venezuela,” June 25, 2021, <https://www.state.gov/u-s-eu-canada-joint-statement-on-venezuela/>.

be negotiating a political opening that could potentially end in a transition process if the opposition is able to reunite and regain popular support. The uneven incentives to negotiate between the opposition and *chavismo* may also pose serious dilemmas for the definitive implementation of any agreement. The opposition would need to live with a settlement, if one is reached, that concedes not only many judicial guarantees to the *chavistas* but also gives up much of the control over the timing and execution of any political agreement.

Another difficulty the opposition faces is that international sanctions against the Maduro regime have become less effective as a negotiating tool because the military and the official party have learned to live with them, although the fact that the military and the PSUV have learned to bypass international sanctions does not mean they would not prefer to have them removed.⁴⁶ Some in the regime appear to accept that their long-term survival requires popular support, which in turn requires an improving social and economic picture, which in turn requires getting out from under sanctions. In addition, unlike in the 2019 negotiations, also mediated by Norway, Maduro has agreed to participate in the talks hosted by Mexico, seeking political recognition and international legitimacy, and not just the removal of economic, financial, and individual sanctions. *Chavismo* knows that this will require meeting the minimum concession demanded by the international community: free and fair elections.

Both sides, with the Norwegian facilitation, have made certain changes to the architecture of the negotiations that allow greater flexibility in the process. First, the participating parties have conceded that the negotiations must be comprehensive in principle, which means that the points in the agenda will only be considered concluded once all the points have been negotiated.⁴⁷ Both participating parties have also accepted that they can progress in the negotiations through phases or partial agreements to the extent that the parties agree.⁴⁸ The United States, for its part, has publicly stated that the sanctions can be progressively removed if and when these phases are reached, but with little clarity as to what this would consist of or when it would be implemented.

Second, the parties will follow the electoral timetable established in the Constitution of 1999, rather than demand a different electoral schedule. According to the Constitution, the electoral schedule includes regional and local elections in 2021, a potential presidential recall in 2022, presidential elections in 2024, and legislative elections in 2025. According to the opposition's view, presidential and legislative elections ought to be repeated because the last

⁴⁶ Charles Larratt-Smith, "Here's Why Venezuelan President Nicolás Maduro Is Still in Power," *Washington Post*, August 14, 2019, <https://www.washingtonpost.com/politics/2019/08/14/heres-why-venezuelan-president-nicolas-maduro-is-still-power/>.

⁴⁷ Francesco Manetto, "Una agenda de siete puntos y la urgencia de acuerdos humanitarios: Venezuela inicia la negociación en México," *El País*, August 13, 2021, <https://elpais.com/internacional/2021-08-14/una-agenda-de-siete-puntos-y-la-urgencia-de-acuerdos-humanitarios-venezuela-inicia-la-negociacion-en-mexico.html>.

⁴⁸ This was also the case with Oslo/Barbados, but the opposition in particular declined to take up the possibility of partial agreements. In this new process, hardliners have accepted the need to embrace these types of agreements.

elections in 2018 were widely considered fraudulent, and thus illegitimate. At the international level, however, no country, including the United States, has called for early elections or Maduro's abandonment of power. Instead, they have emphatically demanded the restoration of all political and civil rights and the granting of electoral guarantees as a necessary minimum for negotiations. The United States has also said that it will continue to recognize Guaidó as Venezuela's interim president, even if symbolically. Until there are free and fair elections that lead to the renewal of all public powers, Washington apparently intends to refuse to recognize the *chavista* regime.

Given the degrees of freedom built into the architecture of the negotiations, both the Maduro regime and the opposition committed to certain principles and rules that lent greater international support and transparency to the negotiating process. In the document that describes the shared objective and the rules of the negotiations, Maduro's delegation signed as the government of Venezuela while the opposition signed as the Unitary Opposition Platform. In doing so, the opposition implicitly recognized the de facto regime's control of the national territory, even if it does not consider the regime legitimate, and conceded the unsustainability of the interim government as a political instrument, while not abdicating the interim presidency's current control over assets abroad. Likewise, in accepting the terms of the negotiation process mediated by Norway, *chavismo* recognized that the opposition representatives that sat in Mexico are the only ones with the authority to carry out the negotiation process. This initial step of mutual recognition constituted a fundamental step forward.

While the opposition alone cannot force the Maduro regime back to the bargaining table, it must work assiduously at home to build on the strengths it still has. Failure to do so, given its weak bargaining power, will see the political opening and the chance of a democratization process, even if further down the line, seriously compromised.

Necessary steps include:

Rebuilding Unity: The reigning tensions within the opposition and declining support for the minority factions that have led their collective efforts during the last three years have weakened its capacity for better strategic coordination in order to promote a more effective democratization process. These rifts are marked by differences on whether to resume an electoral route, and whether and how to involve international actors in that process, given the regime's use of both selective repression and manipulation of electoral rules to exacerbate the opposition's internal divisions.⁴⁹ These tensions, as stated above, could seriously

⁴⁹ Maryhen Jiménez, "Contesting Autocracy: Repression and Opposition Coordination in Venezuela," *Political Studies*, 2021, <https://journals.sagepub.com/doi/abs/10.1177/0032321721999975>.

affect the opposition’s bargaining power should the negotiations resume, along with its future political effectiveness in any electoral process. Despite these tensions, both the hardline and moderate wings of the opposition have come to agree that a negotiation process with international support is needed.

Given this, it would be beneficial for all branches of the opposition to solve their differences and expand its representation to include broader social groups. Similarly, they need to establish clear guidelines for decisionmaking. Up to this point, the opposition has revolved around the interim government, which includes the representation of various political parties. This strategy, however, has been exhausted and now requires strong conflict resolution mechanisms. These new rules for decisionmaking need to address the issues pertaining to political representation and expand the coalition to include more plural groups of civil society. Without these corrections, the opposition risks seeing its popularity erode further, even with an agreement in Mexico.

Regional Elections: At the outset, the United States, the European Union, and Canada jointly voiced their support for the negotiations in Mexico while also signaling their belief that regional and local elections could represent, under certain conditions, a first step toward verifying the independence of the National Electoral Council (CNE). This newly appointed CNE was one of the first crucial concessions in negotiations between the ruling party, Venezuelan civil society, and the more moderate wing of the opposition.

The European community has shown its willingness to monitor the November 2021 electoral process only if the opposition remains united around its participation. The opposition must seriously consider using its participation in the regional elections to test the “willingness” of *chavismo*—in the context of European observation—to concede these conditions. It must also consider unitary candidacies that allow it to compete against *chavismo*, which continues to maintain a hegemonic position at all levels of government. These regional and local elections will allow the European community to make a more accurate evaluation and verification of the electoral conditions, as well as an assessment that allows it to propose improvements for upcoming presidential and legislative elections that might be eventually negotiated.

If negotiations do not incorporate broader issues of democratic institutions into the discussions, aimed at counterbalancing the “winner-take-all” features of Venezuela’s constitutional design, the elections themselves will not prevent another systemic governability crisis like the kind that stems from a hyperpresidential regime that lacks controls of any sort.

The Institutional Issue: The opposition has said that its main objective at the negotiating table is a timeline for free and fair elections. This is certainly a fundamental objective. But if negotiations do not incorporate broader issues of democratic institutions into the discussions, aimed at counterbalancing the “winner-take-all” features of Venezuela’s constitutional design, the elections themselves will not prevent another systemic governability crisis like the kind that stems from a hyperpresidential regime that lacks controls of any sort.⁵⁰ Therefore, the discussion must address the renewal of public powers in a framework that reestablishes the rule of law, including through judicial reform. Additionally, the discussion must include constitutional reforms that reduce presidential powers and grant greater financial autonomy to regional and local governments. The reforms must reduce the stakes of holding power and the costs of being in the opposition. These constitutional reforms should also include eliminating indefinite reelection, which would allow an honorable exit for Maduro in 2024 and a renewal of *chavismo*. Finally, reforms to the electoral system need to be introduced to guarantee effective proportional representation that guarantees more balanced and inclusive representation of different groups across the political spectrum; this, instead of a proportional representation system that is frequently manipulated in order to increase the difficulty for the opposition to coordinate the vote or by reducing the size of districts to decrease their number of seats according to the size of their vote, especially in urban and affluent areas where *chavismo* is usually weaker. These manipulations have muted the effect of a formal electoral representation system that works, in practice, more as a majoritarian first-past-the-post system.

Humanitarian Emergency: Polls reveal that more than 50 percent of the population supports a negotiated solution to the Venezuelan political conflict.⁵¹ However, the percentage of those who believe that political change will indeed take place in the country is very low. The overall perception is that both the *chavista* and opposition elites are disconnected from the socioeconomic realities of Venezuelans, especially when it comes to the high cost of living associated with hyperinflation, poor access to food, and the deterioration of public services. The COVID-19 pandemic has exacerbated this public perception even further.

Although Maduro is largely blamed for most of these problems, the opposition does not represent a credible alternative for many. Opposition actors must thus continue to focus on agreements that aim at addressing the humanitarian crisis, thereby gaining greater visibility and credibility among the population. Humanitarian agreements should include the expansion of the World Food Program in Venezuela, the consolidation of a national vaccination program for

⁵⁰ Francisco Monaldi and Michael Penfold, “The Rise and Decline of Democratic Governance in Venezuela,” in *Venezuela Before Chávez: The Anatomy of a Collapse*, ed. Ricardo Hausmann and Francisco Rodríguez (State College: Pennsylvania State University Press, 2013). For a more recent review of this argument, see Maryhen Jiménez, “Negotiations in Mexico Won’t Get Rid of Maduro: So What Is Next?” <https://www.americasquarterly.org/article/what-venezuelas-negotiations-wont-change>.

⁵¹ Datanálisis Omnibus, September 2021.

COVID-19, the development of a program oriented toward the retention of teachers in public schools, increasing the meager salaries in the public health sector, and giving greater attention to the crisis of the electricity sector. The population is more likely to support negotiations if it receives tangible benefits from early agreements. It is worth noting that, in order to finance any assistance programs, the negotiating parties will need to structure agreements that effectively allow access to the resources needed for their execution. These include, but are not limited to, the country's frozen assets abroad and financial support from multilateral organizations.

The Role of Civil Society: All previous negotiation processes have failed, in part, because the negotiations have lacked stakeholders. Every time a negotiation process dies, a few people protest and a few celebrate. So far, relevant social, religious, business, trade union, and other labor leaders have been absent. When Venezuelan civil society organizations have participated, as in the Dominican Republic in 2018, they have done so as part of the opposition delegation and not as potential global beneficiaries of the agreements. Their mobilization shows the need to incorporate them as key players in any negotiation process. The most effective way to achieve this goal is by having a pluralistic, complementary consultation mechanism that has the endorsement of the parties and that can support the development of the negotiation agenda—and thus validate the technical socioeconomic aspects of past agreements and their implementation.⁵² This step is essential in order to ensure the quality of the agreements, the likelihood of implementing them within the agreed-upon timelines, and to expand the number of stakeholders with an interest in the success of the negotiations.

The Armed Forces: The armed forces play a central role in any conceivable political opening that could lead to a democratization process that moves in phases. Given their importance, any solution must incorporate their organizational interests while at the same time clearly distinguishing between their legitimate and illegitimate enterprises. Failure to do so will make the successful implementation of any political agreement less likely. According to the renowned Venezuelan historian and former president Ramón J. Velásquez, the armed forces have historically acted like a political party: no previous transition has been possible in Venezuela without their support and blessing. However, in the past two years, the Venezuelan opposition has resorted, unsuccessfully, to the use of force against them. Given this course of action, and its failure, the military is suspicious if not disdainful of the hardline branch of the opposition. Even though the opposition has promised amnesty and individual protections to those members of the military who attempt to overthrow the regime, the opposition has also engaged in operations—such as the uprising attempt on April 30, 2019, and the mercenary incursions in May 2020—that undermined its credibility in the eyes of the

⁵² The negotiation agreement explicitly mentions the need to design this mechanism.

Transitional justice must be a central component of a negotiation process, given the systemic violation of human rights by the regime (corroborated by the United Nations); the extension of a parallel economy built by illegal mining, drug trafficking, and human trafficking; mass corruption documented by several international nongovernmental organizations; and the existence of ongoing international judicial and criminal procedures in both the United States and the Hague.

to reinstitutionalize the armed forces and strengthen their operational capacity, in addition to presenting the socioeconomic benefits for the military and as well as the security agencies stemming from a process of political change. This proposal could be published as a white paper that could credibly reassure the military about what to expect if the opposition acquires power.

Transitional Justice: Transitional justice must be a central component of a negotiation process, given the systemic violation of human rights by the regime (corroborated by the United Nations); the extension of a parallel economy built by illegal mining, drug trafficking, and human trafficking; mass corruption documented by several international nongovernmental organizations; and the existence of ongoing international judicial and criminal procedures in both the United States and the Hague. Venezuela cannot stop the documenting, investigating, verifying, or prosecuting of all these cases. No form of amnesty can encourage “forgetfulness.” Instead, it can create a framework for transitional justice that considers the national legal framework and international treaties that include Venezuela but that still makes the political process viable. In the case of the Colombian peace accord, transitional justice was the most complex legal issue and the one that delayed the final peace agreement the most and became most divisive politically, as reflected in the triumph of the “No” vote in the

military.⁵³ In addition to these overt acts of aggression, the opposition has been unclear about the participation of the armed forces in the reconstruction of the country in a future democratization process.

In the future, the opposition ought to develop a solid proposal that not only improves its credibility with the military but also clearly communicates the legitimate participatory role of military institutions in the democratization process. Regrettably, the opposition failed to do so while it controlled the National Assembly and instead promised an amnesty that the military rejected because it felt no need to be pardoned for wrongs it had not committed. One way to achieve this objective would be to convene a group of experts to develop a clear proposal—with the support of various civil society groups—

⁵³ Ciara Nugent, “Clashes in Caracas After Venezuelan Opposition Leader Calls for Military Uprising,” *Time*, April 30, 2019, <https://time.com/5580215/venezuela-opposition-military-uprising/>; “Venezuela Arrests Two US ‘Mercenaries’ After Alleged Raid to Capture Maduro,” *France24*, May 5, 2020, <https://www.france24.com/en/20200505-venezuela-arrests-two-us-mercenaries-after-beach-raid>.

plebiscite on the peace accord. The discussion of the issue took several years. In the case of Central America, especially El Salvador and Guatemala, the United Nations played a key role in guiding this process. In the case of Venezuela, it would be beneficial to enlist the best national and international experts who can promptly develop an appropriate framework that is consistent with the objectives and principles of the current negotiations. Their participation can greatly increase the likelihood of reaching a political agreement that is implemented in its entirety.

The Dilemma of the Electoral Timetable: The Maduro regime wants to maintain the current electoral timetable, which ensures that the presidential elections due in 2024 are held with him in power and that *chavismo* can again become competitive in those elections. *Chavismo* also wants to maintain the qualified majority of the National Assembly until 2025. In other words, if the opposition were to win the presidential election in 2024, it would do so with a *chavismo*-dominated parliament and *chavismo*-controlled judiciary. As some *chavistas* say, “even if we lose the presidency, we could give them a good dose of what we experienced when they tried to overthrow us.” In the opposition, there are some who think that an activation of the recall referendum in 2022 could be an alternative option to power. However, the truth is that, even if Maduro loses the recall to the opposition, the opposition would need to govern in a tremendously fragile environment. *Chavismo* could also delay the referendum after 2023 in hopes that, in the case of losing constitutionally, Maduro could name a successor and not call elections immediately. Given this, a better option might be to move up the legislative elections and agree on a reform to the electoral system that ensures a more balanced, proportional system. Despite the dominance of certain parties, with this reform, the legislature would be more evenly balanced and would need to negotiate the renewal of all public powers to obtain the two-thirds required by the Constitution for their appointments. Throughout, the opposition needs to focus sharply on increasing its unity.

The Lifting of Sanctions: Maduro has publicly said that he will not accept any agreement unless all sanctions (financial, oil, individual, and secondary) are lifted.⁵⁴ For its part, with the support of the United States, the opposition has said that it is prepared to request the gradual lifting of sanctions as long as (1) the lifting of sanctions is the result of reaching an electoral political agreement in Mexico; (2) that these are in line with the progress of the timeline agreed to by the parties; and (3) changes in political and electoral conditions are “definitive.” Under these terms, Maduro must accept that without a restoration of political and civil rights, electoral guarantees adjusted to international standards, and an agreed-on electoral timeline, the White House will not remove sanctions. Conversely, the United States must consider that *chavismo* will see a high risk that sanctions

⁵⁴ Alonso Moleiro, “Maduro condiciona el diálogo con la oposición al levantamiento de todas las sanciones contra Venezuela,” *El País*, May 26, 2021, <https://elpais.com/internacional/2021-05-27/maduro-condiciona-el-dialogo-con-la-oposicion-al-levantamiento-de-todas-las-sanciones-contra-venezuela.html>.

could be reimposed, as was the case in Iran and Cuba. *Chavismo* also argues that with the presence of sanctions, it cannot compete “electorally.” Likewise, the opposition counters that with the disqualifications and the legal constraints on parties, it cannot compete on equal terms either.

Considering the complexity of this situation, if the United States and the opposition decide to gradually lift economic sanctions, they should also be prepared to respond to demands for concessions in other areas valued by the Maduro regime, such as the lifting of individual sanctions, relocating the US Embassy from Bogotá to Caracas, and recognizing Maduro as president from the moment of the final agreement until 2024. The Maduro regime should recognize that the United States may be more willing to lift sanctions, even gradually, if the 2024 presidential elections and the 2025 legislative elections are brought forward.

The discussion about the scale of the lifting of sanctions as well as the electoral timeline will be central points in a negotiation process. To solve these issues, *chavismo* would need to move elections forward to encourage an immediate lifting of sanctions, or run the risk of having sanctions lifted and then reinstated. The United States, too, should demand a commitment and actions by the Maduro regime to abandon opaque financial operations that it has been conducting with the support of several of its international allies—such as Iran, Turkey, China, and Russia—to evade these restrictions imposed on PDVSA and the Central Bank of Venezuela, which will bring greater guarantees of a permanent lifting of sanctions.

CONCLUSION

Venezuela’s exit from its current tragic situation will require massive institutional rebuilding, which can only emerge from some type of political agreement, which hopefully might yet surface from the negotiations initiated in Mexico City and subsequently suspended. Any solution will also demand an honest commitment from both sides in the conflict to effective democratic governance as the key to peaceful coexistence and social harmony, the protection of fundamental human rights, economic reconstruction and recovery, and dynamic political stability in Venezuela.⁵⁵

This report has attempted to concisely describe key aspects of Venezuela’s recent history and current plight. It has identified diverse causes of the country’s decline and has attempted to realistically outline imaginable and feasible steps that could improve the chances of achieving progress toward the Venezuela that most citizens want and that most members of the international community could support. Most Venezuelans call for good faith negotiations to translate the

⁵⁵ Lowenthal and Smilde, “Venezuela.”

original, agreed-on objectives of the Mexico City dialogue into implementable agreements. This report has tried to explain why these objectives are in the interests of those who have supported the *chavista* movement and those who have opposed it, as well as the rest of Venezuela.

The report recommends that a resolution of the Venezuelan crisis be reached through a negotiated solution incorporating democratic norms and institutions. It is also cautious on the prospects for “irreversible” solutions. In order to achieve this, it explains some history to clarify how Venezuela got into its current tragic political impasse; but its emphasis is not on assigning blame nor evaluating the past in detail. Rather, it explores and pursues feasible and

constructive paths to which political and social actors, and members of the international community, can commit themselves in order to progress toward the conditions and values they want to achieve. As the current impasse demonstrates, it would be naive to assume that any of these paths will be easy, short, or assured. However, the approach that has been outlined throughout this report has a considerably better chance of reversing Venezuela’s downward spiral and making progress than the strategies and tactics that have been followed thus far by Maduro’s regime, the organized opposition, and salient members of the international community, each with their own perspective and interests but with no shared positive vision for the future.

The approach that is recommended here is based on a simple premise: Venezuela’s current situation is dire and destructive. The heavy lifting to halt the country’s decline and change course in the interests of all citizens and of international cooperation must be undertaken by Venezuelans—including both those who have thus far been active in public life and those who have felt alienated and incapable of positively shaping the country’s future and their own. This approach will take mature and thoughtful leadership and, equally important, will require broad participation by citizens and civil society organizations and by those who have been exercising power in national, regional, and municipal government and in the armed forces, police, and security agencies. No foreign power will take the risks and devote the resources and energy needed to resolve Venezuela’s multiple crises, but several nations have interests and resources that could engage with and support concerted Venezuelan efforts.

Assuring and protecting free, fair, and credible elections with agreed-on rules and procedures and adequate monitoring is clearly necessary. But given the nature of

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the political regime with which the opposition is battling, it may only be achieved in stages over time. The opposition could hopefully, with the support of the international community, and even from factions within *chavismo*, be able to obtain both an institutional and electoral opening from the regime, but it would be unwise for its political leadership to believe that democratization will be guaranteed just by an agreement. Rather, the opposition must seriously rethink its strategy in more realistic

terms, reorganize and rebuild its social networks throughout the whole country, and gain the electoral strength in the domestic arena that will be required to transform any potential opening into a definitive democratization process. It would be a mistake to continue to delegate this responsibility to the international community, or to an interim government that has increasingly become weaker and more symbolic. This strategy will entail taking political risks—that is, taking advantage of windows of opportunity rather than just actively waiting for better conditions sometime in the near future, especially if negotiations do not produce the expected outcomes.

Making peaceful democratic coexistence possible among Venezuelans of different perspectives and assuring adequate protection of fundamental human rights are also urgent priorities. Careful and thoughtful transitional justice principles and procedures that take into account Venezuela's particular circumstances will require confidential negotiations, drawing upon qualified judicial experts and representatives of the security forces and of their victims. Venezuelans of differing perspectives as well as international participants and observers should now want to reinforce this momentum by emphasizing what unites them and by working to bridge remaining differences.