VENEZUELA 2015
REGIME CRISIS & INCREASING THREATS
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Preface

On 19 March 2015 the Human Rights Research and Education Centre (HRREC) of the University of Ottawa and the Canada Venezuela Democracy Forum (CVDF) organized a panel discussion under the title “Venezuela 2015: Regime Crisis and Increasing Threats”. The present publication compiles the presentations delivered by that panel, comprising a political scientist, a journalist, a human rights activist and a diplomat who approached the current situation in Venezuela from their different perspectives and projections in a year when the country is planning to conduct parliamentary elections in December 2015.

This publication also includes the verbatim text of a short testimonial conveyed by a young social leader representing the student’s movement in the western State of Táchira, where the protest movement against the regime began in February 2014.

The panel is part of a series of activities that the HRREC and the CVDF have organized about the situation in Venezuela. In May 2014, a conference was held on the subject “Venezuela: Transition to Democracy?” The proceedings of that conference can be downloaded from the HRREC website*.

The evolving situation in Venezuela is striking, even as compared with the turmoil evident elsewhere in the world. In a continent that has made considerable progress the last decades, Venezuela appears out of step and sliding backwards by most gauges. The tensions and occasional eruptions come in and out of the international media, while the people cope with deteriorating economic conditions and rising repression. It seems evident that social conflicts are rising and threaten a major civil conflict with widespread violence and instability if not addressed. And as the quality of Venezuela’s institutions weakens, their capacity to address such conflicts diminished. This presents the spectre of a major challenge for the country, its neighbours and the region. But such a scenario is not inevitable. As this publication shows, steps can be taken in a better direction with the required reforms and sufficient democratic space.

We hope that this publication contributes to a better understanding of the political and social challenges that Venezuela is now facing, and that peaceful ways will be found to address the many grievances, manage the conflicts and fulfill the human rights for everyone in this rich and dynamic country.

HRREC & CVDF

August 2015

1. Introduction

Sometime this year there will be legislative elections in Venezuela. Elections are scheduled by law, but not an exact date. In recent years, election schedules have been disrupted. The most recent municipal elections took place on 8 December 2013, but they were supposed to be held by November 2012. The 2012 presidential election was held on 7 October, even though it should have been held in December. In this particular case, the evolution of the late President Chávez’s health suggested that he would be unable to campaign in November and December, and so, apparently, the election date was modified to avoid a major setback for Chávez’s health at the end of the electoral campaign. Manipulations of the electoral calendar have been instrumental for powerful Latin American politicians to keep control of the government during critical circumstances (Llanos 2010). Thus, in the specific case of the forthcoming legislative election in Venezuela, it is hard to say for certain that the legislative election calendar is fixed. At the moment this paper is written [summer 2015], the National Electoral Council (Consejo Nacional Electoral, CNE) has yet to establish the election date. Nonetheless, for the sake of the analysis, it is assumed that voters will be called to the polling booth in a few months.

All opposition parties, coalesced into the Democratic Unity Roundtable (Mesa de la Unidad Democrática, MUD), are willing to participate in the forthcoming legislative elections. Some minor, radical groups have strongly opposed such a decision. They claim that the opposition’s participation in allegedly fraudulent elections serves no other purpose but to legitimate Nicolas Maduro’s authoritarian and illegitimate regime. In February 2014, in the midst of violently repressed street demonstrations, the MUD was labeled as “collaborationist” by the radical wing of the anti-Chavista movement. Tensions between radical and moderate anti-Chavista groups remain. Yet, radical opposition groups have no longer the blackmail power they used to have back in 2005 and before, when they were able to put a lot of pressure on politicians to boycott the legislative elections. On the other hand, top leaders of the MUD (namely, the Executive Secretary, Jesus Torrealba) have claimed that the Government may have plans to ban all opposition parties before the legislative elections (Oposición venezolana dice que Gobierno intenta "ilegalizar" a sus adversarios 2015). Yet, more recently, opposition leaders announced they were holding primary elections to choose candidates for the National Assembly and 120 candidates are ready to run (A total of 120 candidates to run
Consequently, there is enough ground to assume that: 1) the vast majority of the opposition groups and parties will maintain the coalition to compete in the 2015 legislative elections; and, 2) Maduro’s government will not ban the opposition parties and, everything being equal, the country will have competitive, multi-party elections this year.

Building on previous assumptions, this paper discusses to what extent the next elections could end up being either a peaceful path to deal with political conflict or an opportunity to escalate to higher levels of political confrontation, which may include violent forms of street politics. This paper makes use of surveys data on political attitudes of Venezuelans, available from the Center for Political Studies (CEP) at the Catholic University Andres Bello–CUAB (Proyecto Integridad Electoral para Venezuela 2014). Survey data was collected in July 2013 and October 2014, by means of two comparable nationwide surveys comprising 1,200 interviews each, addressed attitudes towards democracy, electoral preferences, political violence, political institutions, electoral institutions and, more specifically, the National Electoral Council (Consejo Nacional Electoral, CNE). The following sections of this paper present preliminary data analysis of selected variables to show Venezuelans’ attitudes towards democracy, the Government, elections, voting, the CNE and the perceived risk of post-election violence.

2. Data and evidence

The above-mentioned survey data and related analysis provides evidence that supports the following propositions on political attitudes of the majority or, at least, a very large part of Venezuelan voters: first of all, democracy and elections are strongly supported; second, there is a decrease in the level of the long-lasting and endemic political polarization; third, the country is not doing well and the majority has little or no confidence in the national Government; fourth, they have no confidence in the electoral process and election outcomes; fifth, the willingness to vote is influenced by a series of factors, including the level of confidence in the CNE and voters’ self-placement in the political spectrum (from extreme “chavista” to extreme “non-chavista”); and, last but not least, the perception of risk of post-election violence is influenced, among other factors, by political attitudes towards the CNE, the national Government and voters’ political identity.

Perhaps surprisingly, a long lasting economic and political crisis, in a context of deep political polarization, has not eroded Venezuelans’ democratic values. In fact, Venezuelans strongly support democracy. 84 percent of polled voters very much or somewhat agree that “democracy is the best form of government, even with its flaws.” 90 percent of them very much or somewhat agree that “democracy is the best way to solve the country’s problems” and 70 percent think that “it is possible to change things by voting.” Additionally, from 2013 to 2014 Venezuelan politics has become less polarized.
(see Figure 1) due to a decrease of both “extreme chavista” and “extreme non-chavista” groups, the increase of moderates and voters with no political identity.

Figure 1: Voters’ self-placement in the chavista/non-chavista political continuum. Venezuela, 2013-2014

In 2013, 48 percent of Venezuelan voters identified themselves either as radical or moderate chavista. In 2014, the percentage of chavista voters dropped to 37 percent and they became less radicalized. The odds of being an extreme chavista versus being a moderate one, in 2013, are 0.48. In 2014, these odds declined to 0.39. The number of moderate opposition voters increased in 2014 vis-à-vis 2013. They represented 44 percent of the total opposition voters in 2013, but in 2014 they skyrocketed to two-thirds of the total opposition followers. Equally salient is the increase in the percentage of voters with no political identification from one year to the next.

Nonetheless, 67 percent of the surveyed Venezuelan voters are unsatisfied (50%) or very unsatisfied (16.8%) with the way democracy works in the country. Additionally, the predominant opinion among Venezuelans, as expressed in the polls, is that the country is going bad. According to the 2014 CEP-UCAB survey, only 18 percent of the Venezuelan voters believed that country is doing well, whereas 67 percent of them had the opposite opinion, while 14 percent saw the country as going neither good nor bad, and just 1% did not answer the question. These findings differ from the previous survey. In 2013, 27 percent of Venezuelan voters said that the country was doing well; for 47 percent of them, the country was going bad, and 24 percent of voters had a neutral opinion.
A crucial issue regarding the 2015 legislative elections in Venezuela is whether they will help or hinder finding a peaceful solution to endemic political conflicts. Yet, the role played by the elections may be conditioned by voters’ perception of the fairness of the electoral process and its outcomes. According to the 2014 CEP-UCAB survey, 55.8 percent of the Venezuelan voters have little or no confidence in the CNE. Contrastingly, in 2013, 56.3 percent of Venezuelan voters had “lot” or at least “some” confidence in the national electoral authority. In 2014, 47 percent stated that the CNE is not an impartial institution, and 48 percent disagreed that “the government respects the results of elections.” The percentage of those who trust the CNE is lower or very close to 50% in each and every social stratum (see Figure 2).

Figure 2: Level of confidence in the National Electoral Council by social strata. Venezuela, 2014

Source: Author’s calculations based on data from the Electoral Integrity Project, CEP at the UCAB

Other indicators show that a substantial percentage of Venezuelan voters do not trust the way the CNE conducts elections. In 2014, only 48 percent of polled voters agreed that the CNE is autonomous from the Government and the ruling party, and just 49 percent of them said that the CNE accomplished its goals “very well” (10%) or, at least, “well” (39%).

3. Confidence in the CNE, election turnout and perceived risk of political violence

There is a significant relationship between opinion on the CNE’s autonomy and accomplishments and voters’ willingness to turn out to vote. Turnout is also related to opinions on whether or not the national Government respects electoral outcomes and
voters’ overall confidence in the national Government. All these four variables have a significant and positive influence on the probability of voter turnout for elections, even controlling by self-placement on the chavista/non-chavista spectrum. In other words, voters who think that the CNE is not autonomous and does not accomplish its goals, and that the Government disrespects election results, have no confidence in the national government, are less inclined to vote in the next legislative elections.

The logistic regression model summarized in Table 1 suggests that voters who say that CNE is autonomous from the central Government and the ruling party are about 2.5 times more likely to have confidence in the CNE than those who claim that the CNE is not an autonomous electoral institution. The odds of trusting the CNE for those who think that the CNE has a good performance are 47% higher than the odds of trusting the electoral authority for those who think that it does not accomplish its goals. Those who perceive that the Government respects elections results are 1.36 times more likely to trust the CNE than those who think the opposite. Similarly, those who trust the national Government are much more inclined to have confidence in the CNE than those who distrust the Maduro administration. Nonetheless, self-placement in the continuum “chavista/non-chavista” does not significantly influence the odds of having confidence in the CNE. All together, these findings suggest that reservations on the reliability of the Venezuelan electoral authority are not simply the consequence of political polarization. Being chavista does not necessarily lead to trusting the CNE, even though non-chavista people express stronger and more generalized concerns about the electoral authority than chavista voters. Thus, the evaluation of the credibility of the CNE does not depend on political polarization, but on voters’ opinions on the Maduro administration and their attitudes towards the electoral authority itself. The adjusted Pseudo-R² indicates a good model fit.
Table 1 – Model 1: Logistic regression model of confidence in the National Electoral Council on attitudes towards the CNE, national Government and self-placement on the political spectrum. Venezuela, 2014.

<table>
<thead>
<tr>
<th>Explanatory factors</th>
<th>Odds ratio (St. Error)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voters’ opinions on the CNE’s autonomy</td>
<td>2.4476*** (0.3860)</td>
</tr>
<tr>
<td>Voters’ opinions on the CNE’s accomplishment</td>
<td>1.4710*** (0.1090)</td>
</tr>
<tr>
<td>Perceptions of the Government’s respect for election outcomes</td>
<td>1.3580** (0.2033)</td>
</tr>
<tr>
<td>Confidence in the national Government</td>
<td>2.7743*** (0.3352)</td>
</tr>
<tr>
<td>Self-placement in the continuum \emph{chavista/non-chavista}</td>
<td>0.8666 (0.0865)</td>
</tr>
</tbody>
</table>

n = 1061, adjusted pseudo $R^2 = 0.5187$ **significance at 0.05, ***significance at 0.01

A second logistic regression model (see Table 2) describes the influence of attitudes towards the CNE and the national Government, along with voters’ self-placement in the \emph{chavista/non-chavista} continuum, on the willingness to turn out to vote in 2015. The lower the confidence in the CNE, the lower willingness to vote. Additionally, those who think that the CNE accomplishes its goals are more likely to vote than those who have reservations about the CNE’s performance. Those who perceive that the Government respects election results are 1.4 times more likely to vote, compared with those who think that the government does not respect the outcomes. And finally, in this second model, political self-placement does play a significant role predicting the willingness to vote. Voters who identify themselves as “non-\emph{chavista}” are 0.85 times less likely to vote than the other. Model 2 fit, however, is not as strong as for Model 1.
Table 2 – Model 2: Logistic regression model of willingness to turn out in elections on confidence in the National Electoral Council, national government respect for election results and self-placement on the political spectrum. Venezuela, 2014

<table>
<thead>
<tr>
<th>Explanatory factors</th>
<th>Odds ratio (St. Error)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voters’ level of confidence in the CNE</td>
<td>0.7001***</td>
</tr>
<tr>
<td></td>
<td>(0.0743)</td>
</tr>
<tr>
<td>Voters’ opinions on the CNE’s autonomy</td>
<td>1.1898</td>
</tr>
<tr>
<td></td>
<td>0.1565</td>
</tr>
<tr>
<td>Voters’ opinions on the CNE’s accomplishment</td>
<td>1.1898***</td>
</tr>
<tr>
<td></td>
<td>(0.1565)</td>
</tr>
<tr>
<td>Perceptions of the Government’s respect for election outcomes</td>
<td>1.4310***</td>
</tr>
<tr>
<td></td>
<td>(0.0970)</td>
</tr>
<tr>
<td>Self-placement in the continuum chavista/non-chavista</td>
<td>0.8487**</td>
</tr>
<tr>
<td></td>
<td>(0.0718)</td>
</tr>
</tbody>
</table>

n= 996, adjusted pseudo R² = 0.2357 **significance at 0.05, ***significance at 0.01

Finally, a third logistic regression model describes the perceived risk of post-election violence in Venezuela in 2015. The strength of Model 3 is much lower than expected. Nonetheless, odds ratios suggest a significant influence of confidence in the CNE, perceptions on the Government’s respect for election results, and self-location on the political continuum, on the likelihood of perceiving a high risk of post-election violence. The perceived risk of violence is lower for those who trust the CNE and believe that the national Government respects election results. The perception of risk of post-election violence is much more likely in the case of non-chavista voters.

Table 3 – Model 3: Logistic regression model of willingness to turn out in elections on confidence in the National Electoral Council, the national Government’s respect for election outcomes, and self-placement on the political spectrum. Venezuela, 2014

<table>
<thead>
<tr>
<th>Explanatory factors</th>
<th>Odds ratio (Std. Error)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Voters’ level of confidence in the CNE</td>
<td>1.1873**</td>
</tr>
<tr>
<td></td>
<td>(0.0808)</td>
</tr>
<tr>
<td>Perception of the national Government’s respect for election outcomes</td>
<td>0.7689****</td>
</tr>
<tr>
<td></td>
<td>(0.0705)</td>
</tr>
<tr>
<td>Self-placement in the continuum chavista/non-chavista</td>
<td>1.3662***</td>
</tr>
<tr>
<td></td>
<td>(0.0919)</td>
</tr>
</tbody>
</table>

n= 1102, pseudo R² = 0.081 **significance at 0.05, ***significance at 0.01
4. Conclusion

This is a work in progress and further analysis should be done before reaching more conclusive results. Nonetheless, preliminary findings indicate that: 1) there is a crisis of credibility in the national electoral authority (CNE), in a context where the majority also distrusts the national Government and perceives that the country is going wrong; 2) the crisis of confidence in the CNE may lead a significant part of the voters to abstain from voting; 3) Voters who lack confidence in the CNE, perceive that the national Government disrespects the electoral results, and identify themselves as non-chavista perceive a high risk of eruptions of violence after the 2015 elections. Thus, Venezuelans apparently have an urgent issue to address. Confidence in the electoral authority must be regained if the Venezuelan people want to avoid that bullets replace ballots.

References


Human Rights in Venezuela: An Overview

Feliciano Reyna
CIVILIS Derechos Humanos

Introduction

Even though there are specific areas of more serious concern regarding the lack of guarantees for the exercise and enjoyment of human rights in Venezuela, for years the situation has been considered as structural. The Inter-American Commission on Human Rights (IACHR) has been consistently including Venezuela in Chapter IV of its annual reports since 2002, with the exception of 2004.

The criteria for inclusion of a country in Chapter IV of the IACHR’s report include: a) A serious breach of the core requirements or representative democracy, such as the abusive exercise of power that undermines or denies the rule of law, or an unconstitutional alteration of the constitutional regime; b) The free exercise of the rights has been unlawfully suspended, totally or partially; and c) The presence of other structural situations that seriously affect the use and enjoyment of fundamental rights, such as a serious institutional crisis that infringes the enjoyment of human rights, or serious omissions in the adoption of necessary measures to make fundamental rights effective.

The attempt by then President Chávez to change the Constitution in 2007 in order to impose a “Communal State” – defeated in a referendum but nevertheless carried forward through laws, norms and regulations – marked the definitive deviation from the original proposal of a “Democratic and Social State, based on Rights and Justice” contained in the 1999 Constitution. Enabling laws and military and intelligence mechanisms have been implemented which severely restrict liberties and criminalize dissent.

For years now, Venezuela’s prison system has been one of those areas over which national and international human rights bodies have expressed deepest concerns: the death rate due to violence is above 100 inmates per 10,000 (the general rate in Venezuela, already one of the highest in the world, is around 7 per 10,000 inhabitants).

In 2012, Venezuela renounced the American Convention on Human Rights, and effectively withdrew from the jurisdiction of the Inter-American Court of Human Rights in 2013, even though the 1999 Venezuelan Constitution includes the Convention in Chapter 339, and in Chapter 23 establishes that international treaties on human rights have a constitutional hierarchy and prevail when they are more progressive in their guarantees than the internal order.
Lack of Separation of Powers

For years, State authorities have been elected without following proper procedures, which would guarantee their independence. The recent elections of the Attorney General and of the Ombudsman were based on an interpretation by the Constitutional Court of the Supreme Tribunal of Justice (STJ) that authorized the National Assembly to name them by simple majority, even though the Constitution expressly states that a two-thirds majority is necessary. As well, the National Electoral Council Directors were selected by the STJ based on an “Omission by the National Assembly”, and Supreme Court Judges were also elected by a simple majority. The previous President of the STJ had already stated that there was no need for separation of powers, but for their cooperation in order to better carry forward the Government’s project.

Non-independent Judiciary

As was admitted by the representative of the State in a hearing on 17 March 2015 at the IACHR concerning the general institutional situation in Venezuela, 66% of judges are provisional. As well, it is estimated that 50% of Public Prosecutors are also provisional. This gravely affects their independence and capacity to impart justice or to conduct investigations impartially, and makes them susceptible to politically-motivated interference. Since at least 2005, the judicial system has been systematically used to criminalize political opponents, protesters, labour leaders, and human rights defenders. This situation was particularly critical after the Presidential election of April 2013, and during the extended protests which occurred between February and August 2014.

Together with the use of the judicial system to criminalize dissent, impunity has become systematic. The reports of the Attorney General show that of cases of violations of fundamental rights denounced and investigated, less than 3% end up with any sanction against the perpetrators.

Militarization, Security Zones and Internal Enemies

Since 2007, public protests and expressions of dissent, mostly due to social demands, have been increasing, exceeding 5,000 in 2013. In general, they have been due to demands for labour rights, adequate housing, of life and personal integrity protection (given the increase in homicide rates) as well as for the guarantees of the rights of prisoners.

Rather than an open, democratic dialogue, response’s has been the imposition of regulations and the creation of mechanisms, mostly of a military nature, aiming at preventing protests, however peaceful, and repressing protesters. For example, the Law on the Distribution of Goods and Services prevents workers from exercising their right to strike at the gates of factories. As well, the Law on National Security created “safety
zones” in which no protests can be staged. These include Government buildings where in general it should be expected to see protesters and have their demands heard.

Bodies such as the Special Brigades to Combat Groups Generating Violence, the Strike Forces, the Anti-Coup Command, the Popular System to Protect Peace (SP3), together with Resolution 8610 of the Defense Department (which gives authority to the Armed Forces to control protests and to use fire arms in such activities), all aim at repressing not only dissent, but even expressions of discontent over the lack of enjoyment of rights or other legitimate grievances. Regarding the SP3, President Maduro said that the System was created “to protect the government and the people, guaranteeing peace and facing threats of identified and yet-to-be identified groups acting on the border of terrorism, paramilitarism and sicario-type conduct”.

2013 – 2014 Protests

In April 2013, after the very close election – by a tight margin estimated at 1.5% – Mr. Nicolás Maduro as President of Venezuela, protests were staged in front of regional offices of the National Electoral Council. At the time, the first cases of abuses to control peaceful demonstrations were documented particularly in three cities. Over 150 arbitrary arrests were made, and 66 detainees were subjected to torture and other cruel, degrading and inhuman treatment. Bystanders were also detained, the right to due process was violated, detainees were prevented from seeing their families or lawyers, and evidence was fabricated to incriminate them. For reports on human rights in Venezuela, see the various publications of Human Rights Watch, Amnesty International and Freedom House.†

These were the same patterns documented during the protests between February and August 2014. Even though only some 7% of protests were not peaceful (according to monitoring carried out by the well-known human rights organization Provea), the Public Prosecutor’s Office, in its monthly reports, each time indicated the “Results of the violent protests which occurred between February and July of 2014”. Over 3,300 protesters were arrested, the vast majority arbitrarily, excessive force was used to control protests, over 870 people were injured, and even residential areas were attacked, at times by the National Guard acting together with armed civilians. Some protesters were charged with “association to commit a crime”, as provided by Venezuela’s anti-terrorist law; most were charged with “obstruction of roads”, based on an arbitrary interpretation of article 357 of the Criminal Code.

Social Rights

Poverty levels

At the 17 March 2015 hearings of the IACHR, Provea presented information regarding the deterioration of social indicators, among them in terms of poverty levels. With vast amounts of income generated from enormous hydrocarbon deposits since at least 2007, in the last 15 years Venezuela reduced its poverty index by only 13.1%, while Peru (with many fewer resources) in the same period reduced its rate by 30.2%. The National Statistics Institute has not yet released its 2014 report, however, with higher inflation than in 2013, food and medicine scarcities and precarious employment, it is expected that poverty rates have fallen back to the levels of 1998 – meaning no progress since Chávez came to power.

Right to Health

At the hearings of the IACHR, Codevida (the Venezuelan Coalition of Organizations for the Rights to Life and Health), reported about the severe deterioration of the public health system, as expressed in terms of services and supplies as well as in terms of how people with different health conditions are suffering the consequences of such deterioration. In an analysis of data collected by Doctors for Health (an organization created by young medical doctors at 130 public hospitals): 67% of them had shortages of medicines, both basic and for complex conditions; 61% had shortages of implements to perform surgeries; 86% had their X-ray equipment inoperative or needing parts to function; 94% had their tomographs damaged; 94% of their labs lacked reagents for different types of tests; and 44% had closed or inoperative surgery areas. The majority of hospitals had, as well, problems of infrastructure, such as leakages of sewer pipes, lack of general medical equipment, and power and water shortages.

Given such a situation, people with different chronic or complex health conditions – such as HIV, organ transplants, hemophilia, different types of cancer, hypertension, diabetes, and mental health problems, among others – have gone for large periods without access to their medicine therapies, with serious consequences for many of them.

Human Rights Defenders and Civil Society Rights

Together with the generalized context of deterioration of the exercise and enjoyment of human rights, defenders and their organizations have been subject to criminalization, smear campaigns, persecution, intimidation and harassment. The lack of constructive dialogue has had a strong impact in areas such as the environment, the rights of indigenous peoples, the rights of people deprived of liberty.
The enactment of laws such as on the Communal State, on National Sovereignty and Self-Determination, on anti-terrorism, and on Military Service, with their provisions restricting the rights to freedom of association, expression and participation in public affairs, has had a negative impact in the possibilities of civil society to contribute to improve conditions for the Venezuelan people to achieve dignified lives.

**Conclusion**

The lack of compliance of the Venezuelan State with its international obligations and the national guarantees of protection of human rights has degenerated in structural terms that now affect the exercise and enjoyment of human rights and liberties by the vast majority of the Venezuelan people. This could be reverted through democratic, inclusive dialogue, as well as through constructive engagement with the international systems for protection of human rights. Unfortunately, the prevailing situation and apparent trend does not suggest this will happen any time soon. Rather, the overall situation has deteriorated and seems set to persist or get worse, notably in the absence of space for public protest or for human rights defender to act in favour of human rights and fundamental freedoms or even to advocate or contribute to dialogue about them.
Venezuela’s International Policy on Human Rights

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Political Analyst and Former Diplomat

Human Rights (HR) can be approached from different perspectives. This paper will approach them from an international point of view. Historically speaking, it is possible to address Venezuelan international policy on HR in two distinct periods. The first period covers the second half of the 20th Century and refers to the policy developed during the Civil Democratic Republic (CDR). The second refers to the Chávez or “chavista” regime, during the early part of this century.

1. Civil Democratic Republic

There are two different supranational HR systems for Venezuelans: the universal, manifest in the United Nations (UN), and the continental or American system constituted in the Organization of American States (OAS).

United Nations

In relation to the United Nations (UN) HR instruments, in the period of the CDR, Venezuela supported and adhered to all of them from the Universal Declaration of HR in 1948 to the Convention on the Rights of the Child in 1990. It also supported all their protocols, which means generally speaking that Venezuela agrees that all the committees created to monitor countries’ commitments were able to receive direct communications from their citizens. There are some 19 major instruments on HR at the UN. Ten issued during the 20th Century were signed and ratified by Venezuela. And even 12 if we include two of the protocols for the Convention of the Rights of the Child signed before 2003, when “chavism” was not well established. Then the regime went several years without signing any new instrument until the end of the decade (although some have not been ratified).

Venezuela participated in all committees and working groups created for the discussion and elaboration of the various instruments in both regional and international systems. For example, the action of Venezuela was very important in the defence of HR, especially in relation to the countries of the “Southern Cone” who suffered military dictatorships. Not only within these multilateral organizations, e.g. with the issue of torture (notably the 1985 Inter-American Convention to Prevent and Punish Torture, and the 1984 Convention against torture and other cruel, inhuman or degrading punishment), but also Venezuela was a place of refuge. Thousands of southern politicians sought and received exile in Venezuela, and were welcomed and integrated into our national life, with all types of protections.

Organization of American States

Venezuela presided over the first Inter-American Commission on HR (IAComHR), through the figure of Don Romulo Gallegos, novelist and first democratically elected
President. He was very clear when in his inauguration speech at the Commission he stated that “National sovereignty is a matter of obvious and paramount importance, but no human being themselves is less important…” Gallegos was very clear that sovereignty cannot override individual human rights. He also was in a way a precursor to the Inter-American Court of Human Rights. He even threatened to resign if the participation of ordinary citizens was not granted, allowing them to “expose the abuses they have suffered”.

The Inter-American Court of Human Rights (IACouHR) was created 20 years later in 1979, and Venezuela joined it immediately. In this court, Venezuela has had a President and five members of the Court – one during this century. Regarding the Inter-American System for HR Protection (IASPDH), Venezuela signed all its nine instruments during the CDR.  

2. The chavista regime

There have been positive and negative HR developments during the 21st Century. The positive ones occurred at the beginning of the century and the negative ones appeared as the regime consolidated. The following provides a brief summary of some of these developments.

The Constitution

To start with the three positive elements that were brought by the 1999 Constitution, created at the request of Hugo Chávez, these are:

• HR are within the new Constitution. The Constitution in its Preamble states: “the universal and indivisible guarantee of human rights.” And there is a Title III on HR. The principle of indivisibility of HR is always related to the principle of interdependence and both can be found in Article 19 of the Constitution.

• Principles of progressiveness⁴ and supranationalism⁵. Article 23 of the Constitution stipulates that “Treaties, agreements and conventions on human rights, signed and ratified by Venezuela, have Constitutional status and take precedence to domestic law, insofar as they contain provisions concerning the enjoyment and exercise more favorable than those established by this Constitution and the laws of the Republic, and are of immediate and direct enforcement by courts and other public bodies”.

• Access to international courts. Article 31 of the Convention states that “Everyone has the right, under the terms established by the treaties, pacts and

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¹ The best legal norm, the one that protects individuals the most, takes precedence. In this sense there is a constant improvement of HR. A clear reference to this principle is in Article 19 of the 1999 Constitution.  
² International agreed norms must be enforced domestically even if they are not incorporated formally in the Constitution or laws.
conventions on human rights ratified by the Republic, to address petitions or complaints to international bodies for such purposes, in order to request protection of their human rights.”

The chavista's vision of HR

For those who deal with HR and other international issues in Venezuela the changes brought about by Chávez during his first years in office were business as usual – the same that usually happened when there was a change of parties in power during the CDR, with a twist. However, this was changing gradually. In this sense we observe four major changes of policies that occurred during this century:

i. Democratic Charter

One of the first changes occurred in Quebec, Canada, in 2001. At the III Summit of the Americas, where the basis of the Inter-American Democratic Charter was discussed, the Government of Venezuelan objected to the concept of representative democracy (which had some sense because this concept was in the new Constitution). But they went further when they opposed the Democratic Charter in general and considered that “...the democracy clause was not appropriate, but a broad interpretation of the Charter of the OAS” was enough. They also tried to downgrade the reference to “any alteration of the Constitutional order” to the concept of “overthrow by force”, i.e. coup d’État.

Eventually, the Democratic Charter was adopted at the General Assembly of the OAS, in Lima, on 11 September 2001. The Venezuelan proposals were not accepted: in the very first paragraph the concept of representative democracy appeared as key for the whole document. The “democratic clause”, approved in Articles 19 and 20, speaks of “…alteration of the Constitutional order” and not just about a coup. The Charter extended the concept of democracy when speaking not only of the “legitimacy of origin” (i.e. to be elected), but of “performance” (i.e. how a particular government behaves).

Ironically, the first time the Democratic Charter was invoked was vis-à-vis Venezuela, after the 2002 coup d’état … just seven months after its approval. And although the Venezuelan regime did not like the Charter, it later flagged and invoked it in Honduras in 2009.

ii. Some rights are more human than others

Another change occurred in relation to the concepts of indivisibility and interdependency. These concepts place all three generations of HR at the same level. The first generation refers to civil and political rights, the second to economic, social and cultural rights, and the third to the rights of solidarity (notably to development, to a clean environment, to peace and to the common heritage of mankind). The first is part of the foundation of the UN. The second is a product of an alliance of the Communist bloc with the nations of the “Third World” (Developing World), newly created by the processes of decolonization. The third and most recent concerns the right of nations to collective interests, with development especially relevant.
Indivisibility and interdependency of HR were key elements agreed by developing world, e.g. the Non-Aligned Movement. But this changed with chavismo. And this change was clear in the statement to the new UN Human Rights Council, during its inaugural sessions in June 2006, by a Venezuelan Vice-Minister for External Relations, Maripili Hernandez. She said, “All rights are important, but as part of the biological and human logic eating is much more important than to be part of a political party, have a decent job more important than to live in a democratic system, to be literate than to have freedom of expression”. This is the rationale behind the justification of all authoritarian regimes. They justify the loss of political rights and fundamental freedoms in order to ensure the satisfaction of basic needs of the population. In the end, none of those needs have been fully satisfied and what we find is that eventually they established dictatorial and totalitarian regimes. This, for example, is part of the speech and reality of Castro's Cuba. The principles of indivisibility and interdependence of HR, both granted in the Venezuelan Constitution, were swept away.

iii. National alienation

With the leitmotif of the “defense of sovereignty”, the Chávez regime withdrew from traditional international organizations to avoid being monitored. This ranges from the International Monetary Fund and the World Bank to the IACHR.

The judiciary controlled by Chávez, and in this case the Venezuelan Supreme Court, started pointing out and then dictated that there could not be a supranational court above it, because that was an invasion of national sovereignty. This was set off when an injunction of the Inter-American Court of Human Rights opposed a Venezuelan Supreme Court ruling that dismissed, for political reasons, some judges. Then in 2012 Chávez made the decision to leave the jurisdiction of the Court, renouncing the Pact of San José.

Venezuela went further back than the Gallegos time. Nowadays, this balance between sovereignty and HR is shifted in favour of HR.

Articles 21 and 33 of the Constitution have been disregarded. The principle of progressiveness and the right of Venezuelans to access international entities have been violated. But even if the regime escapes from the Court’s rulings, where it has to deal with more than 41 cases as compared with just three during the last century, it failed to escape from the Commission’s reports. From a chavista point of view, there were too many cases and it shows how biased the IACHR was against Venezuela. But if we compare with other countries, such as Argentina with 61 or Costa Rica with 14 cases, in fact they were not “too many”. Indeed, since 2002 a number of cases have been brought to the Court, and so it should be no surprise that since 2002 the precarious situation of HR in Venezuela has resulted in a special chapter in the IACoMHR’s annual report.

iv. Weakening of the Inter-American System for HR Protection

As if that were not enough, the Chávez regime embarked on an attempt to weaken the IASPDH. They did better from the outside-in and from the inside-out. From the outside-
in, they developed a systematic attempt to weaken the OAS. Chávez next to Brazil's Lula partnered to embark on a process to build new organizations such as UNASUR and CELAC – the latter being known as an OAS without the US and Canada. None of them have independent bodies such as the SIPDH, i.e. organizations that can adjudicate and penalize governments regarding alleged violations of HR. And if they have something similar these are not independent bodies but ones dependent on governments. For example, they have not addressed strongly the issue of violations of HR in any member country.

Within the OAS, the Government of Venezuela tries to weaken both the Commission and the Court. In this respect a Special Working Group was created in the OAS. There, key members of the Bolivarian Alliance for the Americas (ALBA) took the lead. The proposal was, among others, that the Commission could issue protection measures for victims only after consulting with the respective countries; they also want to avoid external financing to the Court and the Commission; and they want the consolidation of all reports of the various rapporteurs, to prevent the freedom of expression report to be issued separately. These measures were designed to reduce the independence of the Commission, by giving the General Assembly (i.e. the governments) the power that redefines what the rapporteurs and the Commission may or may not do. Eventually, these changes did not come to pass.

**Conclusion**

To summarize, the progress promised by Chávez through a new Constitution – which later he wanted to change – vanished. Among the principles are indivisibility, interdependence, progressiveness and supranationalism. The conduct of the Government of Venezuela to diminish or breach these implies a flagrant violation of Venezuela’s Constitution. This also leaves Venezuelans in a state of legal vulnerability *vis-a-vis* the Government’s rulings, because they cannot access the only international court of HR in the region. And even though the regime could not weaken the IASPDH, they weakened the OAS with the creation of multilateral bodies where the issue of HR is handled between governments. Finally, as all totalitarian regimes, they adopted a concept of HR that allows them to justify the violation of civil and political rights by considering more important economic, social and cultural rights – even if eventually they did not fulfill any of these rights.
New forms of media control and censorship under Nicolas Maduro’s government

Nelson Bocaranda
News portal RunRun.es

I can summarize the situation of media and freedom of expression in Venezuela with one word: terrible. The Government of Venezuela, under Hugo Chávez but mostly under his successor Nicolas Maduro, has established a new form of censorship, a new form of media control that is quite original. The Government, or to be more precise the allies of the Government, are buying media outlets. The “policy” (if you want to call it a “policy”) is to acquire media outlets and not to close them.

As I have been arguing in my columns and in my radio show, the Government’s allies started to acquire some very important media outlets (radio stations, TV stations newspapers). These allies have put aside – according to certain estimates – six hundred million US Dollars to acquire media power. This is a new business and political elite that plans to stay in the country, and they don’t want anybody to talk about them, about their business deals, about possible corruption cases, about criticizing the Government. This new modality of media control means that the Government’s allies (those who are known in Venezuela as “boliburgueses”) are taking ownership of the most popular and well-known outlets that reach all social classes; they are not closing media. They have started to buy the most important outlets with the highest impact on all groups, from the richest known here as class A, the high middle-class B, the lower middle class C, and the poor from groups D and E.

There is the case of Ultimas Noticias, the daily newspaper with the highest circulation in the country (around 250,000 during the weekdays and from 300 to 400,000 on Sundays). The new elites started this trend of media control by paying USD 180 million to acquire La Cadena Capriles, the conglomerate that owned Ultimas Noticias. Just to put this in perspective, two weeks earlier the Washington Post was sold for about USD 220-240 hundred million. By taking control of La Cadena Capriles conglomerate they now have Ultimas Noticias, which is read by the low middle-class and the poor, but also the financial/business newspaper El Mundo, the sports paper Lider, and several magazines. Since these outlets have been under the control of the Government’s allies they have changed radically the way they present the news. It’s purely raw Government

* We would like to thank Silvia Guimarey for transcribing the verbatim text of Mr. Bocaranda’s presentation during the discussion panel.
propaganda, almost nothing about the opposition, nothing about demonstrations, nothing about the main problems affecting the lives of Venezuelans.

Another case is El Universal, the daily newspaper that reaches classes A, B and C that was acquired by a supposedly Spanish corporation in a very opaque financial transaction. Since this new group took ownership of El Universal they have removed most of the opinion writers who expressed points of views against the Government, they changed radically the tone and angle of their news coverage, downplaying information about the economic crisis, and highlighting the “positives” news coming from the regime. The reality is that El Universal’s circulation dropped by about half after these changes. I still keep my column there – still critical of the Government – falling because it contributes to increase the daily’s circulation on Tuesdays and Thursdays by 35 per cent, and I’ve been clear with the new Editor and the publishers that if they dare to change one word, or one coma from my column I will stop publishing it in El Universal. Through RunRun.es – that’s the name of my column – I still criticize the Government and publish information about the backstage of the regime that other media outlets won’t publish.

The other way the Government controls the media, particularly the print media, is through the provision of paper. The regime has centralized the imports and distribution of print paper through a State-owned organization called Corporación Maneiro. For example, El Nacional, an independent daily, rarely receives paper from that corporation or has been facing substantial cuts of its paper supply, reducing its daily edition from 60-40 pages to 20 or 16 pages. Some of the print paper for El Nacional comes from Colombia, via the Asociacion Latinoamericana de Periodicos or the Grupo Diarios de America. The Government is using the same strategy against other dailies from the regions, including El Impulso (Barquisimeto) and El Carabobeño (Valencia), reducing the paper supply to a minimum and putting a lot of financial and political pressure on the newspapers which are trying to maintain an independent editorial line.

The Government is also putting pressure on radio and television stations. If they want their licenses to be renewed, they have to stop criticizing the Government. For now the regime is not repeating what Chávez did in 2004, when he shut down the oldest privately owned TV station in the country, Radio Caracas Television, the favorite of the segments C, D and E, and in some way competed against Chávez who imposed himself in the media spectrum through his long and repeated cadenas – when all radio and TV stations in the country are forced to broadcast the President’s speeches and his weekly show Aló Presidente that lasted between six to eight hours. Maduro is trying to imitate his predecessor with less success. He also uses and abuses the cadenas and has his own radio/TV show, but with less success than Chávez. What is becoming clear is that
Maduro was not prepared to be President, and that’s why he relies more and more on censorship, on putting pressure on the media, on having the “bolíaburgueses” buying media outlets, and jailing political leaders and elected officials and students.

The regime has been also using the so-called Law of Social Responsibility for Radio and TV to remove radio and television programmes from the air, and to fine producers and corporations. The Government has been harassing them with taxes, auditing and complicated bureaucratic procedures, threatening to suspend their licenses. The regime recently ordered cable distributors to remove from their programming some Colombian news stations that are critical of Maduro’s Government, and has forbidden some international journalists to do live broadcasting from Venezuela.

Fortunately, we still have the Internet and social media. Twitter has been great to overcome the barriers put in place by the Government and its allies. The same can be said of Facebook and Instagram. Sometimes the new media are the only way to inform the public or get facts and details about what is happening in the country. That’s the only opening that we still have in what is becoming a closed society.
Annex

Presentation of Student Movement
RUTA-UNETENSE (RU7)
*Universidad Exprimental del Táchira, UNET**

We would like to extend our warmest greetings to all the Canadian people and at the same time express our gratitude for this opportunity that you have given us, especially to the Canada-Venezuela Democracy Forum.

My name is Daniel Cárdenes, Universidad Exprimental del Táchira, UNET student and representative of the student movement in Táchira state. We would like to use this opportunity to denounce the difficult situation our county is living every day especially in San Cristóbal City.

This city is located in the southwest of the country in the Venezuelan Andes, 800 km from the Republic’s capital, Caracas. This is where most of the protests against the regime have taken place in recent years, which started on February 4th, 2014, when in Universidad De Los Andes, Táchira Campus, students went out to protest in rejection of the alleged act of rape of an Andes University female student, which resulted in repression by the State’s security apparatus who then fired rubber bullets and tear gas bombs towards and inside the university campus, violating the autonomy that the law provides to houses of study of post secondary education.

This triggered large demonstrations of unrest which continued for several months, leaving as a result several deaths, including the case of *Universidad Experimental del Táchira* student Daniel Tinoco, killed by a gun-shot to the chest while he kept watch over a student occupation, as well as several wounded and some arbitrary arrests, violating due judiciary process, a right that every person has under the presumption of innocence until proven guilty. As a matter of fact, until now there is no proof that a crime was committed. One of those relevant cases was the one of our Mayor Daniel Ceballos who remains detained in a military prison in Miranda State, or the case of our fellow Universidad Experimental del Táchira alumni member Renzo Prieto who is detained in Helicoide at the SEBIN Headquarters, Caracas.

We have received very little support and/or help from any Venezuelan institutions such as the People’s Ombudsman’s Office for those fellows who have been denied their freedom who know that in Venezuela there is no division of powers, fact which places at risk any democratic system, easily proven, taking in consideration all the injustices committed. A year has gone by and the situation has worsened … and the persecution against students has increased. For example, three weeks ago in San Cristobal, in the surroundings of the Universidad Católica del Táchira, during a student demonstration a 14 year-old teenager was killed by an officer from *Policia Nacional Bolivariana* (PNB,

**We would like to thank Silvia Guimarey for translating the students’ testimonial from Spanish to English.
the National Bolivarian Police) who shot a rubber bullet at close range to the head, killing him instantly.

Nobody would imagine what has been experienced in this city of Táchira State, which has been characterized for raising the flags of freedom and democracy against the politics of the regime of President Nicolás Maduro. Also there is a lot of misinformation due to the fact that Venezuelan media does not broadcast what occurs here, due to the control the Government exercises on them, as well as the self-censorship of the media. That is why we thank you once again for this initiative, this space that you share with us for the Venezuelan people, sharing our testimony through Canada and the rest of the world.

Thank you very much.
About the authors

Ángel E. Álvarez is Professor of Comparative Politics, Methodology and Political Theory at the Catholic University Andres Bello (UCAB), consultant on policy reforms, democratization, and rule of law, political risk analyst, and author of books and chapters on Venezuelan politics. Until 2013 he was the Chair of Political Theory and Professor of Policy Analysis at the Law School of UCAB and Research Board Member of the Center for Political Studies at the UCAB. He is Professor Emeritus of the Institute for Political Studies at the Law and Political Sciences School of the Central University of Venezuela, where he also was the Director of the Institute for Political Studies.

Feliciano Reyna is a human rights activist who has represented Venezuelan NGOs in hearings of the Inter-American Commission on Human Rights in Washington, DC. In 1995, he founded Acción Solidaria, a non-profit HIV/AIDS Service Organization, and has acted since then as its Executive President. From 2005 to 2013, he was President of Sinergia, a civil society umbrella that groups 52 organizations and networks dealing with diverse social issues and the promotion and defence of human rights. He also founded CIVILIS Derechos Humanos to document and report on the situation of human rights and democratic liberties in Venezuela, in a comprehensive manner. In 2010, Mr. Reyna received the second edition of the Human Rights Award given by the Center for Peace and Human Rights of the Central University of Venezuela and the Canadian Embassy in Venezuela.

Alfredo Michelsen is a former diplomat who served at the Venezuelan Ministry of Foreign Affairs from 1989 to 2004. He was posted at the OAS and the UN (Geneva) with a focus on human rights and social issues. While at the Ministry headquarters, he served at the Pedro Gual Institute of Higher Studies for diplomatic personnel, was Executive Secretary of the Presidential Commission for Frontier Issues, and Director of Cooperation for Central America and the Caribbean (his last post). He is currently an analyst of international affairs (Latin America) and writes for different publications.

Nelson Bocaranda is a columnist, radio and TV host, and director of the news portal RunRun.es. Mr. Bocaranda is regarded as one of the most well-informed journalists in Venezuela. He played a very important role in keeping Venezuelans and the world informed about the disease of President Chávez. He is today a reliable and trusted source of information about the political and social situation in the country. He has almost two million followers on Twitter at @nelsonbocaranda.
The Human Rights Research and Education Centre (HRREC) is one of the oldest in Canada and North America. Created in 1981, it comprises some 55 researchers specialized in law, the social sciences, the arts and other disciplines. The Centre strives to bring educators, researchers and students together with practitioners with a multi- and inter-disciplinary perspective, in order to promote the respect of human rights and explore the effective protection and enjoyment of such rights for everyone everywhere. The Centre places a particular emphasis on issues of public policy concerning peace, migration and immigration, health, environment, international trade and investment, poverty and vulnerable groups. The HRREC benefits from a bilingual and bijuridical environment. The Centre privileges research and education partnerships with academics and civil society organizations. The HRREC hosts numerous events such as academic conferences, exhibitions, meetings and workshops.

The HRREC is fortunate to host several researchers and graduate students with deep expertise in the Americas. The Centre believes in applying the same degree of attention to human rights issues in Canada and abroad and seeks to contribute to the enjoyment of human rights throughout the hemisphere. In March 2014, the Centre supported the organization of an International Symposium entitled “Current Views on the Rule of Law, Transitional and Alternative Justice in Latin America: Shared Experiences”. The proceedings of this conference have been published in a special issue (2015) of the Revue Québécoise de droit international.

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The Canada Venezuela Democracy Forum (CVDF) is a Canadian not-for-profit organization, created to promote Democracy, Human Rights, Social Justice and Good Governance in Venezuela and around the world. The CVDF aims also to facilitate international cooperation to develop peace and security in Venezuela, while at the same time protect and defend the national sovereignty and territorial integrity of the country.

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