

# The Crisis in Venezuela: A New Chapter, or the Final Chapter?

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This paper analyses the current political crisis in Venezuela after the proclamation of Juan Guaido as interim President in January 2019. The main argument here is that current crisis is the most recent chapter a long political crisis that began with rise to power of Hugo Chávez in 1999. A brief historical analysis of the previous chapters of the crisis is done as well an evaluation about the extent to which those previous events influence on current ones. The paper ends with an evaluation of the possible scenarios of solution of the crisis and the role that Venezuelan domestic actors and international actors will play.

Key words: crisis, Venezuela, Guaidó, Maduro

On January 25, 2019, in a public appearance in front of 1,000 of Venezuelans in Caracas, an unheralded leader, Juan Guaidó, proclaimed himself as Venezuela's interim president. Guaidó based his acts on articles 233 and 333 of the Venezuelan Constitution, because on January 5, the National Assembly declared that Nicolás Maduro had usurped the presidency. After winning the controversial May 2018 elections, Maduro decided to take on another term, swearing himself in front of the Supreme Court (TSJ) on January 10.

Also on January 5, the National Assembly designated Guaidó as its president for the 2019 period. In his speech, Guaidó noted that, "Since January 10, we have thus seen a break with constitutional order, and the presidency is not vacant, it has been usurped, and this must be made clear. We are in a dictatorship and we must act against this difficult truth" (Talcualdigital.com 2019). At that same time, Guaidó noted eight points that would serve as a road map to deal with the usurpation:

- The illegitimacy and unrecognition of Nicolás Maduro would be reaffirmed and it would be declared that the office of the Presidency of the Republic had been usurped.
- 2. The National Assembly, as the only legitimate body elected by the Venezuelans, would take over in representation of the people and of Venezuela to the international community, to defend and protect the interests, rights, and patrimony of the people and the state, inside and outside of Venezuela, as long as the usurpation continued.
- A Transitional Body would be created to restore constitutional order, fight against the usurpation, and coordinate the legitimate authorities, the civil society, and the National Armed Forces.

- 4. It would take over the process of restoring and designating the usurped powers.
- 5. It would promote the designation and recognition of legitimate representatives to international agencies and organizations to encourage humanitarian cooperation and the restoration of constitutional order.
- 6. It would authorize humanitarian aid and take over the direct dialog with countries that have communicated their intent to support this aid.
- 7. It would create a fund for the recovery of assets from corruption, so that stolen money, which is currently being seized abroad, could be frozen and returned to the people when the usurpation ends.
- 8. A legislative agenda would be approved for the transition, including a series of laws that define the legal framework for the country's institutional, economic, and social recovery (Talcualdigital.com 2019).

For the National Assembly, as well as for much of the international community and a majority of Venezuelans, the May 2018 elections were illegitimate. Therefore, at the January 5 Assembly, the business envoy of the U.S. Embassy in Caracas, and representatives of the governments of France, Germany, Italy, Brazil, Japan, and Colombia, accompanied the Venezuelan Parliament members in the session that designated Guaidó as its president.

As was to be expected, on January 21, 2019, the TSJ, controlled by Maduro, declared Guiadó's proclamation as null, and all the acts that derived from it were considered as void. A few days earlier, on January 13, Guiadó had been arrested by members of the Bolivarian Intelligence Service (SEBIN), in a shady police raid, after which he was freed; an equally muddled explanation by the Minister of Information, Jorge Rodríguez, stated that it had been an act carried out unilaterally by members of the government police force.

Guaidó called for a huge protest on January 23, a symbolic day for Venezuelans. On January 23, 1958, the dictator Marcos Pérez Jiménez was overthrown, and a new age of democracy and civil government began, something that had been mostly absent during Venezuela's first 130 years since its independence. There were doubts about whether Guiadó would take the step of proclaiming himself as president, thus challenging the powerful repressive apparatus that Chavism, with a good deal of Cuban assistance, had built over almost 20 years of control of the Venezuelan state. It was also uncertain whether the protest would be successful. There was some discouragement and even some frustration among Venezuelans after the 2017 protests were put down, the National Constituent Assembly was implemented, and some government leaders were wrongly sworn in to it.

Yet the profound economic and social crisis managed to override this discouragement, and a substantial number of Venezuelans accompanied Guaidó on January 23. He proclaimed himself president, arguing that, by swearing in to the TSJ to validate an election that had been considered null and void, Maduro had usurped the office of the presidency, in violation of article 333 of the Venezuelan Constitution, which states that, "it should not lose its validity if it were to be put aside due to an act of force or were to be repealed by any other means than what it provides for. In such a case, any citizen granted or not with authority, shall have the duty to help to reestablish its effective validity" (Constitución de la

República Bolivariana de Venezuela, 1999, article 333). In the case of usurpation, it would mean a complete infringement by the president, a situation that article 232 of the Venezuelan Constitution covers, stating that elections must be called in a lapse of 30 consecutive days and, in the meantime, the presidency of the republic is held by the president of the National Assembly.

Herein lie the legal grounds behind Guaidó's proclamation. As it was to be expected, since it had happened dozens of times since 2016, the TSJ did not recognize Guaidó's proclamation. The president of the TSJ, Maikel Moreno, reacted the same way on January 24. Like at other times, the high military commander, controlled by Chavism, gave his unconditional support to Maduro. It was believed then that the same technique that had been applied since 2016, would work once again. The TSJ gave legal cover to Maduro's regime by declaring the proclamation null since it was made by the president of an institution in contempt (the National Assembly), and the high military commander made it clear that Maduro had the support of the armed forces. Supposedly, it would mean the end of Guiadó's story.

However, this time was different. On the one hand, and perhaps unexpected by many in the government, Guiadó got a positive reaction from the people. They saw him as a new face in an opposition full of contradictions and worndown leaders. His message was simple; he would take over power to put an end to the usurpation, which means a transitional government would call for free elections in a short amount of time. With the people exhausted by the worst crisis in history and with a scenario of frustration after the 2017 protests where Maduro's version of Chavism seemed to have consolidated itself, Guaidó's arrival surprised many, including the high levels of government who see that the strategy of using the TSJ and the high military command has not neutralized this new leader, while threats to arrest him have not had any effect.

On the other hand, there is a new international context. First, the U.S. government under Donald Trump has taken a more hardline approach than its predecessors toward Venezuela. It is an important topic on the Trump administration's political agenda, and the highest government officials such as Mike Pence, Mike Pompeo, and John Bolton speak out daily against Venezuela. The topic is also discussed on different news programs on U.S. networks, such as Fox News, MSNBC, CBS, and CNN, which makes it better known in public opinion. Evidently, it is not a minor detail that the United States was the first country to recognize Guaidó as the interim president and that it approved sanctions to block Venezuelan Petroleum's (PDVSA) bank accounts.

The Latin American stage has also changed. Since 2015, there has been a shift to the right and the center-right in the region that has left Maduro without some of his most important allies, such as Argentina, Brazil, and Ecuador. The creation of the Lima Group in 2017, a regional response to the Organization of American States (OAS), to make decisions about Venezuela, has managed to show a common position that rejects the 2018 elections and Maduro's swearing-in, and most of its members have recognized Guaidó as the interim president. The European Union (EU), another key extra-regional player in Latin America, has also recognized Guaidó, although before doing so it asked Maduro to call for free elections. It is true that Maduro still has some important support from China, Russia, and Turkey, yet his international support can be described as scarce.

It is the latest chapter in the long political crisis that Venezuela has suffered, but it has become more violent and repressive since Maduro came into power. Even if briefly, we should remember some previous chapters, since understanding them will help us understand what is happening today.

### 1. Venezuela's Long Crisis and the Era of Chavism

When Chavism came into power in 1999, it brought a change to the power structures in Venezuela. Gradual and nonviolent, this change was designed and carried out by Hugo Chávez. Taking advantage of his incredible charisma and, beginning in 2003, of huge oil resources, Chávez won different elections from 1999 on, designed a new Constitution, took over PDVSA, restructured the armed forces and the military, and even modified the flag and the national coat of arms. He did it all gradually. During his early years, he gave the appearance of a reformer who even used the Third Way and endogenous development discourse, which explains the progressive nature of the 1999 Constitution. Yet this reformism was slowly replaced by more radicalism that led him to adopt twenty-first century socialism in 2004, and to declare himself a Marxist in 2010.

All of it happened as a political model was being built that gave a huge amount of power to the military, which undoubtedly meant a step backward for the country in historical terms. Before 1958, the military sector had determined the country's fate, except for some very brief periods of civil government. One of the merits of the system agreed upon in 1950, under the auspices of Rómulo Betancourt, Rafael Caldera, and Jovito Villalva, was that the soldiers were sent to their barracks and turned into a non-party, non-deliberate force. Although the 1999 Constitution reaffirms that the Armed Forces are not at the services of any political party, in practice they have become an instrument of the group in power. Even when Chávez was still alive, in military acts, members of the Armed Forces declared themselves as anti-imperialist and Chavist.

Likewise, especially since 2004, Chavism began to take over the state completely. The TSJ law was reformed to increase the number of judges and, to nobody's surprise, all the new judges had links to Chavism. Voting power shifted toward judges who clearly sympathized with Chavism. Jorge Rodríguez, Maduro's current Minister of Information who was once Chávez's vice president, was a judge on the National Elections Commission (CNE) and was even its vice president. In other words, the division of powers slowly disappeared in the Venezuelan political system, and the authoritarian exercise of power increased. Specialists such as Javier Corrales and Miguel Hidalgo (2013) define the Chavist model as a hybrid regime that, even though it reached power through legal elections, later turned to practices more in line with authoritarian governments.

The other trait that characterized Chavism was the irrationality of its economic policy. We must recognize that part of the resources from the oil boom that began in 2003, were used to benefit Venezuela's historically excluded sectors, which meant a drop in poverty and in extreme poverty. Yet the reduction in poverty was not only achieved through social policies or social programs but also required a continuous process of economic growth, which in turn requires rational economic policies. Chavism worked in the exact opposite direction, punishing the productive sector with expropriations, creating a climate of complete legal insecurity, raising public spending to unsustainable levels, and adopting

policies lacking any logic regarding price or exchange policy. The consequence was not only the creation of a black market of currency and basic products but also economic stagnation. The oil boom allowed the crisis to be masked, but not after 2013, when the price of oil plummeted. At that time, Chávez had died and Maduro was the president.

Finally, as a government that defined itself as revolutionary, it was unable to stop using "revolutionary state" practices, a category proposed by the British internationalist Fred Halliday (1999) by which governments that offer a revolutionary transformation in their countries at some point will plan to spread that revolution beyond their borders. It is exactly what happened with Chávez's government, which designed a new foreign policy in line with its revolutionary project. It underwent a rupture with the United States, which it began to describe as an empire. It sought to create regional mechanisms to boost the revolutionary project, the best example being the Bolivarian Alliance for the Peoples of Our America. Taking advantage of the region's left-wing governments, it also attempted to slant other projects such as the Union of South American Nations (Unasur) and the Community of Latin American and Caribbean States toward the Bolivarian government's narrative, which it was unable to do because of the resistance from countries not governed by the Left, and because of the caution it set off in countries such as Brazil. There was also a rapprochement with extra-regional powers such as China, Russia, and Iran, considered as U.S. rivals.

Even during the early years of the Chavist era, the Venezuelan society did not universally accept this so-called twenty-first-century socialism (which did not seem to have learned from the errors of twentieth-century socialism), with personalist authoritarianism, greater political belligerence of the military, a weakening of the division of powers, wrong-headed economic policies, and a revolutionary foreign policy. The best example of the dissent was on April 11, 2002, when a massive march demanded the removal of Chávez. Hours later, there was a coup that lasted barely a few hours before Chávez was restored to power. Even though the Venezuelan opposition perplexed many analysts with its inconsistencies, immaturity, and excess spotlight seeking of some of its leaders, and—at times (at least during the early years of Chavism)—a questionable sense of democracy, it is a fact that since 2010, it has opted to hold elections, which have brought about fruitful results. The elections pathway has always been accompanied by a strategy of street protests, which the government has scornfully called *quarimbas*, where middle-class sectors and students have played a leading role. In other words, even in Chavism's best years, when commodity prices were high, social programs (called missions) were praised in Latin America, and Chávez was seen as a regional leader, even during that time, a large part of the Venezuelan society questioned radically the Chavist project.

With Chávez's death in 2013, the scenario underwent a change. On the one hand, despite all the conditions being present for a wide victory, due to the effects of Chávez's death on the followers of the so-called "revolutionary process," Maduro beat Enrique Capriles by only a slight margin of 200,000 votes. It was also obvious that he did not possess Hugo Chavez's intelligence and charisma. The accumulation of errors in the economic arena detonated a crisis that worsened when oil prices dropped. There was generalized unrest in the country, and between February and April 2014, there were a series of street protests regarding

the so-called "exit," a proposal pushed by Leopoldo López, Antonio Ledezma, and María Corina Machado. The protests were brutally repressed, and López, and later Ledezma, were imprisoned. Using a strategy of wearing-down street protests over time and asking for international mediation from Unasur to initiate a dialog with the opposition, Maduro was able to diffuse the demonstrations.

2015 is a crucial year for understanding the crisis today. Since 1999, and excluding only the defeat in the 2007 constitutional referendum, Chavism had won all elections held. In 2015, the parliamentary elections were held, and the government suffered a crushing defeat, when the opposition won two-thirds of the National Assembly. It was a huge defeat, because it occurred 1 year before the possibility of activating the recall referendum established in the Constitution. There were reasons to think that the people who had punished Chavism by voting for a National Assembly in opposition would also recall Maduro by taking away his mandate. Furthermore, by holding two-thirds of the Assembly, the opposition had the power to push for propositions such as a constitutional reform to shorten Maduro's term, and it could have a strict control over the actions of the Chavist administration. Once again, there would be a scenario of shared power, where Chavism would not control all the government bodies, and its power would be limited.

At that time, Chavism decided to pull out of the political game. It forged a strategy where it would not recognize the National Assembly, which meant that it would not recognize the popular will that had voted for it. The emperor had no clothes; the Chavism that had pushed for a supposed participatory democracy where the people were the leading actors did not recognize the will of those people when it repudiated the National Assembly. It was a simple strategy; in December 2014, when the National Assembly was not in session but was still controlled by Chavism, it called for extraordinary sessions to name new judges to the TSJ, since the time was up for some of them and for others it would be in May 2015, so they were ordered to retire early. According to true democratic logic, the National Assembly that would come to session in 2016, should have chosen these judges, but Chavism did not want to lose control of the judiciary branch. In a process plagued with legal problems, 13 main and 26 alternate judges were named for 12 years. Two of the new judges were Christian Zerpa and Calixto Ortega, who had been deputies from the Venezuela United Socialist Party (PSUV) in the National Assembly. Zerpa had been defeated a few weeks earlier in his reelection bid in the state of Trujillo. Ortega had been the head of the PSUV parliamentary group in the Assembly. It was right out of a novel full of magic realism, going from being the leader of a political group with an agenda, to being an impartial judge on the TSJ. At the risk of stirring the pot, it would be like imagining that Nancy Pelosi or Mitch McConnell were named to the U.S. Supreme Court when they left Congress.

Once the new TSJ had been chosen, the next step was to annul the National Assembly, which would begin by taking from it the two-thirds opposition majority. Even though the courts are on vacation in December in Venezuela, in December 2015, vacation was suspended at the TSJ to accept a case against the results of the election, supposedly due to the opposition buying votes in the Amazonas state and in the southern Indigenous region. Even though the three deputies from these districts had already been proclaimed by the electoral

power, the TSJ decided to suspend the effects of the proclamation. The deputies thus were unable to be sworn in January, and the opposition would not have the two-thirds majority in the Assembly.

The opposition's initial reaction was to swear in the three deputies, and the TSJ responded by declaring in January 2016, that the Assembly was in contempt, and stating that all its actions were null and void so long as those three deputies were not removed. In this way, the TSJ neutralized the National Assembly, declaring null all the laws it approved. Moreover, throughout all of 2016, the TSJ did not make any decisions on the supposed vote buying. If it had truly been a legal matter, the logical step would have been to move forward with the procedure, and if it were proven that the votes had been bought, the deputies' swearing in should have been annulled for good, and new elections should have been called. Since it was not a legal matter, but a political one, no definitive decision was made, and the last movement on it was on December 1, 2016, although the matter was revisited in February 2018 (Casal, 2018). Perhaps the matter was not resolved because if new elections had been called, the opposition candidates would have won.

The political agenda can be seen in the fact that the opposition decided to remove the three deputies in November 2016. It might have been the result of the dialog between the Table of Democratic Unity (MUD) that existed at that time. The text of the final agreement between the parties states that, "It was agreed upon to move forward to overcome the ruling of contempt by the National Assembly handed down by the Supreme Court" (Unasur, 2016). Following this agreement, the three deputies were removed in November, yet the TSJ ratified the contempt because they had not been removed through a formal voting process in a session of the Assembly. In January 2017, when the new National Assembly leadership was sworn in, the three deputies were again removed, this time through formal voting, but on January 11 of that year, the TSJ again ratified the ruling of contempt, arguing that the deputies that made up the leadership in 2016, before the second period of sessions had been inaugurated and the leadership for 2017 had been elected, should have removed the three deputies, so that the judicial power could put an end to the contempt ruling. Since it had not, and since it was impossible to go back in time and reinstate in the Assembly the leaders from 2016, the ruling of contempt became permanent. It must be the only case in the world where one power annuls another power. In a democracy, the division of powers means that one power can place limits and controls on another power, but not eliminate it. The TSJ did so formally in March 2017, when it decided to take on the functions of the legislative branch because of the ruling of contempt in the Assembly. In other words, the Assembly was annulled.

The TSJ's decision was the beginning of a new wave of protests from April to August 2017, which the government repressed violently, leading to the deaths of more than 170 people. Human rights violations, arbitrary arrests, and the torture of young leaders at the demonstrations showed the authoritarian face of Maduro's government and its increasing move away from minimal democratic practices.

Once again using a strategy of wearing down and discouraging the opposition forces, in May 2017, Maduro decided to call a Constituent Assembly to write a new constitution. The strategy of discouraging the opposition forces had worked well, keeping the recall referendum from being called using the CNE. Yet the

2017 protests showed that the discouragement strategy had just barely worked. The Constituent Assembly was a more certain method. It might be argued that if the Constituent Assembly meant that the people would be consulted, what was the problem? The response is that, because of how it was designed, it kept the popular will from truly being seen. On the one hand, and unlike what Chávez did in 1999, the people were not consulted about whether they approved of the Constituent Assembly. Also, unlike the 1999 Constituent Assembly, the conditions for electing it were not put to popular debate. In other words, Maduro and the group in power called for and set up the conditions to elect the members of the Constituent Assembly. It was in violation of the Constitution, which expressly states that, "The people of Venezuela hold the original constituent power" (Constitución de la República Bolivariana de Venezuela, 1999, article 347). Meanwhile, the voting mechanism was an attack on universal, direct, secret, suffrage established in the Constitution, because it stated that of the 545 members of the Constituent Assembly, only 364 should be elected to represent the territories into which the country is divided. In other words, inhabitants of these territories were to vote directly, but the other 181 would come from 8 sectors chosen by the government—the workers, peasants (and fishermen), students, disabled people, Indigenous peoples, retirees, businesspeople, and communal groups and communal boards. This type of voting does not exist in the Venezuelan Constitution and allows an absolute arbitrary margin to whoever is in power, because that person can designate, as in fact happened, in support of his political project in those sectors.

Despite rejection from the opposition (which refused to take part in the elections for the constituents) and wide-ranging rejection by the international community, the Constituent Assembly was elected on July 30, 2017, and it went into effect in August of that year.

The effect on people's spirits was resounding. The protests ended, and there was a general sense that the Maduro regime had taken over the country. The subsequent triumph of the official discourse in the governors' races, even in opposition states such as Miranda, and the decision by Acción Democrática to accept that its three victorious governors be sworn in to the Constituent Assembly increased the opposition party's discouragement and distrust. Meanwhile, the Constituent Assembly would turn into a superpower that took over the legislative powers, got rid of the Attorney General, and called for presidential elections in May 2018. At the time of writing of this article, there has been no news that an article of the new Constitution has been written, which is supposedly the main function of a Constituent Assembly.

The overwhelming sense of discouragement lasted throughout 2018, when street protests were at a minimum. The opposition was weakened, and the population seemed more concerned with surviving during an unprecedented economic crisis in the country. There was a lack of food and medicine, a crisis in the health system, a collapse of services such as water and electricity, a 15% drop in economic growth, and hyperinflation close to 1,700,000%, which describes the horrifying panorama in Venezuela at the end of 2018. There was also a massive exodus of more than 2 and a half million Venezuelan migrants, mostly to neighboring countries such as Colombia, Brazil, Ecuador, Peru, Argentina, and Chile.

This short summary reminds us that the current crisis is not simply another chapter in a long crisis from which Maduro's government has thus far been able to escape. The question is, is this a new chapter or is it the final chapter of the crisis?

# 2. Unique Aspects of the Current Chapter of the Crisis, and Possible Outcomes

A first point that is crucial to understanding this new chapter is that Maduro is extremely unpopular. There is no doubt that Maduro's government has destroyed Venezuela's economic foundations and that his human rights violations, his repressive techniques, and his persecution of the opposition mean that he is far removed from any democratic practices and that his regime is authoritarian. All this explains his unpopularity, as can be seen in a survey by the Meganálisis company, carried out in 2019, which shows that barely 4.8% of those surveyed recognize Maduro as the legitimate president of Venezuela (Meganálisis, 2019). It has meant a significant loss of popularity for the Chavist project, despite which the government is clinging to power and does not appear to be willing to cede at all to any forces that have popular support. The backing by the armed forces has been crucial in allowing Maduro to remain in power despite his economic failure, growing unpopularity, and questionable legitimacy. Remaining in power only with the support of the armed forces is an option for Maduro, but it is clearly going to exacerbate his regime's authoritarian nature. The long-standing popular mobilization that has kept the democratic flame alive for years in Venezuela is not going to disappear, and the armed forces will have to decide if they want to keep carrying out the role of repressors to keep Maduro in power.

The second aspect to be taken into account is the role the United States has decided to play in this chapter of the Venezuelan crisis. It is clear that the current administration is much more committed to getting Maduro out of power than the Obama, Bush, and Clinton administrations were in the case of Chávez. The simple fact that Venezuela was mentioned in Trump's State of the Union address shows that it is not a minor affair on Washington's international agenda. The repeated comments by Trump and by other spokespeople in the U.S administration that all options are on the table, including military action, create a new stage (no doubt a concerning one) in the Venezuelan crisis. These facts lead us to several possible scenarios.

The first is that Maduro will once again use the wearing-down strategy and, with help from the armed forces and other paramilitary groups, will repress the popular demonstrations until they are weakened. It was the strategy used in 2014 and 2017, and it worked, but one aspect of the strategy was to divide the opposition between those who supported dialog to solve the crisis and those who rejected it. That situation does not exist now, because all the opposition seems to be united behind Guaidó and rejects the use of dialog, considering it one of the government's delay tactics. The problem is that if months go by and Guaido's talking points (an end to the usurpation, a transitional government, and free elections) do not move forward, people could become discouraged again, the street protests could dwindle, and the strategy could be weakened. Like in previous crises, the role of the armed forces is crucial in this political

chess game. At the moment of writing, the High Military Command continues to support Maduro and continues to be the backbone of his grip on power.

The second scenario is a violent one. There could be no civil war, because there would have to be two armed groups, which is not the case in Venezuela, since the opposition is not an armed group. Therefore, it would involve international military intervention. One option would be the formation of an international coalition led by the United States, but due to the anti-interventionalist tradition in Latin American countries, it would be difficult to pull off, even for governments that are openly opposed to Maduro, such as Iván Duque's in Colombia, and Jair Bolsonaro's in Brazil. The other option is U.S. unilateral action, something that Trump's government is apparently considering. Yet a U.S. intervention would mean a serious step backward for the inter-American system, with unforeseeable consequences for Latin America.

A third scenario would be that domestic and international pressure managed to break the fidelity of a part of the military high command toward Maduro. In this scenario, there would be a coup that would remove Maduro from power and call for free elections, as most Venezuelans and the international community are demanding.

The final scenario, which at this point would seem to be the least viable, is that a sincere dialog with a clear agenda could be established, with international support, to lead to free elections being held for all the public powers, with an impartial electoral system and international observers.

It is difficult to know which of these scenarios will prevail, but no matter what the outcome may be, what is certain is that what happens in Venezuela will have significant repercussions for Latin America in the upcoming decades.

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