



European Research Centre for
Anti-Corruption and State-Building
Hertie School of Governance

Working Paper No. 65

Backsliding on Good Governance: the Venezuelan case

Ana C. Pérez

ERCAS WORKING PAPERS COLLECTION

Berlin, December 2020

www.againstcorruption.eu

Introduction

During the last 10 years, Venezuela has experienced a stark regression on its road to good governance, performing negatively in most indicators. Such backsliding can be attributed to the poor governance the country has undergone during its current administration, as well as due to falling oil prices worldwide which has severely damaged the country's single-commodity-centered economy. A number of corrupt and anti-democratic processes have also led to this negative transition, that instead of pushing forward the once regional leader, has only pushed it backward. Across this essay, we aim to analyze, through a historical summary of the past 20 years using a process-tracing methodology, the main events in Venezuela that have led to the deterioration of the country's good governance indicators.

Hugo Chávez Frías (2001 - 2013)

First Term (2001 – 2007)

In 1999 during the first months of Hugo Chávez's presidency, he proposed a constituent assembly to change the Constitution. Through this, the nation's Congress, previously consisting of the Senate and the Chamber of Deputies, was dissolved. Once passed, these powers were merged into a newly created National Assembly. It is worth noting that the make-up of the constituent assembly working towards the writing of the new constitution was not proportional to the popular vote, giving them an over-representation to the officialism which gained 95% of the seats with just 60% of the votes, while the opposition achieved only 4 seats even after having 38% of the votes (Monsalve, 2011; Lucca, 2013).

Furthermore, the reform pushed by the constituent assembly radically changed the country's separation of powers, moving it from the traditional legislative, executive, and judicial, three-part scheme, to include two new powers: popular and electoral. By doing so, the incidence and involvement of the government was deepened, harming the real division of powers and thus the country's judicial independence through this first attempt in the administration's quest to seize as much influence as possible.

The aforementioned reforms made to the constitution also included an extension of the presidential term from five to six years, as well as introduced one immediate reelection. Under this new constitutional context, there were new presidential elections held in 2000, whereby Chávez's presidency was ratified with a 59.76% of the popular vote (CNE, 2000). During the first year of this renewed presidential period, 49 laws were passed through a "Ley Habilitante" or enabling act, which created a land, hydrocarbons, and agrarian reform. Through these, the state achieved a greater grip on these sectors of the economy.

By means of the hydrocarbons reform, the government was able to rule out the control of the private sector from a relevant part of the hydrocarbons industry, putting the state as the only one allowed to explore, extract, transport, or store hydrocarbons. This law also made it mandatory to increase the participation of the state on mixed economy enterprises to a 51% of the shares, thereby gaining control over these companies¹.

¹ Certain agreements granted during the "apertura petrolera" could not be defined as companies and thus retained their autonomy. However, further reforms made in 2006 and discussed in the following section addressed this matter, giving the government the power to gain full control over the sector from that point onwards.

Additionally, the Land and Agricultural Development reform allowed for the appropriation of idle lands. The passing of these laws was followed by growing concerns amongst many of the country's sectors due to the increased concentration of political and economic power in the hands of the government. Eventually, this led to protests and a national strike in December of 2001, followed by bigger protests in early 2002.

In April 2002, the government announced a change to the top management of *Petróleos de Venezuela Sociedad Anónima (PDVSA)*, severely damaging the oil industry and attempting against its non-political nature. Up to this point, Venezuela's oil monopoly was led and managed through a meritocracy, yet the new management was appointed single-handedly without the appropriate competitive bidding, making their destitution a breaking point for the company. All of this turmoil led to what the President called a "coup-d'état", whereby the military attempted to force the hand of President Chávez to resign, and imprisoned him. However, this attempt failed and he came back to power within less than 48 hours.

The crisis of the oil industry continued and led to a general strike of the sector, starting in December and lasting approximately two months into the year of 2003. Some of its immediate consequences included severe shortages of food and gasoline, as well as negative economic repercussions such as inflation rates shooting up and a decrease in the country's GDP. The consequences to PDVSA itself were even worse, as the strike led to the firings of approximately 20,000 of its 35,000 employees (Bermúdez, 2019). From there on, the government had almost full control over the oil industry, which has only spiraled down ever since.

Chávez's first term was also marked by a reduction of the country's freedom of expression and, therefore, freedom of the press. A set of regulations passed in 2005 stipulated big fines and even imprisonment on media channels slandering public officers. The country's trade openness suffered too during this period, as the President unilaterally decided to retire Venezuela from the Andean Community (CAN) in 2006 (Secretaría General de la CAN, 2006) due to growing tensions between Venezuela and its sister nation Colombia.

Second Term (2007 – 2013)

In December of 2006, Hugo Chávez is reelected with 62.84% of the popular vote (CNE, 2006). A few months after his reelection, another enabling act was passed by Parliament for a period of 18 months. The President made clear his intentions to use this period to fully nationalize the oil and communications industries, which he did. During May of 2007, the government revoked the transmission permits to Radio Caracas Television (RCTV), one of the country's biggest and most popular television channels and pro-opposition spokesman. Then, in June, two of the leading US oil companies in the country refused to give the state majority control over their operations, to which the government answered by seizing their operations, thereby fulfilling the President's wishes expressed earlier that year.

Escalating the restrictions to freedom of speech made during his first years in the presidency, another strike took place during Chávez's second term. In 2010, the National Assembly passed the Law on Social Responsibility of Radio, Television, and Electronic Media (*Ley Resorte*). Popularly known as "*Ley Mordaza*" or "*Gag Law*", a nickname that refers to its restriction of people's freedom of speech the same way a tight cloth or tape covering someone's mouth would, this law censored the Internet and social media. According to Fernando Egaña, former Minister of Information during Caldera's presidency, by means of this law, the government restricted, limited, and criminalized certain contents, as well as free exchanges; it allowed them to block applications,

censor the digital press, filter data strips, monitor cyber traffic, politically control Internet suppliers, and selectively prosecute to generically intimidate the population (Vinogradoff, 2010).

It is also important to mention that during the year of 2007, a referendum was called for by the government in order to approve a number of new reforms to the constitution; these included: further power to expropriate properties, increased control of the government over the Central Bank, and unlimited reelections. The citizenry expressed its will by means of the popular vote and rejected these changes, constituting the first defeat the Chávez administration ever faced. Nonetheless, in 2009 another referendum was made that disregarded the public opinion expressed on the first one, as it abolished the limit on the number of reelection terms, paving the way for Chávez to run again in the 2012 presidential election.

In 2011, the President's health began to decline as he started suffering from pelvic cancer. He constantly travelled to Cuba for treatment while in the middle of his political campaign for the 2012 elections, which he won alongside Nicolás Maduro as Vice-President, with a victory of 55.07% of the votes (CNE, 2012). During that same year, Chávez launched his "Program of the Candidate of the Homeland Commander Hugo Chávez for the Socialist Bolivarian Management 2013-2019", which detailed the goals and strategies for the government for the next 6 years and which would be followed by Vice-President Maduro if anything were to happen to him. Later known as "Plan de la Patria", this document was Chavez's legacy, since he died in March 2013 after a long battle against cancer, leaving Nicolás Maduro as the President of the Republic.

Nicolás Maduro Moros (2013 – present)

Highly contested elections were carried in April 2013, with Nicolás Maduro winning the presidency with 50.61% of the popular vote² (CNE, 2013). His government is marked by countless numbers of political prisoners, political turmoil, constant protests, and a starkly falling oil price that exacerbates the political and economic crisis that the country still faces.

The year of 2014 was characterized by protests led by students, which resounded around the globe and led to the imprisonment of the opposition leader Leopoldo López, under accusations of instigating violence. Approximately 28 people died during these events (Escalona, 2017) due to the escalated use of force from the government's security agencies to suppress the protests. The opposition was left shattered and leader-less. Even so, it recovered and managed to achieve a majority in the National Assembly during the parliamentary elections in late 2015. This was the first time in 16 years that there was a significant shift in the control over the country's legislative power.

However, it did not take long before the government impeded the work of the new majority. Soon after the opposition assumed control of the Assembly, the Supreme Court of Justice declared the legislative power in contempt and made its decisions void. The year of 2016 was marked by a deep struggle emerging from the opposition to call for a referendum revoking Maduro's mandate, which was repeatedly blocked by the government-controlled electoral power, under allegations of fraud in the collection of signatures (Presidencia de la República, 2016). Following these events, the Supreme Court of Justice placed all the legislative powers onto itself and created a "Constituyente" or Constituent Assembly to promote further constitutional reforms. More protests stemmed from this decision, leaving a toll of approximately 125 deaths within four months in 2017 (Portafolio, 2019).

² Maduro won this election with a margin inferior to 1% against the opposition candidate Henrique Capriles, who achieved 49.12% of the popular vote (CNE, 2013).

Also during this year, Venezuela was indefinitely suspended from the MERCOSUR trading alliance, given the country's lack of democracy, a motion that severely affected its trade options. However, the commercial trade between the member countries of the alliance and Venezuela had already declined by a stark 70% since 2012, as remarked by Aloysio Nunes, former Brazilian Minister of Foreign Affairs (Hermida, 2017).

In 2018, the Constituent Assembly called for early presidential elections; the government failed to reach any agreements with the opposition in regards to the transparency of the election process. In light of this lack of transparency, the opposition called the elections fraudulent. This case of electoral fraud in Venezuela was so serious that even the company supplying the necessary technologies for the carrying out of elections since 2004 stated that the elections were rigged (Curzon 2018). Maduro won the elections with 67.85% of the votes, with a participation rate of 46.07% of the voting population (CNE, 2018). These elections were not recognized by a large share of the international community and led to the self-proclamation of Juan Guaidó as Interim President of Venezuela in January 2019. The US, along with most of the EU member states and Latin American nations, recognize Guaidó as the legitimate President of Venezuela in a still-unfolding situation that has left the nation even more split than it has ever been before.

Conclusions

The previously summarized historical review of the main events shaping Venezuela's governance in the past 20 years provides a snapshot of some of the main reasons for the country's decline in good governance indicators. The crisis that the country currently faces underlines the importance of core governance values and standards, which include the separation of powers, an independent judiciary, free press, the respect and protection of human rights, independent investigative institutions, transparency, and accountability of the government to the people (Curzon 2018). As exposed throughout this brief account, all of these have been violated in some form by the Venezuelan government, and the results from these actions are in plain sight. It is unbearable for Venezuelans to live under the country's ongoing conditions, causing a mass exodus of over 4 million people. The effects of poor governance are felt in all sectors, with a crippling economy, an almost shutdown oil industry, scarcity, starvation, power shortages, amongst many other radical effects.

Bibliography

Arráiz Lucca, R. (2013). *Historia política de Venezuela: 1498 a nuestros días*. Retrieved from <http://search.ebscohost.com/login.aspx?direct=true&db=edshlc&AN=edshlc.013943271.X&site=eds-live>

Bermúdez, Á. (2019). *Cómo y por qué se produjo la dramática caída de PDVSA, la joya de la corona de Venezuela*. Retrieved from <https://www.bbc.com/mundo/noticias-america-latina-47099849>

CNE – Consejo Nacional Electoral. (2000). *Resultados Elecciones*. Retrieved from http://www.cne.gob.ve/web/estadisticas/index_resultados_elecciones_anterior_res.php

CNE – Consejo Nacional Electoral. (2006). *Resultado Nacional*. Retrieved from http://www.cne.gob.ve/divulgacionPresidencial/resultado_nacional.php

- CNE – Consejo Nacional Electoral. (2012). *Resultado Presidencial*. Retrieved from http://www.cne.gob.ve/resultado_presidencial_2012/r/1/reg_000000.html
- CNE – Consejo Nacional Electoral. (2013). *Resultado Presidencial*. Retrieved from http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html?
- CNE – Consejo Nacional Electoral. (2018). *Resultados Elecciones 2018*. Retrieved from http://www.cne.gob.ve/resultado_presidencial_2013/r/1/reg_000000.html?
- Curzon, J. (2018). *Venezuela Campaign: bad governance to blame*. Retrieved from <https://www.adamsmith.org/blog/venezuela-campaign-bad-governance-to-blame>
- Escalona, A. (2017). *Venezuela: cronología de los últimos 20 años*. Retrieved from <https://www.voanoticias.com/a/venezuela-historia-cronologia-chavez-maduro-/3964896.html>
- Hermida, X. (2017). *Mercosur decide la “suspensión política” de Venezuela y consume el aislamiento de Maduro*. Retrieved from https://elpais.com/internacional/2017/08/05/actualidad/1501946948_015024.html
- Jiménez Monsalve, I. (2011). El debilitamiento del principio de representación proporcional en Venezuela o autoritarismo electoral: dos caras de la misma moneda. *Politeia*, 34(46), 83--110.
- AFP. (2019). *Los turbulentos hechos que han marcado el gobierno de Maduro*. Retrieved from <https://www.portafolio.co/internacional/los-turbulentos-hechos-que-han-marcado-el-gobierno-de-maduro-525522>
- Presidencia de la República. (2016). Retrieved from http://www.presidencia.gob.ve/Site/Web/Principal/paginas/classMostrarEvento3.php?id_evento=652
- Secretaría General de la CAN. (2006). *Secretaría General de la CAN recibió comunicación oficial de retiro de Venezuela*. Retrieved from <http://www.comunidadandina.org/Prensa.aspx?id=1903&accion=detalle&cat=NP&title=secretaria-general-de-la-can-recibio-comunicacion-oficial-de-retiro-de-venezuela>
- United Nations. (2019). *Four million have now fled Venezuela, UN ramps up aid to children who remain*. Retrieved from <https://news.un.org/en/story/2019/06/1040001>
- Vinogradoff, L. (2010). *Venezuela aprueba la «ley mordaza» para el control de internet y las redes sociales*. Retrieved from https://www.abc.es/internacional/internet-venezuela-201012210000_noticia.html