

Policy Memo

DATE: August 7, 2017

Re: Regional Responses to the Crisis in Venezuela

Introduction

From July 25–27, 2017, the regional workshop “Regional Responses to the Crisis in Venezuela,” jointly organized by the Stanley Foundation and CRIES, (Coordinadora Regional de Investigaciones Económicas y Sociales) took place in Panama City. The event sought to enhance understanding of the crisis affecting Venezuela and its regional impact as well as identify opportunities and strategies for de-escalating violence, curtailing human rights violations, and restoring democratic institutions. The workshop brought together experts in human rights, conflict, migration, and foreign policy as well as a large group of representatives from civil society organizations representing 12 countries in Latin America and the Caribbean.

While the media spotlight on Venezuela shines on the political dynamics of the country, two elements in particular should be given special attention: (1) a dramatic humanitarian crisis that is closely related to the mismanagement of the economy and the mishandling of oil revenues, both of which have resulted in food and medicine shortages, increasing instability, and lack of access to essentials for survival, and (2) a situation of human rights violations that, in turn, is linked to massive displacement of the Venezuelan people, which is aggravated by the fact that many of these displaced persons migrate in conditions of extreme vulnerability and end up unemployed or underemployed in the receiving country, falling prey to organized crime and human trafficking networks. These problems are joined by a third one, of a regional nature, that revolves around the effects of the incoming flow of forced Venezuelan migrants on countries in the region and the solutions these countries implement in response.

The workshop discussion was organized in four segments: (1) characteristics of the Venezuelan crisis, (2) migration in the wake of this crisis, (3) the role of regional and international organizations in addressing the Venezuelan crisis, and (4) how countries in the region are responding to this situation.

The opinions expressed in this policy memo reflect group discussion during the workshop and are not attributable to individual participants.

Characteristics of the Venezuelan Crisis

First and foremost, discussions of the Venezuelan crisis must consider two main characteristics of the current political system in Venezuela. First, there is a lack of justice mechanisms for prosecuting perpetrators of human rights violations and acts of corruption because of serious deficiencies in the justice system, the absence of countervailing mechanisms, the lack of transparency, and the lack of investigations. All of these factors effectively result in a system characterized by structural impunity. Second, access to reliable published information is nonexistent because the information provided by the Venezuelan government is not dependable, and administrative reports are frequently not even accessible. As a result, obtaining an accurate assessment of the human rights situation in Venezuela is very difficult.

Venezuela is in the middle of a sustained economic crisis, and the country has staggering poverty rates that have escalated dramatically in recent years (the poverty rate was estimated at 81.8 percent in 2017). This crisis is reproduced—and exacerbated—in the humanitarian field, where a lack of access to food, health care, and medication; hunger and malnutrition; increasing infant mortality; a resurgence of illnesses and epidemics; high homicide rates; and displacement and forced migration have all become commonplace for the Venezuelan people. In turn, the public policies implemented by the government have deepened this crisis, driving a large segment of the population to mobilize to defend their rights and protest the situation in the country.

The protests in Venezuela have already lasted more than three consecutive months, with an average of 42 protests per day (85 percent more than the same period in 2016) and an estimated death toll of 126. These protests occur in the nondemocratic context of the cancellation of constitutionally mandated elections and systemic violations of democratic freedoms and human rights. This has led to the classification of Venezuela as a “modern dictatorship” that has genuine origins, but its democratic legitimacy has been lost while exercising its power. This kind of hybrid regime is much easier to hide from the international community and multilateral organizations that protect democracy.

The ongoing protests are characterized by the mass participation of individuals belonging to different generations and various socioeconomic sectors; deterritorialization, because the protests take place in urban areas as well as rural ones, and even affect former political strongholds of the government; spontaneity; the presence of young deputies among the ranks of the protesters; the demand for a fusion of political rights (in the face of the growing authoritarianism of the regime) with social and economic demands (products of the humanitarian crisis); pacifism; the presence of independent media channels and social networks in opposition to the regime’s media hegemony; the proactive nature of the movement, which has called for compliance with the constitution, respect for human rights, the establishment of an electoral calendar, and the return to a democratic system; and the growing readiness to protest despite cruel repression from the regime.

Important aspects of this repression include a disproportionate use of force to discourage protests; the participation of armed civilians alongside security forces and supported by the Guardia Nacional Bolivariana and the Policía Nacional Bolivariana; the use of intelligence work to identify protest leaders and decision makers; arbitrary raids; the broad, illegal application of military law

to civilians; and a death toll of nearly one fatality per day since the beginning of the current cycle of protests.

Since 2012, popular support for the Venezuelan government has progressively eroded, reaching a critical point on July 16 of this year, when only about 7.5 million Venezuelans (out of a total of 19.5 million voters on the electoral register) voted in a referendum on the Constitutional Assembly. That figure, significant in itself, becomes even more important when considering the context of repression and systemic human rights violations in the country.

In order to be able to consider a leadership change in Venezuela, four factors must come into play: (1) generalized crisis, (2) a rupture within the governing coalition, (3) the presence of an active opposition coalition, and (4) strong international pressure on the governing coalition. These elements, on a different scale, are present in Venezuela. However, for the regime, the cost of repression is more advantageous than the prospect of a transfer of power, resulting in a transition toward closed authoritarianism. Accordingly, the opposition must seek a way to reduce the costs of a transfer of power and thereby make a path toward transition possible. A movement that employs negotiation strategies can halt autocratic tendencies, whereas movements that do not have a negotiation strategy end up sabotaging the possibility of a democratic transition and increasing the current trend toward closed authoritarianism.

In the near future, the following scenarios are possible:

- Imposition: The authoritarian model of government progresses and manages to prevail over the opposition.
- Negotiation: The armed forces take control and lead a negotiation under their terms.
- New Alliances 1: A group within the Chavismo sector distances itself from the administration, ousts President Nicolás Maduro, and begins a series of economic reforms to restore governability.
- New Alliances 2: Chavismo splinter groups align themselves with the opposition, and together they advance a transition government.
- Transition Without Transaction: The government collapses and the opposition establishes the conditions for transition.
- Collapse: The country collapses. Territorial control is divided among several factions (guerrilla groups, paramilitary groups, and the armed forces).

Workshop participants considered that negotiation after imposition or new alliances after imposition were the most likely scenarios.

Migration in the Wake of the Venezuelan Crisis

Accessing reliable information about Venezuelan migration poses serious difficulties because of the unreliability of public statistics provided by the government. Furthermore, extraofficial sources greatly underestimate the number of Venezuelans abroad, figures are not kept up to date, and there are methodological differences among measurements. Nevertheless, the consensus is that more

than 2 million Venezuelans live abroad as a result of the deteriorated political, social, and economic conditions at home.

Venezuelan migratory trends have changed significantly. From 2000 to 2014, the majority of emigrants were skilled (young, upper-middle-class professionals), and emigration was mainly directed toward developed nations such as Spain, the United States, Germany, Canada, and Italy, and certain countries in the region, such as Argentina, Brazil, Colombia, Chile, and Panama. However, since 2014, emigration has expanded to include a wider variety of socioeconomic sectors and new destinations within Latin America and the Caribbean, such as Ecuador, Peru, the Dominican Republic, Uruguay, Trinidad and Tobago, Aruba, Bonaire, and Curaçao. During both periods, there is no significant gender difference among those who choose to emigrate; migration is highly conditioned by the domestic situation (insecurity, economics, low quality of life, and the humanitarian crisis); and the average age of emigrants is 25 to 40 years old, which means a significant loss of the population that is essential for the economic development of Venezuela. This migratory flow produces a major loss of economic and intellectual capital for Venezuela, the corresponding loss of the country's competitiveness, and problems for Venezuelan economic development in the future.

Workshop participants believe that creating an intellectual diaspora that reconnects with Venezuela is crucial. This can be achieved by using recent advances in globalization and in information and communication technologies, and by leveraging different sectors of civil society, both in Venezuela and at a regional level, to generate networks between the Venezuelan diaspora and Venezuelan civil society.

Latin America and the Caribbean have a highly developed refugee-protection system, formalized in the Cartagena Declaration, which includes the category of refugees from massive human rights violations. Workshop attendees agreed this system must be activated in response to the Venezuelan humanitarian crisis. The nations of Latin America and the Caribbean have made a commitment to receiving refugees. Therefore, they must work toward building an awareness of the importance of this regime in public opinion.

The Role of the Inter-American Human Rights System and Regional Organizations in the Venezuelan Crisis

The inter-American system has played a historic role on the continent. The Inter-American Commission on Human Rights (IACHR) has played a fundamental role in denouncing and documenting human rights violations. But the inter-American system goes beyond the IACHR and includes states that are responsible for the implementation of the human rights system; the political bodies of the Organization of American States (OAS), which are the collective guardians of that system; the IACHR and the Inter-American Court of Human Rights; and victims and civil society organizations. It cannot be emphasized enough that civil society is the pillar of this system, because civil society gives the system its strength and vigor. These four components must act in a unified manner to guarantee the implementation and effectiveness of the inter-American human rights system. Within the system, it is essential that the IACHR and the Inter-American Court maintain their independence from and impartiality toward member states.

The inter-American system has different tools: it can issue rulings in cases, order protective measures, request information from states, issue advisory opinions, and conduct *in loco* visits. Its ultimate goal is to protect the victims of human rights violations. Furthermore, the inter-American system raises awareness about the human rights situation in a country by offering credible and respected information. It creates a space for democratic discourse by providing a representative capable of responding to victims. The system enables the legitimization of the participants by empowering victims and civil society as a whole. Finally, it contributes to the establishment of a culture of human rights and respect for the democratic system by setting a series of public policy standards.

Historically, Venezuela has contributed to the inter-American human rights system, to the extent that Venezuelan Rómulo Gallegos was the first president of the IACHR (1960–1963). In recent years, the current Venezuelan government has adopted a confrontational stance with the inter-American human rights system, and the IACHR has included Venezuela in the fourth chapter of its annual reports (*Recurrent Human Rights Violators*). Additionally, the IACHR conducted 120 hearings about Venezuela from 2002–2017, and the Inter-American Court has issued a significant number of protective orders in the country. Furthermore, the Court has issued 19 judgments concerning Venezuela, 14 of which correspond to the period of the Fifth Republic. Nowadays, Venezuela is the country against which the most complaints are filed with the IACHR, which reflects the high degree of activism of Venezuelan civil society.

However, the inter-American system for the protection of human rights has its shortcomings. First of all, there is a long procedural delay, so much so that receiving a response from the IACHR can take 10 to 15 years. Additionally, in the Venezuelan case, the Inter-American Court's decisions regarding the country have not been implemented. Moreover, the inter-American system lacks the human and financial resources needed to handle the humanitarian crisis and systemic human rights violations occurring in Venezuela. It is important to bear in mind that Venezuela spoke out against the Inter-American Human Rights Convention in September 2012 and the OAS Charter in April 2017.

Existing expertise needs to be leveraged during the current crisis, workshop attendees agreed, especially the expertise compiled in IACHR reports, which encompass a broad range of topics concerning human rights violations. Consequently, it is vital that the IACHR continue receiving pressure to include Venezuela in Chapter IV regarding recurrent human rights violators. Furthermore, coordinating with political groups is necessary in order to work together on the path to transitional justice, as is emphasizing the importance of the inter-American human rights system in order to create public policies that increase standards for protection.

Additionally, some sort of international/transnational mediation is necessary to reach a peaceful resolution of the Venezuelan conflict. Although the solution to the Venezuelan crisis must be primarily a domestic one, there is a need for the intervention of an international actor that can play the role of mediator in the search for solutions and enable the initiation of a dialogue among the various domestic sectors in conflict in Venezuela.

Regarding the inter-American system of democratic protection, it is important to note that the Inter-American Democratic Charter has serious deficiencies when dealing with situations of

authoritarian relapses like the Venezuelan case. Because there is not a single moment of a clear break from democracy in Venezuela, but rather a gradual transition toward authoritarianism, the charter faces major difficulties in characterizing Venezuela as a dictatorship. It is also worth mentioning that the charter is not the only legal tool for democratic protection in the hemisphere. On the contrary, there is an abundance of democratic charters and clauses from other regional organizations. As a result, the overlap of institutions and legal texts with different principles and actors makes conflict resolution more difficult.

In fact, unless member states demonstrate clear political will, democratic charters become dead letters. In this regard, it is important to emphasize the presence of a legal tension between the protection and defense of democracy on one hand and norms about sovereignty, nonintervention, and self-determination on the other hand. Furthermore, the region is currently experiencing a moment of institutional inertia. On one hand, the OAS has serious budgetary problems, and Secretary General Luis Almagro's leadership has been questioned by certain countries in the region. On the other hand, the Community of Latin American and Caribbean States (CELAC) could be a mediation option acceptable to the Venezuelan regime, but to date it has not been able to schedule a meeting to deal with this matter. The Union of South American Nations (UNASUR) lacks clear leadership because it has not yet appointed a secretary general. Finally, members of the subregional trade bloc Mercosur have not been able to agree on the adoption of a common position with respect to the Venezuelan situation. In all of these cases, Venezuela has revealed the limits of these organizations' and their leaderships' ability to act. Postliberal regionalism has left a high degree of fragmentation and serious difficulties for regional governance, which makes articulating coordinated strategies to confront the humanitarian crisis in Venezuela difficult. Planning is essential so that tasks can be divided among regional organizations with different approaches and different tools and strategies, and so that these efforts can be coordinated.

In short, the scenario is complex, disorganized, and uncoordinated. There are several options for responding to this situation: declaratory diplomacy, dialogue promotion, international contact groups, calls for elections, economic sanctions, bilateral pressure, action under the Responsibility to Protect, humanitarian crisis response, and a reaction from the United Nations Security Council, among many others. In terms of concrete actions in the short term, conflict prevention and resolution mechanisms can be applied. To this end, the legal and political frameworks to confront forced migration must be implemented—and reinforced—to facilitate the influx of Venezuelan migrants, in a joint effort by all countries in the region.

Regional Actors in the Venezuelan Crisis

Brazil. The border between Brazil and Venezuela is 2,200 kilometers long. Commercial trade between the countries is very healthy, to the extent that Venezuela is the third-biggest recipient of Brazilian exports. The Caribbean nation also has a large number of Brazilian state institutions established in its territory (for example, Petrobras, Caixa Econômica, Banco do Brasil, and even the Brazilian police and the Agencia Brasileira de Inteligencia). Roraima is the Brazilian border state that has been the most affected by this crisis; thousands of Venezuelans cross from Santa Elena del Uairén to Pacaraima daily to obtain food and basic personal hygiene products. Also, tens of thousands of Venezuelans have migrated to this region, the majority of whom belong to highly vulnerable groups, including a high percentage of young people, women, and indigenous Warao

people. These displaced persons are often victims of human trafficking, xenophobia, worker exploitation, and prostitution networks. In this sense, Roraima is the expression of the Venezuelan humanitarian crisis spilling over into Brazil. So far, Brazil has shown a lack of political will to resolve the problem of forced Venezuelan migration. The federal government does not make any significant contribution to responding to the crisis, which is why most expenses fall on the Roraima state government and municipal governments like those of Boa Vista and Pacaraima. The country has built makeshift shelters to temporarily house migrants, but these are temporary solutions that do not resolve the root problems.

What can Brazil do in the short run? First, Brazil can implement international commitments regarding migrants and refugees, working alongside the United Nations High Commissioner for Refugees (UNHCR). Second, Brazil can speed up the refugee visa application process for Venezuelans. Third, it can facilitate the authentication of diplomas so that Venezuelan migrants can practice their professions in the receiving country, thereby contributing to the economic development of the least-developed regions of Brazil, Roraima and Manaus, which are precisely the regions where the flow of Venezuelan migrants to the country is concentrated. Nevertheless, it is important to point out that Brazil is also experiencing an economic and political crisis, which leads its government to focus on domestic problems and keeps the country from playing a leading role in multilateral organizations at the regional and global levels, in addition to taking away resources and forums for discussing a solution for the Venezuelan migrant problem in the country.

Colombia. Colombia also shares a 2,200-kilometer (1,367-mile) border with Venezuela. Venezuelan migrants who arrive in Colombia do so in conditions of extreme vulnerability and in a very complex context: the migrant population arrives in a region that is severely depressed in economic terms, with problems such as drug trafficking, fuel trafficking, informal labor, and a lack of employment opportunities. Additionally, there is a heavy border presence of armed groups that compete for control of the informal economy in these regions.

The Venezuelan crisis has changed the direction of migratory flows and made them more complex. Historically, Colombians migrated to Venezuela to escape political violence. Today, the flow of Colombian migrants to Venezuela persists, but additionally there is a flow of Venezuela refugees to Colombia as well as a flow of Colombians who decide to return to their country. With these changes, Colombia has become a nation that is both a producer and a recipient of migratory flows.

Until now, the Colombian government has ignored the Venezuelan humanitarian crisis. City halls and local governments count and record Venezuelan migrants, and civil society organizations provide them with humanitarian assistance. Colombia offers temporary migrant cards to Venezuelans, which allow them to enter certain border cities (like Cúcuta). Many migrants use these cards to move to cities in the interior and remain there unlawfully. Likewise, in practice, Colombia seems to have securitized the problem of displaced Venezuelans, increasing the number of deportations (records show more than 2,000 deportations of Venezuelans in 2016). Colombia has signed the Brazil Declaration, which makes provisions for offering asylum to populations whose life, safety, or freedom is threatened. However, the country does not respect the right of nonrefoulement, it does not help migrants at its borders, and it does not inform migrants of their option to request asylum.

Argentina. Since the 2014 protests, the number of Venezuelan migrants in Argentina has grown exponentially. In 2016, the country received more than 12,500 applications for temporary and permanent residency from Venezuelan citizens. Mercosur agreements have facilitated the process for requesting temporary residency (for two years) in Argentina, which can later be converted into permanent residency (for a period of ten years). However, in practice, Venezuelan migrants face significant hurdles when requesting these visas, because the Venezuelan consulate in Argentina claims there are problems with apostilles on applicants' criminal records, and it will not issue validation letters to process the residency paperwork, leaving many Venezuelans in an irregular immigration status. One solution would be for Argentina to create a new migration protocol to validate this paperwork without depending on the approval of the Venezuelan consulate in Argentina.

With regard to potential solutions to the Venezuelan crisis, Argentina would welcome the creation of a group of friends, with a balanced membership, to mediate a process of political transition in Venezuela. Likewise, Argentina would appreciate expanding Cuba's role as mediator, especially in order to reach Venezuelan groups with which the Argentine government does not have contact.

Cuba. Cuba and Venezuela maintain an organic relationship in which both are important elements of their respective domestic policies. For Cuba, Venezuela is an energy provider as well as an important buyer of Cuban services. For Venezuela, Cuba is a vitally important partner as well as a political ally of the Bolivarian regime.

Cuba is a sort of partner by default that must be involved in any democratic resolution of the Venezuelan crisis. There are several incentives to making Cuba part of the eventual negotiations between the parties involved in the conflict: Cuba has a vested interest in protecting the Venezuelan political elite, especially Maduro, and it also has an interest in securing the Venezuelan oil supply. But the Cuban government's response will only become apparent in extreme situations, particularly when faced with the collapse of the regime. In this extreme situation, Cuba could support a return to democratic channels in Venezuela, prioritizing the role of regional forums such as CELAC or UNASUR. Additionally, Cuba has had a consistent foreign policy with a highly specialized and experienced diplomatic corps throughout the 60 years of its regime. More importantly, Cuba has an enormous ability to exert influence in international organizations (such as the Non-Aligned Movement, CELAC, and the United Nations).

The United States. In 2016, Venezuelans became the largest group of asylum seekers in the United States.

Although President Donald Trump has shown little concern for promoting and protecting democracy and human rights, and he has not made Latin America a priority in his foreign policy, his administration has shown a clear interest in Venezuela. The Venezuelan crisis always features prominently in his conversations with regional leaders.

The United States prefers that the OAS be the main forum for convening the region to discuss possible solutions to the Venezuelan crisis. Nevertheless, there is clearly some frustration at present with regard to the inaction of the hemisphere's multilateral organizations. As a consequence, there has been an evident shift toward implementing unilateral measures against

Venezuela, exemplified by the economic sanction of Venezuelan government officials. There has been discussion of starting an embargo against Venezuelan oil, given that the United States accounts for 75 percent of the monetary income derived from Venezuelan oil exports. The impact of this type of sanction would result in serious consequences for the Venezuelan regime and would likely provoke a default. An embargo could unify Chavismo precisely at a moment when significant fissures in the governing coalition are starting to form, which would make the government take a tougher stance and accentuate its authoritarian tendencies. This type of initiative would be politically counterproductive, and it would primarily affect the Venezuelan people, not members of the regime.

On the other hand, the United States could adopt a policy with more of a multilateral approach than a unilateral one. It is important that the Inter-American Democratic Charter of the OAS be activated and that progress be made in changing the voting patterns of Caribbean nations in order to open the way for their support in activating this instrument. The United States can be the main promoter of this undertaking by offering incentives and sanctions. Furthermore, it is essential that the United States publicly declare that it has no intention of militarily intervening in Venezuela in order to disarm arguments set forth by the Venezuelan political elite, which uses that message to deepen its authoritarian tendencies. Latin America must prevent the United States from taking a unilateral path. In order to achieve this, the region must prove that multilateral organizations can be useful as spaces for planning and implementing regional solutions to the Venezuelan crisis.

Recommendations From Workshop Participants

- Apply the existing regional legal framework for refugees and displaced individuals as a tool for promoting concrete actions related to receiving Venezuelan migrants abroad.
- Use the Responsibility to Protect framework and language to identify a set of conceptual tools for defining responsibilities, commitments, and actions to be taken by the Venezuelan state and the international community when confronted with situations with refugees/displaced persons, massive human rights violations, and preventing crimes against humanity.
- Recognize the essence of any solution to the Venezuelan conflict must be negotiation, and this negotiation must be led by domestic actors with international support.
- Work regionally with nongovernmental organizations (NGOs) and the academic sector to facilitate information sharing and clarifications about events occurring in Venezuela. International civil society can be used to give legitimacy to information originating from human rights organizations in Venezuela.
- Promote regional solidarity between activists from Venezuelan civil society and victims of human rights violations in Venezuela.
- Prioritize collaborating to create a group of friendly nations. Such a group would enable the formation of ties among several conflicting groups in Venezuelan society in order to lay the international foundation that would serve to sustain effective dialogue and the possibility of a democratic transition. This group of friends must publish periodic statements in order to foster public opinion about the negotiations and the evolution of the humanitarian situation in Venezuela.

- Understand the Venezuelan diaspora can and must play a role as a network for disseminating information about the domestic situation in Venezuela, which can be articulated with the work conducted by NGOs and academics outside of Venezuela. Bridges must be built between diverse civil society organizations from different countries in the region.
- Add medium- and long-term perspectives: rethink the roles and actions of multilateral organizations in the region as well as the role of human rights organizations after this crisis.
- Schedule a series of workshops and discussions among regional civil society organizations that have the ability to influence the decisions of governmental and intergovernmental actors in order to chart a course for long-term solutions.

The analysis and recommendations in this policy memo do not necessarily reflect the opinions of the Stanley Foundation, CRIES, or any of the conference participants but rather draw on the major strands of discussion put forward during the event. Participants neither reviewed nor approved this document. Therefore, it should not be assumed that every participant subscribes to all of its recommendations, observations, and conclusions.

The Stanley Foundation.

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Coordinadora Regional de Investigaciones Económicas y Sociales

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