

VENEZUELA

¿Un Maduro Más Duro? Venezuela After Chávez

by Javier Corrales

When Hugo Chávez took office in 1999, most Venezuela-watchers set their eyes on one major question: What was Chávez going to do with the political regime he inherited? This year, as Venezuela inaugurates the first post-Chávez administration under Nicolás Maduro, the question is the same: What will Maduro do with the political regime he inherited?

There is no doubt that Chávez transformed Venezuela's political landscape. Back in 1998, there was near-universal consensus that Venezuela's democracy was in trouble and that political reform was urgent. Chávez capitalized on this widespread clamor for change and fundamentally altered almost every single law in the country. Supporters believe that the end result was an alternative, more meaningful form of "participatory democracy." Others see nothing but full-fledged autocracy. Still others, myself included, argue that Chávez delivered a mixed bag. That is, he built a regime in which some democratic tendencies were reinforced while at the same time, many existing autocratic features were enhanced, and new ones were introduced.

Regardless of one's position on Chávez's legacy, the question remains: Under Maduro, will Venezuela see more democracy, better democracy, less democracy?

One way to gauge the evolution of a political regime — and specifically, its degree of democracy — is to focus on: 1) the existence of checks and balance on the majority (and thus, the presidential powers); and 2) the state's treatment of political minorities, which in most presidential democracies consist, by definition, of members of the opposition. These are, of course, not the only (or even the most important) aspects of democracy, but most scholars agree that without these two features, no regime can genuinely qualify as democratic.



Photo by Luigino Bracci.

Hugo Chávez's funeral procession.

I will argue that there is a high risk that the political regime in Venezuela will undergo some type of "hardening" along these two dimensions. By "hardening" I mean that the executive will attempt to concentrate even more power in his own hands and adopt an even more antagonistic attitude toward the opposition. This change might not be permanent or ultimately irreversible. Maduro may run into severe obstacles, and the administration might never want to turn fully authoritarian. But here are my reasons for thinking that the conditions are propitious for the new administration to feel tempted to move in a more autocratic direction.

A New Symmetry and Several New Asymmetries

A turn toward more autocratic rule is possible because of the new balance of power between the ruling party and the opposition. This new balance is predicated on a new political symmetry and several new asymmetries that have emerged since the April 14, 2013, election of Nicolás Maduro.

First, a few words on the new symmetry. Following the shocking April 14 electoral results, in which Maduro won by a mere 1.5 points, the conventional wisdom among analysts has been that there is a new balance in state-opposition relations. This is the first presidential election since 1998, when Chávez first ran for office,

that there is an electoral tie between *chavistas* and the opposition, the so-called "*dos mitades*" (two halves).

There is no question that this new symmetry is historic, for *chavismo* as well as for Venezuela. Maduro essentially squandered the large majority that Chávez had built over the past 14 years. And while this chavista majority had been shrinking, it was still quite large and showed signs of rebounding in October 2012, when Chávez was reelected for the third time, with a comfortable 11-point margin, and again in December 2012, when most states elected chavista governors, often by much larger margins than Chávez himself obtained. That the distance between Maduro and the opposition



Photo by Cristóbal Alvarado Minc.

The Venezuelan capitol building.

shrank so dramatically has created a type of government–opposition symmetry that never existed under chavismo, or in Venezuela for that matter, except during the heyday of the two-party system, which lasted from the late 1960s to the late 1970s.

However, focusing on this new symmetry is not enough to predict how the new administration will respond to the opposition. Some theorists contend that close symmetries prompt officials to be more accommodating toward

the opposition: the ruling party realizes that it is weak, or at least, not that much more powerful than its opponents, and so, to borrow from the late economist Mancur Olson, it finds itself in a condition of mutual checkmate in which the rational move is to engage in pact-making, the so-called conciliatory position. But other theorists argue the opposite. Situations of political ties can cause enough panic among the shrinking group — in this case, the ruling party — to compel

authorities to be more extreme. To borrow from political scientist Kurt Weyland, who used prospect theory to study risk-taking by presidents, a situation of desperation (or checkmate) can compel actors to do risky things, which could mean, among other things, not recognizing the power of the opposition and attempting to weaken it with more hardline approaches, despite the risk of unleashing a backlash.

The key point is simply that electoral symmetry between two camps, however new, is not enough — theoretically at least — to predict how each camp will behave toward the other. Thus, to get a better idea of what to expect, it seems necessary to examine other factors. Looking beyond this electoral symmetry, there are also new political asymmetries in Venezuela, and these new asymmetries are likely to push the administration in the direction of a regime hardening.

The first significant new asymmetry has to do with political energy. The ruling party emerged from the close election demoralized, maybe even terrified, while the opposition emerged absolutely energized. A demoralized ruling party behaves in predictable ways. Namely, leading figures become prone to question whether the leader in charge is making the right decisions. This questioning in turn gives rise to competing ideas and leaderships. Increasing competition can then lead to internal disarray within the ruling party. In contrast, an energized opposition gets the feeling that time is on its side. In fact, the opposition feels that there is no real symmetry: they think they have a slight majority that would have been visible on election day if the government had not engaged



Photo by chavezandango.

Symbols of chavismo dominate Maduro's announcement of his candidacy for president.

in electoral irregularities.* The opposition may not be in power yet, but they feel the time is near. They see the Maduro government as a “*mientras tanto*” or “meanwhile” administration, to quote Henrique Capriles, the leader of the opposition, who invoked that precise phrase to convey that chavismo’s dominance is on the wane. For the first time since 2004, the opposition feels that it can defeat chavismo by way of elections, and chavistas, to their chagrin, agree.

This leads to the second major asymmetry to emerge after April 14. Chavismo after Chávez is experiencing centrifugal forces, whereas the opposition is experiencing

* For the April 2013 election, the opposition did a more thorough job of keeping tabs of irregularities than in the past. The opposition contends that: 1) 535 voting machines broke down, possibly affecting 189,982 votes; 2) opposition witnesses were removed by force from 787 voting stations, affecting possibly up to 2 million voters; 3) the electoral registry contains 600,000 names of voters who are more than 100 years old; 4) Maduro obtained more votes than Chávez did in the last election, sometimes by more than 500 percent, in 1,176 voting stations, possibly affecting 1.48 million voters; and 5) violence and/or excessive ruling party pressure was reported at more than 800 polling stations.

centripetal forces. Almost since the day that Chávez designated Maduro as his successor (without any type of internal party consultation), chavista leaders have raised questions about whether Maduro is up to the task. Since his poor election results in April, this questioning has intensified. The point is not so much whether these questions are justified but rather that they are indicative that forces are moving away from the center rather than towards it. This centrifugalism is perceptible among labor groups, which are protesting in record numbers; among the military, which is not as pro-Cuba as Maduro; from the president of the National Assembly, Diosdado Cabello, who called for “*auto-crítica*” (self-criticism) shortly after the elections; and soon, it will start coming from the 20 chavista governors elected in December, all of whom obtained margins of victory far larger than Maduro’s. These governors can claim to have more connection with the *pueblo chavista* than Maduro by simply comparing their electoral results with his. If there is one major new story from the April 14 election, it is that chavista governors are emerging as a new political cleavage within chavismo, in addition to the two existing cleavages: the civil–military cleavage and the radical–less radical cleavage among civilians.

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Photo courtesy of Globovision.

Opposition candidate Henrique Capriles campaigns prior to the election.

In many ways, chavismo under Maduro is the exact opposite of chavismo under Chávez, in that the ruling party leadership is becoming more questioning rather than more obsequious toward the party’s central figure. If anything, it is the opposition that now is experiencing centripetalism — albeit not to the unusually high degree that was the case with the Partido Socialista Unido de Venezuela (United Socialist Party of Venezuela, PSUV) under Chávez. Capriles emerged from the April 14 election with a level of respect from all sectors of the opposition that has eluded any other opposition figure at least since the ascendance of Chávez and perhaps since the 1970s. The opposition has been working hard at unity since 2005, but with so many ideological and strategic differences within its ranks, this quest for unity always seemed arduous and tenuous. At key moments, especially after some embarrassing elections (the presidential election of 2006, the constitutional referendum of 2009, and the two elections of 2012), this unity was strained. But Capriles’ comeback in the April election essentially reversed these centrifugal tendencies. He emerged as the undisputed leader of the opposition, if not the country, in contrast to Maduro, who has yet to prove his leadership.

Nevertheless, Capriles has one major disadvantage, and this is the third new asymmetry: the ruling party remains in control of virtually all the institutions of the national government and the vast majority of subnational institutions, while the opposition is virtually deprived of institutional power. The opposition has only 39 percent of the seats in the National Assembly — not enough to block legislation. It controls only two governorships, and even there, it has to share a lot of political space with chavistas, who have a strong presence in all subnational institutions, including state legislatures, mayoralties, and state-sponsored communes. It is odd for an opposition to do so well electorally and still be left out in the cold institutionally.

These asymmetries produce the conditions for a potential hardening of the regime. The asymmetry of political energy is producing serious insecurities within the ruling party. The asymmetry of disunity/unity is producing panic in the “nominal” head of the ruling party, Nicolás Maduro. And the asymmetry of institutional power is likely to be the most important asset available to the ruling party to deal with the political challenges posed

by the other asymmetries. So it is worth asking: How much power do Venezuelan political institutions provide to those who control them? The answer is: a lot.

The Institutional Legacy of Chavismo

Since the passing of Chávez, most of the press has focused on his economic legacy. Reports have detailed how Chávez left an ever-more expansionist state. For example, according to the Caracas think tank Econalítica, public spending increased from 25 to 47 percent of the domestic national product under Chávez. While the expanding state generated lots of patronage, which is positive for coalition building, it also led to large deficits; high inflation; chronic productivity problems across the public sector but especially in the state-run oil company; and a weakened private sector that hardly invests because it lives in fear of expropriation, tax audits, and the imposition of new controls. All these ailments are negative for development, and they mean that for the first time since 2003, we are witnessing a chavismo in economic trouble. The economy is not facing imminent collapse, but it is not booming either. Maduro’s ability to throw money at

every problem — which was Chávez’s typical solution to any problem he confronted — is now a question mark rather than a certainty. Maduro is facing declining reserves and has already presided over a massive devaluation, which Chávez warned against before his death; cut back on spending, which violates a basic dogma of populism; and had trouble raising new loans, even from Venezuela’s most “reliable” creditor, China. Maduro simply does not have the freedom to maneuver economically that Chávez enjoyed since 2004. In short, chavismo under Maduro is not just politically insecure but also economically constrained, at least for now.

What instruments can Maduro employ to deal with this dual challenge? Borrowing from David and Ruth Collier’s classic work on populism, which stresses that the populist’s typical policy toolkit is a combination of inducements and constraints, we can conclude that if the inducement side of the state is circumscribed, constraints are likely to take center stage.

And it is here that Chávez’s political — rather than economic — institutional legacy comes in handy. Chávez has left Maduro a series of political laws — and approaches >>

One of the health clinics established by the Chávez regime.



Photo by Ariel López.

to the law — that are unquestionably autocratic. This is not to suggest that all the laws approved under Chávez are undemocratic. What I want to highlight is that within the broad amalgam of laws that Chávez left behind, a good number empower the executive branch to act punitively against political rivals. The following are nine such laws.

1. The Constitution (1999) bans public funding for “associations with political objectives” (con fines políticos) one of the terms in the Constitution for political parties (Article 67). This article has consistently been applied to opposition forces but never to the ruling party.
2. The Law for Social Responsibility (2004) bans broadcasting of material that could incite or promote hatred and violence. It was extended in 2010 to apply to the Internet. Accordingly, electronic media may not transmit messages that “foment anxiety in the public or disturb public order,” “incite or promote disobedience of the current legal order,” “refuse to recognize the legitimately constituted authority,” or “incite or promote hatred or intolerance.”
3. The Reform of the Penal Code (2005) makes it illegal to be “disrespectful of government officials” and seriously restricts the use of public space for protests.
4. The Reform of the Organic Law of Telecommunications (2010) allows the government to suspend or revoke broadcasting concessions to private outlets if it considers such action to be “in the interests of the nation, or if public order and security demand it.” In Venezuela, the size of the private media has shrunk considerably. The license for one television station, RCTV, was not renewed in 2007. A second television station, Globovisión, has been fined repeatedly, and the owners have decided to sell the company to a pro-government millionaire. The two private television stations that remain have made a tacit pact with the government not to cover politics.
5. A series of laws governing “communal councils” (the Organic Law of Popular Power, the Organic Law of Public Planning, the Organic Law of Social Auditing, and the Organic Law of Communes) provide public funding and legal prerogatives to these ill-defined councils. None of these laws require the councils to hold competitive elections for their representatives. Councils are required to work with the state to offer services, carry out public works, and participate in community development, often superseding the role of elected mayors and municipal councils.
6. Enabling laws: Under Chávez, the ruling party (via the legislature) granted the executive branch the right to

legislate by decree — the so-called enabling laws — on four occasions: 1999, 2000, 2007, and 2010. This suggests that the ruling party is fairly comfortable granting the executive branch ample powers for extended periods, even during good economic times. The granting of extraordinary powers to the executive did not begin under Chávez, but historically, those powers were never as expansive or as easy to obtain as they have been under the PSUV.

7. The Law for the Defense of Political Sovereignty and National Self-Determination (2010) blocks Venezuelan human-rights defenders from receiving international assistance. Nongovernmental organizations that “defend political rights” or “monitor the performance of public bodies” are barred from receiving any foreign funding. Foreigners invited by these groups can be expelled from the country if they express opinions that “offend the institutions of the state, top officials, or attack the exercise of sovereignty.” Organizations could face stiff fines, and their directors could lose their right to run for public office for up to eight years.
8. The Law Against Illicit Exchange Transactions (2010) grants the government a monopoly over all currency trades, including government bonds. Foreign currency from exports must be sold to the Banco Central de Venezuela at the official exchange rate. The law also bans “offers” in foreign currency made between Venezuelan entities or individuals for the sale of goods and services.
9. The Law of Partial Reform of the Law of Political Parties, Meetings, and Protests (2011) bans deputies from any conduct that departs from the “political orientation and positions” adopted by their party during election times. This law is intended to discipline deputies who consider deviating from the party line.

These laws and legal precedents alone constitute a remarkably autocratic institutional legacy. They give legal authority and justification for restrictions on the activities of opposition figures, NGOs, business groups, media personnel, media users, and even national assembly members, if they turn too uppity. Many democracies employ some of these legal restrictions, but few have all of them in place, and none that I know of has a constitutional ban on public funding of parties.

Equally worrisome is Chávez’s legacy in the Supreme Tribunal, Venezuela’s highest court. Most of his appointments went to open “revolutionaries.” Loyalty to the ruling party’s ideology was a prerequisite for a top position in the courts. This became patently clear when, on the 10th anniversary of the 1999 constitution, the

president of the Supreme Tribunal, Luisa Estella Morales, argued for a change in the constitution to abolish the separation of powers, in line with what Hugo Chávez was accomplishing de facto. In her words: “We cannot continue to think about separation of powers because that is a principle that weakens the state.” Leaving aside the paradox of an office-holder advocating for a principle that would essentially undermine the fundamental role of her office, the key point here is that the Supreme Tribunal is no longer informed by the doctrine that it exists to serve as a conduit for social actors and other branches of the state to challenge executive power, but rather, the other way around. While a new president of the Supreme Tribunal, Gladys Gutiérrez, was elected in May, it is unlikely that she will depart from the current doctrine of subordination: she is a member of the ruling party who served twice in Chávez’s cabinet.

Conclusion

Chávez left behind both a set of laws and an approach to the rule of law that can be easily used for autocratic

rule. While it is true that Chávez did not make full use of many of these laws — Chávez tended to “bark” far harder than he bit — there is no reason to suppose that future presidents will exercise the same restraint, especially if circumstances turn dire. The new electoral symmetry, compounded by the political insecurity felt by President Maduro and the country’s declining economy, make it very tempting for the new administration to resort to these instruments.

In fact, as of this writing, Maduro has already begun to move in this direction. As interim president, he imposed new fines on Globovisión, made the exchange rate system more obscure and controlling, and repeatedly said that he was not interested in conciliation. As president, he ordered the arrest of a young U.S. filmmaker, Tim Tracy, for covering the election; backtracked on conducting a full audit of the electoral results; issued stern warnings to the private sector that they are not to engage in politics; and allowed Diosdado Cabello to block the opposition deputies, who were challenging Maduro’s electoral victory until the completion of an audit, from speaking

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Venezuelan opposition leader Julio Borges after a fistfight in the Venezuelan parliament, April 2013.



Photo from AP/Getty Images.

and voting in the legislature. He has also started a legal investigation of Capriles and others in the opposition for “inciting” the violence that took place the day after the election. The Minister of Prisons has said publicly that she has a prison cell ready for Capriles.

My fears could prove wrong. The process of self-reflection that seems to have started within the ruling party could lead to more conciliatory responses. Members of the ruling party — and who knows, maybe even Maduro himself — could conclude that further radicalization of politics (including more belligerence toward the opposition and too much discretion in the hands of the president) are no longer as electorally rewarding as they once were. Most polls in Venezuela suggest that citizens of all stripes are fatigued by the perennial confrontation between the government and the opposition. Times have changed since the heyday of chavismo in the early 2000s, when both sides of the political divide believed that promoting hardline policies toward political rivals was an optimal electoral strategy. After 14 years of semi-civil war, Venezuelans might be feeling tired of it all, and this sentiment alone could explain why Maduro, who campaigned as a hardliner,

did poorly in the April elections. These are signs that could induce Venezuelan authorities to ease the confrontation.

Nevertheless, this public fatigue with confrontation still coexists with panic among radical groups within the ruling party. It also coexists with the centrifugal forces within the chavista leadership and rising momentum within the opposition. Panic and centrifugalism are making Maduro feel politically insecure. Maduro could conclude that his best hope for survival is to forcefully counter that panic and centrifugalism rather than worry about public fatigue with confrontation. This could lead to yet another crusade against political infidels, within and without. The fundamental paradox about Venezuela’s new symmetry and asymmetries is that they might compel Maduro to launch such a crusade but, at the same time, deny him the advantage needed to prevail.

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VIDEO AVAILABLE AT CLAS.BERKELEY.EDU

“Danger: High Pressure” reads this sign outside the Banaven Center in Caracas.



Photo by Alejandro Forero Cuervo.



Photo courtesy of Nancy Scheper-Hughes.

Nancy Scheper-Hughes with Dalina, one of her key Brazilian informants, in 1987.

BRAZIL

No More Angel-Babies on the Alto

by Nancy Scheper-Hughes

It was almost 50 years ago that I first walked to the top of the Alto do Cruzeiro in Timbauba, a sugar-belt town in Pernambuco, Brazil. I was looking for the small mud hut nestled in a cliff where I was to live. It was December 1964, four months after the coup that toppled the left-leaning President João Goulart.

That day in December 1964 marked the beginning of my life’s work. Since then, I’ve experienced something between an obsession, a trauma, and a romance with the shantytown. Residents had thrown together huts made of straw, mud, and sticks, and lacking that, lean-tos made of tin, cardboard, and scrap materials. They threw together families in the same bowdlerized fashion, taking whatever was at hand and making do. Lacking husbands, weekend play fathers did nicely, as long as they brought home the current baby’s powdered milk, if not the bacon.

Households were temporary, and babies and fathers circulated among them.

In a hillside shantytown without water, electricity, or sanitation and facing food scarcity, epidemics, and police violence, premature death was an everyday occurrence. My assignment was to immunize children, educate midwives, attend births, treat infections, bind up festering wounds, and visit mothers and newborns at home to monitor their health and refer them as needed to the district health post or to the emergency room of the private hospital — owned by the mayor’s brother — where charity cases were sometimes attended, depending on the state of local patron-client relations.

I spent several months cycling through the miserable huts on the Alto with a public health medical kit strapped on my shoulder. Its contents were pathetic: a bar of soap,