

Popular Sovereignty versus Liberal Democracy in Venezuela

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Popular Sovereignty versus Liberal Democracy in Venezuela

The vain hope of making democracies more democratic by undemocratic means has all too often contributed to regime crises and ultimately paved the way to autocratic rule. Juan Linz¹

Opinions about the state of democratic governance in Venezuela are polarized. On one side, critics of the government of Hugo Chávez Frías have come close to labeling it a dictatorship. For example, Allan Randolph Brewer Carías wrote that the new constitution “lays the constitutional groundwork for the development of political authoritarianism, buttressed by regulations that reinforce centralism, presidentialism, statism, state paternalism, partisanship, and militarism; with the danger of the collapse of democracy itself.”² On the other side, Chávez claimed to be restoring a truly democratic regime to Venezuela:

we will advance in the construction of a true democracy, of a true political, economic, and social system which we will build because they destroyed it during these last years. A true democratic system, a true social democratic system, a true economic democratic system where, as Bolívar said, the people is given the greatest amount of social security, the greatest amount of political stability, and the greatest amount of happiness possible. Now is when we are going to demonstrate the daring and intelligence of the Venezuelan people who are building with their own hands a true democracy, where justice, liberty, equality, and fraternity prevail.³

¹ Juan J. Linz, *The Breakdown of Democratic Regimes: Crisis, Breakdown, and Reequilibration* (Baltimore: The Johns Hopkins University Press, 1978), p. 97.

² Allan Randolph Brewer Carías, “Reflexiones críticas sobre la Constitución de Venezuela de 1999,” paper prepared for the conference on “The New Venezuelan Constitution: A New Political Model for Latin America?” Georgetown University, February 2, 2000, p. 4.

³ Hugo Chávez Frías, “Palabras al dar inicio al desfile militar con motivo del 188° aniversario de la Independencia,” Paseo de Los Próceres, 5 de julio de 1999, in the on-line library of *Venezuela Analítica* 30 de mayo de 1999 <<http://www.analitica.com/bitbliblioteca/hchavez/99-07-05.asp>>.

The truth is more complex and subtle. In order to evaluate the state of democracy under Chávez accurately, one must sharpen the distinction between democracy narrowly defined as popular sovereignty versus the more conventional notion of liberal democracy. It is also necessary to look beyond the rules and institutions of the new constitution to consider the way they have been used. On first inspection, Venezuela still has a liberal democratic regime. Understood more deeply, it is no longer a *liberal* democracy in every respect. Instead, it has become an extreme case of delegative democracy in which there is no "horizontal accountability"--no effective check on the president between elections.⁴ So far, the president has enjoyed widespread popular support for almost everything he and his followers have done, and this fact qualifies his government as "democratic" in the narrow sense of popular sovereignty. But the systematic elimination of constraints on presidential action since 1998 increases the risk that Venezuela will cease to be a democracy by any definition in the future.

Popular Support

Popular sovereignty--the idea that a government should do what most citizens want it to do--is the oldest and most literal definition of democracy, although not necessarily the best one. Contemporary theorists now consider popular sovereignty neither sufficient nor strictly necessary for democracy. But even though popular sovereignty has fallen out of favor with scholars and mainstream politicians, it has a long pedigree as one legitimate standard for democracy. Furthermore, few scholars would disagree with the claim that democratic governments must respect the popular will at least some of the time, especially when it is deeply felt, widely shared, and coherently expressed.⁵ Qualified in this narrow way, popular sovereignty is a necessary characteristic of democracy.

⁴ Guillermo O'Donnell, "Delegative Democracy," *Journal of Democracy* 5:1 (January 1994): 55-69.

⁵ Robert A. Dahl, *A Preface to Democratic Theory* (Chicago: University of Chicago Press, 1956), especially chapter 3 on "Polyarchal Democracy," which proposes a reconciliation of the tensions between the "Madisonian democracy" outlined in chapter 1 and the "populistic democracy" discussed in chapter 2.

In this respect, the Chávez government's credentials are solid. Ever since March 1998, when he became the front-runner in the presidential race, Hugo Chávez has been the most popular politician in Venezuela and his agenda has been endorsed repeatedly in elections and opinion polls. He won the December 1998 presidential election with 56.2 percent of the vote, the most decisive electoral victory since Rómulo Gallegos' win in 1947. In April 1999, he sponsored a referendum seeking permission to summon a constituent assembly (Question 1) and to design an electoral law for the election of constituent assembly delegates (Question 2). He was the ultimate author of both questions, and both were approved with more than 80 percent of the vote (Table 1). When this election was actually held three months later, the first-place finishers in each district, all of whom were Chávez supporters, won nearly the same three million-plus votes that Chávez and his initiatives had won in the two previous votes. When the Chávez-dominated constituent assembly finished its work and submitted the draft constitution to a popular vote, it was ratified by nearly 72 percent of the voters. Most recently, in the "megaelections" of July [9 or 16—to be decided], 2000 to renew all officeholders, Chávez himself was reelected with [insert after election] percent of the vote.

These figures probably exaggerate the breadth of support for Chávez because abstention ranged from 36.5 percent in the 1998 presidential election to 62.4 percent in the two-part referendum. When the pro-Chávez vote is presented as a percentage of the whole electorate, it is reduced to a quite stable but far lower 30.3-33.4 percent. Given the constancy of this support in the midst of extremely high abstention, this seems to be an intense third of the electorate that has repeatedly turned out to register its support for Chávez or his agenda. One third may seem low, but to be fair it must be compared with support for past presidents calculated in the same way. As Table 2 shows, Chávez's initial base of electoral support was proportionally smaller than that of six other Venezuelan presidents; but larger than that of three past presidents—Leoni and the two Caldera governments. He was therefore in the ballpark in terms of support in Venezuela, just a bit lower than the average of 37.4 percent. One should also consider that many Venezuelan presidents have tended to enjoy broader support than presidents in neighboring countries. Chávez's base of electoral support was proportionally larger than that of twelve of his contemporary Western

Hemisphere presidents, and above the hemispheric average of 29 percent (Table 3). The size of Chávez's base of electoral support therefore remains solid in comparative perspective, and the intense minority must not be ignored.

It is tempting to argue that Chávez really had only an ordinary level of support, which abstention magnified into the appearance of an extraordinary level of support. However, this interpretation is not compatible with survey evidence. Opinion polls, which are less biased by abstention, indicate that another sizable segment of the population also supports Chávez, although not intensely enough to cast an actual vote for him at every opportunity. This group, combined with the intense third, have provided the president with clear majority support. A sampling of survey results will suffice to make this point:

*In January 2000 a survey in 10 cities by Alfredo Keller concluded that Chávez would receive more votes in the next presidential election than he received in 1998.⁶

*In February 2000, a Consultores 21 survey in 66 urban centers found that 71 percent of respondents would vote for Chávez if the elections were held then.⁷

*In May 2000, another Consultores 21 survey conducted in 66 cities reported that 55 percent would vote for Chávez against Arias Cárdenas and that Chávez had a 64 percent approval rating versus 31 percent disapproval.⁸

These indicators of the popularity of the president could also be corroborated by observing the enthusiasm with which he is received when he appears in public and the deep respect heard in the voices of callers to his weekly radio program.

However, not all Venezuelans hold Chávez in such esteem. In fact, most middle class and wealthy Venezuelans oppose him for the same reasons that the lower classes welcome him:

⁶ Margarita López Maya and Luis Lander, "La popularidad de Chávez: ¿Base para un proyecto popular?" unpublished ms. (Caracas: febrero de 2000), p. 6.

⁷ *Ibid.*, p. 6.

⁸ "Sondeos de opinión," *El Nacional* archive, May 10, 2000 <<http://www.el-nacional.com/megaelecciones/Encuestas/>>.

The references to *el pueblo* as central to the process are read by these sectors as evidence of demagogic populism; his informality is equated with improvisation; his military language an expression of authoritarianism; his baseball analogies are seen as insufficiently serious and unbecoming of a statesman; his sense of humor shows boorishness; his pedagogical tone is perceived as primitive, lowbrow, and uncalled-for.⁹

This polarization of opinions by class also shows up when Venezuelan newspapers conduct on-line polls, which routinely register overwhelming contempt for the president and everything he does among computer users with Internet access. Despite the intensity of their opposition, these critics are clearly in the minority.

The polls therefore suggest that Chávez has a comparatively large base of support, but the elections suggest that only about half of this base is solid. If his fair-weather friends desert him, he will lose his main claim to democratic legitimacy. In such a situation, this former coup leader could be tempted to govern through nondemocratic means. In order to judge the likelihood of such a scenario, it is important to understand where Chávez came from, what his goals are, and why so many Venezuelans support him.

The Crisis of Democracy and the Rise of Chávez¹⁰

In the 1960s and 1970s, Venezuela earned a reputation as one of the most stable democracies in the developing world. The democratic regime inaugurated in 1958 survived guerrilla movements, terrorism, and several coup attempts in its early years and continued to celebrate clean elections every 5 years marked by vigorous campaigning and party competition. Stability was achieved through a formula that gave a central role to the two largest political parties, the social democratic Acción Democrática (AD) and the Christian democratic COPEI. Many Venezuelans came to call this formula *partidocracia* (from *partido* and *democracia*), which I translate as "partyarchy."¹¹

⁹ Ibid., p. 14.

¹⁰ Some of the text in this section is taken from an earlier version of this article: Michael Coppedge, "Venezuela: The Rise and Fall of Partyarchy," in Jorge I. Domínguez and Abraham F. Lowenthal, eds., *Constructing Democratic Governance: South America in the 1990s* (Baltimore: The Johns Hopkins University Press, 1996), pp. 3-19.

¹¹This concept is fully developed and contrasted with Dahl's concept of polyarchy in my book, *Strong Parties and Lame Ducks: Presidential Partyarchy and Factionalism in Venezuela*

The guardians of the formula, so to speak, were the leading *adecos* and *copeyanos*, whom some Venezuelans called the "*status*" *adecopeyano* and I will call the Adecopeyano establishment, or simply the establishment.

This partyarchy promoted governability in five ways. First, the two parties were broadly representative of society. They had huge numbers of party members; channeled demands from labor, peasants, and other organized groups; and from 1973 to 1988 split about 80 percent of the legislative vote and 90 percent of the presidential vote. Second, AD and COPEI practiced iron discipline: militants at all levels of the party organization risked expulsion if they disobeyed decisions made by the small inner circle of leaders, or *cogollo*, at the head of each party. Third, the two parties extended their control to nonparty organizations that they had politicized. Labor leaders usually refrained from holding strikes when their party was in power, and the politicized officers of professional associations, student governments, peasant federations, state enterprises, foundations, and most other organizations used their positions to further their party's interests. The two parties therefore acted as powerful and readily mobilized blocs. Fourth, they practiced *concertación*, or consensus-seeking. The leaders of AD and COPEI made a habit of consulting one another, and usually leaders of other parties and social organizations as well, whenever controversial issues arose.¹² Policies concerning defense, foreign affairs, and the oil industry were usually made by consensus, and even when consensus proved impossible, the attempt to reach it mollified the opposition. Finally, the two parties hammered out good working relationships with other strategic actors—the military and private sector. In exchange for noninterference in political questions, AD and COPEI governments kept benefits flowing to these other actors in the form of budget allocations, training, tax forgiveness, subsidies, protection, and other policy favors. Governability was therefore ensured by the Adecopyano establishment which, because it controlled large, popular,

(Stanford, 1994). This section summarizes arguments developed at length in chapter 2.

¹² Daniel H. Levine, *Conflict and Political Change in Venezuela* (Princeton: Princeton University Press, 1973).

and tightly disciplined parties with influence over most other organizations, had the authority to bargain with other parties and other strategic actors, and the power to enforce the deals that it made.

Oil wealth also aided governability under Venezuela's democratic formula as long as it contributed to prosperity. The rapid economic expansion and social mobility of the 1960s and 1970s contributed to the legitimacy of the governing parties; oil financed policy favors to business leaders; and it financed patronage for elites and clientelism for the masses. But the economy began a long decline in 1978. From 1978 to 1989, per capita GDP shrank 29 percent, falling back to a level not seen since 1953.¹³ Venezuelans did not lose faith in their parties immediately; for the next decade, they continued to hope that a change of government would return them to prosperity. The decline began under an AD government; in 1978 they elected Luis Herrera Campíns of COPEI, and he enjoyed a second oil price surge for a while, but then the Latin American debt crisis hit. In 1983, Venezuelans elected Jaime Lusinchi from AD, who delivered only a modest reactivation of the economy, at the cost of higher inflation. In 1988, they returned to Carlos Andrés Pérez, who had presided over the biggest boom in the 1970s; but Pérez instead began his administration with a radical shock program that led, in the short term, to an inflation rate over 80 percent and an 8.3 percent contraction of the economy—the worst performance on record. It was at this point that Venezuelans became increasingly alienated from AD, COPEI, and other democratic institutions. Public anger erupted in three days of rioting and looting in all major cities in 1989. When Hugo Chávez and other junior officers led a coup attempt in February 1992, he became an instant hero to a passionate minority.

Parties were clearly powerful actors and no other parties had governed since 1958, so when Venezuelans felt like “throwing the bums out,” it was perfectly clear to them who “the bums” were. To be fair, it would be wrong to lay all the blame at the feet of AD and COPEI. The debt crisis that began in 1982 owed much to a surge in U.S. interest rates and a temporary halt to new foreign

¹³ Angus Maddison, *Monitoring the World Economy, 1820-1992* (Paris: Development Centre of the Organisation for Economic Cooperation and Development, 1995), table D-1d, p. 203.

investment in the whole region, regardless of the merits of each country. And from 1985 to 1998, Venezuela was particularly hurt by a severe decline in oil prices. Oil revenues, which used to cover 70 percent of public expenditures, now covered only 40 percent. None of this was subject to Venezuela's control. Nevertheless, the establishment parties did deserve much of the blame because they made these problems worse than they had to be and created other problems as well. They were accomplices to their own destruction.

The popular reasoning that connected the parties to the economic decline was as follows: Venezuela is a wealthy, oil-exporting country; the government's duty is to share this wealth fairly with all of us; I'm not getting my share, and neither are those around me; therefore, the party politicians who have run the state for the last 30 years must be wasting and stealing the money. Again, this is not the whole story, as structural conditions beyond the politicians' control played an important role. But there is more than a grain of truth to this popular belief. When the decline began in the mid-1970s, Venezuela was between two magnificent, closely-spaced oil booms. With prudent management, this could have been a time of glorious prosperity. Instead, both Pérez (1974-1979) and Herrera (1979-1984) drove the country much deeper into debt despite commanding state revenues that were *several times larger* than those that any other Venezuelan governments had received. Obviously, there was massive waste and corruption. It is appropriate for Venezuelans to blame their leaders for this even if periodic overspending is virtually inevitable in oil economies.¹⁴

The waste and corruption—which continued throughout the decline of the 1980s and 1990s, when it was even less tolerable—was in turn made possible by partyarchy. Ironically, the same characteristics of parties that had promoted democratic governance in the first two decades of the regime worked to undermine it in the last two decades. The continuation of corruption required a climate of impunity, which was a by-product of partyarchy. The courts, like the bureaucracy, the universities, and most other institutions, were thoroughly politicized along party lines and seemed

¹⁴ Terry Lynn Karl, *The Paradox of Plenty: Oil Boom and Petro-States* (Berkeley: University of California Press, 1997).

never to find sufficient evidence to justify a trial or a conviction. There has to have been complicity between AD and COPEI as well, because they behaved as though there were a secret clause of the Pact of Punto Fijo prohibiting prosecution for corruption. The practice of *concertación*, intended to moderate political conflict, served equally well to conceal abuses of power by the Adecopeyano establishment. Also, in the hands of increasingly unprincipled party militants, the party founders' dedication to the moderation of conflict was transmogrified into an obsession with controlling other actors in civil society. But rather than welcoming and encouraging a newly flourishing civil society and opening the system to more genuine participation, the parties treated independent groups as threats to party control. An opportunity to deepen Venezuelan democracy was thus lost, and the independent organizations responded by linking their aims to an anti-party, anti-establishment agenda.

The parties were accomplices also in the sense that they stubbornly and tragically resisted pressures to reform themselves. Increasing disaffection with the system became evident as abstention grew from a low of 3.5 percent in 1973 to 12 percent in 1978 and 1983, 18 percent in 1988, and 39.8 percent in 1993. Many observers know that AD and COPEI, following the lead of their presidential candidates during the 1988 election year, passed an electoral reform that established the direct election of mayors and governors for the first time in 1989; this has been seen as a move away from the hierarchical discipline typical of partyarchy. What fewer know is that few party leaders besides the presidential candidates were happy about this reform. They set about to nullify its effects immediately by reasserting tight *cogollo* control over nominations to these offices. AD was also primarily responsible for stalling and eventually shelving a constitutional reform bill that grass-roots organizations had succeeded in putting on the agenda in 1992. The two parties flirted with reform in 1993 by nominating for president two governors who had genuine grass-roots support in their states and who advocated greater openness and participation and economic liberalism. But when both candidates lost—the first time AD or COPEI had ever lost the presidency in a fair election—other party leaders systematically marginalized these candidates and purged hundreds of their supporters from the ranks. The AD candidate, Claudio Fermín, was eventually

expelled; President Pérez was impeached in 1993 and expelled while awaiting trial. By 1998, COPEI had no viable presidential candidate of its own and so backed one, then another, independent. AD's top boss, Luis Alfaro Uceró, forced the party machine to nominate him for president and ran a doomed race in 1998 even when his own party dumped him two weeks before the vote. AD and COPEI contributed only 9.05 and 2.15 percent of the valid votes, respectively, to the independent candidate they both backed in the end, Henrique Salas Römer.

The presidential election of 1998 that brought Hugo Chávez to the presidency was therefore the culmination of a twenty-year process of traditional-party decline. Chávez did not destroy the old parties; rather, he filled a political vacuum. His promises were perfectly tailored to fill this particular void. His ultimate announced goal was to restore prosperity to the country—to stop the waste and corruption that Venezuelans believe to have been siphoning off their wealth, and to distribute it fairly among all citizens. But his means to that goal squarely targeted the traditional parties, which he indicted for creating the mess and accused of standing in the way of the necessary reform. "We are being called to save Venezuela from this immense and putrid swamp in which we have been sunk during 40 years of demagoguery and corruption," he proclaimed in his inaugural address.¹⁵ Although AD and COPEI's popular support had already dwindled to virtual insignificance, their militants were believed to be entrenched still in the congress, the courts, the bureaucracy, the electoral council, and state and municipal governments. He promised to remove these corrupt politicians from power and replace them with honest, hard-working, patriotic--and frequently, it turned out, military--citizens. Rooting out the corrupt partisans would require a full-scale assault on the existing democratic institutions, and the tool Chávez proposed to carry out this political revolution was a constituent assembly.

¹⁵ "New Venezuelan President Sworn In," Associated Press report, February 2, 1999.

Democracy and Horizontal Accountability

It is useful to interrupt the narrative at this point to reflect a bit more on democratic theory. I have gone to some lengths to substantiate the claim that Chávez had a clear majoritarian mandate to carry out his agenda. Why? I have no wish to become an apologist for him. Instead, I have two different goals. The first is explanatory: anyone who wishes to understand why so many Venezuelans supported Chávez and how it was possible for him to execute so much of his political agenda must recognize that his supporters granted him a kind of democratic legitimacy. I wish to describe the rationale for that legitimacy precisely. Second, I want to sharpen the distinction between democratic legitimacy based on popular sovereignty—which Chávez could reasonably claim—and democratic legitimacy based on liberal democratic principles—which he sacrificed along the way. This distinction captures the tension between two core democratic principles in Venezuela and therefore is useful for describing and evaluating the situation. When seen against this backdrop of theory, the Chávez government serves as a paradigmatic illustration of the tension between two standards for democracy.

Much of Chávez's popular support was derived from certain democratic ideals; there was a logic to his claims to be creating a more democratic system. As Charles Kenney has observed about Fujimori and Chávez,

in the very act of subverting those institutions – legislature, judiciary, constitution—that some see as the *sine qua non* of democracy, these leaders are often seen as more democratic than the institutions they have undermined. . . . They can frequently demonstrate that their anti-institutional actions have the support of a large majority of the population, and argue that this makes their actions democratic in the primary sense of ‘rule by the many.’¹⁶

¹⁶ Charles D. Kenney, “Reflections on Horizontal Accountability: Democratic Legitimacy, Majority Parties and Democratic Stability in Latin America,” paper presented at the conference on “Institutions, Accountability, and Democratic Governance in Latin America,” Kellogg Institute for International Studies, University of Notre Dame, May 8-9, 2000, p. 5. I wish I could quote pp. 4-7 of this paper in their entirety as they express so eloquently what I wish to say here. Kenney also argues that such leaders can also lay claim to the republican and liberal democratic virtues that Guillermo O’Donnell has defined as central to polyarchy. (Guillermo O’Donnell, “Horizontal Accountability in New Democracies,” in Andreas Schedler, Larry Diamond, and Marc F. Plattner, eds., *The Self-Restraining State* (Boulder: Lynne Rienner, 1999), pp. 29-51.) I am not convinced that republican values have a necessary theoretical connection

However, there is a different strand in democratic theory—liberalism—that calls for limits on the sovereignty of a popular majority. If majorities could be trusted never to undermine the basic procedures that make it possible to ascertain and give effect to the majority will, liberalism would be unnecessary. But the dominant strain of democratic theory for the past 150 years has assumed that majorities cannot be trusted. They easily give in to the temptation to modify the rules of the game to discriminate in favor of themselves and against the opposition. This discrimination is not always intolerable: for example, it is almost universally accepted as legitimate for governments to prefer their own partisans and allies for cabinet positions, top executive branch appointments, and legislative committee appointments.¹⁷ But the narrower the governing coalition is, and the more its discrimination extends to positions and rules that have a deep impact on fundamental interests of the opposition, the greater the danger of the tyranny of the majority.¹⁸ If these encroachments go so far as to threaten the opposition’s ability to formulate and express its views, to receive equal treatment under the laws, and ultimately to compete in the next election on an equal footing, then the minimal standards for democracy are not met.¹⁹

Liberal principles therefore justify and in fact require limits on the authority of the government of the day, no matter how clear its majoritarian mandate may be. In order to reduce the risk that a president will abuse a popular mandate, presidential constitutions provide for a diverse array of institutions with various powers to check the executive between elections. These institutions include a legislature with a distinct electoral base, and an independent judiciary; and in

to democracy or polyarchy, although there is a historical connection.

¹⁷ However, Lijphart has argued that the more the rules require the inclusion of as many political tendencies as possible, as opposed to narrow majorities or even minorities, the more democratic the system is. Arend Lijphart, *Patterns of Democracy: Government Forms and Performance in Thirty-Six Countries* (New Haven: Yale University Press, 1999), pp. 275-300.

¹⁸ Alexis de Tocqueville, *Democracy in America*, translated by George Lawrence, edited by J.P. Mayer (Garden City, NY: Doubleday, 1969), pp. 246-261.

¹⁹ Robert A. Dahl, *Democracy and Its Critics* (New Haven: Yale University Press, 1989), pp. 220-222. Here I am equating the “minimal standards for democracy” with polyarchy.

some states, a division of powers among tiers of government and an independent electoral agency, attorney general, comptroller, and *defensor del pueblo* (ombudsman). Liberal institutions can be thought of as a kind of democracy insurance policy. Citizens pay a premium in the present, in the form of sacrificing some of the government's representativeness and immediate responsiveness to their wishes, in order to purchase assurance that democracy will not fall below some minimal level in the future. Following this analogy, partyarchy was such an insurance policy, but Venezuelans came to feel that the premiums were too high. They cashed in the policy and are enjoying a windfall of responsiveness from the Chávez government; but they now have no insurance that democracy will survive in the future.

The Elimination of Horizontal Accountability During the first year of the Chávez government, participants on all sides seemed to agree that the Constitution of 1961 somehow locked in the terms of the 1958 party-centered Pact of Punto Fijo, allowed corruption, and guaranteed impunity and economic decline. This belief was baseless. The 1961 constitution was adequate for a democratic regime in Venezuela. In fact, it was a fairly standard Latin American presidential constitution, with very few provisions that could not be found in the constitutions of other democratic countries. Furthermore, the 1961 constitution provided for an amendment procedure that was feasible as long as there was sufficient political support for amendment; and what could not be accomplished by amendment could often be accomplished through ordinary legislation. For example, direct elections for governors and mayors were postponed for 30 years due to the lack of ordinary legislation, and were eventually instituted by the passage of ordinary legislation. There was no pressing institutional need to reform it.

Similarly, although the Constitution of 1999 made many changes, it stays within the range of constitution practice in Western democracies. Chile has a six-year presidential term; France has seven. The U.S., Brazil, and Argentina allow for presidential reelection, and we must keep in mind that there are no term limits on the executive at all in most parliamentary systems. There are respectable democracies with either single-round plurality elections or presidential runoffs of various sorts. Venezuela's new electoral system does promise to exaggerate the margin of victory of the

Chavistas, but in principle the first-past-the-post elections of the U.S., U.K., and Canada would do so as much under comparable conditions. The greater exaggeration in practice is not due to the constitution, but to the size of the Chavistas' majority and the fact that it is distributed fairly uniformly throughout the country. Also, there is nothing in the new text that prohibits further decentralization: if the government wants to favor decentralization, it will happen (as was true under the 1961 constitution). The 1961 constitution was not an important part of the problem, and the 1999 constitution will not be an important part of a solution. The primary motivation for calling a constituent assembly was not to tinker with the constitution.

The real problem with the constitution was that it protected Chávez's adversaries' control of congress and other institutions. AD and COPEI had cleverly arranged for the 1998 congressional and gubernatorial elections to be held one month before the presidential elections so that Chávez's powerful coattails would not affect these elections. Consequently, the pro-Chávez forces controlled only one third of the seats in the two chambers while the anti-Chávez forces controlled two thirds (Table 4). This representation would have created a serious obstacle to the most radical items on the president's agenda. And in fact, the incumbent congress did deny the president some of the emergency powers he requested in 1999. The constituent assembly was urgently desired not because the constitution was so poorly designed, but because it was the only conceivable body that would have the power to neutralize congress, the courts, and all other institutions of horizontal accountability.

In his first year in office, Chávez neutralized all of these institutions' ability or desire to check his actions and in this effort he was aided by the weakness of parties and civil society.

The essential chronology is as follows:

November 8, 1998: Separate congressional and gubernatorial elections allow AD and COPEI to hold onto a modicum of power.

December 6, 1998: Hugo Chávez is elected president with 56.2 percent of the vote.

February 2, 1999: Chávez is inaugurated and calls for a referendum to summon a constituent assembly.

April 25, 1999: Both referendum questions are approved by over 80 percent of the voters.

July 25, 1999: Pro-Chávez alliance wins 122 out of 131 seats in the National Constituent Assembly (ANC).

August 3-November 15, 1999: ANC drafts a new constitution and arrogates to itself the power to intervene or dissolve other state institutions.

December 15, 1999: The new constitution wins popular ratification with 72 percent of the vote; the old congress is dissolved.

January 31, 2000: The ANC ends; the legislative function is assumed by a 21-member National Legislative Committee until new elections of all public officials can be held.

February-March, 2000: MVR splits, giving rise to the presidential candidacy of Francisco Arias Cárdenas.

May 25, 2000: The "Mega-elections" scheduled for May 28 are postponed *sine die* and campaigning is halted.

The sections below describe the role of key actors and institution during this process and evaluate their current contributions to democratic governance (or the lack thereof).

Civil Society

Governability is favored when civil society is structured into solid, well-organized associations and these societal actors have understandings with one another and with the state that permit them to act freely and confidently.²⁰ This is one of the weakest areas of governance in Venezuela. There are relatively few social actors that are large and well organized, and the few that are all have a very strained relationship with the Chávez government. The most respected actor was the Catholic church, which initially had good relations with the government. However, in July 1999 the government cut in half its estimated \$150 million annual subsidy to the Church, and the ANC deleted language that protected life "from the moment of conception."²¹ By November church

²⁰ Michael Coppedge, "Instituciones y gobernabilidad democrática en América Latina," *Síntesis* No. 22 (Julio-Diciembre 1994): 61-88.

²¹ personal communication from David Smilde (Department of Sociology, University of Chicago).

officials were unofficially calling for a "No" vote in the constitutional referendum, and one bishop publicly interpreted the catastrophic mudslides in December as a sign of God's fury against the president. Chávez replied that "God is with the Revolution" and accused Church officials who opposed him of being in league with AD and COPEI and "having the devil up their cassocks."²²

The Church's ability to mobilize opposition remains to be seen, but the private sector has not delayed in expressing its lack of confidence. Honda, Fiat, and Unilever were among the foreign firms that closed factories in the first two years; in all, \$4 billion was transferred out of the country between July 1998 and December 1999.²³ Domestic business associations openly campaigned against ratification of the new constitution. CEOs were undoubtedly discomfited by the former guerrillas in the cabinet, the president's admiration of the Cuban model ("I feel happy to follow the path of Fidel. . . . [Venezuela is swimming] toward the same sea as the Cuban people. . . , a sea of happiness, social justice and true peace."), and his anti-business invective ("enemies of the nation," "a rancid oligarchy," "a truckload of squealing pigs," "a batch of bandits who have betrayed, pillaged and humiliated the people").²⁴ A lack of business confidence can certainly affect economic management: production fell 7.2 percent in 1999 and unemployment rose to approximately 20 percent of the workforce.

A third large organization, the Venezuelan Workers Confederation (CTV), also found itself in an antagonistic relationship with the government but lacked the leadership to launch concerted opposition. Organized labor had long been dominated by the political parties, especially Acción Democrática, but now that the parties were crippled, the organization lacked direction. Nevertheless, the Chávez government made plans to separate the unions from the parties in its

²² Ibid.

²³ Andrew Webb-Vidal, "Exodus from Venezuela," *Business Latin America*, reprinted in *The Economist Intelligence Unit*, 8 May 2000; David J. Myers, "Venezuela," forthcoming in the *Britannica Yearbook 2000*.

²⁴ Larry Rohter, "A Divided Venezuela to Vote on New Constitution," *New York Times*, December 15, 1999.

second year. ANC President Luis Miquilena complained that "there is an entrenched mafia of real *capos* of labor who forgot about elections and the grass roots."²⁵ To root them out, the government proposed to audit the labor leadership's assets and have the National Electoral Council supervise open internal elections. In the meantime, the state ended all its hefty subsidies to the CTV.²⁶

Because the Establishment parties had been so thorough in their penetration of other organizations, only a small number of well-organized, autonomous, and well-known interest groups survived the parties. Human rights groups are the exception, as many organizations were founded after the violent repression of the 1989 riots. One group lists 80 human rights organizations nationwide, although it is not know how many remain active.²⁷ Some of these, such as the human rights group PROVEA and the electoral reform group Queremos Elegir, participated in debates about constitutional reform. However, the fundamental fact is that there were comparatively few viable organizations in Venezuelan civil society. Chávez's relationship with "the people" was therefore mostly unmediated by secondary associations.

Elections

Clean elections are obviously essential for democratic governance. For decades, Venezuela's Supreme Electoral Council (CSE) enjoyed an excellent international reputation and Venezuelan elections were presumed to be pristine. However, it was well known that politicians practiced all sorts of chicanery in internal party elections, and in the popular mythology, the major parties represented at voting stations often divided up among themselves any votes cast for minor parties. Because minor parties continued to win some votes during this time, I doubt that there was systematic or widespread fraud of this nature in general elections before 1988. But with the election of governors and mayors in 1989, hard evidence of attempted fraud at this level began to turn up,

²⁵ "Gobierno presiona a la CTV para producir cambios," *El Nacional* 3 de febrero de 2000.

²⁶ *Ibid.*

²⁷ Website of the Comité de Familiares de las Víctimas de los Sucesos de febrero y marzo de 1989 <<http://www.cofavic.org.ve/lista.htm>>.

and several elections had to be re-run to ensure an accurate result.²⁸ As these cases gained publicity, widespread cynicism about the CSE set in. A reform during the second Caldera administration renamed this body the National Electoral Council (CNE) and aimed to depoliticize it by replacing some party representatives with technocrats. The CNE weathered some turbulence in the composition of its board, despite the adoption of computerized voting machines and frequent changes in electoral law, until early 2000. In January, 138 CNE officials affiliated with political parties were fired.²⁹ In February, the three-member board was rotated, probably due to suspicions that one board member was an "agent" for opposition presidential candidate Francisco Arias Cárdenas.³⁰ In the midst of this turmoil, the CNE was tasked with organizing the election of all officials, from president to local representatives, in a simultaneous election on May 28. This time, the CNE no longer had the technical capacity for the job, and these crucial elections had to be postponed. And this time there were serious questions about whether there was a partisan motive for the postponement (either from the Chávez camp or the Arias camp) and whether elections would be held anytime soon. Confidence in the electoral process as a fair arbiter of competition has been dangerously undermined.

Political Parties

During its peak years of partyarchy, Venezuela had a two well-organized, legitimate, and tightly disciplined political parties that were well-suited for ensuring governability. But one concomitant of the decline of partyarchy was a popular rejection of parties structured along these lines. Consequently, after the 1998 elections, political parties became one of the weaknesses of democratic governance in Venezuela.

²⁸ Margarita López Maya, "El ascenso en Venezuela de La Causa R," ponencia presentada en el XVIII Congreso Internacional de LASA, Atlanta, 10-12 de marzo de 1994.

²⁹ "CNE desincorporará a 138 funcionarios adscritos a nómina de partidos políticos," *El Nacional*, 4 de enero de 2000.

³⁰ "Reestructurada directiva del Consejo Nacional Electoral para actuar bajo consenso," *El Nacional*, 7 de febrero de 2000.

The two traditional parties, AD and COPEI, were diminished almost to the point of extinction by 2000. The government accelerated the collapse of the old parties by cutting off all public financing to parties, but the main cause was the loss of popular support. Neither party finally ran a presidential candidate of its own in 1998 or 2000. All members of the ANC who did not belong to a party allied with Chávez ran as independents. A few of their governors and mayors are likely to survive the mega-elections, but without a strong national organization, these affiliations will become increasingly meaningless. With their copartisans being rejected at the polls and purged from the bureaucracy, many remaining traditional politicians followed the example of Rafael Caldera, Carlos Andrés Pérez, and Claudio Fermín and abandoned their parties, some to retire and others to found new parties. (Antonio Ledezma chose the unfortunate name *Reacción Democrática* for his new party.) Most of these politicians and new parties will not be heard from again.

The largest party was Chávez's Movimiento V República (Fifth Republic Movement, or MVR), the electoral heir of the MBR-200 (Bolivarian Revolutionary Movement) that organized the February 1992 coup attempt. This organization appeared to be a true party with a large membership and some organization beyond election periods. Its membership swelled rapidly after Chávez took power, which made it more internally diverse. It was also reportedly divided between civilian and military wings that were united only by the personality of Chávez. Rumors that Chávez was distrusted by parts of its military base were confirmed in February 2000, when Yoel Acosta Chirinos accused Interior Minister Luis Miquilena of unethical contracting practices and Jesús Urdaneta Hernández was removed from the leadership of the party by its National Tactical Command. In March, these two leaders endorsed the presidential candidacy of Francisco Arias Cárdenas. All three are former military officers who collaborated with the first 1992 coup attempt. This was, in effect, a split of the MVR just 14 months into the administration, which raises doubts about the party's future contributions to governability. The existence of an MVR-affiliated "José Martí group [*coordinadora*]" of thugs who provoked violence against the Arias camp and journalists

raised further doubts.³¹

Some small parties have participated in an alliance with the MVR called the Polo Patriótico. These include the Movimiento al Socialismo (MAS) and, for a time, Patria Para Todos (PPT).³² MAS was a left or center-left party dating back to 1971, popular among students and intellectuals. Although it was awarded several positions in the cabinet, the Chavistas called their alliance with it “tactical” rather than “strategic” because it carried the taint of partial involvement in *concertación* under AD and COPEI administrations.³³ PPT, a ragtag center-left splinter from the moribund new-unionist La Causa R, nursed an increasingly unrequited love for Chávez. Although initially part of his alliance, Chávez all but excluded PPT candidates from the Polo’s tickets for 2000, as he felt that this small party contributed few votes and endangered his reputation. PPT leaders had no choice but to withdraw formally from the alliance for that election, but unofficially continued to support Chávez’s candidacy. The role of both parties recently has been more that of opportunistic hangers-on than of important independent parties.

All other parties outside the Polo Patriótico are little more than personalistic vehicles with short life expectancies. Irene Sáez Conde’s IRENE is defunct even though she was the leading presidential candidate for a year before March 1998; Salas Römer’s *Proyecto Venezuela* is hardly a relevant political actor, even though he finished second in December 1998. Many believe that a new opposition party or parties will emerge from the alliance backing Arias in 2000. However, it is more likely that this will be simply one more personal vehicle that will disperse after the election (assuming that he loses). It will probably be years before the political climate makes it possible to establish a coherent, well-organized opposition party that is not based on a charismatic personality. And until then, there will be no political actor with democratic legitimacy based on a popular

³¹ “Agreden a periodistas junto a sede del Consejo,” *El Universal*, 31 de mayo de 2000.

³² Others that allied with MVR for the 1998 presidential election were PCV, IPCN, GE, MEP, SI, and AA, none of which contributed as much as 2 percent of the vote to Chávez.

³³ Steve Ellner, “Rumblings in the Ranks of Chavismo,” *NACLA Report on the Americas* (May 2000).

following that is in a position to mount effective opposition to the government.

The Executive

Democratic governance requires an executive that faithfully executes the law, maintains its autonomy from the influence of unelected actors, and yet remains accountable to other democratic actors such as a legislature and an independent judiciary. Chávez bases his democratic legitimacy primarily on the first two conditions, which are derived from the logic of popular sovereignty, and has sought ways to avoid the third condition, which is based on the logic of liberal democracy.

The president claimed to be promoting efficiency and honesty in the executive branch by appointing military officers to high posts and mobilizing troops to carry out some duties that would normally be assigned to civilian bureaucrats. (Polls routinely show that the armed forces are among the least distrusted institutions in Venezuela.) In his first cabinet, six ministries were headed by military officers and 70 percent of the vice-ministers were from the military as well. He also appointed a leader of the November 1992 coup attempt as Governor of Caracas and welcomed the selection of another golpista as President of the Congress in 1999.³⁴ However, what drew more attention was his "Bolívar 2000" project, which deployed 70,000 troops to build roads and bridges, distribute food, vaccinate children, clean sewers, and carry out other public works.³⁵ Unfortunately, the military did not appear to be immune to corruption. Eduardo Roche Lander, who served as Comptroller General until his dismissal in December 1999, charged that commanders in Barcelona, Ciudad Bolívar, and Maturín billed for services not rendered and could not account for all their expenditures.³⁶

³⁴ Ludmila Vinogradoff, "La creciente presencia militar marca los 100 primeros días de Chávez," *El País* 15 de mayo de 1999.

³⁵ *Ibid.*

³⁶ Alicia La Rotta Morán, "Roche Lander califica al actual gobierno como el más corrupto," *El Universal Digital*, 1 de abril, 2000 <<http://universal.eud.com/2000/04/01/01102FF.shtml>>; Florángel Gómez, "En este gobierno faltan sanciones ejemplares," *El Universal Digital* 14 de abril, 2000 <<http://politica.eud.com/informespecial/corrupcion/eltrabajo.html>>.

Instead of increasing confidence in the executive branch, Chávez's reliance on the armed forces raised the fear of the militarization of the government. This fear was further encouraged by a 13 percent increase in the Armed Forces budget (despite an overall budget cut of 10 percent); the granting of suffrage to active-duty soldiers; and proposals to add a required "premilitary" curriculum in the schools and either eliminate most draft exemptions or require universal military service.³⁷ Nevertheless, these changes or proposals are properly understood as a not entirely welcome military role expansion initiated by a popularly elected president, not as a power grab by the military. Especially after the defection of Arias, Urdaneta, and Acosta from the Chávez camp, which was partly a reaction against this role expansion, the military's loyalties were divided.

Some of the constitutional changes have also raised the specter of an emerging dictatorship. However, none of these changes by itself makes a dictatorship likely. Chávez's push for a six-year term with the possibility of reelection for another six years (in addition to his first year and a half in office) strongly suggests that he would *like to* stay in office a long time. But doing so would require getting reelected, and that is not assured as long as other democratic procedures are followed. The constitution gives him the new power to dissolve the National Assembly, but before he can do that, the National Assembly must dismiss the Vice-President three times in the same period, and it is not likely to be so imprudent. The Assembly can make a limited grant of decree powers to the president, but this was also true (and abused) under the 1961 constitution, and it requires solid political support. The president is also empowered to declare a state of emergency and suspend certain constitutional guarantees, but now he must submit such a decree to the legislature within 8 days, rather than 10. Of course, if the president has a strong majority in the National Assembly, either decree powers or a state of emergency could be used to transform a government into a kind of dictatorship. But again, the crucial variable is not the constitution, which did not change significantly in either regard, but the president's intentions and the political support he could muster.

The Legislature

³⁷ Vinogradoff, *op. cit.*

There were three different national legislatures in the first year of Chávez's government, with a fourth scheduled to be elected during his second year. Each of the first three was less inclined to hold the executive accountable than the one before it. The first legislature was the bicameral congress elected one month before the presidential election, under the 1961 constitution and the 1989 electoral law. Because it was purposely delinked from the presidential election but coincided with gubernatorial elections, the parties that had attractive gubernatorial candidates did relatively well. This helped the traditional parties and Salas Römer's Proyecto Venezuela, and denied a majority in either chamber to Chávez's Polo Patriótico coalition (Table 4). Although members of this congress could not avoid being intimidated by Chávez's landslide one month later, they nevertheless refused to rubber-stamp his agenda. For example, this congress granted the president only about 80 percent of the decree powers he requested in 1999, and the 20 percent denied him were those most wide-ranging and ill-defined. The authority congress withheld frustrated Chávez.³⁸

The next legislature was the unicameral National Constituent Assembly (ANC), authorized by a referendum held in April 1999 and elected in July of that year. This body might seem to have been the ultimate check on the executive, for it declared itself legally omnipotent: not bound in any way by the 1961 constitution or any existing democratic institutions. This was a controversial claim: César Pérez Vivas, leader of the parliamentary faction of COPEI, charged that "an effort is being made to stage a coup d'etat with the Constituent Assembly, which is illegally usurping the functions of Congress and the Supreme Court. Democracy is dying in Venezuela."³⁹ The claim of unlimited powers was supported as much by the precedent of the 1991 constituent assembly in Colombia as by any Venezuelan legal text.⁴⁰ Chávez endorsed this interpretation and promised that

³⁸ "Chávez To Return Enabling Law To Congress," *Agence France Press* report, 6 April 1999, translated by *World News Connection* (FBIS-LAT-1999-0406).

³⁹ *Agence France Press*, August 25, 1999, reported and translated in *World News Connection* report no. FBIS-LAT-1999-0825.

⁴⁰ The text approved in the April referendum authorizing the ANC read in part, "Once the ANC is installed, it must dictate its own operating statutes. Its limits will be the values and principles of our republican history, as well as the fulfillment of international treaties, accords, and

he would even leave the presidency if the ANC decided to remove him. The Supreme Court, however, ruled that the ANC's powers were more limited and that its decisions would have to be ratified in a popular referendum. Nevertheless, upon being sworn in, the ANC immediately tried to close down the existing congress. After objections from the Court and the international community, the officers of the two bodies negotiated an arrangement that allowed the old congress to extend its technical existence until a new constitution was ratified as long as it recognized its subordination to the ANC in all matters of consequence.⁴¹

Of course, the ANC was not inclined to check the executive, as the Polo Patriótico alliance had won 122 of its 131 seats and Chávez's MVR had a 68 percent majority all by itself (Table 4). This overwhelming dominance would have been impossible without massive popular support, but it was also exaggerated by two provisions of an electoral law that Chávez unilaterally decreed, ignoring the recommendations of a blue-ribbon commission he himself had convened. The first provision was that candidates could choose whether to run on a party ticket, a social movement ticket, or as independents (*por iniciativa propia*). All the Polo candidates ran on a single Polo ticket and, because the parties in the alliance had negotiated well to prevent competition within the alliance, they succeeded in pooling their votes efficiently. Tragically, all the opposition candidates ran as independents, competing against one another and dividing the opposition vote. The second provision complemented the first: voters were allowed to cast as many votes as there were seats to be filled in each district, and the candidates with the largest pluralities were elected. This was a

commitments validly signed by the Republic; the progressive character of the fundamental rights of man and democratic guarantees; within the most absolute respect for the commitments assumed." ("Proceso Constituyente," <<http://politica.eud.com/procesoconst/referendo.html>>.) If this is read as a *complete* listing of the limits on the ANC's authority, it supports the view of its absolute sovereignty; if it is read as a *partial* listing of limits, then it supports a more conservative view. Considering the magnitude of the consequences of readings of this pivotal passage, a more explicit statement would have been desirable. However, the revolutionary mood prevailing in April 1999 probably would have made it possible to approve even a completely unrestricted grant of authority to the ANC.

⁴¹ "Decreto de regulación de las funciones del Poder Legislativo," 30 de agosto de 1999, text published at <<http://politica.eud.com/1999/08/31/250899d.html>>.

variant of a system known as the block vote, which has strongly majoritarian tendencies, i.e., it tends to exaggerate the margin of victory of the largest party.⁴² The Polo Patriótico ran first in every single district nationwide, and because most Polo supporters cast all of their votes for candidates identified on the ballot as Polo candidates, the Polo won 95.3 percent of the elected seats with 65.5 percent of the votes, while the independents won only 4.7 percent of the seats with 34.5 percent of the votes.⁴³

Although the ANC adopted rules that allowed the tiny opposition a disproportionate voice in its proceedings, the constitution inevitably favored the preferences of the governing alliance. The ANC also welcomed initiatives from interest groups but, predictably, groups advocating reforms endorsed by Chávez were far more “successful” in influencing the content of the constitution than unaffiliated groups.⁴⁴ The ANC finished its work far ahead of schedule, producing the final draft in 98 days out of the permitted 180. Chávez himself did not get a constitution that reflected his stated preferences in every respect. For example, the constitution basically endorsed decentralization even though Chávez favored greater centralization. Because there was no sign that Chávez was upset by these “losses” and because Chávez pressured the ANC to finish its work quickly, I suspect that he did not care much about the text beyond a few key provisions, such as the six-year term, immediate reelection, and the extension of the suffrage to the military. He was probably more interested in what the ANC did *besides* drafting a constitution.

The ANC did a great many other things that were crucial for eliminating checks on

⁴² Andrew Reynolds and Ben Reilly, *The International IDEA Handbook of Electoral System Design* (Stockholm: International Institute for Democracy and Electoral Assistance, 1997), p. 36. The variant used in Venezuela was that 104 seats were filled in statewide districts and 24 were filled in a single national district. Four of the six independents were elected in the large national district.

⁴³ María Pilar Garía Guadilla and Mónica Hurtado, “Participation and Constitution Making in Colombia and Venezuela: Enlarging the Scope of Democracy?” Paper presented at the XXII International Congress of the Latin American Studies Association, Miami, March 16-18, 2000, p.19.

⁴⁴ Garía Guadilla and Hurtado, *op. cit.*, pp. 20-22.

presidential power. As already mentioned, by the end of August it neutralized any challenge that might come from the old congress. At the same time, it created a Judicial Emergency Commission that began a purge of the entire judiciary, including the Supreme Court and the Judicial Council. After the draft constitution was ratified on December 15, the ANC (which was not dissolved until January 31, 2000) decreed a Public Power Transition Regime that dissolved congress and the Supreme Court, and appointed the Ombudsman (*Defensor del Pueblo*), Public Prosecutor (*Fiscal General de la República*), Comptroller (*Contralor General de la República*), and the board of the National Electoral Council. It also provided for itself to be succeeded, until new elections could be held, by a National Legislative Committee consisting of 11 ANC members and 10 unelected members appointed by the ANC. This *Congresillo*, as it was informally known, had vast powers, including the power to remove elected officials at the state and local level.⁴⁵ Any partially appointed body with such powers is more like a revolutionary junta than a representative legislature. By the time the ANC ended its functions, there was not a single national power, other than President Chávez himself, that had not been appointed by a body that was 93 percent Chavista.⁴⁶

The Judiciary

The Chávez government focused extraordinary efforts on purging the judiciary of allegedly corrupt or partisan officials. There is some irony in this, as the outgoing Supreme Court of Justice handed the government a precious legal victory. The Constitution of 1961 made no provision for a constituent assembly summoned by a popular referendum. Without a constituent assembly empowered to neutralize the legislative and judicial branches, Chávez would have remained accountable. It was therefore crucial for his success that the CSJ ruled, on January 19, 1999, that a constituent assembly *could* be summoned through a referendum. This decision provided legal cover for almost everything that followed; without it, the entire process would have been patently

⁴⁵ "Decreto mediante el cual se dicta el Régimen de Transición del Poder Público," *Gaceta Oficial* Número 33,859, published at <<http://politica.edu.com/1999/12/26/231299b.html>>.

⁴⁶ This percentage, unlike the one reported earlier, is based on the total membership of the ANC, including the three indigenous delegates.

unconstitutional. The Court's reasoning in this decision was equally important:

The possibility of [the people] delegating sovereignty via the suffrage to popular representatives does not constitute an impediment for its direct exercise in matters for which there exists no express provision in the norm regarding the exercise of sovereignty through representatives. Thus the people preserves its sovereign [*originaria*] power for situations such as being consulted about referendum issues. . . . The opinion of the electorate can be sought on any decision of special national transcendence other than those expressly excluded by article 185 of the Organic Law of Suffrage and Political Participation, including a decision relating to the calling of a Constituent Assembly.⁴⁷

This rationale endorsed the priority of democracy-as-popular-sovereignty over the logic of liberal democracy. It lent legitimacy to the profoundly illiberal notion that “supraconstitutional” means can be invented to give effect to the apparent will of a large majority of the people.

This supreme court was dissolved in December 1999 and replaced by a new Supreme Tribunal of Justice (TSJ), which includes a new Constitutional Court and inaugurates oral arguments in order to make justice more speedy. The independence of this new judiciary remains to be seen. In the meantime, the Judicial Emergency Commission, succeeded by the Commission on the Functioning and Restructuring of the Judicial System in December 1999, lost no time in replacing judges. By the end of March 2000, 294 judges had been suspended, 47 others fired, and 101 new judges appointed.⁴⁸ It is probably that most of these had ties with one of the traditional parties, as the courts had long been infiltrated by partisan or family-based “tribes.” It is also credible that most of these judges were corrupt. According to Transparency International, 67 percent of Venezuelans perceived the judicial sector to be inaccessible and corrupt; the corresponding figures for Argentina,

⁴⁷ Corte Suprema de Justicia, “Fallo N° 17 [de la Corte Suprema de Justicia de Venezuela sobre el referendo para convocar a una Asamblea Constituyente], January 19, 1999, from chapters IV and VIII, published in *Venezuela Analítica* <<http://www.analitica.com/bitbliblioteca/csj/fallo17.asp#introduccion>> [my translation].

⁴⁸ Irma Alvarez, “Suspendan 83 jueces y destituyen a 28,” *El Universal*, 30 de marzo, 2000.

Ecuador, and Brazil were 46, 47, and 56 percent.⁴⁹ Clearly a drastic change was necessary, but what remains to be seen is whether the new judges will be any better.

Other Powers

The dissolution of the old institutions in December 1999 gave the government a convenient opportunity to dismiss officials who had become critical. One of these was the Comptroller General, Eduardo Roche Lander, whose charges of corruption against the armed forces have already been mentioned. It also provided a new opportunity to stack some bodies with loyalists. This may have been one of the problems with the CNE that led to the postponement of the megaelections originally scheduled for May 2000. In retrospect, it was unreasonable to expect that officials appointed in January would be able to master a completely new electoral system, renegotiate with foreign contractors, and run elections at all levels with more than 6,000 candidates in less than five months. It would have been even less realistic if some CNE officials were seeking to gain some partisan advantage; there is scattered evidence of such intent.⁵⁰ Fortunately, after the postponement the *Congresillo* appointed a new CNE board, which by all indications possessed good technical qualifications and was as politically independent as one could hope.⁵¹

Federalism

⁴⁹ Florángel Gómez, "Esperemos colocar un puñado de buenos jueces en el sistema judicial," *El Universal Digital*, 14 de abril, 2000 <<http://politica.eud.com/informespecial/corruccion/>>.

⁵⁰ Jesús Urdaneta charged that new technicians were incompetent because they were chosen for their political loyalties: "From Miquilena's daughter on down, they are all [Chávez's] people and serve his interests." Larry Rohter, "Critics Question Legitimacy of Venezuelan Election Process," *New York Times*, May 23, 2000. Also, one CNE technician dismissed after the postponement quoted his boss telling him not to trust certain other technicians, who were alleged to be supporters of Francisco Arias. Finally, the head of the U.S. firm contracted to supply electronic equipment for the voting machines charged that he had been instructed by the CNE to ensure that all votes for any party in the pro-Chávez alliance would count as votes for Chávez in the presidential race even though PPT had formally withdrawn its support for him. (Alcides Castillo, "El CNE planteó a ES&S que los votos favorecieran al candidato Chávez," *El Nacional*, 1 de junio de 2000.)

⁵¹ "Los cinco principales del CNE" and "Los cinco suplentes," *El Universal*, 4 de junio, 2000.

The *Congresillo* quickly made use of its power to dismiss elected officials at subnational levels of government. In April 2000, acting on investigations by the Comptroller General appointed just three months earlier, the National Legislative Committee dismissed Governor Alberto Galíndez of Cojedes state and seven mayors in three other states.⁵² All of these were members of Acción Democrática, and the only other governor threatened with dismissal was also from AD.⁵³ In at least one instance, heavy-handed tactics short of dismissal were used to intimidate or embarrass an opposition governor. When the Regional Legislative Committee (appointed by the ANC like its national counterpart) conducted an investigation into the administrative practices of Governor William Dávila Barrios of Mérida state, 30 submachine-gun-toting commandos in gray fatigues from the national political police (DISIP) accompanied the judge and two accountants who were sent to inspect the books. The premises were sealed off and traffic was blocked during their two-hour visit. This raid drew nonstop local media coverage just 4 days before a scheduled election in which the governor was a candidate.⁵⁴

Prospects

It would be misleading to paint a completely negative portrait of democratic governance in Venezuela. It is not a completely illiberal democracy. There is still organized opposition, which is able to criticize the president and his ministers harshly. Newspapers still report scandals about both sides. Individuals still free form and express their own political opinions and organize interest groups, social movements, and political parties. In some ways--legal protections for human rights, a lessening of impunity--the situation may even be improving. But this regime (or, more accurately,

⁵² Cenovia Casas, "Congresillo decide hoy sobre destitución de siete alcaldes," *El Nacional*, 30 de marzo de 2000; Luisana Colomine, "Sólo el gobernador de Cojedes será destituido," *El Universal* 5 de abril de 2000.

⁵³ "Congresillo intervendrá las gobernaciones de Cojedes y Amazonas," *El Nacional*, 26 de marzo de 2000.

⁵⁴ Eleonora Delgado and Alonso Zambrano, "Denunciarán ante la OEA allanamiento de la Disip a la Gobernación de Mérida," *El Nacional*, 25 de mayo de 2000; Deisy Martínez and Solbella Pérez, "Eliézer Otaiza: No hubo allanamiento," *El Nacional*, 25 de mayo de 20

this transitional moment) is illiberal in the sense that, for the time being, a single political movement controls the executive, the courts, the legislature (if the *Congresillo* deserves the name), and nominated all the members of supposedly independent agencies. The institutions necessary for liberal democracy are present, but they are not sufficient, because their shared political agenda has rendered them incapable of checking each other.

Even if these institutions have not yet been abused very much, democracy can still suffer, because it is largely a game of expectations. Citizens who expect to be punished for acting freely cannot be truly free. It may be premature to conclude that Venezuela has already reached such a situation, as little time has passed. But it is difficult to believe that after acting so boldly to align all these institutions politically, Chávez and his followers would refrain from using them. There are signs that expectations have changed already. To whom, for example, did Governor Dávila complain when the DISIP raided his office? He complained to the Organization of American States, an international organization, because he could not expect an impartial, much less sympathetic, hearing from any politically relevant actor inside Venezuela. He no longer had the protection of a party with clout; the electoral council was in disarray at the time; judges would risk dismissal if they protected him; the comptroller was the one auditing his books; and the executive and legislature were on Chávez's side.

There are few rosy scenarios for the future. Several paths would lead quickly to an authoritarian regime: if the megaelections are postponed indefinitely; if they are held and Arias wins but is not allowed to take office; if they are held and Arias loses but leads a coup attempt. There is small chance of a more moderate, tempered, more liberal democracy. But the chance is small because it would require Arias to win the presidential election *and* Chávez to let him take office. The gap between Arias and Chávez has been stuck in the double digits (mostly) for weeks, although the postponement may jump-start his campaign. But when Chávez says that God is with his revolution and that all those who oppose him are unpatriotic or in league with the devil, the chances that he will stand down voluntarily are not good. Such a scenario would require military officers loyal to Arias to force Chávez to concede, and that could lead to fighting.

At present, the most likely scenario is for the elections to be held, Chávez to win, and Arias to concede. These events would favor a long-term Chávez regime. It is not at all clear what such a regime would mean for economic strategy, foreign relations, or many other issues. Chávez himself might be able to remain popular for quite some time, as Fujimori did; or his popularity could plummet quickly. Either way, sooner or later, he will have to go, but before going there would be a risk of a slow descent into authoritarianism or a last-minute presidential coup. The one certainty is that he will not go quietly.

Table 1: Electoral Support for Chavismo

<i>Date</i>	<i>Election</i>	<i>Chavista</i>	<i>% of vote</i>	<i>% of electorate</i>
December 1998	Presidential	3,673,685	56.2	33.4
April 1999	referendum Q1	3,630,666	87.8	33.0
April 1999	referendum Q2	3,382,075	81.7	30.8
July 1999	ANC candidates	3,174,226	65.5	30.3
December 1999	constitutional referendum	3,301,475	71.8	30.4
July 2000	presidential	TBA	TBA	TBA

Source: December 1998, April 1999, and December 1999: reproduced or calculated from Margarita López Maya and Luis Lander, "La popularidad de Chávez: ¿Base para un proyecto popular?" unpublished ms. (Caracas: febrero de 2000), p. 4 (based on Consejo Nacional Electoral figures); July 1999: votes from López and Lander, op.cit.; percentages calculated from María Pilar Garía Guadilla and Mónica Hurtado, "Participation and Constitution Making in Colombia and Venezuela: Enlarging the Scope of Democracy?" Paper presented at the XXII International Congress of the Latin American Studies Association, Miami, March 16-18, 2000, p. 17; July 2000: Consejo Nacional Electoral.

Table 2: Initial Base of Electoral Support for Elected Venezuelan Presidents

<i>President</i>	<i>Year</i>	<i>Vote as percentage of eligible voters</i>
Rómulo Gallegos	1947	estimates minimum: 33.6 most likely: 43.6 maximum: 54.6
Jaime Lusinchi	1983	47.3
Carlos Andrés Pérez	1973	45.0
Rómulo Betancourt	1958	43.4
Carlos Andrés Pérez	1988	42.1
Luis Herrera Campíns	1978	40.0
Hugo Chávez Frías	1998	33.4
Raúl Leoni	1963	28.4
Rafael Caldera	1968	26.2
Rafael Caldera	1993	17.7

Sources: 1947-1988: calculated from Consejo Supremo Electoral figures; 1993-1998: calculated from Consejo Nacional Electoral figures.

Table 3: Initial Base of Electoral Support for Latin American Presidents

<i>President</i>	<i>Country</i>	<i>Year</i>	<i>Vote as percentage of eligible voters</i>
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			<i>first/ only round</i>	<i>runoff</i>
Batlle	Uruguay	1999	52*	
Lagos	Chile	1999	41.9	45.9
Fujimori	Peru	1995	39.1	
Lacayo	Nicaragua	1996	38 *	
Zedillo	Mexico	1994	37.9	
De la Rúa	Argentina	1999	37.5	
Flores	Honduras	1997	35.9	
Cardoso	Brazil	1998	33.9	
Chávez	Venezuela	1998	33.4	
Rodríguez	Costa Rica	1998	31.8	
Flores	El Salvador	1999	31 *	
Moscoso	Panama	1999	31*	
Cubas	Paraguay	1998	25*	
Clinton	United States	1996	24.2	
Mahuad	Ecuador	1998	18.8	TBA
Fernández	Dom. Rep.	1996	18 *	24 *
Banzer	Bolivia	1997	14.9	
Pastrana	Colombia	1998	11 *	16 *
Arzú	Guatemala	1995	11*	

*Estimates based on the winner's share times a recent average turnout rate for the country.

Table 4: Seats Won by Parties in National Legislatures Elected 1998-2000

Party	November 1998		July 1999	July?? 2000
	Chamber	Senate	Constituent Assembly	National Assembly
Acción Democrática	62	29		
COPEI	27	17		
Proyecto Venezuela	20	14		
La Causa R	5	5		
Convergencia Nacional	3	1		
Apertura	1	1		

independents	0	0	6	
<i>Opposition Total</i>	<i>118</i>	<i>67</i>	<i>6</i>	<i>TBA</i>
Movimiento V República	46	21	89	
Movimiento al Socialismo	18	10	19	
Patria Para Todos	6	2	9	
Partido Comunista de Venezuela	0	0	5	
<i>Pro-Chávez Total</i>	<i>70</i>	<i>33</i>	<i>122</i>	<i>TBA</i>
appointed indigenous delegates	0	0	3	
TOTAL	188	100	131	

Sources: November 1998--Consejo Nacional electoral; July 1999--bloc totals from Consejo Nacional Electoral, breakdown within Polo Patriótico from personal communication from Steve Ellner; July 2000--TBA.

Notes