

Democratization



Year 1, Issue 1

Ideological configuration of the Bolivarian
Revolution

Juan Miguel Matheus

Birth and evolution of two separated
national legal systems in Venezuela

Miguel Mónaco

Bolivarian Revolution and the development
of the gangster state in Venezuela

Paola Bautista de Alemán

Technology as a social control and oppression
mechanism in Venezuela

Edward Pérez

Democratization

September 2019

Year 1, Issue 1

Ideological configuration of the Bolivarian
Revolution

Juan Miguel Matheus

Birth and evolution of two separated
national legal systems in Venezuela

Miguel Mónaco

Bolivarian Revolution and the development
of the gangster state in Venezuela

Paola Bautista de Alemán

Technology as a social control and oppression
mechanism in Venezuela

Edward Pérez

Caracas.

Edited by Instituto FORMA

Introduction

On December 6, 1998, presidential elections were held in the Republic of Venezuela. Hugo Chávez Frías, a retired lieutenant colonel who led a military uprising six years earlier, won the popular vote. Venezuelans supported a non-traditional option of a breaching nature that intended to end the democracy upheld since January 23, 1958, and to found the “5th Republic.”

Thus, twenty years before the rise of populism as a global phenomenon¹, a Chavez-supporting Venezuela became a pioneer in the dismantling of a constitutional democracy. After two decades of the Bolivarian Revolution, that December Sunday can be identified as a historic milestone. It can be said that that day changed the course of the country when a process of democratic reversal that opened doors to the complex autocratic system we experience today began.

The introduction that hereby begins will be divided into three parts. First, the research project at hand will be presented. Next, a brief summary of each of the articles that make up this volume will be offered and, finally, the research perspectives will be presented.

I.

Below, the preliminary results of *Cambio político en el S.XXI: el caso venezolano*² are presented, a research project created and promoted by the Civil Association FORMA that brings together

1 Larry Diamond, *Ill Winds* (Nueva York: Penguin Press, 2019), 9.

2 *Political change in the 21st century: the case of Venezuela.*

specialists from different areas of knowledge. The central purpose is to go in-depth on the nature of the Bolivarian system and offer clues that allow its understanding. This effort contributes to the study of the autocracies of our century and identifies possible paths that facilitate political change.

Democratization is a series of six digital publications that collect the results of our research and analysis. Its dissemination seeks to raise awareness about the impact of the autocratic development we have experienced in Venezuela and the risks of its expansion. Each edition will deal with the different aspects that make up the political process that takes place in our country. At the end of our study, we propose to offer the national and international scientific and political community a real image of the complex phenomenon we are witnessing.

II.

In the first edition of *Democratization*, the autocratic nature of the Bolivarian Revolution was studied. Following the contributions of Samuel Huntington, it is understood that there may be a relationship between the autocratic nature of political systems and the possible development of a democratization process. In this sense, typifying the Bolivarian Revolution is an indispensable task to advance in the analysis of the process of political change and evaluate the possible outcomes.

To achieve this purpose, five dimensions that describe the regime of Nicolás Maduro have been identified: 1. ideological, 2. progressive, 3. gangster, 4. technological and 5. international. The dissection of the political phenomenon will allow to identify those aspects that may be susceptible -or not- to some kind of mutation or change in a short term. In the long term, it is an effort to under-

stand autocracies considered “the greatest disease that a State can suffer” (Plato, Book VIII).

The first issue of *Democratization* includes four articles. A brief review of each one follows:

Ideological dimension and identity of the Bolivarian Revolution, by deputy Juan Miguel Mateo, is an analysis of the ideological foundations of the autocratization process initiated in Venezuela in 1999. The author inquires about the depth of the ideological pillars that have sustained this process and approaches the identity that those pillars have created for the Revolution. Finally, he establishes relations between the ideological dimension and identity of the Bolivarian Revolution and an eventual process of transition towards democracy.

The problem of the birth and development of two separate national legal systems in Venezuela, written by Dr. Miguel Monaco, describes the dismantling of the State begun in Venezuela in 1999. The author specifies the measures that progressively made the Constitution of the Republic Bolivarian devoid of sense and allowed the imposition of a new order, invalid and unconstitutional. The factual simultaneity of both legal systems and the accompanying political forces are currently leading the difficult institutional and social crisis Venezuela is experiencing. The director of the Institute of Legal Research of the Andrés Bello Catholic University concludes that the least expensive solution in human terms for this problem, far from being legal, is eminently political and implies the crystallization of the will of agreement of both parties.

Technology as a social control and oppression mechanism in Venezuela, by Edward Pérez, is a descriptive study of the use given to technology by the Bolivarian Revolution to try to manipulate

Venezuelans. The author explains and affirms that the regime has been able to directly influence the people's free vote, restrict access to goods and services necessary to satisfy their rights, to promote their political ideology and to subject them to adhere to it in order to access social governmental benefits, to isolate those who disagree with that ideology or those who manifest their disagreement with the regime, and to restrict access to information.

The Bolivarian Revolution and the development of the Gangster State in Venezuela, by Dr. Paola Bautista de Alemán, is an approach to the origins of the Gangster State and a description of the challenges that this reality imposes in terms of democratization. The article exposes the theoretical foundations that support the analysis and typifies the Bolivarian Revolution as a *gangster state of entropic nature*. Finally, the author reflects on the possibility of political change from a gangster state, questions the feasibility of a negotiation process when the political actors of the dictatorship lead organized crime groups that have the solidarity of the autocratic powers of the world and ponders the possibility of holding elections in the current collapse situation.

III.

Democratization is an initiative that brings together theoretical foundations and practical political experience. The group of specialists that have developed this project approach the phenomenon from two perspectives: scientific research and political and/or social activism. The first is applied with intellectual rectitude and the second is moved by moral duty. Those of us who live in Venezuela today find in academic work a way to create testimony

and keep track of the democratic struggle lived by the entire society.

We intend to leave a record of the Venezuelan experience –our experience– in order to contribute to the current decision-making process and reach new generations. We put our research at the service of all people of goodwill who think and work to build a democratic future in our country.

Ideological configuration of the Bolivarian Revolution

Juan Miguel Matheus

The goal of this article is to investigate the ideological foundations of the autocratization process initiated in Venezuela in 1999 with the arrival of Hugo Chávez to the Presidency of the Republic. After twenty uninterrupted years wielding power, it becomes convenient to deeply understand -and from a historical perspective- the ideological pillars that have sustained this process and how these have created an identity for the Revolution. The practical implementation of the original postulates of *Chavismo*¹ will be verified in order to, consequently, identify the level of “originalist orthodoxy” with which these ideological foundations are currently present in the Bolivarian Revolution.

The investigation will be divided into three parts. In the first part, the definition of ideology, ideological identity and ideological configuration of an autocratic regime will be discussed. Secondly, the distinctive features of the ideological configuration of the autocratic regime inaugurated by Hugo Chávez in 1999 will be presented. In the third part, as a conclusion, the mutability and immutability of those distinctive features over time will be analyzed, as well as the turning points that have meant a greater or lesser ideological strengthening of the Revolution, and several ideas about the ideological identity of the Revolution, associated

1 *Chavismo* is the political ideology based on the ideas and government style of Hugo Chávez.

with the implications that it brings to an eventual democratic transition in Venezuela.

Ideology, ideological identity and ideological configuration of an autocratic regime

The methodological starting point of this research is to conceptually define what is understood as ideology and the ideological identity of an autocratic regime. The application of both categories for the understanding of the political reality of the Bolivarian Revolution will depend on this starting point.

Ideology

The controversies and connotations that historically swarm around the concept of ideology are sufficiently known². Academics and men of action have witnessed paradigm shifts regarding the world of ideas and their relationship with politics. From the revolutionary effervescences of 18th-century France, the so-called “political ideas”, which naturally had encouraged power struggles at all times, began to be systematically articulated under the expression “ideology”³. Karl Marx played a decisive role in this, as the generalization of the expression can be attributed to him. And, of course, it is also due to Marx that the concept has been discredited or, at least, associated with the system of thought that was then coined under the label of “Marxism”.

But starting in the 20th century, ideologies began to expand beyond the spheres of Marxism. The 20th century was, for better

2 Joseph S. Roucek, “Historia del concepto de ideología”, *Revista Mexicana de Sociología*, Vol. 25, No. 2, 1963, pp. 665-694.

3 Daniel Miguel López Rodríguez, “En torno a la idea de ideología”, *El Basilisco: Revista de materialismo filosófico*, N° 51, 2018, pp. 19-29.

or worse, the century of ideologies, first with the emergence of the interwar ideologies –those that John Paul II called “ideologies of evil”⁴ and Tismaneanu, “the devil in history”⁵: Marxism, Nazism, and fascism–. Nevertheless, after the desolation of the two great wars, the political parties of the democratic systems of continental Europe and Latin America assumed the expression “ideology” to point out their programs of action and their itineraries towards power: Christian democrats, social democrats, liberals, radicals, etc. Ideologies thus had a kind of democratic redemption. And this to such an extent that even after the fall of the Berlin Wall, the change in the bipolar world and Francis Fukuyama’s preannounced and well-known “end of history”, ideologies continued to be a very important conduit of social legitimization of the political parties, became action platforms in favor of genuinely democratic causes and –in general– were assumed as guidelines which brought about actions.

Ideological identity

Nevertheless, ideologies became much more than a political controversy or a legitimation factor. Contemporary philosophy, deeply rooted in idealism and German thinkers, facilitated intellectual speculation about ideologies and about the existence of ideologies⁶. The fundamental worldviews of historical existence were divided into two: right and left, both as final explanations of everything that exists and as quasi-necessary channels of human

4 Juan Pablo II, *Memoria e identidad*, Editorial La Esfera de los Libros, 2005, Barcelona, 236 pp

5 Vladimir Tismaneanu, *The Devil in History: Communism, Fascism and Some Lessons of the Twentieth Century*, Berkeley, University of California Press, 2012, 320 pp

6 See Louis Dumont, *German Ideology: from France to Germany and Back*, The University of Chicago Press, 1994, 250 pp.

action. This is the phenomenon that Robert Spaeman called “right and left ontology”⁷. It is essentially the political religion that Talmon envisioned as the germ of “political messianism”⁸ and that, *mutatis mutandis*, faced Augustine of Hippo against the supposedly sacred character of the Roman Empire⁹. It is the Gnosticism that Eric Voegelin criticized again and again¹⁰. And it is, in short, the pure and hard terrain of the dictatorship of relativism upon which the once-named Cardinal Joseph Ratzinger, today Holy Father Benedict XVI, attracted attention¹¹.

Thus, the ideologies of the twentieth century were generalizing, embracing and penetrating everything. There was no human aspect that could not find a final explanation, almost anthropological and/or metaphysical, in the redoubts of ideology. And that generalizing character provided a principle of radical identity: the being was the ideology. In other words, the person was whatever their ideology was, the party was whatever their ideology was and the State was whatever the dominant ideology in the social conglomerate was.

7 Robert Spaemann, “Sobre la ontología de derechas e izquierdas”, *Anuario Filosófico*, Vol. 17, number 2, 1984, pp. 77-88.

8 J.L. Talmon, *The Origins of Totalitarian Democracy*, Mercury Books, London, 1919, pp. 17 and following pages.

9 Augustine of Hippo, *Political Writings*, Cambridge University Press, 2001, especialmente en lo referido a los “Obispos y las autoridades civiles”, pp.133 and following pages.

10 Eric Voegelin, “Science, Politics and Gnosticism”, in “*Modernity without Restraint*” (*Complete Works*), University of Missouri Press, 2000, 336 pp.

11 Joseph Ratzinger, *Verdad, valores, poder: piedras de toque de la Sociedad pluralista*, Editorial Rialp, Madrid, 1995, 112 pp.

Ideological configuration of an autocratic regime

Here, attention should be drawn to a particular aspect: the exacerbated rationalism of ideological constructs becomes an unsuspected danger to human existence if it intermingles with the phenomena of power. And even more in the case of autocratic power, because the principle of radical identity of ideologies and the autocratic will to power are the bases of totalitarian systems, which are born when the following formula is configured: total-power machinery at the service of a total ideology. Consider, for example, Soviet power at the service of Marxism, and Germanic power at the service of National Socialism: is the configuration of an ideological identity that is consubstantiated with an autocratic regime not evident?

The answer to the previous question is clear. However, the issue must be explored more profoundly. It is necessary to specify that is understood by ideological configuration of an autocratic regime, which will be constructed under the following premises:

Ideological configuration of an autocratic regime is understood as:

1. The articulation of a set of ideas that acquire a systemic, worldview and key character for the interpretation of all reality,
2. (...) that becomes the action guide that historically justifies the performance of a power structure far from justice,
3. (...) and that tends to impose itself -even through violence and lies- on every person and on every component of the social body. Moreover, the ideological configuration of an autocratic regime is a dynamic process. It mutates with

time since the factors that most influence this dynamism are the search and the effective exercise of power. This becomes important because it recalls two concepts with their own entity, but closely connected with the phenomenon of the ideological configuration of an autocratic regime. These are concepts that will allow to better understand the deployment of the ideological configuration of the Bolivarian Revolution as an autocratic regime: *ideological reconfiguration* and *ideological deconfiguration*.

Ideological reconfiguration supposes the readjustment, rearrangement or partial mutation in the bases of ideas that encourage an autocratic regime, which allows zigzags in historical performance. However, this does not mean that the autocratic regime loses its original ideological identity, but rather the existence of an ultimate ideological redoubt that is preserved with flexibility of action and adaptation to the circumstances. An example, in this case, could be Cuban Castroism¹², which continues to be essentially Marxist/communist: it has preserved the ultimate redoubt of its initial ideological configuration, but subsists with flexibility of action and adaptation to new circumstances, especially after the decline of the Soviet empire.

Ideological deconfiguration implies a “reset” in the original framework of ideas and a new configuration. The search or exercise of power leads to a new ideology scheme that is different from the original one, giving rise to a new identity. This occurs regardless of the discourse or the propaganda, rather being defined by actions and facts imposed in reality. An example could be the Chinese regime: it abandoned its old and orthodox Maoist

12 An overview of the topic can be found in Max Azicri and Elsie Deal, *Cuban Socialism in a New Century: Adversity, Survival, and Renewal*, University of Florida Press, 2004, 363 pp

revolutionary schemes (deconfiguration) to gain a new ideological identity: state capitalism or market socialism, as preferred. It is a new autocratic nature, with a new ideological configuration¹³.

The ideological features of the regime inaugurated by Hugo Chávez: the ideological configuration of the Bolivarian Revolution

On December 6, 1998, Hugo Chávez was elected President of the Republic of Venezuela. His immediate antecedent before being a presidential candidate was a military uprising against constitutional democracy on February 4, 1992, which is what brought him to the public eye, both nationally and internationally. After the failure of the coup attempt, Chávez was arrested and later released through the procedural institution of the dismissal of criminal cases and thus began his rise to power.

In this section, the elements that ideologically shaped the Bolivarian Revolution in its origins will be established. Also, the moments when these configurator elements arose will be determined. For the purposes of the present study, the temporal spectrum to be considered as the ideological configuration of the Bolivarian Revolution will be the ascent and seizure of power by Chávez. That is the timeline that oscillates between the attempted coup d'état of February 4, 1992, and the approval of the new national Constitution on December 15, 1999.

To further explain, the proposed timeline includes the elements that configured Chávez ideologically, as the coup d'état of February 4 reflects the **militarism** of the Bolivarian Revolu-

13 Daniel Vukovich, *Illiberal China: the ideological Challenge of the People's Republic of China*, Palgrave Macmillan, Singapore, 2019, 250 pp.

tion, but as a substratum of that militarism, the **indoctrination of lefts and Marxist language** infiltrated the Armed Forces long before February 1992, as well as the **Bolivarianist delirium**. Once released from prison, Chávez changed his pre-understandings about the participation of the elections of the democratic system. He went from an abstentionist position to a position of **democratic instrumentality**, which reached its maximum materialization with his triumph in the presidential elections of December 1998. Once in power, he revealed his **civic-military union** by the hand of Argentine sociologist and political scientist Norberto Ceresole. He also undertook one of the alliances that would most define his future: the relationship with Fidel Castro. Two crucial elements for the Bolivarian Revolution would derive from this relationship: the strengthening of Marxist postulates in a **castro-Cubanization** stand and the **internationalization of the Revolution**. All that, in relation to the 1999 Constitution -Chávez's main electoral promise during the 1998 presidential campaign- was the starting point for the progressive dismantling of constitutional democracy and the beginning of the imposition of **populist constitutionalism**. Thus, once the 1999 Constitution was approved, the process of practical implementation of the ideological configuration of the Bolivarian Revolution began.

Let us examine each of these elements separately.

Militarism

The republican history of Venezuela is marked by a militaristic propensity, a kind of over-dimensioning of the role of the military and the Armed Forces in the political life of the country. On this phenomenon, there is abundant literature and multiple explanations. In general terms, the military component has been

considered –and in practice– as the historical support of autocratic governments and democratic governments. Autocracies have been marked by military governments, like those that followed the separation of Venezuela from Great Colombia. And when it comes to democratic governments, such as those of the period of the Civil Republic between 1958 and 1998, there has always been the risk of a military asylum or a militaristic regression. In any case, we want to emphasize that the *center of the militarist propensity is the assumption of force as a principle that organizes power relations and the exercise of government.*

This baggage of political culture largely explains the militarism embodied by Hugo Chávez. To better understand the phenomenon, the circular causality theory of Dieter Nohlen could be considered: the effects influence the causes and vice versa¹⁴. In this way, the militaristic propensity helped to cause Hugo Chávez

14 Dieter Nohlen points out that although the analytical scheme that is often applied in Political Science is directed (artificially) to isolate and identify variables and preferably in the dichotomous order, we must not lose sight of the fact that the relationship we study is, on the one hand, multicausal and, on the other, circular. This last characteristic consists in that the factor considered as dependent can be co-determinant for the factor thought as independent; for example, first, in the choice and implementation of an electoral system by the political parties and, second, because of the influence of the party system structure on the effects caused by an electoral system in it (in the system of parties). Given this situation, I prefer to talk about a circular cause-effect relationship (in German: Wirkungszusammenhang) that does not dissolve the classic relationship in the study of causality between an independent and a dependent variable, but adds to its analysis –from a systemic perspective– the context. Dieter Nohlen, *Ciencia Política y Democracia en su contexto. Justicia electoral y democracia. Tribunal Contencioso Electoral*. Quito, 2010, p. 28.

as a concrete political effect and this, in turn, enhanced or deepened the militaristic propensity of Venezuelan political culture.

When Chávez appears on the public sphere with the attempted coup d'état of February 4, 1992, he stands by the worst form of the Venezuelan military propensity: the possibility of force as a principle that orders power and government relations, intermingled with militarism, utopian passion, and political messianism¹⁵. After that coup attempt, he promoted the belief that constitutional democracy was –or at least allowed– a great social disorder: administrative corruption, economic inequalities, human rights violations, etc¹⁶. As a consequence, the yearning for a strong government that turned order into chaos in the country was also enthroned, the desire for a savior who would enter the system to reform democracy from within, and even by force consented by citizenship. Or, in other words, and insisting on the phenomenon we want to describe: a protector who assumed strength as the principle that ordered power relations in democracy and in a democratic government.

This was a configuration element of the Bolivarian Revolution ideology. February 4, 1992, was considered the milestone that divided history into a before and after. On the other hand, both in the public figuration of Hugo Chávez and in the creation of the political movements that accompanied him: the military and the element of force were always essential realities for the Revo-

15 We have dealt with the issue of political messianism and the people's propensity for utopia in Juan Miguel Matheus, *Ganar la República Civil: reflexiones sobre la reconstrucción nacional y la crisis de la hora presente*, La Hoja del Norte, Caracas, 2015, pp. 23-37.

16 Aníbal Romero, "Rearranging the Deck Chairs on the Titanic: The agony of Democracy in Venezuela", *Latin American Research Review*, Vol.32, N 1, pp. 7-36.

lution: in speeches and stories, in programmatic contents, in the ways of accommodating internal relations within the elites that favored Chávez, in the conception of international relations, etc., and certainly the civic-military union.

An idea that allows us to better apprehend the ideological configuration of Chavismo is the fact that the Bolivarian Revolution is militaristic, but it is not a unique and exclusively military Revolution, nor a single and exclusively force movement. And the governments of the Revolution -both Chávez and Maduro- have been militarists in the sense described above, but not governments of the Armed Forces.

Left-Marxist language

The Bolivarian Revolution is essentially leftist¹⁷. That is the political spectrum to which 21st century Socialism belongs, as people who share that ideology and others who do not coincide. However, the difficulty lies in finding its ideological specificity within the left. That is, what defines it most in that trench of struggle. That which sculpts its physiognomy and informs its actions.

17 Guillermo Tell Aveledo explains that the Socialism of the 21st century is a coherent, although little systematized, set of political ideas. This systematization, however, is not necessary, since the Chávez-political language fits into the long tradition of Venezuelan socialism, in its insurrectional and authoritarian Marxist current. After the death of Chávez, there has not been a turn from that affiliation, but rather it has been recently reaffirmed. Guillermo Aveledo, *Los fundamentos ideológicos del sistema político chavista en Desarmando el modelo: las transformaciones del sistema político venezolano desde 1999* by (Ed) Diego Bautista Urbaneja, Visión Venezuela, Instituto de Estudios Parlamentarios Fermín Toro and Fundación Konrad Adenauer, 2017, pp.50.

Because even in the case of a *sui generis* left, it is important to identify the identity of that nature, which is unique and unrepeatable.

In this sense, the Bolivarian Revolution causes controversy within the world of the left. On the one hand, social democracy denies it. Chávez was not a social democrat and his socialism was not democratic. On the other hand, the historical, orthodox left refers to the Bolivarian Revolution as a company of mere ambition of power without any ideological foundation that defines it or directs it.

We believe that the most accurate is to describe the ideological configuration of the Revolution from a left framework that points to the formal use of language and of Marxist categories¹⁸. However, it will not be done in an attempt to fully understand Marx and to sculpt his ideas concretely in the field of political and social reality. The Revolution is manifestly leftist, with Marxist language, but peripheral and rhetorical. This does not subtract the gravity or substantivity of the identity that characterizes Chavism, but, as will be seen later, makes it a more voluble ideological configuration, more prone to reconfiguration.

Let us identify what are the elements of this left which is ideologically configured with the Marxist language:

1. Total left: one of the most characteristic features of the leftism of the Bolivarian Revolution is its total character. Its aspiration for domination encompasses every person and everything in the human person, that is, body and soul. Francisco Plaza has studied the phenomenon and refers to

18 On the communicational conceptions of Chavismo, see Paola Bautista de Alemán, *A callar que llegó la Revolución*, (Caracas, La Hoja del Norte, 2014), 202 pp.

it as a reality of deep totalitarian vocation and semi-spiritual quality¹⁹. In the psychology of Hugo Chávez, the revolution was born at a specific moment in history to transform human nature. Therefore, it is not a mere approximation of structural transformation of economic and social realities. It is something deeper. The Bolivarian Revolution was born, fundamentally, as an anthropological revolution aimed at reaching the new man, the new Venezuelan²⁰.

2. Class consciousness: the Bolivarian Revolution supposedly has a social character. According to the regime's account, it is the expression of the proletarian Venezuela suffering, subjugated by the bourgeois regime of Puntofijo democracy. That is why it boasts itself as a proletarian movement for the vindication of social justice.
3. Anti imperialism: Marxist language has been used since the genesis of the Revolution to identify the enemy in history. The struggle of Hugo Chávez was a universal struggle because his enemy was also the "American imperialism". And the struggles of all post-Chávez revolutionaries is also a struggle against the United States of America and its power structures.
4. The evil in history: the Bolivarian Revolution assumes Marxist language to identify that the evil in history is capital. That is why the construction of the economic order points to the control of the means of production, to the

19 Francisco Plaza, "Beyond Tyranny: The Totalitarian Spirit of the Venezuelan Regime", *The Political Science Reviewer*, Volumen 42, Number 1, (2018): 1-33

20 Francisco Plaza, *El silencio de la democracia* (Caracas: Libros El Nacional, 2011), 93

destruction of capital structures and to the rupture of the bonds that economically oppress the working and popular classes: a Marxist theory of real socialism of the 19th century, screened according to Caribbean modes and Venezuelan anthropology²¹.

Bolivarianist delirium

Bolivarian theology typical of Venezuelan political culture found fertile ground in the Chavista Revolution²². Perhaps that Bolivarianism, so innate to the Creole character, increased exponentially by being confused with the nationalism characteristic of military academies and military environments in which Hugo Chávez's personality developed. The truth is that Chávez confessed to being a furious follower of the legacy of El Libertador²³. And this to such an extent that he conceived himself as the historical heir of Simón Bolívar and he saw the Bolivarian Revolution as a lieutenant of the glorious forging-freedom army.

It is difficult to explain what Bolivarianism means in particular. In fact, it is impossible to sustain the rationality of Bolivarian theology. Far from being an attempt to cement the foundations of a nation according to a republican ideal, in an ideal legal architecture or in a collection of traditions, Bolivarianism does not even exceed the category of a mere cult of personality. It is true that it is the cult of a fascinating personality, of undoubted human qualities and undeniable historical merits, but the root problem is that rational human coexistence requires more institutional substrates

21 José Guerra, *El mito del socialismo bolivariano* (Caracas, Editorial Dahbar, 2019), 157

22 Luis Castro Leiva, "El historicismo político bolivariano", *Revista de Estudios Políticos*, Número 42, (1984): 71-100

23 Simón Bolívar.

and fewer personal substrates. However, Bolivarianism was assumed as an ideological feature that has shaped the Bolivarian Revolution, even becoming its namesake.

How does Bolivarianism contribute to the ideological configuration of the Revolution?

1. A moral in history: Bolívar's doctrine is the source of the goodness or evil of the historical performance of Venezuelans. It is good or bad according to whether or not it is Bolivarian. Both individually and collectively, the thermometer of patriotism is precisely Bolivarianism.
2. Historical justification: Chávez and the Revolution are, as we have said before, heirs of Bolívar and his family. The cause of Bolívar is the cause of Chávez in perfect historical continuity. There is no continuity solution. It is an unfinished work that must be updated in time.
3. Personality cult: Bolivarianism leads directly to the cult of personality. The leader or charismatic leader is licensed to place himself above the law, the Law and even of the whole society.
4. Historical antagonism: Chávez and the revolution, as heirs of Bolívar, are also heirs of the sympathies and historical antipathies of El Libertador. That is why the Bolivarian Revolution divides humanity between friends and enemies, and the subsequent right to "privilege" friends and "harm/annihilate" enemies.

As noted, for the purpose of the Revolution, Bolivarianism is perfectly subsumed in the categories of Marxist thought²⁴. For Hugo Chávez, Bolivarianism was a Marxist (and subjective) interpretation of the life and work of Simón Bolívar²⁵: it was the opportunity to condition the appreciation of history with his own ideas and try to make the State and society march in the direction marked by his interpretations²⁶.

Democratic instrumentality

The initial instinct of Hugo Chávez to enter power was armed struggle²⁷. In order to do so, he directed the Venezuelan Army with the coup attempt of February 4, 1992. His hypothesis of ascent to power was violence. In this sense, he was orthodoxly Marxist and orthodoxly Leninist. However, after the experience of the prison, several politicians of the former Venezuelan left became an important part of his environment. They convinced him to insert himself in the democratic system to, taking advantage of its cracks and mechanisms, make the revolution from within. That is, they convinced him to assume the Gramscian hypothesis of the rise to revolutionary power.

A first consideration regarding this change in the hypothesis of ascent to power is related to unfair action within the democratic

24 On the constant ideologization of Bolívar see Inés Quintero, "Bolívar de izquierda - Bolívar de Derecha", *Historia Caribe*, Number 7, (2002): 77-92

25 Juan Carlos Rey, "El ideario bolivariano y la democracia en el siglo XXI", *Revista Venezolana de Ciencia Política*, Number 28, (2005): 167-191

26 Anatolio Medeiros Arce, "Historia e ideología bajo Hugo Chávez", *Diálogos: Revista Electrónica de Historia*, Universidad de Costa Rica, Vo. 13, Number 2 (2012): 141 and following pages.

27 Damarys Canache, "From Bullets to Ballots: The Emergence of Popular Support for Hugo Chávez", *Latin American Politics and Society*, Vol. 44, Number 1, (2002): 69-90

system. Hugo Chávez was never a loyal actor to the constitutional democracy system. On the contrary, as derived from the thought of Juan Linz²⁸, he was an unfair actor who assumed the formal rules of democracy to destroy democracy itself. It could also be said, following Letvisky and Ziblatt²⁹, that Hugo Chávez subverted democratic institutions in Venezuela through a progressive and non-traditional coup d'état. To a large extent, Lieutenant Colonel took advantage –as Larry Diamond observes³⁰– of the lack of commitment of fundamental actors and the general population to build a Revolution amid a democracy with faint roots.

A second consideration has to do properly with the substantivity of power and the instrumentality of democracy. In this, there is a prevalence or primacy of the ambition of power. Never a precompression of democracy as a fair political order that is worth creating and maintaining over time. In the ideological configuration of the Bolivarian Revolution, there is an end and middle relationship between power and democracy, conceptualizing the latter as an adjective reality. Formal democracy is instrumentalized as it is a means to achieve and/or preserve power. But if democracy ceases to be useful for the fulfillment of the purposes of power of the Revolution, then it is changed by any other lawful or illegal means that assure them.

28 Juan Linz, *La quiebra de las democracias*, (Madrid, Alianza Universidad, 1987), 312. On the same idea see Scott Mainwaring and Aníbal Pérez-Liñán, *Democracies and Dictatorships in Latin America: Emerge, survival and fall* (New York, Cambridge University Press) 353

29 Steven Levitsky and Daniel Ziblatt, *Cómo mueren las democracias* (Editorial Ariel, 2018), 9 and following pages.

30 Larry Diamond, *Saving Democracy from Russian Rage, Chinese Ambition and American Complacency* (New York, Penguin Press, 2019), 35.

Thus, it can be concluded that the DNA of the ideological configuration of the Bolivarian Revolution makes it an unfair actor in a constitutional democracy.

Civic-military union

Fascism is a perfect alloy of militarism and populism: two terribly toxic metals for the health of any political order that wants to be democratic. They are merged to obtain the exaltation of national identity in a corporate entity. This is the essence of this autocratic nature. One of its most defining characteristics is the civic-military union, as a bidirectional phenomenon. In one direction, the popular is militarized. Logic and military forms penetrate all the recesses of the subjective reality called people (mass). In the other direction, the military is popularized. The national feeling of the people (mass) becomes the soul of the military. The catalyst that harmonizes the alloy is, of course, the charismatic leader: the leader who serves as a hinge to integrate the popularized Armed Forces and the militarized people into a unit of action.

That *caudillista*³¹ hinge was Hugo Chávez, and for the purposes of the Revolution, whoever acts as Chávez. His social extraction and military training made him the charismatic leader pointed out by history to corporately articulate the Armed Forces and the people of Venezuela, as Simón Bolívar and Ezequiel Zamora did once. Both gave rise to an epic struggle that fueled the itinerary of ascent to the power of Chávez. In this sense, the fascism of the convergent civic-military union in Chávez, which was theorized by the controversial Argentine sociologist Norberto Ceresole³²,

31 *Caudillismo*: despotic leadership in which the armed group is used as an element of power

32 On the influence of Norberto Ceresole on Hugo Chávez and on the fascist conception of the civic-military union for the Bolivarian Revolution see

was expressed as follows in the original ideological configuration of the Bolivarian Revolution:

1. The civic-military union is a historical mandate: a demand of history for every revolutionary.
2. The civic-military union is a mold forge for revolutionary souls. The cast was created by Hugo Chávez himself on February 4, 1992, but it was an inheritance for the formation of subsequent revolutionaries. A revolutionary must embody the military even if it is not formally, and it must be mass even if it does not come from it.
3. Once the power is taken, the Armed Forces are part of the government. That translates into the colonization of the State and Public Administration by the Armed Forces. It doesn't matter if it's civil charges or reserved for civilians.
4. Once the power is taken, the military turns to the social demands of the mass. They have to relieve the pain that the masses suffer from social iniquities. This was intended to be done with the Bolívar 2000 Plan, which was the largest and earliest expression of a civic-military union in the supposed search for a solution for structural social problems.

Internationalization and Castro-Cubanization

Hugo Chávez and the Bolivarian Revolution are phenomena posterior to the fall of the Berlin wall. They coincide with the wave of neo-leftism and populism that Latin America experienced during the 2000s. The Kirchners, Evo Morales, Rafael Correa,

Paulina Gamus, "Venezuela", *Thor American Jewish Year Book*, Vol. 107, (2007): 308 and following pages.

Mujica, Lula, Ortega, and Fernando Lugo: all were heads of state in their respective countries, ideologically leveraged in the Sao Paulo Forum and developed politically under the mentorship of Fidel Castro³³. During the years of Chávez, Latin America turned left. And in one sense, “the commander” became the leader and visible face of that movement³⁴. The once democratic importance of Venezuela, oil resources, and its communicational histrionism allowed him to place himself at the forefront of a new attempt at universal revolution.

That universality is an essential feature in the ideological configuration of the Revolution. The personality of Hugo Chávez and his deep awareness of the universal character of the “proletarian struggles” made it possible for *Chavismo* to be configured with a universal vocation and aspire to internationalize rapidly³⁵. Chávez’s youth and formation was always stalked and influenced by Castro-communism, especially through his brother Adam Chávez and guerrilla leader Douglas Bravo³⁶. In addition to this, as soon as he was released from prison, Hugo Chávez traveled to Havana in 1994 to meet with Fidel Castro. He was accompanied by Luis Miquilena. It was a definitive episode in which the Castro-Chávez alliance was resolved³⁷, the seeds of populist

33 Isidro Sepúlveda, “La nueva geopolítica latinoamericana”, *Política Exterior*, Vol. 21, Number 116, (2007): 149-162

34 Javier Corrales, “Hugo Boss”, *Foreign Policy*, Number 152, (2006): 32-40

35 Carlos Alberto Patiño, “Más allá del realismo mágico: Hugo Chávez y su reinención del mundo”, *Cuadernos de Pensamiento Político*, Number 39, (2013): 61-81.

36 Brian A. Nelson, “The Education of Hugo Chávez: Unraveling Venezuelan’s Revolutionary Path”, *The Virginia Quarterly Review*, Vol. 87, Number 2, (2011): 174-187.

37 Max Azicri, “The Castro-Chávez Alliance”, *Latin American Perspectives*, Vol. 36, Number 1, *Cuba: Interpreting a Half Century of Revolution and Resistance*, (2009): 99-110.

rhetoric began to grow years later³⁸ and served as the basis for initiatives of International Public Law through which the Latin American revolution was intended to be institutionalized, such as ALBA, CELAC and the attempt to colonize UNASUR. Chávez gave Castro a second chance in Latin America³⁹ and Castro gave Chávez an important element for the ideological configuration of his Revolution.

But what is the deepest sense of castro-Cubanization as an element that configures Chávez ideologically? Let's try to sketch it in a few words:

1. An emotional foundation: The relationship struck between Fidel Castro and Hugo Chávez involved complex political personalities, but it was, above all, an emotional, psychological and paternal-filial link, and Chávez transmitted this to the structures and forms of his revolution.
2. A historical foundation: For Chávez, freedom and the independence of Venezuela and Cuba are the same thing. There is a substantial unity between the Venezuelan people and the Cuban people. And there is a vicarial character in that process of destiny: Chávez was the vicar of Bolívar, and Castro was vicar of Martí.
3. A principle of international action: A principle of autocratic solidarity was set between Chávez and Fidel, which expanded throughout Latin America. It is also the same principle by which Chávez's heirs in the Bolivarian Revolution expect support from other autocratic powers in the

38 Marco Aponte-Moreno and Lance Latting, "Chávez: Rethoric Made in Havana", *World Policy Journal*, Vol. 29, Number 1, (2012): 33-42.

39 Daniel P. Erikson, "Castro and Latinamerica: A Second Wind?", *World Policy Journal*, Vol. 21, Number 1, (2004): 32-40.

world such as Russia, China, Iran, North Korea, Turkey, etc.

4. Ideological obstinacy: Fidel Castro created and led the “resistance” revolution. And that was transmitted to the Bolivarian Revolution. Chávez went on the attack against his national and international enemies. But he also conceived an ultimate core of resistance of his Revolution. A sort of firm autocratic will to hold on to power, wait for the right moment to destroy enemies and consolidate their strategic positions.

Populist constitutionalism

The ideological configuration of the Bolivarian Revolution in constitutional matters has been well studied by Political Science and Comparative Law⁴⁰. It could be synthesized as follows: *Constitution without constitutionalism*⁴¹, *populist constitutionalism*⁴² or *constitutionalism in an authoritarian regime*⁴³.

Plato’s idea, which states that the worst of all injustices is being unfair and not looking like it, is well known. And that is precisely the constitutional project of the Bolivarian Revolution: act unconstitutionally and simulate constitutionality. In this sense, for the Bolivarian Revolution, the Constitution is not a program of

40 Allan Brewer-Carias, *Asamblea Constituyente y ordenamiento constitucional* (Caracas, Biblioteca de la Academia de Ciencias Políticas y Sociales, 1999), 328.

41 The idea is a transversal constant in the work of Walter Murphy, *Constitutional Democracy*, (Baltimore: John Hopkins University Press, 2006)

42 David Landau, “Populist Constitutions”, *The University of Chicago Law Review*, Vol. 85, Number 2, (2018): 521-544

43 Tom Ginsburg and Alberto Simpser, “Introduction: Constitutions in Authoritarian Regimes”, in *Constitutions in Authoritarian Regimes*, (New York: Cambridge University Press, 2014): pp. 1-17.

republican values. It is a source of formal legitimacy to take on the appearance of justice actions aimed at achieving and maintaining the supreme revolutionary end: power⁴⁴.

To better explain the statements made above, facts should be offered. Let us look at the legal-political itinerary that culminated in the approval of the 1999 Constitution, which has been badly called the Chávez Constitution or the *Chavista* Constitution. The facts are:

1. 12-06-1998: Chávez triumphs with 56.2% (3,673,685 votes) in the presidential elections. The abstention was 36.55%.
2. 01-19-1999: Judgment of the Political-Administrative Chamber of the Supreme Court of Justice. The Speaker was Humberto J. La Roche and left the way open to call a National Constituent Assembly, although this was not allowed by the then-valid Constitution of 1961. The fundamental thesis of the sentence was the supra-constitutionality of the constituent power over power constituted and on the Constitution.
3. 01-23-1999: The parliamentary section of the then-President Hugo Chávez, Fifth Republic Movement, promotes debate within the National Congress on the opportunity and feasibility of convening a National Constituent Assembly and drafting a new Constitution.
4. 02-02-1999: Chávez is sworn in by the outgoing President Rafael Caldera in the Senate Chamber. Chávez does not swear to defend the Constitution, but promises to destroy

⁴⁴ Juan Miguel Matheus, *Situación actual y perspectivas de la democracia en Venezuela*, (Caracas: Instituto Latinoamericano de Investigaciones Sociales, 2012): 10

it: "I swear before God, before the Fatherland and before the People that, on this dying Constitution, I will promote the necessary reforms to elaborate a Magna Carta appropriate for the new times"⁴⁵.

5. 04-25-1999: Based on what is stated in the supra-constitutional ruling (01-19-1999), the Consultative Referendum is carried out to determine if the people of Venezuela, "in the exercise of national sovereignty", want to convene a National Constituent Assembly in order to write a new Constitution and refound the Venezuelan State. The questions consulted were the following:

Do you convene a National Constituent Assembly with the purpose of transforming the State and creating a New Legal Order that allows the effective functioning of a Social and Participatory Democracy? YES or NO.

Do you agree with the bases proposed by the National Executive for the call to the National Constituent Assembly, examined and partially modified by the National Electoral Council in session dated March 24, 1999, and published in its full text, in the Official Gazette of the Republic of Venezuela No. 36,669 dated March 25, 1999? YES or NO".

The Referendum is won by "YES" with 71% of the votes. Abstention was 55%.

6. 07-25-1999: The election of the members of the National Constituent Assembly is made. Chávez wins 124 of the 131 seats. "The key of Chávez" or "Kino de Chávez", which

⁴⁵ <https://www.youtube.com/watch?v=cnSIJrhzeJc>

was the electoral system illegally adopted for the election, allows Chávez to obtain 95% of the representation with 60% of the vote.

7. 08-15-1999: The National Constituent Assembly is dominated by the “Patriotic Pole” and chaired by Luis Miquilena. It is a National Constituent Assembly that generates doubts about its representativeness and writes the constitutional text draft in only three and a half months.
8. 12-15-1999: The Referendum approving the Constitution drafted by the National Constituent Assembly is held. The “YES” wins with 81.74% of the votes, against the “NO” that registers a voting percentage of 12.75%. Nevertheless, the abstention was 62.35%.

Given all of the above, it is worth assessing these facts related to the Constitution to systematize how they reveal the political will of Hugo Chávez and his attempt to ideologically configure the Bolivarian Revolution:

1. The struggle for a new Constitution was present from the days after Hugo Chávez’s release, once his prison time was completed. The account of the exhaustion of the 1961 Constitution was created. It was assumed that this constitutional text had expired in time and did not represent the country since it was the product of the democracy of the Puntofijo Pact that supposedly excluded the historic left. Later, when the moment of the rise to power arrived, the drafting of a new Constitution became the main electoral promise of Hugo Chávez.
2. The inspiration of the new Constitution was the doctrine and thought of Simón Bolívar, as interpreted by Hugo

Chávez under the Marxist lens. This resulted in the new constitutional text formally calling the Republic of Venezuela “Bolivarian” that contained in its article 1 the reference to the doctrine of Simón Bolívar as the basis of the republican order.

3. The constitutional “mind” of the Bolivarian project was Hugo Chávez himself, who directly influenced all the work of the National Constituent Assembly. Another sample of messianism and Bolivarianist delirium.
4. The formal legitimation of the Constitution was highly questionable. As seen in the list of facts, it was a process outside the provisions of the then-current Constitution of 1961, implementing a fraudulent electoral system for the election of constituents and with very low levels of citizen participation.
5. The constitutional account acquired a propaganda character since the 1998 election campaign. First, the new Constitution was a historical claim for inclusion and for social justice. And secondly, it meant the starting point against corruption and clientelism of Puntofijo democracy⁴⁶.

Conclusions: Permanence and mutation of the ideological elements of the Bolivarian Revolution, reconfiguration or deconfiguration?, democratic transition

So far it has been reviewed what is understood by ideological identity and configuration of an autocratic regime. The features that ideologically shaped the Bolivarian Revolution have also

46 On the subject it is essential to consult Manuel Caballero, *La gestación de Hugo Chávez. 40 años de luces y sombras en la democracia venezolana* (Madrid, Editorial Los Libros de Catarata, 2000), 208

been examined. The permanence or mutation of these features in time must also be studied in order to determine if the ideological identity of the Revolution has been subject to a process of reconfiguration or disfiguration. Then, the implications that all this brings in regards to an eventual process of democratic transition are analyzed as a form of conclusion.

Permanence and mutation of the ideological elements
of the Bolivarian Revolution

1. **Militarism:** the original militarism of the Bolivarian Revolution is maintained and deepened. Force remains the principle that orders power relations and the exercise of government. This has been mediated by several facts. First, the experience of the power vacuum in April 2002. Since then, one of Hugo Chávez's firm purposes was to further bend the Armed Forces⁴⁷, subject them to higher levels of partisanship and ideologization. Second, the Cubanization of military institutions with subjects of Castro-communism who exercise intelligence and counterintelligence in all components of the armed forces. Third, the use of brute force and repression by the FANB to the civilian population. 2014 and especially 2017 were years of exacerbated political and social conflict, and very serious human rights violations. And fourthly, as a phenomenon contradictorily associated with militarism, a deepening of the role of paramilitary collective groups whose *raison d'être* is intimidation and the sowing of terror in society.
2. **Left-Marxist language:** the representatives of the Revolution continue to assume their leftist status and use Marx-

47 Harold Trinkunas, *Crafting civilian control of the military in Venezuela: a comparative perspective* (The University of North Carolina Press, 2005), 297

ist language. Certainly, this language does not penetrate the bulk of Venezuelan society. The economic chaos is socially imputed to the Revolution and the left rhetoric lost power after the death of Hugo Chávez. All of this has been enhanced by the failure of the *Plan de la Patria* and the mechanisms of social control of *Chavismo* such as the card of the country and the distribution of food through CLAP boxes. But none of this has prevented the propaganda and indoctrination apparatus of the regime from continuing to operate and the categories that originally shaped the Revolution are intended to be deepened.

3. **Bolivarianist delirium:** After twenty years of exercising power, the Bolivarian Revolution has deepened its Marxist interpretation of the Bolivarian corpus. But, beyond propaganda, it does not seem that they have achieved the goal of penetrating Venezuelan political culture further. On the contrary, it seems that in academic environments and in the general population, conditions to review the so questionable Bolivarian theology are being created as a pendulum effect.
4. **Democratic instrumentality:** this characteristic has been deepened radically within the Bolivarian Revolution. The year 2015 meant an internal reshaping within the nature of *Chavismo*. The defeat brought by the Democratic Unity Roundtable⁴⁸ to the ruling party in the parliamentary elections of December 6, 2015, pushed the regime to more radically unveil its undemocratic nature. Such defeat was a sort of autocratic learning for the Revolution. Since then, and before the possibility of losing the real power, the Bolivarian Revolution broke the Venezuelan electoral system.

48 Mesa de la Unidad Democrática.

It has never competed again in electoral processes, not even in questionable conditions of electoral justice. This explains the election of the fraudulent National Constituent Assembly, the steamroller of the 2017 regional elections and the electoral farce of May 20, 2018, from which the usurpation of Nicolás Maduro Moros derives. In this sense, after December 6, 2015, the Bolivarian Revolution ceased to be a hybrid regime or a competitive authoritarianism and instead turned into a pure and hard autocracy without appearance or simulation of electoral justice.

5. **Civic-military union:** the death of Hugo Chávez weakened the logic of the charismatic leader who served as a hinge to articulate the Armed Forces and people of Venezuela. The lack of military conditions of Nicolás Maduro has led to this. However, there has been a process of greater exposure of military leaders of military components to Venezuelan society, especially from the Minister of Defense, General Vladimir Padrino López. The civic-military union continues to be a definitive feature of the Revolution.
6. **Internationalization and Castro-Cubanization:** the internationalization of the Revolution has led to exponential levels the solidarity of the autocratic powers of the world with the Bolivarian Revolution. These powers have been lent to simulate some legitimacy of the Chávez regime before international organizations. But above all, the dictatorships of the world have been key so that Nicolás Maduro can resist the economic asphyxiation derived from the sanctions scheme led by the United States of America and

the European Union, thus seeking an autocratic rebalancing process.

And the Castro-Cubanization has been refined in such a way that the repressive apparatus of the Venezuelan State is directly directed by Havana.

7. Populist constitutionalism: the appearance of constitutionalism has faded over time. Even the Bolivarian Revolution has proven willing to discard the 1999 Constitution, an alleged legacy of Chávez. The installation of the fraudulent National Constituent Assembly as a strategy to get out of the political crisis of 2017 is proof that the text of the Constitution and its fulfillment were never the ends of the Bolivarian Revolution. Perhaps Hugo Chávez was honest and, for the revolutionaries, the 1999 Constitution has been nothing more than “*la bicha*”, just as the Commander himself referred to the Magna Carta⁴⁹.

Reconfiguration or deconfiguration?

From the previous considerations, it can be concluded briefly that the postulates that ideologically shaped the Bolivarian Revolution remain the same. But the weight of reality, the democratic struggles of the people of Venezuela, the support of the countries of the free world, the passage of time and the net ambition of power have led the Revolution to readjust its ideological configuration. **A reconfiguration process has worked internally by virtue of which, even having the same ideological identity,**

49 Rogelio Pérez Perdomo, “Venezuela 2002: crisis política y Derecho”, *Revista de Derecho Político*, Number 57, (2003): 311 and following pages.

***Chavismo* has made more flexible the implementation of its original postulates to maintain the exercise of power.**

The ideological reconfiguration of the Bolivarian Revolution and the eventual democratic transition

Finally, we can conclude the following regarding the implications that the ideological reconfiguration of the Bolivarian Revolution brings in regards to an eventual democratic transition in Venezuela:

1. *On the capacity for internal reform and the weight of the ideological variable.* The highly ideological mood of the Revolution makes this a structure not very prone to internal democratizing reforms⁵⁰.
2. *On the possibilities of an eventual liberation of a negotiated and/or agreed nature.* The exit and democratization costs of the regime's officials are higher than in a traditional dictatorship. To the economic interests must be added the ideological obstinacy, that is, the firm determination to die in power⁵¹.
3. *On the expansive nature of the elements that shape the Bolivarian Revolution ideologically.* The elements that shaped Chávez ideologically have taken deep roots. Unfortunately, there is a kind of cultural deformation in this sense, which is perceived inside and outside the Revolution. A lot of the

50 Jeane Kirkpatrick, "Dictatorship and double standards", *Commentary Magazine*, 68:5, (noviembre 1979): 34-45.

51 Humberto García Larralde, "La ideología como obstáculo a la alternancia democrática en Venezuela", *Cuadernos del CENDES*, Año 34, Número 96, Tercera Época, (Caracas, 2017): 1-36.

corruption that began as part of the Bolivarian Revolution today is also of the Venezuelan society.

4. *On the impact of the ideology of the Bolivarian Revolution.* The ideological imposition of the Revolution is part of a phenomenon of circular causality: the *Chavista* regime has been nourished decisively by the Cuban influence. And Cuba has consolidated itself autocratically thanks to the resistance of the Bolivarian Revolution.
5. *On the ideologization of the Armed Forces.* The ideological configuration of the Revolution has lasciviously penetrated all the components of the Bolivarian regime. But it is especially worrying how these elements have found fertile ground in the National Armed Forces⁵². This, coupled with the militaristic propensity, hurts the republican and civilist tradition of Venezuela more deeply. It also predictably overestimates the role of the Armed Forces in the democratic transition process.
6. *Regarding the dynamics of autocratization in Venezuela.* The free world must observe the Venezuelan process to build new mechanisms of Public International Law that allow safeguarding nations from emerging autocracies. No country, no matter how strong its institutions are and how mature its political culture is, is vaccinated against autocracy or against populism.
7. *Regarding the Gangster State.* In particular, Public International Law must establish legal remedies against orga-

52 Harold A. Trinkunas, "The Transformation of the Bolivarian Armed Force: Venezuela", in *The Routledge handbook of civil-military relations* (New York, 2013): 123 y and following pages.

- nized crime and terrorism as evils that can colonize States and become what is now Venezuela: a Gangster State⁵³.
8. *On populist constitutionalism and the dismantling of constitutional democracy.* The dismantling of constitutional democracy is catalyzed more quickly when pushed from a specific ideological configuration that serves as justification and framing of supposed historical legitimacy.
 9. *On social control and ideology.* The Venezuelan experience teaches that people can oppose the ideological configuration of an autocratic regime, and yet, it can live under its schemes and domination.
 10. *Political culture and democratization.* The democratic transition in Venezuela will be, above all, a cultural problem. Their concrete times and ways will necessarily be conditioned by the wounds that the ideological configuration of the Revolution has left in the political soul of Venezuela. And the transitional accommodations should arrive with prudence and realism to the moral core of the people of Venezuela, because that is where Venezuelans should be healed.

53 Although the Gangster State has not been analyzed in this article, it is a concept which should be well understood. In this regard, we recommend reading the article by Paola Bautista de Alemán, included in this issue, dedicated to the study of the Gangster State and its implications.

Birth and evolution of two separated national legal systems in Venezuela

Miguel J. Mónaco

In 2007, the reform of the Constitution of the Bolivarian Republic of Venezuela (CRBV¹) was rejected through an approval referendum. According to the reasons for this project, the reform sought for the constitutional text to distance itself from the “bourgeois capitalist” model and rather constitutionalize the socialist economic system. The fact that it was an attempt to reform the CRBV might seem contradictory in principle, but there were in fact substantive aspects that sustained its unconstitutionality: the reform sought to establish a single economic model, socialist, proscribing other positions or models, contrary to the democratic principles and political plurality that the CRBV consecrates in an intangible way.

As a result of such rejection, the qualified majority of the National Assembly, which corresponded to the officialist party until 2010, approved a series of laws known as “People’s power laws”² in December of that same year whose general framework was established in the Organic Law of Popular Power (LOPP³).

The LOPP would be the Constitution of the new State model, which would be a Communal State created on the basis of forms

1 Constitución de la República Bolivariana de Venezuela.

2 Leyes del Poder Popular.

3 Ley Orgánica del Poder Popular.

of community and communal self-government and, in conjunction with the other laws of the Popular Power, intended to end the division between civil society and State to “build the foundations of a socialist society”.

The postulates of the LOPP are specifically developed through other special laws, among which the following stand out: the Organic Law of Public and Popular Planning⁴, the Organic Law of Communes⁵, the Law of the Communal Economic System⁶, the Law of State Planning Councils and Coordination of Public Policies⁷ and Law of Local Councils of Public Planning⁸.

Through this set of laws, the content of the CRBV would be progressively emptied of its republican, democratic and pluralistic character, while the conformation of the Public Power at the state and municipal level would be changed to gradually create a Communal State. The Laws of Popular Power constituted the first attempt to conform a new legal order, parallel to the one established in the CRBV, although its effects and scope have been very limited when compared with the objectives indicated above, which would be –in our opinion– due to its clear inoperativity, rather than the lack of political will to implement them.

Notwithstanding, and although with different immediate objectives, in 2017, the President of the Republic effectively initiated the creation of a new legal order parallel to the CRBV: the

4 Ley Orgánica de Planificación Pública y Popular.

5 Ley Orgánica de las Comunas.

6 Ley del Sistema Económico Comunal

7 Ley de los Consejos Estadales de Planificación y Coordinación de Políticas Públicas.

8 Ley de los Consejos Locales de Planificación Pública.

unconstitutional convening and constitution of a Constituent National Assembly (ANC⁹).

The call for the ANC was unconstitutional because, in accordance with article 347 of the CRBV, the President of the Republic does not have the power to convene an ANC, only the Venezuelan electoral body can do so: it establishes that the Original Constituent Power corresponds to the people of Venezuela and, consequently, would be the only one that could call for an ANC. The President of the Republic only has the power to request the holding of a referendum in which the electoral body decides whether to approve the convening of an ANC.¹⁰

The call for the ANC had a different objective from the Laws of Popular Power, because more than developing the bases of the communal State or any other constitutional model, it has rather functioned as a mechanism to definitively and fraudulently substitute the National Assembly, an organ of the national Legislative Power, as well as to manipulate the electoral system and calendar in benefit of the ruling party.

The ANC has issued alleged “constitutional laws” or “constituent acts”, which were intended to be complied with within Venezuela, as a way to force its recognition by the national and international community and thus be legitimized. The main

9 Asamblea Nacional Constituyente

10 Not only because of an interpretation of the constitutional text, it must be concluded that the electorate –on behalf of the Venezuelan People– is the only one that can call an ANC, but because of the fact that such a call constitutes a “constituent act”, meanwhile, the call for an ANC implies the decision to repeal the current Constitution, for which the ANC must prepare a draft constitutional text, which will be submitted to the electorate for its approval and definitive repeal.

actions that the ANC has carried out to date in that regard have been:

- Call for elections of governors, mayors (already held), and recently of the President of the Republic;
- Swearing in of elected officials to assume the charges, under penalty of “dismissal” in the event that they do not do so (as was the case in the State of Zulia);
- Constitutional Decree authorizing the appointment of the President of the Central Bank of Venezuela¹¹.

The ANC has already even modified the CRBV, when it decreed the suppression of the Metropolitan Mayor’s Office¹², the Metropolitan Cabildo¹³ and the Metropolitan Comptroller’s Office¹⁴, as well as the District of Alto Apure, its organs and attached entities, thereby modifying the territorial political order of Venezuela.

The ANC has issued several decrees that contain “constitutional laws” to substitute the National Assembly as a result of the legislative functions it has assumed. Some of these constituent laws have been:

- Constitutional Law of the Tax Regime for the Sovereign Development of the Mining Arc¹⁵;

11 Banco Central de Venezuela.

12 Alcaldía Metropolitana.

13 Cabildo Metropolitano.

14 Contraloría Metropolitana.

15 Ley Constitucional del Régimen Tributario para el Desarrollo Soberano del Arco Minero.

- Constitutional Law on Productive Foreign Investment¹⁶;
- Constitutional Law of the Productive Councils of Workers¹⁷;
- Constitutional Law Against the Economic War for Rationality and Uniformity in the Acquisition of Goods, Services and Public Works¹⁸;
- The Constitutional Law that creates the Great Estate Tax¹⁹.

The above demonstrates how a new legal system has begun to be formed by the ANC, which is invalid according to the CRBV suppositions and which intends to function parallel to and with preference over the legal system developed from this last constitutional text.

It is imperative to indicate that both legal systems have begun to be complemented by bodies or institutions that do not recognize each other, and that even have diverse recognition by other States. Thus, the National Assembly and an important part of the international community (represented by the European Union, the US and the so-called Lima Group) do not recognize the President of the Republic, the ANC, the National Electoral Council (CNE)²⁰, the Supreme Court of Justice (TSJ)²¹, and the Attorney

16 Ley Constitucional de Inversión Extranjera Productiva.

17 Ley Constitucional de los Consejos Productivos de Trabajadoras y Trabajadores.

18 Ley Constitucional Contra la Guerra Económica para la Racionalidad y Uniformidad en la Adquisición de Bienes, Servicios y Obras Públicas.

19 La Ley Constitucional que crea el Impuesto a los Grandes Patrimonios..

20 Centro Nacional Electoral

21 Tribunal Supremo de Justicia.

General of the Republic. And, on the other hand, the latter do not recognize the National Assembly nor its acts.

We are facing the formation of two parallel legal and state systems within the same territory, which are mutually exclusive and which do not recognize each other, a situation which deeply aggravates the Venezuelan institutional and social crisis.

As a result of this delicate situation, it has been evidenced that it is not feasible to solve it through the institutional channels of the rule of law, since, first, the ANC considers itself to be above the CRBV and not even subjected to judicial control, which even heeds its decisions in collusion with the Executive Power; and, secondly, since the Constitutional Chamber of the TSJ validated its call by the President of the Republic, without the need for a referendum, through its judgment number 378, dated May 31, 2017, on the occasion of the appeal of interpretation of articles 347 and 348 of the Constitution, filed by the citizen Leopoldo Pita Martínez.

In fact, the problem becomes even more complex due to the fact that each one considers the acts of the other to be practically non-existent legally and therefore disclaims them, and, thus, they function in parallel.

An example of this is the fact that, for the legal system founded in the CRBV and headed by the National Assembly, the election of the President of the Republic and its pending execution would still be non-existent, while for the other legal system led by the National Executive and the ANC, these elections would be valid.

Additionally, the situation is further complicated since, as paradoxical as it may seem, despite the fact that two legal systems

are being formed in Venezuela, it could be argued that there is no rule of law at present. In fact, it can be affirmed that within the dominant legal system (for its application in practice), which is the one propelled by the National Executive and the ANC, there has been an unfolding of the rule of law in which the State exists without being subject to it. This has happened because the control mechanisms to make this possible have become totally ineffective since the Executive Power has controlled the rest of the branches of the Public Power, even by its submission, as is the case of the Judiciary whose decisions are foreseeably favorable to the Executive Power regardless of what is provided by the legal system.

Consequently, the resolution of the situation has already ceased to be possible legally, since the law is totally insufficient and inoperative. Given that for each of the legal systems described the acts of the other are non-existent and that the bodies that make up each of them do not recognize each other, the solution does not lie in legal acts that may arise in one system or another. For that reason, the solution must necessarily be found in the political sphere and in the mechanisms it provides.

In that sense, we consider that there are two basic aspects that must be taken into account for a political solution to the crisis described: the first is that the solution must be framed in democratic principles and, therefore, subject to the consideration of the electorate, which must ratify or approve the solution proposed after the agreements that may be reached by the parties; and the second; precisely linked to the latter and which actually precedes it chronologically, is the need to reach an agreement in which the rule of law in Venezuela is restored through the reunification of the Venezuelan law system and which, most importantly, preserves national unity and peace in Venezuela.

For this last agreement to be possible, it must be kept in mind that it requires incentives that are better than the alternative of not negotiating for each of the parties, since nobody negotiates if they have a better alternative of not doing so. In this regard, the cornerstone of both positions is to obtain a balance between the legal risk that the official sector would face if it lost control of the government and the Judiciary Power especially, given the consequences that it would have to bear under the crimes allegedly committed, and the aspiration of democratic parties and sectors of bringing to term competitive elections and electoral guarantees that could allow them to become the new government.

Bolivarian Revolution and the development of the gangster state in Venezuela

Paola Bautista de Alemán

We present hereunder an analysis of the gangster dimension of the Bolivarian Revolution. Far from being an exhaustive study, it is an approximation to the origins of the gangster state and a description of the challenges that this reality imposes in terms of democratization. The article is divided in three parts: theoretical approaches, the emergence of the gangster state in Venezuela and, finally, the challenges of democratization and forthcoming investigations.

Theoretical approaches: transnational organized crime and gangster state

The following section will be dedicated to the ideas that sustain our analysis of the gangster dimension of the Bolivarian Revolution. We will resort to the contributions of Lupsha¹, Paoli²,

1 Peter Lupsha, "Transnational organized crime versus the Nation-State", in *Transnational Organized Crime*. (Spring 1996).

2 Letizia Paoli, *The Oxford handbook of organized crime*. (Oxford: Oxford University Press, 2014).

Kleemans³, Hirschfeld⁴ and Polga-Hecimovich⁵. Firstly, we will define the concept of organized crime and describe its main features. Secondly, we will present theoretical approaches that will contribute to the understanding of this phenomenon. Subsequently, we will delve into the concept of gangster state and the symbiotic relationship between the state as a formal structure that holds the monopoly of legitimate violence and organized crime. Finally, we will detail the relationship that exists between the gangster and the failed state.

Organized crime and its features

For the purposes of this investigation, we will commence with the concept of organized crime offered by the United States Department of Justice:

...refers to those self-perpetuating associations of individuals who operate transnationally for the purpose of obtaining power, influence, monetary and/or commercial gains, wholly or in part by illegal means, while protecting their activities through a pattern of corruption and/or violence.⁶

3 Edward R. Kleemans, "Theoretical perspectives on organized crime", in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014).

4 Katherine Hirschfeld, *Gangster states: organized crime, kleptocracy. political collapse*. (London: Palgrave Macmillan, 2015).

5 John Polga-Hecimovich, "Chapter 15: "Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela", in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019).

6 The White House, *Strategy to combat transnational organized crime*. (Washington: The White House, 2011), i..

We must complement this definition with three attributes that allow us to understand the essence of the phenomenon. The first refers to the conditions that make it possible: researchers agree that *organized crime emerges in places where the state is fragile and deficient in the exercise of its responsibilities*⁷. Russia is a paradigmatic case⁸. The post-Soviet era began with the dismantling of the communist state with the application of measures of political and economic liberation. This transformation gave way to a new order with serious institutional weaknesses that favored the emergence of international criminal organizations which undertook the duties of the state in terms of personal and legal security⁹.

The second characteristic refers to the *resilience capacity that organized crime has*. We understand resilience as “the human

7 Paoli in “The Oxford Handbook of Organized Crime” says: “Large, stable, structured criminal organizations operate in a number of countries, engaging in a plurality of money-making activities and usually also claiming some sort of control over the political, economic, and social life of their home areas of settlement. Contrary to popular perceptions, however, these organizations are a rarity. They consolidated and have survived in contexts in which government structures are weak or the latter’s representatives are willing to enter into pacts with the bosses of criminal organizations”. (3) The author, in addition to portraying the state’s weakness as a breeding ground for organized crime, highlights how the latter exercises political, economic and social control. These groups therefore become a sort of factual state within the territory where they emerge.

8 Vadim Volkov, “The Russian Mafia: Rise and Extinction”, in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 159.

9 The case of the Russian mafia of the 1990s fits best into the framework of understanding organized crime as both a nonstate governing agency (or a political community) and a form of protection industry (Gambetta 1993; Schelling 1984; Paoli 2003). The distinguishing feature of an organized criminal group or a mafia family is that it recruits members and creates an organizational structure to be able to use violence and coercion

capacity to accept limit situations and overcome them with flexibility”¹⁰. Kleemans and van de Bunt¹¹ and Hirschfeld¹² recognize this capacity in the dynamics of criminal groups¹³.

Kleemans and van de Bunt propose the term “social snow-ball” to describe the process of insertion in criminal organizations and their progressive growth. They explain that individuals begin to engage in criminal organizations doing small actions, and, over time, they deepen their relationship to entirely depend on these. The individual is thus subjected to the system’s broad interests

in a controlled way to govern other peoples’ behavior. Members of such groups may occasionally engage in conventional crime, such as swindling or robbery, but the group itself normally regulates conventional crime rather than directly taking part in it. The ability to govern is then used for generating income by imposing exchange relations with clients in illicit as well as in legal businesses, either through direct extortion or through providing more sophisticated services, such as protection, the regulation of market entry, mediation, contract enforcement, and the like—in these cases the income takes the form of a regular tax legitimated by the claim to provide utility to clients. Acting as governing or managing structures in the criminal realm, such groups should be distinguished from conventional crime. (Vadim Volkov, “The Russian Mafia: Rise and Extinction” en *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 160). As explained by the author, two features are identified in the Russian case: 1. Non-state agency that assumes responsibilities of the State (Personal security, legal and tax work) and 2. Political community (Group of people with ties and affinities that exercise power using force).

10 *Diccionario de la Real Academia Española*.

11 Edward R. Kleemans and H.G. van de Bunt. “The social embeddedness of organized crime”. (*Transnational Organized Crime*, 1999). 19-36.

12 Katherine Hirschfeld. 2015. *Gangster states: organized crime, kleptocracy, political collapse*. (London: Palgrave Macmillan, 2015).

13 Edward R. Kleemans, “Theoretical perspectives on organized crime” in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 40.

and even incorporates others from his or her social circle into the group. For the authors:

The nature of criminal networks also explains resilience. In networks, nobody is really irreplaceable; even important persons, such as investors, organizers, and facilitators, can be substituted by others. Perhaps this is the main reason why criminal networks often seem to suffer little damage from arrests or seizures: links may be lost, but the chain is easily repaired¹⁴.

Hirschfeld¹⁵, on the other hand, develops the concept of “exaptation” associated with the dynamics of gangster states. “Exaptation” is a term in biology that describes the structure of an organism with capacities to adapt to a specific environment but whose traits shift functions over time. It is somehow a type of criminal resilience that the author finds in Zaire (1997) –the current Democratic Republic of the Congo– and Somalia (1990). In both cases, gangster states that led their territories to almost complete and apparently definite collapse were consolidated. However, once the conjuncture was partially overcome, criminal

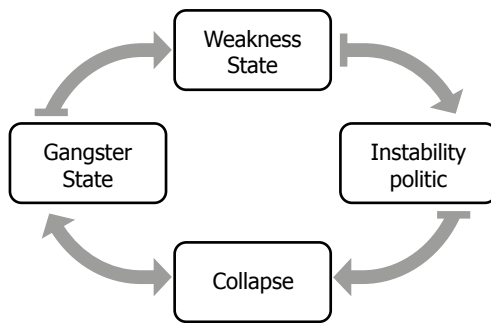
14 Katherine Hirschfeld. *Gangster states: organized crime, kleptocracy. political collapse*. (Londres: Palgrave Macmillan, 2015).

15 Robinson and Acemoglu explain: “Nations fail economically because of extractive institutions. These institutions keep poor countries poor and prevent them from embarking on a path to economic growth. This is true today in Africa, in places such as Zimbabwe and Sierra Leone; in South America, in countries such as Colombia and Argentina; in Asia, in countries such as North Korea and Uzbekistan; and in the Middle East, in nations such as Egypt. (...) In all these cases the basis of these institutions is an elite who design economic institutions in order to enrich themselves and perpetuate their power at the expense of the vast majority of people in society” (Barcelona: Deusto S.A. 465).

networks began to regenerate with the emergence of a new gangster state led by new actors.

It is then a vicious circle that severely hinders the road to democracy: the weakness of the state allows the emergence of criminal organizations that nearly lead to the total collapse of their territories. Once the crisis enables the fragmentation of the structure, the country is unable to offer institutional stability and a new gangster state rises. This is how the perverse dynamic is constantly reestablished: state weakness, political instability, collapse, and gangster regeneration.

Image 1: Dynamics of the rise of the gangster state.



The third characteristic refers to the *unpredictable nature of the dynamics of organized crime*. Kleemans¹⁶ explains that the absence of norms and the predominance of survival increases unpredictability in the dynamics of this type of groups. The author explains that “the world of organized crime might be characterised as a

16 Edward R. Kleemans, “Theoretical perspectives on organized crime” in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014).

kind of jungle”¹⁷. Hence, the relationship between those who give life to the system depends on the criminal outburst of the actors that manage its operation.

Theoretical approaches: Theory of protection
and theory of social insertion

Social and Legal Sciences have studied organized crime since the beginning of the 1900s. In a century characterized by research, various theories that encourage understanding the phenomenon and its derivations have been developed. For the purposes of this investigation, it is worth mentioning two models that offer useful tools to analyze the gangster dimension of the Bolivarian Revolution: the theory of protection and the theory of social integration.

The theory of protection refers to the weakness of the state. It affirms that organized crime emerges and is strengthened in territories where states disregard their responsibilities regarding the monopoly of the use of violence and fiscal management¹⁸. Such a scenario happens, for example, when the state is unable to offer security in a given territory and criminal groups that guarantee security in exchange for money arise. That transaction becomes a “tax” paid to irregular groups that ensure the safety of the inhabitants and who thus occupy the place that corresponds to the state.

17 Edward R. Kleemans, “Theoretical perspectives on organized crime” in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 38.

18 Edward R. Kleemans, “Theoretical perspectives on organized crime” in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 36.

The theory of integration is leveraged in the social dimension of the person, their desire for roots or ties and the links that bind them. Kleemans explains that

Case studies on transnational organized crime show that offenders in such strategic positions often operate at an international or inter-ethnic level or somewhere between the underworld and the licit world: they provide “bridges” between people in different countries, between people from different ethnic backgrounds, and between criminal networks and the licit world (Kleemans 2007). These offenders are the ones who make the necessary connections between networks that would otherwise remain apart. Because of the importance of trust in such activities, these connections are often forged through family ties or other strong social bonds.¹⁹

The unpredictable nature of organized crime demands the creation of firm personal and social ties. It is a structure that is sustained by the trust and fidelity of the actors. Once those conditions are broken or worn out, the most probable thing is that a conflict that culminates with the renewal of the members of the system that turn out losers crystallizes.

Kleemans emphasizes that one of the main contributions of this theory was a paradigm shift in the study of the phenomenon. With the development of theories of social insertion, it was discovered that the question to be asked by the investigators is not

19 Edward R. Kleemans, “Theoretical perspectives on organized crime” in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 39.

who is in charge of the criminal organization, but who depends on whom? And what is the reason that makes them dependent?²⁰

Gangster State

The concept of international organized crime may be insufficient and inaccurate to explain the gangster dimension of the Bolivarian Revolution. In order to explain it, it is convenient to consider Peter Lupsha's²¹ description of the phases of the dynamics between the state and organized crime. The author identifies three evolutionary phases without teleological character and susceptible to corrective measures: predatory, parasitic and symbiotic.

The predatory phase is seminal: it is the emergence of organized crime groups "at the expense of external actors, including the State". In this period, the relationship between the state and organized crime groups is tense because, in the former, there may be agents who resist the colonizing intentions of the latter.

The parasitic phase represents an expansive advance of organized crime. The groups capture the State and achieve degrees of independence in its operation. The existing tension in the predatory phase expands and increases its freedom of action. In this way, organized crime takes hold of territories and becomes a

20 Edward R. Kleemans, "Theoretical perspectives on organized crime" in *The Oxford handbook of organized crime*, coord. Letizia Paoli (Oxford: Oxford University Press, 2014), 39.

21 Peter Lupsha. "Transnational organized crime versus the Nation-State". *Transnational Organized Crime*. (Spring 1996).

factual power in those places where the state has been displaced or did not exist.

Finally, in the symbiotic phase, “criminal organizations coexist with existing authority structures, either through overlapping membership or clandestine arrangements of reciprocity, collusion, and joint venture arrangements”²². Polga-Hecimovich, referring to Lupsha, affirms that this phase is the entirety of the relationship between the state and organized crime. When the first colonizes the second.

When studying the Bolivarian Revolution, we can acknowledge that this theoretical description is necessary because it defines the depth of the relationship that may exist between the state and organized crime, but it is insufficient for our case study. As we will see later, the Venezuelan State was not colonized by transnational organized crime; what happened was the opposite. Organized crime emerged from the socialist state to guarantee political power. Given this particularity, it is necessary to resort to the concept of gangster status by Hirschfeld.²³

The autor defines it as follows:

Gangster-states are defined here as chimeric, transitional political economies that temporarily formalize the extractive economic monopolies of racketeering over marked geographic territory. Once territorial boundaries become established, the

22 John Polga-Hecimovich, “Chapter 15: “Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela” in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019), 200

23 Katherine Hirschfeld. 2015. *Gangster states: organized crime, kleptocracy, political collapse*. (London: Palgrave Macmillan).

racket resembles a rudimentary kleptocratic state, with the security forces repurposed beyond monopoly enforcement into activities more typically associated with government. These may include the organization of economic production, conflict resolution and territorial defense. Gangster-state territories are not fixed or static, as kleptocratic elites will seek to colonize surrounding territory if conditions are favorable. On the other hand, the extractive core of racketeering creates an impetus for conflict with neighboring groups as well as exhaustive depletion of resources that may ultimately lead to political-economic decline or collapse.²⁴

In gangster states, the tasks of organized crime are institutionalized in a specific territory. Once these activities are stabilized, its members welcome a kleptocratic dynamic where the purpose of their actions is the accumulation of goods for personal enjoyment. It is a territorial looting. From the gangster state, economic production is driven by the development of licit and illicit activities, conflicts of power are solved, and the territories that have been dominated are defended. Its double expansive character due to its pernicious effects and the search for new markets is interesting.

Failed states, collapsed states and gangster states

Rotberg²⁵ in “Chapter 1: Failed states, collapsed states, weak states: causes and indicators” exposes the features that define and

24 Katherine Hirschfeld. *Gangster states: organized crime, kleptocracy, political collapse*. (London: Palgrave Macmillan, 2015), 68.

25 Robert Rotberg. *Chapter 1: Failed states, collapsed states, weak states: causes and indicators*. (Washington: Brookings Institution Press, World Peace Foundation, 2003)

differentiate the failed states from the collapsed states. About the first ones –failed states–, he says:

1. Although we do find violence, it is not the intensity of this trait that defines the state. The probability of violence, even of advancing towards a Civil War, increases in two specific environments: 1. Territories where there are deep ethnic, religious or linguistic differences, and 2. Countries with extractive and monopolistic economies (oil or diamonds, for example) where there could be clashes between power groups.
2. Inability to control boundary borders.
3. Inability to guarantee personal safety to its citizens.
4. Political and military oppression of a specific group that represents a threat to the development of state powers.
5. Increase in criminal violence.
6. Inability to comply with the subsidiary duties of the state in matters of education and health. Emergence of “warlords”²⁶ that replace the state in terms of safety, education and health.

26 We understand “Warlords” as “individuals who control small pieces of territory using a combination of force and patronage”. (Marten, 2012:3) The autor adds: *Warlords rule in defiance of genuine state sovereignty but through the complicity of state leaders.* Warlords today flout and undermine state capacity and state institutions, and they do so by colluding with cost-conscious, corrupt, or frightened officials and bureaucrats. In other words, warlords are parasitic creatures of the state. (Marten, 2012 :3)

7. Serious weakening of popular elections mechanisms and the democratic institutions.
8. Serious deterioration of the country's infrastructure.
9. De facto privatization of health and education and a radical increase in social inequality.
10. Predominance of administrative corruption and emergence of kleptocratic networks.

In summary, the author explains that

Failed states are tense, deeply conflicted, dangerous, and contested bitterly by warring factions. In most failed states, government troops battle armed revolts led by one or more rivals. Occasionally, the official authorities in a failed state face two or more insurgencies, varieties of civil unrest, different degrees of communal discontent, and a plethora of dissent directed at the state and at groups within the state.²⁷

On the other hand, Rotberg indicates that a collapsed state is the radicalization of the conditions of a failed state. It happens when the formal state almost totally loses territorial control and the features outlined above are intensified.

A collapsed state is a rare and extreme version of a failed state. Political goods are obtained through private or ad hoc means. Security is equated with the rule of the strong. A collapsed state exhibits a vacuum of authority. It is a mere geographical expression, a black hole into which a failed polity has fallen. There is dark energy, but the forces of entropy have

27 Robert Rotberg. *Chapter 1: Failed states, collapsed states, weak states: causes and indicators*. (Washington: Brookings Institution Press, World Peace Foundation, 2003), 5

overwhelmed the radiance that hitherto provided some semblance of order and other vital political goods to the inhabitants (no longer the citizens) embraced by language or ethnic affinities or borders. When Somalia failed in the late 1980s, it soon collapsed²⁸.

When Rotberg²⁹ reflects upon the conditions that generate failed and/or collapsed states, he resorts to the theory of state protection and weakness. He points out that these pathologies emerge when the state is weak and landlords that substitute their functions by leveraging illicit activities that mesh with legal environments emerge. It is then an *extropic development* (from the outside inwards): the failed and/or collapsed state emerges when the political power is unable to maintain the monopoly of violence and territorial control.

When we approach the Venezuelan case we find an entropic dynamic (from the inside out). In Venezuela, the failed and later collapsed state was a result of the installation of a gangster state that was promoted from the heart of power to perfect its capacity for political domination. The failed state and its subsequent collapse arose as a result of the installation of an extractive gangster state that embezzled the nation.

28 Robert Rotberg. Chapter 1: Failed states, collapsed states, weak states: causes and indicators. (Washington: Brookings Institution Press, World Peace Foundation, 2003), 9.

29 Robert Rotberg. 2003. Chapter 1: Failed states, collapsed states, weak states : causes and indicators. (Washington: Brookings Institution Press, World Peace Foundation).

On the emergence of the gangster state in Venezuela

In the previous section we offered the theoretical references that guide our analysis. Next, we will describe the circumstances that seem to explain the emergence of the gangster state in Venezuela, understanding that they are not unique or exclusive because it is a complex topic that should be expanded in future investigations.

Polga-Hecimovich³⁰, in “The Rise of Organized Crime in Venezuela under Chavismo”, proposes that the relationship between the Bolivarian Revolution and these groups is symbiotic. He resorts to the classification by Peter Lupsha³¹ to describe the current dynamics between the Venezuelan state and organized crime: “...the state seems to be doing little to fight it, as many groups have developed a symbiotic relationship with the government”³².

As we saw in the previous section, the symbiotic relationship between organized crime and the State occurs when the former colonizes part of the latter and operates through its structures. We could say that its development is extropic because it occurs

30 John Polga-Hecimovich, “Chapter 15: “Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela” en *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019), 190.

31 Peter Lupsha. “Transnational organized crime versus the Nation-State” in *Transnational Organized Crime*. (Spring 1996).

32 “Chapter 15: “Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela” in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca (US Naval Academy, 2019), 190).

from the outside inward³³. Hereunder we will suggest and *argue the uniqueness of the Venezuelan case in the development of a symbiotic relationship of an entropic nature that gave rise to a gangster State*.

Polga-Hecimovich³⁴ identifies three milestones that made Venezuela an attractive country for organized crime operations:

1. National Constituent Assembly and Article 69 of the 1999 Constitution: Hugo Chávez Frías won the presidential elections on December 6, 1998, and his main electoral promise was the dismantling of the Civil Republic inaugurated in 1958 and the installation of a National Constituent Assembly that would offer the country a new Magna Carta. Polga-Hecimovich states that “when the National Constituent Assembly, convened by Chávez, approved a ban on extraditing both born and nationalized Venezuelans³⁵” the country became fertile territory for this type of activities. The reason is practical: the country could be converted, by constitutional mandate, into a refuge for

33 Perhaps the paradigmatic case of the extropic development of the relationship between the State and organized crime in Latin America is found in Colombia. In the eighties the drug trafficking industry grew in such a way that it tried to colonize the State, achieving it on some scales. The execution of the Plan Colombia and institutional corrective measures - some controversial - managed to stop the expansion of organized crime and limit its dynamics with the State.

34 John Polga-Hecimovich, “Chapter 15: “Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela” en *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez y Brian Fonseca. (US Naval Academy, 2019)

35 John Polga-Hecimovich, “Chapter 15: “Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela” in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019), 197.

Venezuelans born or nationalized who were requested by international justice for this type of activity³⁶.

2. The DEA's expulsion from Venezuela: On August 7, 2005, Hugo Chávez Frías expelled the DEA from Venezuela, alleging that their agents were spies who conspired against his government³⁷. Polga-Hecimovich³⁸ identifies then a key moment for the strengthening of drug trafficking in the country. In addition, when we review the evolution of homicide figures, we find that between 2005 and 2006 the number of violent deaths in the country was doubled.³⁹
3. Modification of the Organic Law against Illicit Traffic and Consumption of Substances: In the Official Gazette of the Bolivarian Republic of Venezuela number 38,337, changes

36 Although the 1961 Constitution did not explicitly prohibit the extradition of nationals (Article 116), it could be done through bilateral treaties. In the 1999 Constitution the norm changed and was explicitly prohibited. Article 69 reads: "The Bolivarian Republic of Venezuela recognizes and guarantees the right of asylum and refuge. The extradition of Venezuelans is prohibited." A year later, the Criminal Cassation Chamber of the Supreme Court of Justice, in Sentence No. 1119 issued on August 3, stated: "Regarding extradition, the Venezuelan State acts with a high sense of responsibility. Indeed, on the one hand, it accepts extradition as a moral obligation under International Law, but reserves the most absolute freedom in the assessment to grant or deny it, taking into account whether in this concrete case the principles of our national legislation and the Justice would be contracted".

37 We recommend the consultation of "Chavez says US drug agents spying" in: <http://news.bbc.co.uk/2/hi/americas/4130354.stm>

38 John Polga-Hecimovich, "Chapter 15: "Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela" in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019).

39 Asociación Civil Paz Activa published the report "Evolution of criminality in Venezuela 1990-2015). The study states that in 2005 there were 9,964 homicides and 12,257 the following year.

in the Organic Law Against Illicit Traffic and Substance Consumption were published. Changes in the legal framework facilitated the action of organized crime:

...a new drug law in 2005, the Ley Orgánica Contra el Tráfico Ilícito y el Consumo de Sustancias, decreed that counternarcotics investigations and operations would no longer be the exclusive domain of the National Guard but would include all other branches of the armed forces. This was also a definitive moment as the military shifted from a facilitator in the drug trade to an active participant. Before the passing of the law, drug trafficking was largely limited to the National Guard. However, once all branches of the military were given jurisdiction, competition among corrupt groups for participation in narco-trafficking increased. In particular, the army and GNB began to fight with each other for routes, and began dealing directly with the FARC rather than with Colombian civilian drug traffickers⁴⁰.

The author also identifies an external condition that impelled organized crime in Venezuela. He proposes that the application of the Plan Colombia in the neighboring country replicated narco-guerrilla groups that found in Venezuela a safe spillway for their operations.

To the considerations exposed by Polga-Hecimovich we can add the political conjuncture that weakened the state and set the conditions for organized crime to operate comfortably. In 1999,

40 John Polga-Hecimovich, "Chapter 15: "Weak State Capacity, Authoritarianism, and Democratic Security in Venezuela" in *Democracy and Security in Latin America*, coord. Gabriel Marcella, Orlando J. Pérez and Brian Fonseca. (US Naval Academy, 2019), 197

the Venezuelan institutions underwent major changes. The political proposal of Hugo Chávez supposed the transformation of the Venezuelan state: the end of the democracy that was born in Puntofijo and the inauguration of the V Republic. This process weakened democratic institutions and marked the beginning of the destruction of the republican tradition in Venezuela.

The relationship between the transformation of the political system and the weakening of the state is not new. As we saw in the previous section, a similar phenomenon occurred in the former Soviet Union. The dismantling of the communist system and the installation of liberal democracy weakened the emerging order and allowed the rise of organized crime. In 1999, the Venezuelan political system faced a process of transformation that contributed to the proliferation of illicit activities.

We must also add political considerations that help explain the development of the entropic symbiotic relationship that gave way to the emergence of the gangster state in Venezuela. The dismantling of the constitutional democracy that was born in 1958 and the installation of the V Republic also generated friction in Venezuelan society. While it is true that Hugo Chávez had electoral support, he still had to deal with the institutional inertia of the old order.

These tensions generated crispatation and polarization. The events of April 11, 2002, showed that the Bolivarian Revolution had not yet been settled in all the institutional spaces of the country. Then, Hugo Chávez decided to rely on irregular groups in order to advance his political project⁴¹ and manage weaknesses

41 It is recommended to consult the study "Venezuela: a Mafia State" conducted by Insight Crime. The authors state: "In 2002, President Hugo Chávez faced two attempts to unseat him from power: a military coup

in terms of power. The following dynamic was thus installed: the Venezuelan state allowed irregular groups associated with organized crime in the country to act in exchange for becoming political shock troops.⁴²

In summary, the emergence of the gangster state in Venezuela can be explained as follows: Hugo Chávez Frías won the presidential elections in 1998 and his main electoral promise was to dismantle the constitutional democracy that was born in 1958 and install a new order. This purpose was accomplished with the installation of the National Constituent Assembly. The promulgation of the new Constitution demanded the renewal of all public powers and brought with it elements of institutional weakness⁴³.

and a strike in the crucial oil sector. In the aftermath of these threats, he decided he needed parallel security structures that could act as a counterweight to the military and the ability to rapidly concentrate political shock troop against opposition demonstrators. His solution was the *colectivos* (collectives)."

42 It is recommended to consult the book "Delinquent State" (2015) of Carlos Tablante and Marcos Tarre. The authors explain how the dynamics between the Bolivarian Revolution and organized crime were installed.

43 It is recommended to consult the study coordinated by Dr. Diego Bautista Urbaneja entitled *Desarmando el modelo: las transformaciones del sistema político venezolano desde 1999*. In "La estructura jurídico-estatal del sistema político venezolano en el siglo XXI", by José Ignacio Hernández, the constituent process of 1999 is described and affirms "The first legal expression of the SPV that began to develop in December 1998 was then characterized by the constituent process and then by the 1999 Constitution itself. To such an extent that it can be said that, in reality, the SPV was merged with that Constitution, which became a constant element of political legitimization of the same system. In that way, the SPV was presented then, as the beginning of a new stage, in the so-called Constitution-refoundation of the State." (Diego Bautista Urbaneja, coord., *Desarmando el modelo: las transformaciones del sistema político venezolano desde 1999* (Caracas: Instituto de Estudios Parlamentarios Fermín Toro: abediciones: Konrad Adenauer Stiftung, 2017), 159).

In 2002, the Bolivarian Revolution overcame a political crisis that removed Hugo Chávez from power for a few hours. Once retaken, Hugo Chávez decided to ally with irregular groups due to his distrust of the Armed Forces⁴⁴. In this way, groups related to international organized crime nested in the heart of the Venezuelan state, contributing to the design and operation of the nascent V Republic.

Gangster state and democratization

For two decades, the Bolivarian Revolution has promoted and installed a system whose undemocratic performance includes dynamics in which actors associated with international organized crime participate. Following the contributions of Hirschfeld⁴⁵, we can affirm that *Venezuela is a gangster state of an entropic nature that is currently in a state of collapse*⁴⁶. This article, far from being an exhaustive study on the gangster dimension of the Nicolás Maduro regime, is an approach that opens doors to future investigations that allow strengthening the process of political change that this country could experience.

In this sense, we will share preliminary conclusions that will contribute to the analysis of the autocratic nature of the regime here presented, and we will propose future investigations that are

44 It is recommended to consult the study "Venezuela: a Mafia State" conducted by Insight Crime.

45 Katherine Hirschfeld. Gangster states: organized crime, kleptocracy. political collapse. (London: Palgrave Macmillan, 2015)

46 Samuel Huntington. 1991. The third wave: democratisation in the late twentieth century. (Norman: University of Oklahoma).

necessary to deepen the relationship between the gangster state and democratization. Here are four final considerations:

1. *On the gangster nature of the Bolivarian regime.* Samuel Huntington⁴⁷, in “The third wave”, mentioned that there may be a relationship between the transition gender and the autocratic nature of the deposed system. In the same way and with practicality, Jeane Kirkpatrick, in “Dictatorships and Double Standards”⁴⁸, proposed that the types of political change are conditioned by the ideological sign of the regime that clings to power. We find that the Bolivarian Revolution is a complex system that integrates five dimensions: international, progressive, ideological, technological and gangster. In this sense, it would not be a process of traditional political change that starts from a military autocracy or from communism, but a complex tyranny that has become a gangster state. The complexity increases when we identify that this condition is also nourished by an ideological sign and a highly militaristic mark⁴⁹.
2. *On the particularities of an agreed or negotiated process of political change.* Since the starting point presents a multidimensional particularity that includes the gangster trait, we consider that any process of negotiated change must be carried out in several bands or sides. While in the agreed transitions of the 20th century negotiations were made between politicians who aspired democracy and politicians who exercised power away from justice, in this type

47 Samuel Huntington. 1991. *The third wave: democratisation in the late twentieth century*. (Norman: University of Oklahoma).

48 Jeane Kirkpatrick. 1982. *Dictatorships and Double Standards*. (New York: Simon and Schuster).

49 It is recommended to read the chapter on the ideological dimension included in this volume.

of processes politicians seeking democracy must deal and negotiate with criminals who have built a state according to their kleptocratic interests.

3. *On the compatibility between gangster State and constitutional democracy.* The gangster nature imprints unjust and illicit modes and structures that make it incompatible with constitutional democracy. However, any negotiation process for political change implies concessions with the autocracy that seeks to open itself to democracy. It is therefore appropriate to ask whether a political solution could be negotiated without proposing to dismantle the gangster state, or how to avoid restarting the vicious circle described by Hirschfeld⁵⁰ –state weakness, political instability, collapse and a new gangster state– in this scenario.
4. *On the current situation of collapse and the possibility of free elections.* The development of the gangster state has configured a situation of collapse that is especially profound in some states that lack electricity, gasoline, water, food, cell phones, public transport, among others. Added to these deficiencies is the action of military and paramilitary groups that persecute political dissidence. When acknowledging the reality of these entities, the question on the structural conditions that are required to carry out an electoral process that allows the faithful expression of the citizen's will arises. In this sense, we consider that the struggle for electoral conditions in an eventual negotiation

50 Katherine Hirschfeld. *Gangster states: organized crime, kleptocracy. political collapse.* (Londres: Palgrave Macmillan, 2015).

process must transcend traditional demands and extend to the solution of structural problems.

The analysis offered in previous pages and the four considerations exposed allow us to identify lines of research that we will develop in the near future and will allow us to better understand the Bolivarian autocracy. We list them below:

1. Emergence and progressive development of the gangster state in Venezuela.
2. Actors of the gangster state, its illicit activities and its relationship or dynamics with the formal structures of the national and local state.
3. International networks of the gangster state.
4. Legal and institutional reforms that limit the action of the gangster state.
5. Models of democratization from a gangster state.

The gangster dimension of the Bolivarian Revolution is a field of study that demands to be expanded. This reality imprints the process with particular challenges that demand political creativity and considering the greater good. We hope that what has been said so far and future researches will help open the horizons and find paths that lead to democracy.

Technology as a social control and oppression mechanism in Venezuela

Edward J. Pérez

I. Introduction

The use of technology as a mechanism to implement and deepen totalitarianism has been one of the greatest fears of those who have studied the basic concepts of democracy. George Orwell, in his famous novel, 1984, crystallized how the supervision of people's daily lives and their submission via technology was an extremely plausible risk, which would open the doors to the consolidation of authoritarianism. This has been qualified as "post-modern totalitarianism" in which individuals appear to be free in their day-to-day lives, yet the State controls and censors information flows while compiling data about the person's political and social credibility¹.

These facts not only have relevance in day-to-day analysis, but also have a direct impact on the fundamental rights of people. These measures of state supervision come into direct tension with the right to privacy. Furthermore, this information can be used as a direct or indirect mechanism of control over society and the restriction of other people's rights.

1 Diamond, L., *The Road to Digital Unfreedom: The Threat of Postmodern Totalitarianism*, *Journal of Democracy*, Volume 30, Number 1, January 2019, pP.23.

In Venezuela, these tensions derived from the use of technology are part of the present. There are innumerable complaints that correlate technology and social control with the violation of human rights. The purpose of this essay is to make visible some technological measures used by the Venezuelan State that may have an impact on the rights of the people and on the State's ability to dominate the population.

Based on the information recorded, it will be concluded that since 1999, under the regimes of Hugo Chávez and Nicolás Maduro, technological mechanisms were gradually incorporated that exacerbated the ability to control information and even the manipulation of the Venezuelan population, thus violating constitutionally and internationally recognized fundamental rights in favor of people.

II. The case of the “*captahuellas*”² machines in vote exercise and manipulation

During different electoral processes in Venezuela, “*captahuellas*” were incorporated as a mandatory step to exercise the right to vote³. According to the National Electoral Council (CNE⁴), these machines would validate the correlation between each voter

2 *Captahuellas* are machines designed for biometric authentication through fingerprints, used in Venezuelan elections since 2012.

3 Consejo Nacional Electoral, Tecnología Electoral en Venezuela, available in: http://www4.cne.gob.ve/web/sistema_electoral/tecnologia_electoral_descripcion.php; TELESUR, *Conozca cómo se vota en Venezuela con la herradura electoral*, December 5th, 2015, available in: <https://www.telesurtv.net/news/Conozca-como-se-vota-en-Venezuela-con-la-herradura-electoral-20151205-0016.html>, Youtube, CNE presentará un nuevo sistema de autenticación integrado, April 23rd, 2012, available in: <http://www.youtube.com/watch?v=5A5n5amZ9RA>

4 The Spanish acronym for *Consejo Nacional Electoral*.

and their biometric data, which would ensure the personal character of the vote, and that each registered citizen vote only once in each election⁵.

Notwithstanding, these machine have been a source of controversy regarding its role in the electoral process *vis a vis* the degree of uncertainty it generates regarding the possibility of knowing who each person votes for. In fact, when incorporating their use in the electoral process, a general distrust feeling was denounced on several occasions with people believing that it was possible to know who they'd voted for through this device. The *captahuella* would identify each person, and activate, in turn, the machine through which electronic voting is exercised, facilitating a possible identification between someone and their vote.

Therefore, *captahuellas* are associated with a mechanism of intimidation and coercion of voters due to popular fear of violation of the right to confidentiality of suffrage, and possible reprisals as a result, such as losing government subsidies or public office if a stance contrary to government interests was revealed⁶.

This situation must be read together with the innumerable complaints that exist about violation of suffrage confidentiality in Venezuela. For instance, in 2013, Nicolás Maduro himself

5 OEA, Discurso Del Embajador Jorge Valero Ante El Consejo Permanente Sobre El Informe De La Misión De Observación Electoral De La OEA, Elecciones Parlamentarias, December 4th, 2005, available in: http://www.oas.org/es/centro_noticias/discurso.asp?sCodigo=06-0012.

6 Infobae, ¿El voto es secreto en Venezuela?, September 4th, 2012, available in: <https://www.infobae.com/2012/09/04/1055740-el-voto-es-secreto-venezuela/>.

acknowledged having identified 900,000 people who voted against him in the electoral process held that year⁷.

Even if the right to confidentiality is not violated, the *capta-huellas* gathers data on who votes, regardless of their choice. This is relevant given there are precedents in which public officials are forced to vote during electoral processes, regardless of whether they wish to do so, under threat of being dismissed or having restrictions on access to a public service.

Regardless of whether the machines actually violate confidentiality or serve as a mechanism to verify who voted, these instruments violate the appearance of transparency and, on the contrary, facilitate an atmosphere of intimidation to the detriment of voters who intend to vote against government interests. In this regard, it has been indicated that:

With this scythe hanging over the heads of citizens, in a country that has lost confidence in the electoral system, and where technological literacy leaves much to be desired, some people have pointed to a kind of subconscious connection between the possibility of providing food and the exercise to vote. Venezuela's deeply paternalistic economic system is built for the dependence of an all-powerful government that "grants" privileges and royalties on its own terms ("grants" houses, food at affordable prices, in exchange for quasi-religious allegiance), and, quite like a vengeful god, withdraws

7 El Nuevo Herald, Maduro admite que el voto no es secreto en Venezuela, May 18th, 2013, available in: <https://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article2023161.html>.

those privileges when mortals have fallen out of grace⁸. (Own translation).

The latter is particularly consistent with the threats that Nicolás Maduro made after the results of the 2015 parliamentary elections, in which he reproached his voters for not supporting him, and threatened to withdraw the social benefits to which people normally have access.

The foregoing must be framed in the principle of freedom of vote. International instruments such as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights recognize that electoral processes must be free. One of the guarantees for the protection of the freedom of vote is confidentiality, to the extent that the latter seeks to protect the voter from any external interference in the exercise of their conscience. Indeed, as the Human Rights Committee has indicated:

States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process⁹. (Own translation).

8 Digital Rights LAC, Tu huella digital por un kilo de harina: biométrica y privacidad en Venezuela, 16 de December 16th, 2015, available in: <https://www.digitalrightslac.net/es/tu-huella-digital-por-un-kilo-de-harina-biometrica-y-privacidad-en-venezuela/>.

9 Human Rights Committee, General Comment No. 25, CCPR/C/21/Rev. 1/Add.7, parr.. 20.

A less obvious assumption than the one anticipated by the Human Rights Committee is crystallized in the Venezuelan case: *the lack of certainty about the secrecy of the vote*, as a form of *coercion*, with technology being the means to perpetuate that pressure. The appearance of no confidentiality in vote, derived from the use of *captahuellas*, deepened an absence of a sense of freedom in suffrage.

These assessments add to external pressures led by the regime itself during and after electoral processes. As a more representative example: in a speech after 2015 parliamentary elections, in which the opposition won a majority, Maduro lashed out and reproached the population for the results, stating: “you voted against yourselves”, “I wanted to build 500,000 homes next year, deliver 100,000 taxis bought from China, but now I have doubts that I can do it with an assembly dominated by fascism; I asked for your support and you did not give it to me”¹⁰.

Prior to that, during the presidential elections in 2013, the Minister of the Popular Power of Housing and Habitat, Ricardo Molina, affirmed: “I do not care at all what the labor norms say; in this situation, I do not care. To the personnel that are part of our institutions and that are on the opposite political sidewalk, zero belligerence. I do not accept people that come here to speak ill of the revolution. No one come to me to criticize Nicolás or to speak ill of President Chávez, I do not accept it. I do not accept fascist party militants. Those who want to be militants of that *Voluntad*

10 El País. Nicolás Maduro pide la renuncia de su Gabinete y endurece su discurso, 9 de diciembre de 2015. Available in: https://elpais.com/internacional/2015/12/09/america/1449633338_743523.html.

*Popular party, that fascist party, resign, because if you do not resign, I'm going to dismiss you myself"*¹¹.

Meanwhile, the Sports Director of the Government of the state of Zulia, Leonet Cabezas, said: "Those who passed the 1x10, who thought that we were not going to call them, that we called and they told us that they were going to vote for Capriles, we have you identified and we are going to take you out". This also took place in the Ministry of Planning and Finance, the headquarters of SENIAT¹² in Valencia and La Guaira, and PDVSA¹³.

The reprisals for voting for Capriles would also extend to the social subsidies granted by the Government. The PSUV¹⁴ deputy, Odalys Monzón, for instance, said: "I'm keeping an eye here in Vargas. To those who are in Social Missions and institutions of the State banging pots and pans¹⁵: *¡no pidan cacao*!¹⁶! In subsequent messages, she stated the process would be radicalized, and the delivery of houses reviewed¹⁷.

11 El Nacional, El Ministro de Vivienda amenazó con despedir a empleados opositores, April 22nd, 2013, available in: http://www.el-nacional.com/economia/ministro-Vivienda-despedir-empleadosopositores_0_176982302.html.

12 The Spanish acronym for *Servicio Nacional Integrado de Administración Aduanera y Tributaria*

13 The Spanish acronym for *Petróleos de Venezuela, S.A.*

14 The Spanish acronym for *Partido Socialista Unido de Venezuela*. It is the political party founded by Hugo Chávez and of which Nicolás Maduro is a member.

15 Referring to a popular form of social protest in Venezuela, namely, *cacerolazos*, were people bang on pots and pans.

16 Venezuelan idiom meaning someone in a vulnerable position must request favors from those in power.

17 El Universal, Denuncian despidos por razones políticas en Vargas, April 17th, 2013, available in: <http://www.eluniversal.com/caracas/130417/uncian-despidos-por-razones-politicas-envargas>.

These threats, then, consolidate popular belief: *captahuellas* *can* be used to know who I voted for, and *can* bring retaliation for it, either in my work (public officials), or in access to social guarantees or subsidies.

It is worth noting that there are no clear, explanatory and transparent elements to sustain the role of these machines in the suffrage process. The lack of an explanation about the functioning of this machine, rather, the opacity and discretion with which the State handles its use, despite the multiple complaints about fear in the exercise to vote when fingerprints are recorded, deepen the impact that this machine has on the freedom of suffrage. People vote with fear, and, therefore, elections are not free.

In any case, considering the innumerable public complaints that have been filed regarding these machines, the State should at least consider alternative measures to validate the correlation between the citizen who shows up to vote and their biometric data recorded, as other nations do. The lack of consideration on the part of the government consolidates the argument that *captahuellas* are a mechanism that serves to instill fear in society, as opposed to guarantee freedom of vote recognized in instruments for the protection of fundamental rights.

III. The case of “*captahuellas*” in obtaining information regarding access to goods and services

Following a similar dynamic, in 2014 a new form of social technological control was created, by imposing what was considered by the government as a biometric system for food safety in supermarkets, aimed at regulating the acquisition of certain goods. With this system, a person would be prevented from

buying beyond a maximum number of products during the same week, both in public and private local chains. Moreover, this measure was imposed with further restrictions regarding the days each citizen would be allowed to purchase these goods, where people could only access them on days associated to identity card numbers. These measures applied to necessity goods regulated by the state, such as milk, sugar, coffee, oil, diapers or laundry soap¹⁸.

The system was interconnected among all the institutions that sold these goods, in such a way that the restrictions operated at the national level¹⁹. It was administered by the CNE, and implied that the people who were going to buy these basic goods would have to record their fingerprints into a system, to verify that they had not exceeded the weekly limit²⁰. Specifically, it required that people handed proper documentation to the cashier, give their full name, telephone number, address, date of birth, and recorded both their thumb's fingerprints in a device: the emblematic *capta-huellas*²¹.

The practical consequence of the implementation of this system, aside from the regulation on the amount of products that

18 VOA noticias, Venezuela: Más restricciones en compra de alimentos, May 9th, 2015, available in: <https://www.voanoticias.com/a/venezuela-gobier-no-afina-control-captahuellas-compra-alimentos/2759966.html>.

19 Telesur, En Detalle: Así funcionará sistema biométrico en Venezuela, August 28th, 2014, available in: <https://www.telesurtv.net/news/Asi-funcionara-sistema-biometrico-en-Venezuela-20140828-0039.html>.

20 El Estímulo, La lista de la captahuella, October 14th, 2014, available in: <http://elestimulo.com/blog/la-lista-de-la-captahuella/>.

21 Digital Rights LAC, Tu huella digital por un kilo de harina: biométrica y privacidad en Venezuela, Decembre 16th, 2015, available in: <https://www.digitalrightslac.net/es/tu-huella-digital-por-un-kilo-de-harina-biometrica-y-privacidad-en-venezuela/>.

can be acquired, is the suspension of access to them through regular means, forcing people to turn to “irregular” markets. These measures constitute obstacles imposed by the State in the access of goods necessary for the satisfaction of economic, social and cultural rights recognized in different international treaties, such as the right to health and the right to food.

However, it is not clear how the information obtained from this system is used or who administers it²². It has been stated in this regard that:

The implicit risk in the use of biometric technologies comes from the ability of governments to use them for surveillance purposes. In cases like this, biometric data are part of a multimodal system, being combined with other information points, such as date of birth, address, national identity number. The more data points there are about a user, the easier it is to implement full surveillance. Just thinking about the total dimensions of the information accumulated by the government is overwhelming: our identity card is required to acquire a telephone line; we are required to give our tax information number for any interaction with the public administration²³. (Own translation).

This necessarily leads to analyzing discussions about surveillance, and its relationship with international human rights law.

22 Digital Rights LAC, Tu huella digital por un kilo de harina: biométrica y privacidad en Venezuela, December 16th, 2015, available in: <https://www.digitalrightslac.net/es/tu-huella-digital-por-un-kilo-de-harina-biometrica-y-privacidad-en-venezuela/>.

23 Digital Rights LAC, Tu huella digital por un kilo de harina: biométrica y privacidad en Venezuela, December 16th, 2015, available in: <https://www.digitalrightslac.net/es/tu-huella-digital-por-un-kilo-de-harina-biometrica-y-privacidad-en-venezuela/>.

Indeed, Article 12 of the Universal Declaration of Human Rights and Article 17 of the International Covenant on Civil and Political Rights recognize the right to privacy, which protects all types of information about the private lives of all people. Although it is a right that admits regulations, any regulation that involves the collection of information by state authorities requires to be foreseen by law, which is necessary in a democratic society and proportional to the purpose sought²⁴.

The collection of information by the CNE as a result of the use of these fingerprints becomes arbitrary, given the imposition to provide private information (what does each person habitually consume?) without legal basis or reasonable justification.

Beyond that, the mystery about the collection and use of this information is alarming. The State's knowledge of each detail about the degree of consumption of each person goes beyond what the law admits, and submitting people to deliver this information to acquire a product becomes an obstacle over information. Indeed, as recognized by the Human Rights Council through a recent resolution:

The right to privacy is not only impacted by the examination or use of information about a person by a human or an algorithm. Even the mere generation and collection of data relating to a person's identity, family or life already affects the right to privacy, as through those steps an individual loses some control over information that could put his or her privacy at risk. In addition, the mere existence of secret

www.digitalrightslac.net/es/tu-huella-digital-por-un-kilo-de-harina-biometrica-y-privacidad-en-venezuela/.

24 On this regard, see Human Rights Committee, General Comment No. 16, 1988.

surveillance amounts to an interference with the right to privacy²⁵.

Even if the indicated measures do not have an end, the collection of said information generates an additional risk on the rights of the people, as was pointed by the Human Rights Council itself in that same resolution:

States and business enterprises increasingly deploy systems relying on the collection and use of biometric data, such as DNA, facial geometry, voice, retina or iris patterns and fingerprints. Some countries have created immense centralized databases storing such information for a diverse range of purposes, from national security and criminal investigation to the identification of individuals for purposes of the provision of essential services, such as social and financial services and education. State actors around the world deploy closed-circuit television cameras in cities, train stations or airports that use facial recognition to automatically identify and flag persons. Biometric-based technologies are increasingly used to control migration, both at borders and within countries. **The creation of mass databases of biometric data raises significant human rights concerns. Such data is particularly sensitive, as it is by definition inseparably linked to a particular person and that person's life, and has the potential to be gravely abused. For example, identity theft on the basis of biometrics is extremely difficult to remedy and may seriously affect an individual's rights. Moreover, biometric data may be used for different purposes from those for which it was collected, including the unlawful**

25 Human Rights Council, Right to privacy in the digital age, A/HRC/39/29, August 3rd, 2018, Parr. 7.

tracking and monitoring of individuals. Given those risks, particular attention should be paid to questions of necessity and proportionality in the collection of biometric data. Against that background, it is worrisome that some States are embarking on vast biometric data-based projects without having adequate legal and procedural safeguards in place²⁶. (Own highlights).

Finally, the practical and arbitrary limitations with which this system was implemented should be taken into account. For instance, access to products was prohibited for those whose ID cards were expired²⁷. There is also a precedent for a person prevented from purchasing goods for not having arms²⁸. Although this matter lies outside the scope of this study, it should be noted that this situation constitutes discrimination to the detriment of people who have been barred from accessing goods and services as a result of this measure.

IV. The *carnet de la patria*²⁹: discrimination with a technological foundation

Probably the most important technological mechanism of social control at the present time is the *carnet de la patria*. This

26 Human Rights Council, Right to privacy in the digital age, A/HRC/39/29, August 3rd, 2018, parr. 14.

27 La Verdad, No dejan comprar comida con la cédula vencida, September 30th, 2015, available in: <http://www.laverdad.com/economia/83816-no-dejan-comprar-comida-con-la-cedula-vencida.html>.

28 Perfil, Venezuela | Le impiden comprar alimentos porque no tiene brazos, July 15th, 2015, available in: <https://www.perfil.com/noticias/internacional/venezuela-le-impiden-comprar-alimentos-porque-no-tiene-brazos-20150715-0043.phtml>.

29 Or “homeland card”, is an identification document used in Venezuela since 2016 for streamlining government subsidies and mission benefits.

card is an identity document for citizens who receive some type of social assistance from the government. Its purpose, according to the State, is to know the socioeconomic status of the population and streamline social assistance programs. Only those who have this document can request any type of social benefit from the government³⁰. The card works through a QR code that is scanned when acquiring subsidized goods and services³¹. ZTE, whose largest shareholder is a Chinese state company, is the company leading technology design for these cards. Their contracts with the Venezuelan government show that this relationship is aimed at “building a database and creating a mobile payment system to use with the card”³². In this regard, it has been indicated that:

The advantage regarding the traditional identity card is that the latter becomes a simple plastic-coated paper that does not incorporate any element that allows data reading, call it QR code - fast response -, bar code, magnetic stripe, or chip. Through the QR, the *carnet de la patria* allows any operator, with a cell phone that has a camera and an installed application, to quickly raise all the information about the relationship a citizen is having with the State and/or Chavism: initially, its strictly personal data, but it can be crossed with other sources of information: someone’s voting site, if they’d cast

30 BBC, Qué es y cómo funciona el carnet de la patria que permitirá seguir comprando gasolina a precio subsidiado en Venezuela, August 14th, 2018, available in: <https://www.bbc.com/mundo/noticias-america-latina-45182511>.

31 Perfil, Maduro lanzó el “Carnet de la Patria”, que regulará el acceso a la comida, January 5th, 2017, available in: <https://www.perfil.com/noticias/internacional/maduro-lanzo-el-carnet-de-la-patria-que-regulara-el-acceso-a-la-comida.phtml>.

32 Reuters, Como ZTE ayuda a Venezuela a implementar un control social al estilo chino, November 14th, 2018, available in: <https://www.reuters.com/investigates/special-report/venezuela-zte-es/>.

a vote on an election day, access to social programs, social security registration, quote in a saving fund, knowledge on whether they have a passport, a child in a public school, if their parents receive a pension, if they've been fined. Someone's entire life. The possibilities of population control are potentially unlimited³³. (Own translation).

The *carnet de la patria* favors a situation of discrimination, in which the holder is a citizen of the first category against those who do not have it, who as a consequence lacks access to most social programs. This situation of discrimination is clearly reflected in the most recent report of the United Nations High Commissioner for Human Rights, who indicated that:

Additionally, at the end of 2016, the President announced the creation of the "*Carnet de la Patria*", a card through which all the programs would be delivered from then on, including the new system of direct money transfers to the families. The list of beneficiaries of these programs is managed by the local structures of the official party, rather than by government institutions. The people interviewed reported that the members of these local structures monitor the political activity of the beneficiaries.

Women, who mostly care for their homes and family, are the main group benefited by health, housing and food programs. They also constitute 72 percent of the membership of the Communal Councils. However, discrimination based on political motives and social control through the cards has a

33 El Estímulo, *Carnet de la Patria*, código de control social, February 21st, 2017, available in: <http://henriquecapriles.com/carnet-de-la-patria-codigo-de-control-social/>.

differentiated impact on the ability of women to assert their rights. In 2018 and 2019, women led many of the local and peaceful protests, demanding access to basic goods and services. They also participated in anti-government marches. OHCHR gathered testimonies from women, including local women leaders, who have been singled out for their activism, threatened by other community leaders and by pro-government civilian armed groups (the so-called “colectivos armados”), and excluded from the social programs. Women reported that they sometimes preferred not to demand their rights, including the right to speak out against the government, for fear of reprisals³⁴. (Own translation).

The High Commissioner reported on facts based on innumerable sources. There have been several and recurrent complaints on how this mechanism constitutes blackmail in the access to the services provided by the State and in the exercise of the rights of the people³⁵. For example, the *carnet de la patria* has been used to monitor the people who participate in certain election processes. After each electoral process that took place since then –elections governors, mayors and 2018 presidential election– dozens of “*puntos rojos*”³⁶ were located outside voting centers, where each owner of a *carnet de la patria* reported their personal data, including the

34 Human Rights Council, Informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre la situación de los derechos humanos en la República Bolivariana de Venezuela, A/HRC/41/18, July 4th, 2019, parr. 23 and 24.

35 Reuters, Como ZTE ayuda a Venezuela a implementar un control social al estilo chino, November 14th, 2018, available in: <https://www.reuters.com/investigates/special-report/venezuela-zte-es/>.

36 Refers to gatherings of people identified as pro-government.

social missions of which they are beneficiaries³⁷. It has even been denounced that the document could be used to buy votes, with the promise that those with a *carnet de la patria* that voted would receive economic bonuses³⁸. In the mayoral elections held in 2017, Nicolás Maduro expressly called voters to use their *carnet de la patria*³⁹.

There are also investigations that show how, despite having a *carnet de la patria*, some people do not receive social benefits unless they are registered in the PSUV, and/or are not included in the Tascón and Maisanta Lists⁴⁰. Cases have been documented of people registering for the *carnet de la patria* to obtain medicines that they do not receive later, or to request passport renewal, or to access a subsidized food box (CLAP)⁴¹. “That is called extortion. It means that if we do not support the Government or we do not

37 El Comercio, Carnet de la patria, el documento del control social en Venezuela, September 2nd, 2018, available in: <https://elcomercio.pe/mundo/latinoamerica/carnet-patria-documento-control-social-venezuela-noticia-553071>.

38 BBC, Elecciones en Venezuela: qué son los puntos rojos y por qué Henri Falcón acusa a Maduro de “compra de votos”, May 21st, 2018, available in: <https://www.bbc.com/mundo/noticias-america-latina-44192915>

39 Infobae, El régimen de Maduro usará el “Carnet de la Patria” para saber quién votará en las elecciones a alcaldes, December 9th, 2017, available in: <https://www.infobae.com/america/venezuela/2017/12/09/el-regimen-de-maduro-usara-el-carnet-de-la-patria-para-saber-quien-vota-en-las-elecciones-a-alcaldes/>.

40 Observatorio de Derechos Humanos de la Universidad de Los Andes, Carnet de la Patria y otros medios de exclusión social por razones políticas, available in: <http://www.uladdhh.org.ve/wp-content/uploads/2018/03/informe-web.pdf>.

41 Infobae, Promesas y mentiras del Carnet de la Patria, el documento de control social del régimen de Nicolás Maduro, February 25th, 2018, available in: <https://www.infobae.com/america/venezuela/2018/02/25/promesas-y-mentiras-del-carnet-de-la-patria-el-documento-de-control-social-del-regimen-de-nicolas-maduro/>.

have the card for any reason, then we do not have the right to eat; we are second-rate Venezuelans; or that the *carnet de la patria* is worth more than the identity card itself”, denounced a citizen⁴². Likewise, it was announced that the card would be necessary to obtain benefits such as housing⁴³ and pensions⁴⁴. It would also be required to purchase gasoline at a “subsidized”⁴⁵ price, and it is proposed that it be used for the payment of public transport⁴⁶.

Furthermore, there is no information regarding its purposes, who handles the information, or what data is documented based on the card. This is particularly important considering the aforementioned considerations regarding the right to privacy versus the collection of information. In this sense, *the lack of a legal regulatory framework that monitors the gathering of information through the carnet de la patria, added to the*

42 El Pitazo, Exigen carnet de la patria como requisito para comprar cajas Clap en el Sur del Lago, April 25th, 2019, available in: <https://elpitazo.net/occidente/exigen-carnet-de-la-patria-como-requisito-para-comprar-cajas-clap-en-el-sur-del-lago/>.

43 Con el mazo dando, Sepa cómo será el registro de vivienda con el Carnet de la Patria, March 22nd, 2018, available in: <https://www.conelmazo-dando.com.ve/sepa-como-sera-el-registro-de-vivienda-con-el-carnet-de-la-patria>.

44 Global Voices, El control social impuesto en China podría exportar pronto una versión venezolana, December 18th, 2018, available in: <https://es.globalvoices.org/2018/12/18/el-control-social-impuesto-en-china-podria-exportar-pronto-una-version-venezolana/>.

45 Teletica, Qué es y cómo funciona el carné de la patria para comprar gasolina a precio subsidiado en Venezuela, August 14th, 2018, available in: https://teletica.com/201869_que-es-y-como-funciona-el-carne-de-la-patria-para-comprar-gasolina-a-precio-subsidiado-en-venezuela.

46 Descifrando, Transporte público podrá pagarse con el carnet de la patria, June 23rd, 2018, available in: <http://www.descifrado.com/2018/06/23/transporte-publico-podra-pagarse-con-el-carnet-de-la-patria/>.

lack of clarity regarding the purposes for which this information is used, puts the right to privacy of people at risk on itself.

The association of this information with access to social services provided by Nicolás Maduro's regime makes the *carnet de la patria* an even more macabre input, since, as has been proven, "bad behavior" (independent exercise of freedom of expression, association or political rights) verified through a citizen's card, may lead to the elimination of the person's access to any social service provided by the regime. The degree of arbitrariness that exists is deepened, given that the State does not administer the management of the *carnet de la patria*, properly speaking, but rather the partisan political structures of Nicolás Maduro and his political organization. This situation, in general, has generated a sort of citizen categorization: those who submit to the *carnet de la patria* system receive certain rights, while those who do not, forfeit on those rights.

In conclusion, as has been stated by *Transparencia Internacional*:

The *carnet de la patria* can be seen in two ways. First, as a mechanism of political discrimination, since being linked to the National Government party, it generates the immediate rejection of a sector of the population that, rejecting the ideas and postulates of such a party, will not choose to obtain the document. Thus, it seeks to directly exclude that sector of the population from social programs that have been implemented, as well as access to goods and services that by law correspond to the State.

Second, it becomes a coercive mean to the population that does own the *carnet de la patria*, because, (...) this document

is being used to intimidate and get people to do everything through this mechanism, instilling fear in the people under the threat of being excluded and discriminated, since they will not be able to receive CLAP bags or boxes, access medicines, education, housing, work, among other rights⁴⁷.

V. Blockages to Internet websites by the State

Finally, reference should be made to website blockages by the Nicolás Maduro regime, as a mechanism to control the information available in Venezuela, particularly in times of heated conflict. Maduro's regime has also imposed speed reductions to the Internet or blockades in different opportunities, sometimes in general, or to certain web pages, both in extended or established time periods.

In 2016, the Press and Society Institute carried out a study where results showed at least 43 different blocked websites in the country. The report explained that 44% of blocked websites are related to currency in the black market, 19% are related to the media, 12% are blogs critical of the governing party, and 9% regard betting. Some URL shorteners, anonymization and circumvention tools, as well as hosting services, were also found blocked⁴⁸. Measures were mainly adopted through the modifica-

47 Transparencia Internacional, *el Apartheid Revolucionario*, available in: <https://transparencia.org.ve/wp-content/uploads/2018/03/Carnet-de-la-patria-2018-TV.pdf>, P.37

48 El Espectador, *Estos son los sitios web que más bloquean en Venezuela*, May 25th, 2016, available in: <https://www.elespectador.com/tecnologia/estos-son-los-sitios-web-mas-bloquean-venezuela-articulo-634276>, e Instituto de Prensa y Sociedad, *Principales hallazgos de la navegación en Venezuela*, available in: <https://ipysvenezuela.org/navegarconlibertad/tag/sitios-web-bloqueados/>.

tion of DNS records, which were implemented sporadically and irregularly among Internet access providers (ISP)⁴⁹.

In 2018, however, not only was access to the IP addresses of Tor network nodes blocked, but also some less used within it to avoid connections in censorship contexts, rivaling the practice in other countries with more trajectory and sophistication in handling and blocking of Tor network traffic⁵⁰. Likewise, restrictions were imposed on the web portals of *El Nacional* and *La Patilla*⁵¹ in 2018⁵².

By 2019, as Wikipedia announced Juan Guaidó as interim president of Venezuela, access to the website was impossible through CANTV's⁵³ services, as it was blocked through SIN-based HTTPS filtering⁵⁴. With that same technique, also during January 2019, Twitter, YouTube and Instagram were blocked as well⁵⁵.

49 Derechos Digitales, #Venezuela: ¿Qué está pasando con los bloqueos en internet?, January 24th, 2019, available in: <https://www.derechosdigitales.org/12791/venezuela-que-esta-pasando-con-los-bloqueos-en-internet/>.

50 Derechos Digitales, #Venezuela: ¿Qué está pasando con los bloqueos en internet?, January 24th, 2019, available in: <https://www.derechosdigitales.org/12791/venezuela-que-esta-pasando-con-los-bloqueos-en-internet/>.

51 Both news sites typically publishing dissident content.

52 El Nacional, El bloqueo de Internet, otra violación de derechos humanos, January 15th, 2018, available in: http://www.el-nacional.com/noticias/columnista/bloqueo-internet-otra-violacion-derechos-humanos_240006.

53 State-run Internet and telephone provider.

54 Derechos Digitales, #Venezuela: ¿Qué está pasando con los bloqueos en internet?, January 24th, 2019, available in: <https://www.derechosdigitales.org/12791/venezuela-que-esta-pasando-con-los-bloqueos-en-internet/>.

55 Derechos Digitales, #Venezuela: ¿Qué está pasando con los bloqueos en internet?, January 24th, 2019, available in: <https://www.derechos->

Similarly, after a protest in January 2019, restrictions were detected on Instagram, Twitter and YouTube in Venezuela, on the day military men urged Venezuelans to disclaim Nicolás Maduro's government. It was noted that there was an interruption in the YouTube platform after videos of the events featuring men dressed in olive green (military uniform), some armed, flooded social networks⁵⁶.

In March 2019, restrictions were recorded on YouTube, Google and Facebook. These measures were met with rejection by international organizations and entities⁵⁷. In particular, the Special Rapporteur of the United Nations on freedom of opinion and expression, David Kaye, and the Special Rapporteur for Freedom of Expression of the IACHR, Edison Lanza, expressed their profound alarm over the mechanisms of censorship and blockades of platforms, social networks and online media arranged by the authorities⁵⁸. There were also restrictions reported to Soundcloud and Twitter⁵⁹.

digitales.org/12791/venezuela-que-esta-pasando-con-los-bloqueos-en-internet/.

56 VOA, NetBlocks: Reporta bloqueo a redes sociales tras protesta de militares en Venezuela, January 21st, 2019, disponible: <https://www.voanoticias.com/a/netblocks-reporta-bloqueo-a-redes-sociales-tras-protesta-de-militares-en-venezuela/4752264.html>.

57 CIDH, Expertos en Libertad de Expresión de un y CIDH Expresan Alarma por Expansión de Mecanismos de Censura que se Aplican en Venezuela, March 8th, 2019, available in: <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1133&lID=2>.

58 CIDH, Expertos en Libertad de Expresión de un y CIDH Expresan Alarma por Expansión de Mecanismos de Censura que se Aplican en Venezuela, March 8th, 2019, available in: <http://www.oas.org/es/cidh/expresion/showarticle.asp?artID=1133&lID=2>.

59 Fayer Wayer, Activistas digitales acusan censura de Twitter y Soundcloud en Venezuela por regreso de Juan Guaidó, March 4th, 2019, available

Between April and May of 2019, after Guaidó's call for a general strike, several social networks such as YouTube and Periscope were also restricted, as well as some Google and Microsoft programs⁶⁰, as well as Bing and Hangouts⁶¹.

The United Nations High Commissioner for Human Rights conclusively found in its July 2019 report that Internet speed was gradually decreasing, including due to the lack of investment in infrastructure, and also recognized government blockages on independent news websites as well as regular blocks on major social networks⁶².

All these restrictions are particularly relevant in Venezuela, given that, as noted by the United Nations High Commissioner for Human Rights, Internet and social networks have become the main means of communication and information for the people, limiting access to independent information even more for people without Internet access⁶³. The use of these restrictions comes into tension with the right to freedom of expression and access to

in: <https://www.fayerwayer.com/2019/03/venezuela-twitter-sound-cloud-juan-guaido/>.

60 El Universo, Sigue censura de internet en Venezuela, denuncia NetBlocks, May 1st, 2019, available in: <https://www.eluniverso.com/noticias/2019/05/01/nota/7311965/sigue-censura-internet-venezuela-denuncia-netblocks>.

61 Infobae, Varios servicios de internet están restringidos en Venezuela: cómo evitar la censura, April 30th, 2019, available in: <https://www.infobae.com/america/tecno/2019/04/30/varios-servicios-de-internet-estan-restringidos-en-venezuela/>.

62 Human Rights Council, Informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre la situación de los derechos humanos en la República Bolivariana de Venezuela, A/HRC/41/18, July 4th, 2019, parr. 28.

63 Human Rights Council, Informe de la Alta Comisionada de las Naciones Unidas para los Derechos Humanos sobre la situación de los derechos

information through the media, recognized in Article 19 of the International Covenant on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights. As the United Nations Human Rights Committee has argued:

States parties should take account of the extent to which developments in information and communication technologies, such as Internet and mobile based electronic information dissemination systems, have substantially changed communication practices around the world. There is now a global network for exchanging ideas and opinions that does not necessarily rely on the traditional mass media intermediaries. States parties should take all necessary steps to foster the independence of these new media and to ensure access of individuals thereto⁶⁴.

More precisely, the Committee referred to the compatibility of blockages of web pages with international instruments, in light of the provisions of article 19.3 of the Covenant⁶⁵, determining that:

Any restrictions on the operation of websites, blogs or any other internet-based, electronic or other such information

humanos en la República Bolivariana de Venezuela, A/HRC/41/18, July 4th, 2019, parr. 28.

64 Human Rights Committee, General Observation No. 34, CCPR/C/GC/34, September 12th, 2011, parr. 15.

65 Article 19 fully states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore

dissemination system, including systems to support such communication, such as Internet service providers or search engines, are only permissible to the extent that they are compatible with paragraph 3. Permissible restrictions generally should be content-specific; generic bans on the operation of certain sites and systems are not compatible with paragraph 3. It is also inconsistent with paragraph 3 to prohibit a site or an information dissemination system from publishing material solely on the basis that it may be critical of the government or the political social system espoused by the government⁶⁶.

Based on this, the restriction on access to a web page or search engine without legal basis in order to prevent access to information during situations such as those previously described, of obvious public interest, make all the aforementioned blockages clear violations of the rights to free expression and free access to information.

Beyond the legal controversies raised, the limitations on access to information are an instrument of domination over society, preventing the empowerment of the people with sufficient information to adopt measures to exercise their rights and meet their needs. It is a mechanism of oppression to keep citizenship

be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order, or of public health or morals.

⁶⁶ Human Rights Committee, General Observation No. 34, CCPR/C/GC/34, September 12th, 2011, parr. 43.

in the dark⁶⁷. Affecting freedom of expression and access to information is nothing more than upsetting the democratic state of a society. In the case of blockades, these measures are intended to prevent society from informing themselves regarding crisis situations through digital media that, to date, are the most important means of communication within Venezuelan territory, given the manipulation and control over information services or media.

VI. Conclusion: Authoritarianism and technological controls

The regimes of Hugo Chávez and Nicolás Maduro have adopted several measures through which, using technology, they have sought to manipulate or even dominate the exercise of the rights of Venezuelans. The regime has been able to directly influence the people's free vote, restrict access to goods and services necessary to satisfy their rights, promote their political ideology and subject them to adhere to it in order to access social governmental benefits, to isolate those who disagree with that ideology or those who manifest their disagreement with the regime, and restrict access to information. Furthermore, there are indications showing the Government's attempt to gather data on each citizen, with unclear purposes, yet no less dangerous.

These restrictive measures constitute violations of people's fundamental rights. It is pertinent to remember that these rights aim to defend the people against States who abuse their power. By identifying the total and absolute abuse of these guarantees

67 Lister, G., *Free Speech and Access to Information: Key to citizen empowerment and sustainable development*, available in: <https://en.unesco.org/Free-Speech-Access-to-Information-Gwen-Lister>

without any control by the State, clear indicators of authoritarianism exercised by the Venezuelan government can be identified.

Conclusions

Lech Walesa, the first President of Poland after communism, offered a conference at the FAES Foundation on May 24, 2005. In his speech, he shared details about his political experience. In the Q&A session, a person from the audience asked about the differences between Francisco Franco's Spain and the USSR Poland. With the simplicity that characterizes him, the labor leader offered the following example: Imagine two fish tanks. In the first one, the water is cloudy, but the fish still swim. In the second, there is no water and the fish are suffocated. Spain was a fish tank with dirty water, so changing the water was enough for the fish to swim again. Poland was an empty fish tank, without oxygen. We, the fish, were dry.

The Walesa example clearly illustrates the main motivation of the first volume of *Democratization*. We dedicate our initial efforts to study the autocratic nature of the Bolivarian Revolution to know the situation of "our fish tank". We believe that this work is useful and necessary because it will allow us to identify two important aspects: 1. The starting point of an eventual political change in terms of pre-democratic conditions and 2. The reformist capacity that could exist –or not– within those who today lead the Bolivarian Revolution.

The conclusions presented below are divided into three parts. First, we will list the particular findings of each of the articles included in this volume. Next, we will offer general conclusions

and, finally, we will present the directions that our research will take in the future.

I.

The first issue of *Democratización* includes 4 articles. Below we list the main findings of each of them.

*El problema del nacimiento y desarrollo de dos ordenamientos jurídicos nacionales separados en Venezuela*¹, by Dr. Miguel Monaco, is a description of the constitutional dismantling that Venezuela experienced as of 2007. His research yields three central conclusions:

1. *The Laws of Popular Power and “the constitutional emptiness”*. The constitutional reform proposal promoted by the Bolivarian Revolution in 2007 was defeated at the polls. However, before the electoral failure, their promoters decided to impose their political ends through the so-called “Laws of Popular Power.” In this way, *Chavismo continued*² progressively emptying the contents of the Magna Carta and advanced in the creation of a parallel legal system.
2. *The National Constituent Assembly and the emergence of a new factual and illegitimate legal system*. The unconstitutional call

1 *The birth and development of two separate national legal systems in Venezuela*

2 We recommend seeing the chronological description offered by the Dip. Juan Miguel Matheus in his article included in this issue. The author specifies the constitutional and institutional irregularities that allowed the Bolivarian Revolution to repeal the 1961 Constitution and initiate the constitutional process of 1999. In this way, we identify that the “constitutional emptying” described by Dr. Mónaco is the extension of the progressive dynamic of democratic erosion that has marked the political performance of the Bolivarian Revolution.

of the National Constituent Assembly in 2017 constitutes the emergence of a new legal system that becomes dominant due to its factual application and coexists simultaneously with what survives of the 1999 Constitution.

3. *On the need for negotiation as a political solution to the conflict.* For the author, the optimal and least costly solution in human and political terms for the Venezuelan conflict is a negotiation and/or agreement between the parties involved.

*La tecnología como mecanismo de control social y opresión en Venezuela*³, written by Edward Pérez, describes the main technological measures used by the Bolivarian Revolution to dominate citizens. The author dwells in the case of the *captahuellas*⁴ as an instrument to manipulate the vote and as a mechanism for obtaining information regarding the access of goods and services. Finally, it offers an analysis of the operation of the so-called *Carnet de la Patria*. Below we list their main findings:

1. *Technology as a mechanism of social control configures an environment in which suspicion and fear predominate.* The Bolivarian Revolution uses technology as a mechanism of social control, which generates an undemocratic environment marked by suspicion and fear. This situation could limit the political articulation capacity of democratic forces.
2. *Technological domination is leveraged in global autocratic solidarity.* Larry Diamond, in *Ill winds* (2019), describes the expansive nature of the autocratic modes of China and Russia from cooperation in military, economic and financial matters⁵. Technological assistance in surveillance,

3 *Technology as a mechanism of social control and oppression in Venezuela*

4 fingerprint reader

5 Larry Diamond. *Ill Winds* (New York, Penguin Press, 2019)

communications and repression of these countries to the Nicolás Maduro regime contributes to the strengthening of their autocracy.

3. *Technological controls at the service of the rationing of goods and services favor the emergence of mafias*. Pérez accurately describes the operation of food and goods rationing through the *captahuellas*. It also emphasizes the emergence of mafias that control food distribution and the consolidation of powerful corruption networks. The description of these dynamics will correspond to future investigations related to the gangster state⁶.

*Configuración ideológica de la Revolución Bolivariana*⁷, a study conducted by Dip. Juan Miguel Matheus is an analysis of the ideology that guides the autocratization process initiated in Venezuela in 1999. Using philosophical and political science categories, the Doctor of Constitutional Law identifies the dynamism of the ideological configuration of autocratic systems and distinguishes two mobility modes: (i) Ideological reconfiguration and (ii) Ideological disfiguration.

After exposing the theoretical foundations of his study, the author identifies the six features that ideologically shape the regime inaugurated by Hugo Chávez in 1999: militarism, left-marxist language, Bolivarianist delirium, democratic instrumentality, internationalization and castro-communism, and populist constitutionalism. Next, the author examines the permanence or mutation of these features to determine if the ideological

6 See Larry Diamond. *Ill Winds* (New York, Penguin Press, 2019). The chapter dedicated to kleptocracy describes the gangster dynamics of autocracies

7 *Ideological configuration of the Bolivarian Revolution*

identity of the Revolution has been subject to a process of reconfiguration or ideological disfiguration.

Finally, Matheus concludes that the terms of the ideological reconfiguration of the Bolivarian Revolution constitute an obstacle to advancing in a process of democratic transition either agreed or negotiated. His main findings include:

1. *Ideological configuration, capacity for internal reform and negotiated transition.* The author identifies that, currently, there is little capacity for internal reform in the Nicolás Maduro regime. Negotiated and/or agreed transitions are possible when the parties involved are able to minimize exit costs and open doors to the democratization process. In the Venezuelan case, we find that the aforementioned “exit costs” may be associated with intangible assets related to a conception of the world based on firm ideological positions that shape existential political positions. In this sense, the offers of a material nature or postponement of justice that could be negotiated in an eventual negotiation process could be insufficient to satisfy the regulatory preferences of the dictatorship actors.
2. *On populist constitutionalism and the dismantling of constitutional democracy.* The dismantling of constitutional democracy is channeled more quickly when promoted from a specific ideological configuration that serves as justification and framing of a supposed historical legitimacy.
3. *Political culture and democratization:* The democratic transition in Venezuela will be a cultural problem. Their concrete times and ways will necessarily be conditioned by the wounds of the ideological configuration that the

Bolivarian Revolution has left in the political soul of the Venezuelan nation.

*Revolución Bolivariana y desarrollo del Estado gangsteril en Venezuela*⁸, by Dr. Paola Bautista de Alemán, is a study that describes the emergence of the gangster state in Venezuela and identifies the challenges that this reality imposes on an eventual democratization process. The author offers a theoretical approach to the concept of a gangster state, then describes the entropic development of this phenomenon in the country and concludes that Venezuela is a gangster state of entropic nature that is currently in a state of collapse. Her main findings include:

1. *On the particularity of the entropic nature of the emergence of the gangster state in Venezuela.* After studying the development of these phenomena in other latitudes, the author states that the Venezuelan State was not colonized by international organized crime. On the contrary, organized crime emerged from the socialist state to guarantee political power.
2. *On the singularities of a process of political change agreed or negotiated.* Considering that the starting point for political change in Venezuela is multidimensional and includes the gangster dimension, she proposes that any process of negotiated change must be carried out in several bands or sides. While in the agreed transitions of the 20th-century negotiations were made between politicians who aspired democracy and politicians who exercised power away from justice, in this type of processes politicians seeking

8 *Bolivarian Revolution and development of the Gangster State in Venezuela.*

democracy must deal and negotiate with criminals who have built a state according to their kleptocratic interests.

3. *On the compatibility between gangster State and constitutional democracy.* The gangster nature of the Bolivarian Revolution imposes unfair and illicit structures that make it incompatible with constitutional democracy. However, any process of negotiated or agreed political change involves concessions with the autocracy that seeks to open itself towards democracy. Considering this reality, the author asks if a political exit could be negotiated without intending to dismantle the gangster state. How to avoid restarting the vicious circle described by Hirschfeld⁵⁰ -State weakness, political instability, collapse and new gangster State- in this scenario.

II.

After specifying the main findings of each of the articles, general conclusions will be offered with the purpose of contributing to the understanding of the political process that Venezuela is experiencing:

1. *Progressive autocratization dynamics.* The autocratization process that began the Bolivarian Revolution in 1999 has gained ground progressively using democratic instrumentality to empty the contents of the Constitution and to install in fact a supposed new legal order. Identifying the progressive dynamics of the Bolivarian Revolution can contribute to the understanding of the phenomenon of democratic erosion that Venezuela experienced and can provide inputs for current studies on populism. Given the performance of *Chavismo-Madurismo*, we can affirm that

the progressivity used as a political tool facilitates autocratic rebalancing and power adjustments that offer resilience to those who exercise power far from justice.

2. *The socialism of the 20th century is an anachronism and a syncretism.* The Chavista ideology is an anachronism and a syncretism. We can affirm that it is anachronistic because, in its aspiration of total domination, it is related to the totalitarianisms of the 20th century (communism, fascism, and Nazism) and, in that sense, it is a setback in the world of political ideas. On the other hand, we consider it a syncretism because it tries to reconcile highly technological modes of domination, typical of the 20th century, with aspirations of total domination that were thought defeated with the fall of the Berlin Wall. It is, therefore, appropriate to ask ourselves about the essential and the accidental in autocratic natures. Perhaps the desire for total domination corresponds to the former and the ways of executing them refer to the latter. That is to say: the nature of evil remains, while its forms advance with technology.
3. *Ideological reconfiguration is less susceptible to democratic reform than ideological deconfiguration.* We understand by ideological reconfiguration what was expressed by Deputy Matheus in his article. It is a partial mutation in the body of ideas that guides the autocracy where an ideological stronghold remains that is preserved with flexibility of action and adaptation to circumstances. The ideological disfiguration is different: it is a reset of the original framework and the emergence of a new ideological identity. The empirical reference of ideological reconfiguration is Cuban Castroism and that of ideological disfiguration is state capitalism in China. In the processes of ideological

reconfiguration, strong ideological principles that constitute obstacles for political change and limit the capacity for internal reform within the autocracy remain. On the other hand, although ideological disfiguration may allow a “reset to the original framework” of ideas, we do not mean a democratic easing. In both cases, it is an autocratic rebalancing.

4. *On the need and the real possibility of a negotiation process.* The Venezuelan situation is a source of imbalance for the entire region. The consequences of structural collapse are expansive and the American continent experiences the worst migration crisis in its history. National and international political actors have denounced the need to find a solution for this situation and when analyzing the possible ways out of the problem, a negotiation is presented as the most desirable option.

While a fruitful negotiation is the least costly path in human and political terms, it is worth asking whether the desirable can be real or possible. The exercise of identifying the main obstacles that separate us from the desirable -negotiation- has the purpose of discovering (or creating) mechanisms that allow us to remove or make them more flexible. The study that ends with these lines identifies that the firmness of the ideological commitment of the political actors that currently lead the Bolivarian Revolution, together with the gangster dynamics and the support of the autocracies of the world, are the main obstacles that prevent the development of a negotiation process that allows opening the doors to democracy.

We can affirm that these three conditions -ideological stubbornness, gangster dynamics, and autocratic solidar-

ity- are the pillars that feed the autocratic resilience of the Bolivarian Revolution.

III.

The first edition of *Democratización* offers an analysis of the autocratic nature of the Bolivarian Revolution and its implications in an eventual process of political change. In the next installments, we will continue to fathom those variables that could influence the process of democratic liberation. In the immediate future, it will be necessary to dwell on the international dimension of the Bolivarian Revolution. As we observe in the development of the articles, the support of world autocracies is a fundamental element in the survival of the autocracy.

Authors

Juan Miguel Matheus

Juan Miguel Matheus was elected deputy to the National Assembly of the Bolivarian Republic of Venezuela by the Carabobo state in 2015. He is a lawyer graduated from Monteávila University (awarded the honor Cum Laude-2004). He was Visiting Scholar at George Washington University (2009-2010) and at Georgetown University (2010-2011). He obtained the title of Doctor of Parliamentary Law from the University of Navarra (2011) and was awarded the Extraordinary Award for the best thesis of the year. He is a member of the Board of Primero Justicia and is the National Doctrine Secretary of that political organization. In the Venezuelan parliament, he has been deputy head of the Primero Justicia fraction (2016-2019). He is currently a member of the Permanent Committee on Internal Policy and presides the Special Commission for the Defense of the Constitution, from which the creation of the “Estatuto que rige la transición a la democracia en la República Bolivariana de Venezuela” (2019) was coordinated and promoted. He is the Founding President of the Civil Association Forma and author of numerous titles, among which are: “Ganar la República Civil” and “La disciplina de grupo”.

Miguel J. Mónaco

Lawyer (UCAB), Administrative Law Specialist (Cum Laude, UCAB), Master of Law (Temple University), Doctor of Law (UCV). He was Dean of the Faculty of Law of the UCAB, and has been an undergraduate and postgraduate professor at the same University. He currently serves as Director of the Institute of Legal Research of the UCAB.

Paola Bautista de Alemán

Paola Bautista de Alemán is a Doctor in Political Science awarded the honor Cum Laude from the University of Rostock, Germany (2019). Her dissertation, directed by Prof. Nikolaus Werz, was entitled “Auge y crisis de las democracias pactadas: Venezuela, España y Chile”. She is currently a member of the National Board of Directors of Primero Justicia and presides the Juan Germán Roscio Foundation, which is an organization responsible for political and doctrinal formation. She is President of the Civil Association Forma and author of the book “A callar que llegó la Revolución” (2014). Wife and mother of 3 children.

Edward Pérez

Human rights defense lawyer, graduated from the Andrés Bello Catholic University. Master in International Law from the University of Cambridge. Project Director of the Inter-American Institute of Social Responsibility and Human Rights. He was a lawyer of the Inter-American Court of Human Rights and professor of the Legal Clinic of the Andrés Bello Catholic University.

Index

Introduction	2
Ideological configuration of the Bolivarian Revolution	
<i>Juan Miguel Matheus</i>	7
Birth and evolution of two separated national legal systems in Venezuela	
<i>Miguel J. Mónaco</i>	40
Bolivarian Revolution and the development of the gangster state in Venezuela	
<i>Paola Bautista de Alemán</i>	48
Technology as a social control and oppression mechanism in Venezuela	
<i>Edward J. Pérez</i>	72
Conclusions	99
Authors	109