

The End of Hegemony: What Next for Venezuela?

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I. Overview

Venezuela's opposition Democratic Unity (MUD) coalition obtained a crushing victory in the 6 December parliamentary elections, putting an end to fifteen years of domination of the legislature by parties associated with former President Hugo Chávez and his successor, Nicolás Maduro and opening up the possibility of a peaceful, negotiated solution to the crisis afflicting the country. The MUD overcame extremely adverse campaign conditions and surpassed its own most optimistic forecasts, winning 112 of the 167 seats in the National Assembly (AN). This gives it a two-thirds majority in parliament, and with it the opportunity to exercise control not only over the legislative agenda but also, to some degree, over the government. Despite this development, the two sides will need all their creativity and imagination, as well as political will, to agree solutions to the country's urgent problems. The international community should support these efforts.

President Maduro – who had threatened to achieve victory “by whatever means necessary” and to take to the streets with his supporters if he lost – recognised the opposition victory. He attributed it, in a speech broadcast moments after the National Electoral Council (CNE) announced the first results, to an “economic war”, waged by the private sector and its national and international allies, which the government blames for the record inflation and scarcity levels the country is experiencing. The post-electoral violence many had feared did not materialise. In the succeeding days, however, both Maduro and the outgoing chairman of the AN, Diosdado Cabello, made clear how difficult it was for them to accept the new political reality.

Maduro has said he will not sign an amnesty law for up to 80 political prisoners, which the MUD has promised will be its first legislative act. He has also threatened retaliation against those who voted against the government, saying, for example, that he is not inclined to build more houses for ungrateful voters. The government has stripped the assembly of control over its television channel and radio station by transferring ownership to their workers. Cabello has insisted on proceeding with the appointment of thirteen new Supreme Court justices, so as not to leave the decision in the hands of the opposition majority due to be sworn in on 5 January. Furthermore, on 15 December he oversaw the inauguration of a “Communal Parliament”, of uncertain legal basis, which would seek to balance the power of the assembly.

Despite this reluctance, there is reason to think that the new political reality will, sooner or later, make itself felt and that there will have to be negotiations over the

most urgent issues, whether political, social or economic. Venezuela is in the throes of an extremely grave economic crisis which threatens to provoke a humanitarian disaster. If the two sides engage in a strategy of confrontation, ignoring the will of the electorate, the crisis will rapidly worsen and could sweep aside not only the government, but opposition leaders as well.

Among the reasons for optimism is the stance of the Bolivarian National Armed Force (FANB), whose institutional behaviour during (and especially after) the election process indicates that it will not go along with any attempt to overturn the constitutional order. This suggests that Maduro has abandoned the option that the government might hold onto power by force of arms, as he had explicitly suggested prior to the election.

Nonetheless, negotiations will be difficult to establish and it will take both sides some time to accustom themselves to a political situation that demands agreements rather than confrontation. The government is unaccustomed to finding itself in a minority and its recent announcements seem to indicate that it will seek to use the streets for further confrontation. Some factions within the regime will exert pressure to resist decisions taken by the AN and even engage in a war of attrition. But the MUD also has its internal divisions. It is a hotchpotch of parties which, taken individually, have little popular support. Certain topics may aggravate tensions among them and strain traditionally fragile relationships.

In any event the new political map offers the opportunity to establish a pact between two equally legitimate branches of state and thereby improve the chances of avoiding an even greater deterioration of social and economic conditions during the remaining three years of Maduro's term. If this is not done, then deadlock between a legislature whose laws are vetoed and an executive submitted to censure and feeling under threat could lead Venezuela down the road to a severe crisis of governance from which it would be difficult to escape without the help of third parties to facilitate or mediate dialogue.

With the aim of guaranteeing a stable political process, free from violence and in accordance with the constitution, the government, the MUD and the future members of the new National Assembly should:

- ❑ facilitate a peaceful route to the swearing-in of the new National Assembly on 5 January 2016, within the framework established by the 1999 constitution;
- ❑ draw up a shared legislative agenda designed to resolve the urgent issues facing the economy and society and including the adoption of agreed mechanisms for restoring civil liberties; and
- ❑ devise and agree a speedy means of freeing those people jailed as a result of the events that occurred between February and May 2014 and any others held as the result of similar events. Consider the possibility of granting immediate release by means of an amnesty that respects the rights of victims to truth, reparation and guarantees of non-repetition. Alternatively, establish an extraordinary judicial review of sentences, based on the opinion of a special commission mandated to study each case on an expedited basis.

The government should:

- ❑ comply with and ensure compliance with the decisions taken by the National Assembly, without prejudice to the constitutional attributes of the executive. Abstain from inciting its supporters to confront the assembly in the streets or through means other than those provided for in the constitution;
- ❑ resume the publication of objective and reliable macro-economic statistics, as well as those relating to communicable diseases and crime; and
- ❑ restore the rule of law throughout the national territory, including lifting the states of emergency in force in municipalities bordering Colombia.

The international community, in particular the UN, the European Union, the Organization of American States (OAS) and the Union of South American Nations (UNASUR) should:

- ❑ reiterate their calls to the government and all political actors to comply and enforce the constitution and international treaties, as well as to refrain from incitement to violence;
- ❑ support national efforts to create political mechanisms for dialogue and conciliation, including possibly strengthening the presence of international organisations; serve as guarantors and mediators; and finance projects designed to improve the quality of Venezuelan democracy; and
- ❑ give strong support to humanitarian actions, especially those relating to the containment and eradication of communicable diseases and improvements in systems for distributing medicine and food, beginning with rural areas and deprived districts of towns and cities.

II. The Campaign and Polling Day

The election campaign began on 13 November, accompanied by intimidating rhetoric on the part of the government and a series of armed incidents that affected the opposition's campaign activities. An individual was shot to death in circumstances that remain unclear. The conditions faced by the opposition put it at a clear disadvantage. The government also turned down requests by the OAS and the EU to send electoral observation missions.¹

A. Victory “by Whatever Means Necessary”

President Maduro repeatedly stated that the ruling United Socialist Party of Venezuela (PSUV) and its allies would obtain victory “by whatever means necessary”, and that he had no intention of “handing over the revolution”.²

¹ For an extended analysis of the conditions under which the electoral process took place, see Phil Gunson, “Lo que está en juego en las elecciones del 6 de diciembre en Venezuela”, Crisis Group blog, 5 December 2015.

² “Maduro: si el 6D gana la derecha, prepárense para un país en caos”, Tal Cual, 29 November 2015.

On 25 November, opposition politician Luis Díaz died after being shot during an election rally held in a small town in central Venezuela. He had been on stage alongside Lilian Tintori, wife of Venezuela's most famous political prisoner, Leopoldo López. The opposition blamed the government but could offer no evidence to back its allegation.³ Among other irregularities, campaigning by MUD candidate Miguel Pizarro in the barrios of eastern Caracas was thwarted on 22 November by men in ski masks wearing red PSUV t-shirts, who fired into the air with pistols and automatic rifles.⁴

B. *Obstacles for the Opposition*

The regime has habitually refuted its critics by citing the legitimacy conferred by its eighteen electoral victories. But while the country's electronic voting system has never been shown to falsify the number of votes cast, the campaign conditions imposed (or permitted) by the National Electoral Council (CNE), which is almost completely dominated by the government, had become steadily tougher for the opposition, whose complaints it regularly ignored.⁵

While political parties have not been banned under the current regime, preventing certain leaders and parties from participating has clearly been part of the government's plan. Half a dozen of the most prominent opposition politicians were barred from standing for office, some jailed or put under house arrest. The most renowned case is that of López, leader of the Popular Will (VP) party, who was sentenced to fourteen years in prison in September 2015 on charges a prosecutor in the case recently admitted had no legal basis.⁶ The government made extensive use of mechanisms seemingly designed to confuse the electorate, such as replacing the leadership of opposition parties through court orders or registering parties with symbols and colours similar to those of the MUD. Despite these difficulties, in the end the CNE announced results that legitimately reflected the intentions of the electorate.

1. The full power of the state

Venezuela's constitution bans the state from financing political parties and public employees from using their position to favour individuals or organisations. The anti-corruption law and the election law (LOPRE) are equally clear on this subject.⁷ In practice, however, the PSUV exploits for its own benefit the resources of the central and local governments, such as buildings, vehicles and staff, and of state-owned enterprises,

³ "Venezuela: denuncian muerte a tiros del político opositor Luis Manuel Díaz durante mitin electoral en Altagracia de Orituco", BBC World, 26 November 2015.

⁴ "Miguel Pizarro denuncia que grupos armados y encapuchados atacaron caravana en Petare", Efecto Cocuyo, 22 November 2015.

⁵ Phil Gunson, "Venezuela Parliamentary Elections, 2015: a Tilted Playing Field", Crisis Group blog, 26 November 2015.

⁶ "El fiscal que acusó al opositor Leopoldo López escapa de Venezuela", *El País*, 24 October 2015.

⁷ Constitution of the Bolivarian Republic of Venezuela, Official Gazette n. 36,860, 30 December 1999, reprinted in Extraordinary Official Gazette n. 5,453, 24 March 2000, contains the basic regulations regarding political parties and organisations. Article 67 establishes the right to freely associate for political ends and notes that political parties cannot be funded by the state; Anti-Corruption Law, reformed by means of an executive order issued by Maduro, 19 November 2014; Organic Law of Electoral Processes, Title I, 12 August 2009.

such as *Petróleos de Venezuela SA (PDVSA)* and the power company *Corpoelec*.⁸ Government candidates are usually given a prominent place at the inauguration of public works, and the National Guard and the Bolivarian Militia have been used to obtain votes. Public officials even accompany candidates to campaign events.⁹

The CNE has rarely acted against pro-government parties to curb these advantages and in recent years has argued that campaign events outside the formal campaigning period (which on this occasion lasted only three weeks) are not regulated.¹⁰ As a result, all political actors – but especially pro-government candidates who control state resources – can ignore electoral rules with virtual impunity.

2. Media bias

When Hugo Chávez took office in 1999, the government had just one TV channel, a radio station with two frequencies and a national news agency. It now owns more than a dozen TV channels, a score of national and regional radio stations, a news agency and one national and several regional newspapers, not to mention a plethora of websites and state-financed “community” media. It has also extended its influence through the purchase, by unidentified but clearly pro-government interests, of a number of news outlets, including the 24-hour TV news channel *Globovisión* and two national daily newspapers. In 2007, it took off the air one opposition channel and nearly three dozen radio stations by the simple expedient of cancelling their licences.¹¹

Dissident publishers and editors have been pursued in the courts and subjected to heavy fines, while opposition newspapers have found it increasingly difficult to obtain newsprint.¹² Such cases were noted in a lengthy 10 November 2015 open letter from Secretary General of the OAS Luis Almagro to Tibisay Lucena, president of the CNE, in response to her rejection of the OAS request to be allowed to observe the election. While the opposition voice was muffled in conventional media, government propaganda was broadcast virtually non-stop.

A key PSUV weapon is the so-called “*cadena*” (literally, “chain”), under which the president can interrupt all free-to-air radio and TV stations simultaneously for as long as he likes. During election time, *cadenas* are used primarily to promote official campaign messages and present government candidates. The CNE has declined to place any limits on the use of *cadenas* or state-financed publicity, despite repeated calls for it to do so by election observers from bodies such as the EU and the Carter Center.¹³

⁸ Crisis Group interview, electoral expert, 1 December 2015.

⁹ Crisis Group interview, public sector employee, 6 December 2015.

¹⁰ The local branch of Transparency International, which compiles and presents complaints, said the CNE email address set up to receive them simply bounced messages. By 18 November, Transparency had compiled 281 examples of electoral abuses. Not all allegations were related to the PSUV or its allies; nineteen referred to the MUD. “CNE rechaza denuncias de abusos”, *Caraota Digital*, 18 November 2015.

¹¹ “Proprietarios de la Censura en Venezuela”, Instituto Prensa y Sociedad de Venezuela (IPYS) report, March 2015. For more information on media bias in Venezuela, see the joint report of IPYS and the Venezuelan Electoral Observatory (OEV) “MUTISMO en la antesala electoral”, 1 December 2015.

¹² 2014 Annual Report of the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights, 9 March 2015.

¹³ “Centro Carter Publica Informe Sobre Las Elecciones En Venezuela”, Carter Center, 3 July 2013.

3. A reduced international presence

The government refused to accept observer missions from the OAS and the EU and imposed restrictions on the UNASUR mission, giving rise to doubts about its commitment to a clean electoral process.¹⁴ Under the terms of its electoral “accompaniment” agreement, UNASUR was barred from making “subjective” comments about electoral conditions, and its final report was to be made available only to the CNE, unless the latter decided otherwise.¹⁵ The Brazilian electoral authority (TSE) declined to take part in the mission on the grounds that the conditions made “adequate observation” impossible.¹⁶ Its Chilean, Paraguayan, Peruvian and Uruguayan counterparts also refused to take part, leaving representation of their respective countries in the hands of foreign ministries or parliaments.¹⁷

The UNASUR mission, launched on 17 November, was led by the former president of the Dominican Republic, Leonel Fernández.¹⁸ The challenge he and his colleagues faced was reflected in the letter Almagro had sent Lucena a few days earlier, detailing his concerns and pointing out that the “transparency and electoral justice that the CNE should provide” were not entirely guaranteed.

Almagro was not alone in questioning whether the playing field was tilted against the opposition. On 16 November, the International Institute for Democracy and Electoral Assistance (IDEA) published the interim conclusions of its joint study of the campaign, carried out in association with the Centre for Political Studies of the Catholic University (UCAB) in Caracas. Its principal finding was that, while the main strength of the election process lay in the electronic voting system, “the greatest weakness is in the equity of the conditions for the electoral contest”.¹⁹ The report noted the CNE’s lack of credibility, due partly to irregularities in the appointment of its board members, the lack of an independent audit of the electoral register since 2005 and the widespread perception that voting is not secret.²⁰

C. Polling Day

Despite fears of violence, voting on 6 December took place in a generally peaceful atmosphere. Except for a few violent incidents (some of them criminal, rather than political), there were only relatively minor complaints.²¹

At around 6pm, the CNE announced that voting stations would remain open for an extra hour, or as long as there were people queuing.²² Henry Ramos Allup, leader

¹⁴ The opposition questioned the suitability and impartiality of the UNASUR mission. Phil Gunson, “Venezuela’s Parliamentary Elections: a Basic Guide”, Crisis Group blog, 16 November 2015.

¹⁵ Agreement to formalise the presence of an electoral accompaniment mission during Venezuela’s parliamentary elections of 6 December, UNASUR, 12 November 2015.

¹⁶ Crisis Group interview, electoral analyst, Caracas, 1 December 2015; “Tribunal de Brasil decidió no observar elecciones parlamentarias en Venezuela”, *EFE*, 19 November.

¹⁷ Crisis Group interviews, government officials and diplomats from Uruguay, Peru and Colombia, November and December 2015.

¹⁸ “Expresidente dominicano liderará misión de Unasur en Venezuela”, *TeleSur*, 16 November 2015.

¹⁹ Crisis Group telephone interview, high-ranking official from International IDEA, 23 November 2015. “IDEA-UCAB Study Mission on Conditions for 2015 Electoral Process”, Preliminary Report, 16 November 2015.

²⁰ “IDEA-UCAB Study Mission”, op. cit.; Crisis Group interview, public sector employee, Caracas, 6 December 2015.

²¹ For more information on the incidents registered on polling day, see Boletines de avance 1, 2, 3 y 4 of the Operación Transparencia group, 6 December 2015.

of the opposition Democratic Action (AD) party, said that Sandra Oblitas (the CNE director who made the announcement) was violating electoral law by extending voting hours. Several MUD leaders declared that they “would not tolerate any further extensions”. Despite the extension, most voting centres closed on time, and there was little intimidation by armed groups. Tensions increased, however, as the CNE delayed announcing the results the opposition already had in its hands. It was after midnight when the first results were issued, giving the MUD 99 seats and the government only 46, with 22 still disputed.

Rumours abound regarding the role played by the military that day. As the tension mounted, General-in-Chief Vladimir Padrino López, defence minister and head of the Armed Forces Strategic Operational Command (CEO), made a live appearance, flanked by other high-ranking officers.²³ Formally, the message was simply a report on the development of Plan República – the military operation to safeguard the electoral process. The minister, who by that time would have known the results,²⁴ called on the parties to “respect the rules of democracy”. Rumours soon surfaced, however, to the effect that the FANB was sending an implicit message to the government that it should respect an electoral result that by that stage was already known to both sides. There were even those who claimed that Padrino had had a fierce argument with Cabello, who had allegedly insisted on the need to avoid losing control of the AN at any cost.²⁵ On the eve of the elections, Padrino had given a televised speech in which he had ruled out the possibility of “a coup or internal coup”.²⁶

Maduro conceded his defeat in a televised speech immediately after the announcement of the first results (which the CNE labelled “irreversible”), attributing the government’s defeat to the “economic war”.²⁷ It took the CNE almost 48 hours to issue the final results, which confirmed that – contrary to almost all forecasts – the MUD had obtained a two-thirds majority (112 seats versus 55 for the PSUV and its allies).²⁸ Underlining the scale of the opposition victory, the turnout was unusually high for a legislative election. Almost three quarters of those registered voted, compared with 66.5 per cent in 2010.²⁹

²² “CNE extiende horario de votación hasta las 7:00 pm”, *Televen*, 6 December 2015.

²³ “Vladimir Padrino López: ‘El país se encuentra en paz’”, *El Universal*, 6 December 2015.

²⁴ Crisis Group interview, military expert, Caracas, 7 October 2015.

²⁵ “Vladimir Padrino, el general venezolano que se puso de parte del pueblo”, *El Mundo*, 7 December 2015. Both Diosdado Cabello and Padrino López have denied these versions; Antonio María Delgado, “Militares venezolanos se rehusaron a participar en fraude electoral”, *El Nuevo Herald*, 7 December 2015.

²⁶ “Jefe militar venezolano despeja temores de golpe o autogolpe en las elecciones”, *EFE*, 1 December 2015.

²⁷ The “economic war” refers to the government’s theory that elements of the private sector aligned with the MUD and its international allies deliberately caused shortages and inflation to damage the “revolution”; “Maduro atribuye la derrota a ‘la guerra económica’”, *El País*, 7 December 2015.

²⁸ The final distribution of seats published on 8 December 2015 gave the PSUV 55 deputies and the MUD 112, of which Primero Justicia will have 33, Acción Democrática 25, Un Nuevo Tiempo 21 and Voluntad Popular fourteen. National Assembly Elections, official website of the CNE, 8 December 2015.

²⁹ Renée Fregosi, “¿Un paso atrás para la hegemonía chavista? Las elecciones legislativas del 26 de septiembre de 2010 en Venezuela”, *Análisis del Real Instituto Elcano (ARI)*, ISSN-e 1696-3466, N°. 157, 2010.

III. A New Reality

The magnitude of the opposition's victory has transformed Venezuela's political reality, and it will take some time for the new rules of the game to be established, since there will be resistance to change. The MUD obtained over 56 per cent of the vote, compared to the PSUV and its allies' 41 per cent.³⁰ Hundreds of thousands of voters who supported Maduro in 2013 changed sides, giving the opposition a comfortable victory.³¹ The MUD defeated the ruling party in sixteen of 23 states. In the capital, Caracas, and eight states, the MUD won every seat, even in districts traditionally allied with Chavismo, such as the 23 de Enero parish in the west of the capital and Barinas state, home of the Chávez family.³²

The MUD's dominance of the assembly will be even greater, since this time Venezuela's electoral rules, which favour the majority, worked in its favour. The opposition will have a so-called "super majority", giving it a series of powers that virtually guarantee a conflict with the executive unless the two sides sit down to negotiate. The government has never shown any inclination to accept cohabitation with its adversaries, and the road toward national understanding looks steep.³³

A. Super Powers

Control of a simple majority of seats gives the MUD several significant powers. The legislature's basic role is to pass laws, including the national budget and supplementary appropriations. It can also challenge and vote "no confidence" in cabinet ministers, approve amendments to the constitution and authorise or not presidential trips longer than five days. Subject to the approval of other state powers, it also has authority to appoint judges to the Supreme Court (TSJ).

With three fifths of the seats (102), it can dismiss ministers or the vice president, although a prolonged conflict between the AN and the executive over the latter could lead to the dissolution of parliament.³⁴ Three fifths also gives the opposition the strength to appoint members of the CNE and, if agreed with the TSJ, dismiss them.

Its two-thirds majority (112) affords even broader powers. This "super majority" allows the MUD, among other things, to pass and amend the so-called organic laws, which rank just below the constitution and involve fundamental rights and civil liberties. An example is the Organic Law of the TSJ, which could be reformed to increase the number of judges, potentially altering the institution's political balance.³⁵

Currently, however, the executive still controls the TSJ, whose 32 members were chosen without reference to the views of what was hitherto a parliamentary minority.³⁶

³⁰ "MUD aventajó por más de 2 millones de votos y 15,4 puntos al oficialismo", *EFE*, 10 December 2015.

³¹ In the presidential elections of 2013, the PSUV obtained 7,587,579 votes. In these parliamentary elections, the party obtained 5,599,025 – 1,988,554 less votes. "El chavismo perdió casi dos millones de votos en las elecciones legislativas", *EFE*, 11 December 2015.

³² Resultados Electorales, CNE, 8 December 2015.

³³ Crisis Group interview, political analyst, Caracas, 1 December 2015.

³⁴ "Maduro puede ser arrastrado por un choque de poderes, prevén juristas", *El Estímulo*, 10 December 2015; "¿Disolución de la Asamblea nacional por el Presidente?: José Ignacio Hernández lo explica aquí", *Prodavinci*, 11 December 2015.

³⁵ Crisis Group interview, political analyst, Caracas, 1 December 2015.

³⁶ See Crisis Group Latin America Briefing N°31, *Venezuela: Dangerous Inertia*, 23 September 2015.

Even more significant is its control of the Constitutional Chamber of the TSJ. Since the constitution was passed in 1999, this chamber has gradually become a court of last resort, which, if the parties fail to come to a political agreement, could be used to block any parliamentary act the government dislikes. The executive's control extends also to the so-called Citizen Power, which comprises the Attorney General's Office, the Comptroller General and the Ombudsman's Office.³⁷ The ruling party also controls public spending and twenty of 23 governorships.

B. *Political Actors and Scenarios*

1. Chavismo

If the Maduro government has been reluctant to accept the consequences of a bad electoral result,³⁸ it is likely that the president will find it even harder to ensure control of his own coalition. In any event, he will take time to process the implications of his defeat. His political discourse and exercise of power is based on seeking hegemony and does not allow for negotiation with the adversary, much less for division of power.³⁹ This behaviour was sustainable as long as the government had the support of a majority of the electorate, but this is no longer the case.

There will probably be a reshuffle in the ranks of the government and its allies, the result of which is hard to predict. President Maduro and Cabello will have to bear the cost of the defeat, and there are those within the government who will want to see them pay. Unlike in the past, when Hugo Chávez exercised his authority almost alone, the current leader is a first among equals, who needs to seek consensus among the members of the political-military command of the revolution, which includes not only ministers and high-ranking military officers, but also Chavista governors and other influential ruling party figures.

The government's interests are varied, ranging from ideological concerns (such as respect for the "legacy of Chávez" and the basic program of the revolution) to more pragmatic and personal issues, such as political survival and even the need to avoid investigation and criminal prosecution in some cases. The U.S. has singled out several civilian and military figures as human rights violators or drug traffickers, so it is no surprise that they are alarmed at the possibility of losing the impunity that has protected them.⁴⁰ Among the other losers are state governors who, in some cases, were unable to secure the election of a single legislator in their respective states.

Many voices, both on the radical left and among the more moderate sectors of Chavismo, have for some time been calling for Maduro to rectify his economic policy

³⁷ National Assembly internal and debating regulations, Title I.

³⁸ Following the election result, President Maduro referred, among other things, to his rejection of a possible amnesty for political prisoners demanded by the opposition; "Venezuela: Maduro dice que rechazará la ley de amnistía, anunciada como prioridad por la oposición", BBC World, 9 December 2015.

³⁹ Crisis Group interview, electoral analyst, Caracas, 1 December 2015. rejected the principle of alternability in power. In a public speech in Caracas on 2 June 2007, in which he cited Antonio Gramsci, the late Italian Marxist theoretician and politician at length, Hugo Chávez spoke about "the ideas of bourgeois democracy, the division of powers – that is what they use to manipulate – the division of powers, alternation, representation as the foundation of democracy, great lies!"; Alejandro Tarre, "Chávez, Gramsci y el Puntochavismo", *Analítica*, 18 June 2007.

⁴⁰ "Estados Unidos acusará formalmente a generales venezolanos por narcotráfico", *Infobae*, 9 December 2015.

and step up the fight against corruption.⁴¹ These voices will become louder, and it is likely that others who have stayed quiet until now will begin to speak up.

Resistance to change became evident on 15 December, when Cabello swore in the members of a “National Communal Parliament” in the parliament building.⁴² This body, which has no basis in the constitution, is seen as a “parallel” legislative power, part of a plan devised by the executive to wrest powers from the AN. The following day, Maduro announced that he would give “all the power” to the newly appointed body.⁴³ The secretary general of the MUD, Jesús “Chuo” Torrealba, replied that the word “commune” was not mentioned in the constitution and that the only legitimate parliament was the National Assembly.⁴⁴

2. The MUD

While the MUD has every reason to celebrate following the first national electoral victory for the opposition in sixteen years,⁴⁵ it still has internal problems to solve. This coalition of 28 parties, most of them very small, with a broad range of political stances, has suffered from internal discrepancies and incipient splits.⁴⁶ The main division has been tactical, between those who favour a gradual build-up of forces through elections (such as former presidential candidate Henrique Capriles), and those who would rather activate other constitutional mechanisms like the recall referendum or the constituent assembly (such as Leopoldo López). There are reasons to believe that unity will prevail, especially after this election proved its effectiveness. While moderates have reason to feel that their insistence on the peaceful, electoral route has been vindicated, however, street pressure will likely also play a role in the new scenario.

The MUD has announced that its first measure after the new AN is installed will be an amnesty law for political prisoners, of whom there are an estimated 70-90, as well as for the more than 2,000 individuals who are subject to legal restrictions, mainly stemming from 2014’s street confrontations.⁴⁷ Maduro has flatly refused to accept the proposal, and according to a media report, Cabello thinks “Chavismo should bypass the assembly to avoid it”.⁴⁸ However, it is possible that some government supporters may see this amnesty law as an opportunity to gain immunity from investigations for human rights violations and corruption. It will be a necessary condition for

⁴¹ Among those in favour of “refounding” the PSUV are former Planning Minister Jorge Giordani, former Minister of Industry Víctor Álvarez and the members of Marea Socialista. Crisis Group interview, former minister under Chávez, Caracas, 9 December 2015.

⁴² “Cabello instaló un ‘Parlamento Comunal’ dentro de la Asamblea Nacional”, *lapatilla.com*, 15 December 2015.

⁴³ “Maduro dice que dará ‘todo el poder’ al recién nombrado Parlamento Comunal”, *EFE*, 16 December 2015.

⁴⁴ “La MUD denuncia parlamento paralelo del chavismo”, *EFE*, 17 December 2015.

⁴⁵ The opposition did defeat a constitutional referendum proposed by Chávez in 2007.

⁴⁶ Crisis Group interview, MUD representative, Caracas, 3 December 2015. For an analysis of the MUD’s weaknesses, see Emma Scully and Daniel A. Tovar, “MUD’s Murky Future in Venezuelan Politics”, Council on Hemispheric Affairs, 13 August 2015.

⁴⁷ The organisation Foro Penal Venezolano estimates that there are currently 77 political prisoners six of whom are women. Following the protests of 2014, 31 people were imprisoned and more than 2,000 subjected to other legal restrictions.

⁴⁸ “Venezuela”, *BBC World*, op. cit.

future conversations, since everyone in the opposition formally opposes dialogue on other issues as long as there are citizens imprisoned by the regime.⁴⁹

3. Negotiation

There is a broad consensus, not limited to the opposition ranks, on the need for a coherent package of economic measures that includes replacement of the price and exchange rate control systems that have constrained economic growth and encouraged corruption. In this respect, it would be desirable for the government and the new parliamentary majority to build a shared legislative program, taking into account the political cost of undertaking some of these measures alone.⁵⁰

It is not just that the country is heading for a chaotic default unless it takes appropriate measures to prevent it. If political leaders are unable to reach an agreement, a frustrated, hungry people could lose patience and start to take matters into their own hands, with potentially disastrous consequences.⁵¹ It will be a delicate process that could endanger the unity of both government and opposition coalitions, since on both sides there are sectors that view any negotiation with “the enemy” with suspicion.⁵² But the severity of the humanitarian crisis demands rapid agreements.

It is almost unavoidable that Maduro’s presidential tenure, which under normal circumstances would end in 2019, will come into play. Many in the government and on the streets would like it to be over soon,⁵³ but it will be difficult to come to an agreement on who should replace him. A recall referendum, constitutionally viable after the first three years of the six-year term (February 2016, though the TSJ could modify the criteria for defining the date), requires the signatures of 20 per cent of the electorate. To revoke Maduro’s mandate, more people need to vote in favour than the number who voted for him when originally elected.

If successful, a recall referendum would lead to fresh elections, which the MUD would almost certainly win. Thus, it is potentially more appealing to Chavismo to wait until the beginning of the fifth year of Maduro’s term (2017), when – also according to the constitution – the outgoing president would be replaced by the vice president, currently Jorge Arreaza. The vice president can be removed and a successor appointed at will by the president, and the office will very likely be an element of the negotiation (if this does indeed take place), in order to guarantee a smoother transition.⁵⁴ The manner in which a new vice president is designated would demonstrate the influence of the various factions and offer a preliminary overview of the balance of forces ahead of the elections scheduled for 2018.

⁴⁹ Crisis Group interview, MUD leader, Caracas, 3 December 2015.

⁵⁰ Crisis Group interview, political analyst, Caracas, 1 December 2015.

⁵¹ In January 1989, the event known as “*El Caracazo*” left hundreds dead, when the government of Carlos Andrés Pérez deployed the army to control rioting and looting sparked by an economic reform package.

⁵² Crisis Group interview, dissident PSUV member, Caracas, 9 December 2015; Crisis Group interview, opposition politician, Caracas, 10 December 2015.

⁵³ According to a survey by Keller y Asociados published on 29 November 2015, 69 per cent of respondents believe that Maduro must finish his term before 2019 for the country to recover; “*Las encuestas dan ganador a la oposición por más de 30 puntos sobre el chavismo*”, Reuters, 29 November 2015.

⁵⁴ Crisis Group interview, political analyst, Caracas, 1 December 2015.

C. *International Context*

The significance of the parliamentary elections cannot be fully understood without taking into account important political developments in the region over the previous months, including conflicts involving the Caracas government and some of its neighbours.

The presidential election in Argentina was the most recent of the regional events to affect Venezuela, which was almost the only foreign policy issue raised during the campaign by Mauricio Macri, the winner. He announced that he would seek its expulsion from the MERCOSUR regional trade pact at that organisation's summit on 21 December in Asunción, on the grounds that its government had contravened MERCOSUR's rules on democracy.⁵⁵

There is also the growing weakness of the Brazilian government and its president, Dilma Rousseff, who is plagued by internal problems that have led to her being threatened with impeachment. Brazil has backed the Bolivarian regime since the presidency of Luiz Inácio Lula da Silva (2003-2010), arguing that it will not tolerate any form of outside intervention in South America.⁵⁶ However, in the months prior to the elections in Venezuela, Rousseff began to show rather less tolerance for the authoritarian aspects of Maduro's regime. The relationship became even tenser during discussions over the appointment of the coordinator of UNASUR's Electoral Observation Mission.⁵⁷

The tough stance toward the Maduro government taken by the OAS secretary general is also a consequence of the changing balance of power within the 34-member organisation. There has been a gradual shift away from majority support for Venezuela's views. The Caracas government has retained the support of the members of the Bolivarian Alliance for the Peoples of Our America (ALBA)⁵⁸ and of the numerically strong Caribbean bloc. But even with the Caribbeans on its side, Maduro's foreign policy has caused rivalries and resentment. Venezuela's repeated attempts in recent months to revive the border dispute with Guyana by accusing its government of conspiring with foreign oil companies has been taken as a collective affront by the Caribbean Community (CARICOM).⁵⁹

⁵⁵ After the elections, Susana Malcorra, Argentina's foreign minister-designate, confirmed that President Macri would not call for sanctions, because Maduro had recognised the opposition's victory; "¿Macri plantearía suspender a Venezuela del Mercosur?", CNN, 23 November 2015; "La futura canciller de Macri, Susana Malcorra, dice que no hay razón para expulsar a Venezuela del Mercosur", *La Nación*, 7 December 2015.

⁵⁶ For more information on Venezuela-Brazil relations, see "La construcción de la alianza entre Venezuela y Brasil (1810-2012)", *Cuadernos sobre Relaciones Internacionales, Regionalismo y Desarrollo*, vol. 7, no. 14, Universidad de los Andes, July-December 2012.

⁵⁷ Brazil's proposed candidate to coordinate UNASUR's electoral mission in Venezuela was Nelson Jobim, former president of the Supreme Court and former defence minister. His candidacy was vetoed by the Venezuelan government and also, allegedly, by the UNASUR secretary general, though the latter denied this claim. Phil Gunson, "Venezuela Elections 2015 – No Room for Credible Observation", Crisis Group blog, 15 October 2015.

⁵⁸ The ALBA is a project based on political, social and economic collaboration and complementarity among certain Latin American and Caribbean countries, initially promoted by Cuba and Venezuela as an alternative to the U.S.-backed Free Trade Agreement of the Americas (FTAA). ALBA member countries are Antigua and Barbuda, Bolivia, Cuba, the Dominican Republic, Ecuador, Granada, Nicaragua, St Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname and Venezuela.

⁵⁹ "CARICOM restates support for Guyana in border dispute with Venezuela", *Jamaica Observer*, 21 March 2015.

But it was undoubtedly the border conflict with Colombia that confirmed the regional shift toward a far less favourable context for Maduro's government. The closure of the border, the legally dubious expulsion of around 20,000 Colombians and the accusations that it was part of a plot against the Bolivarian regime were deeply resented by Juan Manuel Santos's government in Bogotá. They produced a realignment of regional forces that became evident in the OAS when Venezuela was able to block discussion of the border problem by the Permanent Council by only one vote.⁶⁰

If there are no untoward developments, the new political scenario could offer the opportunity for a significant shift in international influence on Venezuela's domestic politics, thanks to the electoral support obtained by the opposition, but the country needs the support of many external actors to stabilise its economy and absorb humanitarian aid.⁶¹ International actors can and should help build agreements on governance issues and on re-establishing the rule of law, freedom of expression and separation of powers.

The final, perhaps most structural issue is the agenda for political dialogue and institutional reform. In 2014, UNASUR designated three foreign ministers (from Brazil, Colombia and Ecuador) to launch a dialogue. It did not prosper, and UNASUR did not sufficiently insist.⁶² In theory, parliament is the appropriate forum in which this political dialogue could resume, but the likelihood is that the parties will fail to reach even basic agreements on reforms, leading to a crisis of governability. In such a scenario, the aim should be to offer technical and political assistance missions to help circumvent gridlock.

At present, it is difficult to point to an ideal forum for a political dialogue facilitated by international actors, especially because there are major differences of opinion regarding the legitimacy and relevance of the various international bodies. The closest sub-regional organisation is UNASUR, but it lacks the necessary infrastructure, and the new parliamentary majority has accused it of complicity with the government.⁶³ Maduro will fiercely resist any OAS role, due to its association with Washington and the open confrontation between its secretary general and the regime. An alternative, would be to strengthen the presence of the UN system in the country through technical and humanitarian assistance teams.

⁶⁰ Javier Ciurlizza, "Un drama fronterizo. Crónica desde Cúcuta, Colombia", Crisis Group blog, 11 September 2015; Phil Gunson, "Drama en la frontera (II): Tensión e incertidumbre en San Antonio, Venezuela", Crisis Group blog, 23 September 2015.

⁶¹ Crisis Group Latin America Briefing N°33, *Venezuela: Unnatural Disaster*, 30 July 2015.

⁶² "Cancilleres de Brasil, Colombia y Ecuador mediarán para el diálogo", *El Universal*, 27 March 2014.

⁶³ Javier Ciurlizza, "Time for Venezuela's Friends to Act", Crisis Group blog, 23 February 2015.

IV. Conclusion

The 6 December elections were a watershed in Venezuela's political conflict, and the immediate future is marked both by expectations and uncertainty. On the up-side, it is important to acknowledge that the electoral process was for the most part free from violence, and that all parties have respected the results, at least in their quantitative dimension.

It will be harder, however, for the country to translate formal respect for the outcome into adjustment to a radically different political context. The government faces the difficulty of accepting defeat while maintaining the cohesion of a political front that had already shown signs of disarray before 6 December. It will be constantly tempted to divert attention from its resounding defeat by calling on its supporters to block the new parliamentary majority in the streets and using legally dubious mechanisms to curb the powers of the assembly or reduce the opposition's majority.

The challenge for the MUD will be to remain united in its new position of responsibility. Pragmatism will be required to coexist with a hostile government and satisfy a society that expects much more than incendiary speeches and crowd-pleasing gestures.

In a different country, such an electoral outcome would lead to negotiations between the parties, aware as they would be of the potentially enormous political cost of a crisis of governability that could sweep both of them aside. But in Venezuela, where the culture of dialogue and agreement has fallen into disuse, and concessions to "the enemy" can threaten each side's coherence, the path to dialogue is strewn with obstacles. It will be tempting to try to pin the blame for problems on each other, a tactic that could prove fatal for a country that urgently needs swift decisions to avoid collapse.

Whatever form an international presence might take, there will be need for a third party capable of improving the prospects for dialogue. The two sides ought to be interested in such a dialogue taking place. Given the MUD's majority, the government risks seeing its initiatives blocked and its financial resources affected. On the other hand, the executive retains control of the other branches of state, as well as sources of public funds. It is in neither party's interest to be blamed by citizens for a governance crisis. Both could find it useful to refer conflicts to a third party, which could assume, at least partially, the political cost of any concessions. Both sides know that their coalitions are fragile.⁶⁴

In light of these considerations, and above all to contribute to prudent management of transition from an authoritarian government to one of cohabitation, national and international actors must be prepared to contribute initiatives. This will be crucial to ensuring political stability and avoiding a collapse with potentially grave consequences.

Caracas/Bogotá/Brussels, 21 December 2015

⁶⁴ Crisis Group interview, former minister under Chávez, Caracas, 9 December 2015. Crisis Group interview, MUD representative, Caracas, 3 December 2015.

Appendix A: Map of Venezuela

