

## THE 2024 PRESIDENTIAL ELECTIONS IN VENEZUELA: HOW TO AVOID ANOTHER FAILED ELECTION

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It is a pleasure to be here today discussing the democracy playbook for Venezuela regarding the 2024 presidential election. I will explain why, in my opinion, under the current conditions and sets of incentives, the 2024 elections could be another failed attempt to bring democracy back to Venezuela.

I've characterized Venezuela as a failed case of democratization by elections.<sup>1</sup> Since 2004 the theory of change adopted by the opposition has been to promote a transition through elections. But each election was a step toward authoritarianism. Not even the electoral triumph of the opposition in the 2015 parliamentary elections advanced democracy: On the contrary, that election ended the competitive authoritarianism in Venezuela and triggered an authoritarian path that led to crimes against humanity, transnational kleptocracy, a complex humanitarian emergency, and the worst migrants and refugees crisis in the world.

And now, once again, it seems that the transition strategy is focused on elections: the 2024 presidential election.

It is necessary to recall the nature of Maduro's regime. It is, of course, an authoritarian-populist regime. But it is something even worse: a criminal elite that has gained economic power as a result of the collapse of the State and the increasing de facto dollarization, as I explain in one of my recent books.<sup>2</sup>

This diagnosis does not intend to polarize the debate in Venezuela or "annihilate" Maduro's coalition. The interest is in understanding the incentives the ruling alliance could have to negotiate reasonable electoral conditions.

There are no clear incentives, among other reasons, because political motivations tend to be less efficient in solving non-political problems, as

happens with the problems caused by the organized crime that the ruling elite has created over the ruins of Venezuela's fragile states.

Also, Maduro's regime seems to have better alternatives to a negotiated agreement (BATNA). I will mention two.

The Venezuelan narrative is changing. Instead of talking about gross human rights violations and justice, the main topics of discussion are economic recovery, the creation of special economic zones, and the extraordinary increase in oil production that would follow oil licenses. Without real concessions, Maduro could reduce the pressures derived from his criminal and kleptocratic behavior. Rather than negotiate genuine electoral reforms (and genuine economic improvement toward a stable and inclusive development), the best alternative for Maduro is to keep fostering this new narrative, in an example of the post-truth (one of the global threats to democracy, identified by Moises Naim).<sup>3</sup>

The main legal barrier that prevents Maduro from accessing external assets is the international recognition of the interim president. Based on Art. 233 of the Venezuelan Constitution, the status of the interim president must be preserved until free and fair presidential elections. Hence, this constitutional status creates incentives to negotiate those electoral conditions, considering the 2024 presidential election.

But the constitutional status of the interim president could disappear, not as a result of Maduro's actions but, paradoxically, due to unconstitutional decisions adopted by the fourth legislature of the National Assembly. According to the last reform of the Democratic Transition, the mandate of the National Assembly and the Interim President will expire on January 5, 2023.<sup>4</sup> Maduro doesn't have to return to Mexico to improve the probability of regaining control over external assets: His best alternative is to wait until the National Assembly suppresses one of the most valuable incentives for a negotiated solution based on the 2024 presidential elections.

These two alternatives are interconnected: the new narrative in Venezuela that hides the criminal nature of the ruling elite considers that the existence of the Interim Presidency is a threat to the electoral solution to the Venezuelan crisis. Under these conditions, we can understand why the

Mexico conversation is stalled: rather than enter into real political concessions in Mexico, the best alternative for Maduro is to keep pushing the new narrative and the gradual extinction of the Interim Presidency's constitutional status.

The lack of incentives to enter into genuine negotiations to improve electoral conditions doesn't mean that the best strategy toward a rigged 2024 elections is to ignore them, calling for abstention. Even a rigged election could be an opportunity to promote transition under adequate incentives. What is missing here is, precisely, those incentives and a strategy.

There are several avenues to achieve those incentives. For instance, oil licenses must be designed following transparency and humanitarian conditions that assure the efficient management of oil revenues to benefit the Venezuelan people. But so far, the discussion about those licenses has only focused on improving oil production -even if the kleptocrat organization under Maduro's control manages the oil revenues.<sup>5</sup>

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The final report of the electoral observation mission conducted by the European Union has an accurate assessment of the electoral malpractices that must be addressed. However, Maduro has no incentive to enter into genuine negotiations that solve at least the most relevant malpractices. Under this scenario, the 2024 presidential election would be another failed attempt to advance a democracy playbook in Venezuela.<sup>6</sup>

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<sup>1</sup> Hernández G., José Ignacio (2021), *Bases fundamentales de la transición en Venezuela*, Caracas: Editorial Jurídica Venezolana.

<sup>2</sup> Hernández G., José Ignacio (2022), *Control de cambio y de precio. Auge y colapso institucional*, Caracas: Editorial Jurídica Venezuela.

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<sup>3</sup> Naím, Moisés (2022), *The revenge of power*, New York: St. Martin's Press.

<sup>4</sup> Legislative Gazette, N° 56, January 5, 2022. This limitation violated the Constitution and was adopted as a result a proposition made by one of the political parties represented in the National Assembly, that insisted in the necessity to eliminate the Interim Government -hence paving the way for Maduro's regaining control over external assets. See Hernández G., José Ignacio (ed) (2022), *Estudios sobre la reforma del Estatuto de Transición de 2022y la continuidad constitucional en Venezuela*, Caracas: IDEA-Editorial Jurídica Venezolana.

<sup>5</sup> As Sabatini and Rice conclude, a strategy could be to "*allow for sanctions relief to permit limited production of oil and gas in Venezuela, and to permit their international sale through Western energy companies. This would require the creation of a mechanism to direct revenue into independent, international channels for humanitarian relief. It would also perhaps require expanded support for institutional and infrastructural development*". *A roadmap for restoring fundamental rights and democracy in Venezuela* (2022), Chatham House, 9.

<sup>6</sup> For a general assessment of the 2024 elections, see Berg, Ryan, and Ziemer, Henry (2022), *Venezuela's 2024 Elections: Understanding Participation under Unfree and Unfair Conditions*.