



 COLUMBIA | SIPA
School of International and Public Affairs

Mediation in Venezuela

Assessing Options for
Advancing a Political Solution

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I. ACRONYMS

ACHR	American Convention on Human Rights
CNE	Consejo Nacional Electoral (National Electoral Council)
CSO	Civil Society Organization
EU	European Union
HRO	Human Rights Organization
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ILO	International Labor Organization
INGO	International Non-Governmental Organization
IOM	International Organization for Migration
MERCOSUR	The Common Market of the South
MUD	Mesa de la Unidad Democrática
NGO	Non-Governmental Organization
OECD	Organization for Economic Co-operation and Development
OAS	Organization of American States
PDVSA	Petróleos de Venezuela, S.A. (Petroleum of Venezuela)
UN	United Nations
US	United States
UNASUR	Union of South American Nations
UNDPA	United Nations Department of Political Affairs
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNICEF	United Nations Children's Fund
UPR	Universal Periodic Review
USAID	United States Agency for International Development
WHO	World Health Organization



II. INTRODUCTION

Venezuela is currently experiencing an economic, humanitarian, and political crisis that is unprecedented in the nation's history. The convergence of economic and political factors, including the drop in oil prices and national production¹, the systematic devaluation of the country's currency, and the deterioration of institutional check and balances, has resulted in one of the largest peacetime economic contractions since World War II.² Venezuela's economy has nearly entered into quadruple-digit inflation, which has led to an increase in poverty rates, a strain on public services, a shortage in food and medical supplies, as well as contributed to severe hardship and the forced migration of hundreds of thousands of Venezuelans.³ In turn, this worsening economic scenario has exacerbated the political tensions between the government of President Nicolás Maduro and the opposition parties who reject and denounce his leadership and policies.

Last year marked a critical moment as public discontent became increasingly more palpable with mass protests throughout the country which called for the removal of President Maduro and held him responsible for the crisis.⁴ Further, the government's attempt to dissolve the National Assembly and consequently, the government's creation of the National Constituent Assembly, raised concerns within the international community. Moreover, media reports suggested that these actions were evidence of a rupture within the constitutional thread of Venezuela.⁵ In response, the government methodically repressed dissent through often-violent crackdowns during street protests, the jailing of opponents, and the prosecution of civilians in military courts. These violations influenced regional and international response to the crisis in Venezuela, with some choosing to take direct action through the use of sanctions or diplomatic tools. As such, Peru disinvited President Maduro from the Summit of the Americas, citing concerns over the deterioration of democratic rule in Venezuela.⁶ Other international actors, such as the United States, Canada, the European Union (EU), Switzerland, and Panama, have imposed targeted economic sanctions against members of the Maduro government in response to documented cases of corruption, repression, and human rights abuses. Additionally, regional actors participated in the latest attempt to reach a peaceful political resolution through mediated talks between the Maduro government and opposition parties. These talks were hosted by the government of the Dominican Republic in Santo Domingo from September 2017 to February 2018. Albeit unsuccessful, they represent the potential and the need for active engagement by the international community in this crisis.

In consideration of the above mentioned factors, this report focuses on areas of analysis that are essential for the achievement of a peaceful and sustainable political



resolution,^a as well as addresses the need for protection and representation for the Venezuelan people. This includes insights and lessons learned from past talks which can help to structure future talks, as well as specifically proposes the use of mediation tools to unify the division within the opposition, the potential involvement of the United Nations (UN), and the direct inclusion of civil society in the mediation process. In order to achieve a better understanding of the humanitarian crisis in Venezuela, this report highlights the medical necessities and food scarcities within the region, the impact of local NGOs, and the assistance funds supplied by the international community to bordering nations. Regarding the outflow excess of Venezuelan migrants into neighboring countries, this report illustrates the magnitude and volatility of spillover across the region as a consequence of the humanitarian crisis in Venezuela, calls on the international community to take action towards addressing the challenges in attending to the exodus of migrants, and suggests policy strategies that can best serve the migrants and host-communities.

In assessing the impact and role of human rights protections, this report considers the use of available mechanisms within the Universal and regional human rights systems to increase pressure upon the Venezuelan Government, as well as the use of Preliminary Examinations procedure before the International Criminal Court (ICC) and its ability to build into this pressure. Given the gravity of the human rights situation in Venezuela, this report also examines the use of available transitional justice mechanisms to account for the victims of human rights violations and ensure good faith negotiations even if a political transition has not taken place. Finally, this report analyzes the role of sanctions as a tool for the international community, explores their effectiveness through various policy options, and underscores the need for a coordinated regional response. Above all, this report firmly stresses that the road to political resolution in Venezuela must be paved with greater considerations for the needs and desires of the Venezuelan people. Thus, each recommendation presented here seeks to empower Venezuelan citizens in areas where their rights have been violated in order to counter the political power imbalances that have brought the country to this pivotal moment in its history.

Additionally, this project was prepared as an independent academic product for the Department of State with the aim of providing new analysis of the situation and available options for a political solution.

^a This report does not directly address solutions or factors that are economic in nature as this report is focused on the mediation process as a path for political resolution.

III. MEDIATION


Although past mediation attempts between the Venezuelan government and the opposition parties have yet to result in a political resolution, the lessons learned from past talks, such as the Organization of American States (OAS) & the Carter Center talks (2002-2004⁷) and the recent Santo Domingo talks (2017⁸-2018⁹), can be used to structure future talks. Thus, an analysis of areas that could benefit from improvement should be considered.

A. Unifying the Opposition

One such area is the division amongst the opposition parties and the lack of a unified representation of the opposition at the negotiating table. For example, Jennifer McCoy, former Director of the Carter Center's Americas Program, points out that during the talks facilitated by the OAS & the Carter Center, "...none of the 'political chiefs' of the Coordinadora Democrática were on the delegation¹⁰ (of the opposition)." However, opposition leadership, in the form of the G4 (Primero Justicia, Acción Democrática, Un Nuevo Tiempo, and Voluntad Popular) of the Mesa de la Unidad Democrática (MUD), was present at the Santo Domingo talks. That said, the G4 did not represent the views of opposition members that were openly critical of the opposition's participation in the Santo Domingo talks, views such as that of María Corina Machado of Vente Venezuela¹¹. In essence, the disparate views preclude the representatives of the opposition from negotiating for the opposition as whole, thereby weakening their position during the mediation process. Moreover, because there are only so many seats at the negotiating table, the opposition's negotiating position would benefit from the formation of a more collective stance prior to the beginning of future talks.

Recommendation 1. Thus, prior to the next round of negotiations, outside actors should assist the opposition with the tools necessary for implementing a more unified message. Specifically, mediation specialists should be enlisted to work directly with opposition parties including the MUD, Frente Amplio Venezuela Libre, and other opposition groups, such as Avanzada Progresista and Soy Venezuela.

Additionally, although this type of initiative would benefit from regional leadership, it's important to consider the history of respect for the territorial integrity of states and for the protection of sovereignty within the Latin American region. Such sentiments are indicated in the charters or stated objectives of regional organizations, such as OAS¹², the Union of South American Nations (UNASUR¹³), and MERCOSUR¹⁴. Furthermore, one should also consider the relationships between the various regional



organizations and the Venezuelan government. For example, President of the Constituent National Assembly, Delcy Rodríguez, stated that Venezuela plans to part ways with the OAS¹⁵. Additionally, MERCOSUR's membership page states that, "the Bolivarian Republic of Venezuela is suspended in all the rights and obligations inherent to its status as a State Party of MERCOSUR...¹⁶." Lastly, in early 2017, "...a joint statement released by the Uruguayan Foreign Ministry, (on behalf of UNASUR members) Argentina, Brazil, Chile, Colombia, Uruguay and Paraguay called for democratic order to be restored in Venezuela¹⁷." Thus, due to the above mentioned factors, although this initiative would benefit from the involvement of regional actors, an alternative plan involving a neutral party should also be considered.


B. United Nations Mediation Services

One such plan could involve the UN. In terms of capacity, the Mediation Support Unit¹⁸ of the United Nations Department of Political Affairs (UNDPA) has the ability to take on this type of role. Following, it's important to note that it's unlikely that the UN would accept this position without the consent of the Maduro government. Furthermore, some could counter that the Maduro government might not agree to such a proposal as the fracturing itself could strengthen his negotiating position. However, Telesur quoted a speech in which Maduro stated that, "Divisions have appeared in the opposition again, electoral, infighting, have blocked their participation in the talks on dialogue...¹⁹." With this statement, President Maduro seems to be expressing his commitment to the mediation process, as well as acknowledging the division within the opposition.

Recommendation 2. Given the above mentioned factors, a proposal of preparatory mediation services, provided by a neutral party, such as the UN, should be proposed to both the Maduro government and the opposition parties.

C. Direct Inclusion of Civil Society

As noted by Desirée Nilsson in her piece titled, *Civil Society in Peace Accords and the Durability of Peace*, "the inclusion of civil society in peace agreements significantly increases the chances that peace will last²⁰." During the Santo Domingo talks, civil society did play an indirect²¹ role in the mediation process, however, this role should be expanded in future talks. Of course, the participation of Frente Amplio Venezuela Libre could aid in the achievement of this goal as this group includes members of the opposition, as well as representatives from groups, such as Fedecámaras, the Federation of University Centers of the Central University of Venezuela, and the Andrés Bello Catholic University²². Moreover, as members from civil society groups are able speak on behalf of specific sectors within Venezuelan communities, their direct inclusion in future talks could lend



credibility to the negotiating process and serve as a check and balance for the participants, thereby giving the populace a greater feeling of investment in the mediation process. Ultimately, the success of any political resolution is dependent on the support of the people and thus, the direct inclusion of civil society leaders may help to ensure that the proposals which are negotiated between the government and the opposition will garner that support.

Recommendation 3. In order to help garner the support of the Venezuelan people during future mediation processes, the direct inclusion of civil society should be considered for future talks. This can be accomplished through the direct participation of civil society groups that represent large portions of the Venezuelan populace or through the direct participation of civil society groups from Frente Amplio Venezuela Libre.




IV. HUMANITARIAN CRISIS: INTERNATIONAL AID RESPONSE

Venezuela's economic crisis, marked by severe hyperinflation and food scarcity, has resulted in a deepening humanitarian crisis for the people of Venezuela. It has also led to a decrease in the livelihoods for all classes of Venezuela's civil society, many of whom are suffering from the widespread effects of malnutrition and desperate health outcomes. According to the World Health Organization (WHO), a humanitarian crisis of complex emergency can be defined as a situation with complex social, political, and economic origins which involves the breakdown of state structures, the disputed legitimacy of host authorities, the abuse of human rights, and possible armed conflict, all of which creates humanitarian need²³. The State of Food Security and Nutrition in the World 2017²⁴ suggested that undernourishment in Venezuela has increased from 10.5% to 13% between 2004-2006 and 2014-2016²⁵. The Pharmaceutical Federation of Venezuela estimates that the country is suffering from an 85% shortage of medicine with a 90% deficit of other medical supplies used to treat more serious conditions like cancer²⁶. Infant mortality rose to 30% last year and cases of malaria jumped to 76%²⁷. Diseases thought to be extinct, such as measles, are now resurfacing exponentially. Outbreaks have been witnessed not only within Venezuela (727 cases in 2017), but also within countries receiving migrants²⁸.

President Nicolás Maduro has refused international humanitarian aid and has stated that Venezuela's economic problems are caused by foreign adversaries like the United States; a country which he claims is waging an economic war against his country²⁹. This refusal has been incredibly problematic as international actors are unable to distribute aid without the consent of the state. Moreover, the Venezuelan government has attempted to cover up the extent of the crisis by enforcing a near-total blackout of health statistics and by creating a culture in which doctors are often afraid to register cases and deaths which may be associated with the government's failures³⁰.

Additionally, non-governmental organizations (NGOs) in Venezuela have served as levers for the development of an informal economy between donations and infiltrated goods, as well as between grassroots community organizations and civil society. Organizations, such as Acción Solidaria, had previously provided free HIV/AIDS medication, every month, to Venezuela's civil society in Caracas, yet, this group, like many others, has run out of medication and can no longer provide aid locally to those in need³¹.

As a result, Venezuela's critical medicine shortage has spurred "medical flea markets" where items ranging from antibiotics to contraceptives are laid out among fruits and vegetables. However, the prices of these goods are still incredibly expensive for Venezuelans, many of whom earn just a handful of dollars each month due to soaring inflation rates.³² In 2017, Caritas International launched a program in Venezuela which



addresses the immediate needs of civil society in the support for food, water, health, and nutrition for children under five. Additionally, they have also appealed to many international non-governmental organizations (INGOs) for urgent donations in support of their programs³³. Apart from Caritas, the United Nations Children's Fund (UNICEF) is one of few organizations on the ground in Venezuela. UNICEF's primary work has focused on the implementation of neo-natal clinics, in partnership with Hospitales Amigos del Niño, and the installation of treatments for malaria and HIV/AIDS³⁴.

On March 20th, 2018, the United States announced a new plan to provide humanitarian assistance with an initial and immediate commitment of \$2.5 million. This plan aims to provide emergency food and health assistance for Venezuelan refugees in Colombia, as well as for the Colombian communities that are hosting them³⁵. In this mission, the United States Agency for International Development (USAID) has partnered with the Pan American Health Organization and the United Nations World Food Programme in order to alleviate the discomfort of communities affected by the humanitarian crisis. USAID's top priorities in their funding for Venezuela were previously categorized within government and civil society, as well as within emergency response³⁶. Many of these activities, reinforced by USAID in Venezuela, were previously targeted for Colombia refugees in Venezuela.

Recommendation 4. Given the present crisis, the aims of humanitarian aid should be expanded to Venezuelan refugees living in Colombia. Additionally, future aid should be directed towards Venezuelans residing in Venezuela and could include programs which focus on psychosocial assistance, the building of resilient families, strengthening protection, and security.

Ultimately, the aid in support of bordering countries that receive the greatest number of migrants, namely Colombia and Brazil, should come from other Latin American countries. However, this does not seem like a feasible option at the present time. Additionally, when distributing aid, USAID should be cognizant of the perception of the United States as a foreign adversary that has contributed to the economic crisis in Venezuela. For example, if aid delivered to the region is supplied and distributed with USAID logos, civil society and certain party officials may perceive this aid to be an influencing technique on behalf of the United States government to bribe political official and local governments. The rebranding of materials for the purpose of decreasing the politicization of assistance should be implemented by USAID. If USAID does not opt to rebrand, this could lead to an increase in security hazards for the contracted agency.

Recommendation 5. Therefore, USAID should consider partnering with reputedly neutral local actors and organizations in the distribution and



the implementation of humanitarian aid and should consider a rebranding of their distributed materials.

Additionally, the United Nations High Commissioner for Refugees (UNHCR) has urged international actors to join them in providing assistance to bordering countries that are hosting Venezuelan refugees, including states, such as Colombia and Brazil. Following, the EU has already taken a step in this direction^b. According to UNHCR, an initial financial requirement for the implementation of a regional response amounts to \$46 million³⁷. Taking this initial requirement into consideration, how should aid be disbursed? UNICEF's aid response highlights different aspects of aid, such as medical care^c, education, protection materials^d, water, sanitation, and hygiene³⁸. Following, UNHCR has integrated an operational response to ensure the safety of Venezuelan migrants entering Brazil and Colombia through the pillars of protection, shelter, health and nutrition³⁹.

Recommendation 6. As Colombia and Brazil have witnessed different regional and institutional challenges in receiving refugees, aid should be allotted in ways that are specific to the needs of each receiving country.

Currently, Brazil is more in need of material and infrastructural aid, such as social services, medical clinics, schooling, and wash programs. Due to these limitations, without the aid from the international community, Brazilian authorities fear a full-fledged humanitarian crisis⁴⁰. On the other hand, Colombia is more in need of material and financial assistance for legal and policy implementations which may support Venezuelan workers, as well as cash assistance for newly arrived refugees.



^b The EU's chief for Humanitarian Aid Christos Stylianides announced on March 17th, 2018, through a European Commission Press Release, that Europe would be providing €31 million in funding for humanitarian aid and disaster preparedness in Latin America – €6 million of which going towards Colombia, and €2 million to those affected by the Venezuelans crisis.

^c UNICEF's aid towards medical care includes: emergency health kit, Postexposure Prophylaxis (PEP) Kit, midwifery kit, etc.


^d UNICEF's aid towards education and protection includes: school in a box kit, cooking kit, etc.

V. HUMANITARIAN CRISIS: MIGRATION AND PROTECTION RESPONSE

Although it was once considered to be the richest economy in Latin America,⁴¹ Venezuela's steep economic decline and growing political instability have led to the outflow of an estimated 1.5 million Venezuelans throughout the region.⁴² For the first time, a country with a history of receiving the highest numbers of refugees in the region, second only to Ecuador⁴³, the situation in Venezuela is quickly turning into an alarming humanitarian emergency.⁴⁴ Venezuelan nationals are currently fleeing *en masse* in search of better living conditions due to growing fears of political persecution, outbursts of violence, crippling economic problems, and curtailed access to healthcare.⁴⁵ In response to this crisis, the UNHCR recently released a guidance that encourages countries to grant international protection and humanitarian assistance to those fleeing Venezuela.⁴⁶ The UNHCR calls on countries within the region to abide by the guidelines established in the Cartagena Declaration of 1984,⁴⁷ which provides an extended definition of refugee status and a framework to reinforce programs for protection and assistance in the areas of health, education, labor and safety.

Countries such as Peru, Colombia, Brazil and the Southern Caribbean have experienced the greatest influx of migrants and refugees thus far.⁴⁸ Communities along the border are unprepared and ill-equipped to respond to the volatility and magnitude of migration patterns, thus, it is time to organize a multilateral coalition in order to address the crisis. Although not all Venezuelan migrants that leave their country do so for refugee-qualifying reasons, many members of the international community concur that a large number of these migrants are in need of humanitarian and legal protection.⁴⁹ Adding complexity to the situation, this year's regional electoral landscape includes presidential elections for Brazil, Colombia, Mexico, Venezuela, Costa Rica, and Paraguay, all of which could have significant effects on the immigration attitudes and policies of regional actors.^{50, 51}

Recommendation 7. Countries in the region, specially countries bordering Venezuela, should collaborate to enforce a coordinated effort following the guidelines provided by the Cartagena Declaration framework in order to best address the challenges pertaining to the large outflow of Venezuelans.



The Cartagena Declaration of 1984^e was designed to recognize and provide assistance to those affected by the crisis in Central America.^f The immediate objective of the declaration was to provide a common framework, unifying criteria and programs in order to meet the challenges of the refugee situation.⁵² In order to better prepare for and address the Venezuelan exodus, there needs to be concerted action from bordering countries, as well as support from destination countries, to abide by the principles of regional solidarity, cooperation, and responsibility. In addition, there needs to be coordination with other international organizations, such as the UNHCR and the International Organization for Migration (IOM), in conjunction with existing Civil Society Organizations (CSO) and local governments. Moreover, a coordinated effort, led by the Lima Group, a regional group that has continued to express concern and interest towards the provision of support to affected Venezuelans,⁵³ can follow the precedent of the Contadora group⁵⁴ through a country-led effort to encourage the sharing of data, information and an exchange of best practices, in order to move towards a more progressive harmonization of public policies, standards, and procedures, all of which could help regulate the outflow patterns of migrants.⁵⁵

Furthermore, because of the volatility and magnitude of migration patterns, as the Venezuelan crisis spills over to neighboring countries within the region, coordination between bordering countries is necessary as measures taken by one country can severely affect the level of outflow to the other.⁵⁶ Cooperation can also lead to a more effective distribution of humanitarian aid, technical, and financial support, as well as to an alleviation of the burden of host communities, many of whom are under increased strain and in need of immediate and robust support.⁵⁷ The goal is to multiply efforts in order to guarantee the enjoyment of economic, social, and cultural rights,⁵⁸ taking into account the various needs of Venezuelans migrating in vulnerable conditions, as well as to ensure peaceful coexistence and appropriate integration into the host country.

^e As a region with one of the world's most progressive refugee treaties, ten Latin American countries were responsible for the enactment of the Cartagena Declaration of 1984: Belize, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, and Venezuela. UNHCR. *Cartagena Declaration of 1984*.

www.unhcr.org/en-us/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html

^f It expands the definition of refugee to recognize persons who, "have fled their country because their lives, safety or freedom have been threatened by generalized violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances which have seriously disturbed public order."

www.unhcr.org/en-us/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html

Recommendation 8. Countries receiving the largest share of Venezuelans can benefit from group coordination and assistance with regional partners in the implementation and expansion of best practices in sectors, such as border security and immigration policy.

Labor: The introduction and expansion of temporary work permits for Venezuelan immigrants has eased the entry into the labor force and the payment of taxes.⁵⁹ These policies represent ways to promote self-sufficiency for migrants and refugees, as well as provide a necessary step for effective integration. Although many have voiced concerns regarding the possible negative impacts caused by a large influx of migrant workers, this year, the Organization for Economic Co-operation and Development (OECD) and the International Labor Organization (ILO) have jointly released an empirical report examining the contributions of immigrants to the economies of developing countries.⁶⁰ Beyond permits, countries should also take steps to ensure fair pay for migrants in order to avoid abuses and labor market distortions.⁶¹

Education: In response to the severe bureaucratic backlogs and brain drain in Venezuela, some countries have chosen to ease validation requirements for Venezuelan university degrees, thereby helping migrants in the exercise of their professions in their host country.⁶² However, more attention should be given to the implementation of proper assessments for those still completing their primary and secondary education, thereby ensuring a quick resumption of their studies upon arrival to their host country.⁶³

Documentation & Transit: The Venezuelan government's failure to meet the demand to print and renew passports has impacted Venezuelans' ability to legally transit across borders.⁶⁴ As a response, Colombia has employed the use of entry cards in lieu of a working passport. This has served to monitor and encourage legal migration, as well as provide a lifeline to those living close to the border, many of whom regularly cross over to purchase goods and to combat shortages.⁶⁵ Amid political debate, tougher migratory controls have suspended the policy which has resulted in a sharp increase of migrants at the Brazilian border.⁶⁶ We recommend reintroducing, standardizing, and expanding this policy to all bordering countries. Doing so will help regulate migration patterns, reduce Venezuelans' urgency to migrate, and ease border security concerns.

VI. INTERNATIONAL HUMAN RIGHTS PROTECTION

A. Human Rights

According to the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, the human rights situation in Venezuela is “deeply alarming”.⁶⁷ Civil, political, economic, social, and cultural rights are being violated.⁶⁸ Following, the UN has indicated that there are allegations of crimes against humanity, repression and restriction of freedoms of expression, opinion, association and peaceful assembly. Additionally, there are reports that malnutrition has increased dramatically and that government assistance programs are often conditional to political considerations.⁶⁹

Any attempts toward achieving a political resolution would require the establishment of conditions that call for the respect and protection of human rights. Thus, a buildup of pressure through “naming and shaming” mechanisms could be applied to the Venezuelan Government in order to ensure that the human rights situation is addressed in future mediation processes. “Naming and shaming” is a strategy used to enforce human rights law⁷⁰. In essence, states are multilaterally targeted by the international community and human rights organizations (HRO) through the calling of attention to and the voicing of condemnation for egregious acts. This strategy is implemented with the hopes that through publicity, governments will be pressured to modify their abusive practices.⁷¹ Using these mechanisms, Venezuelan HROs and INGOs play a fundamental role in documenting violations.⁸

Through the Universal System and the use of the “naming and shaming” apparatus, the United Nations Human Rights Council (UNHRC)^h should discuss the situation in Venezuela and issue a resolution calling for the state to refrain from human rights violationsⁱ during their next session (38th session, June 2018). Additionally, the

⁸ As an example, the reports of international NGO's such as Human Rights Watch or Amnesty International, represent a very important tool for naming and shaming. See Human Rights Watch. "World Report- Venezuela." 2017. 11 April 2018. <https://www.hrw.org/world-report/2018/country-chapters/venezuela>. and Amnesty International. *VENEZUELA 2017/2018*. 2017. 11 April 2018. <https://www.amnesty.org/en/countries/americas/venezuela/report-venezuela/>.

^h The Human Rights Council is an inter-governmental body within the United Nations system made up of 47 States responsible for the promotion and protection of all human rights around the globe.

ⁱ Even when some States and several Human Rights Organizations have requested the HRC to address the Venezuelan situation, this has not happened in the formal agenda of the Council. There was a joint statement on Venezuela at HRC 33 in September 2016: Permanent Mission of the United States of America to the United Nations and Other International Organizations in Geneva. *Joint Statement on Venezuela at the Human Rights Council*. 29 September 2016. 11 April 2018. <https://geneva.usmission.gov/2016/09/29/joint-statement-on-venezuela-at-the-human-rights-council/>.

There was a joint statement of 81 Venezuelan Organizations and 34 international organizations asking the Venezuela's Crisis to be a Human Rights Council Priority: Human Rights Watch. *Joint statement: Venezuela's Crisis Should be a Human Rights Council Priority*. 8 September 2017. 11 April 2018.

UNHRC could implement the creation of special procedures, such as country visits or the designations of Special Rapporteurs. Last March, the High Commissioner^j encouraged the UNHRC to “consider mandating a Commission of Inquiry to investigate human rights violations in Venezuela”.⁷² Regarding the Universal Periodic Review (UPR)^k, the last review was in 2016 and the next mid-term reporting is scheduled for May 2019. This future review can provide an opportunity for the international community to apply pressure to the Venezuelan government.

The Universal System of Human Rights also includes treaty bodies^l. Each of these mechanisms establishes specific procedures, calendars, and opportunities that can be used to call upon the Venezuelan Government to cease human rights violations. Additionally, any state party to the International Covenant on Civil and Political Rights (ICCPR) could use the procedures of the Human Rights Committee^m to carry out a special

<https://www.hrw.org/news/2017/09/08/joint-statement-venezuelas-crisis-should-be-human-rights-council-priority>.

^j This Office support the work of special procedures—including special rapporteurs, independent experts, and working groups-- appointed by the Council to monitor human rights, as well as assists independent experts as they carry out visits to the field, receive and consider direct complaints from victims of human rights violations, and appeal to governments on behalf of victims. United Nations Human Rights Office of the High Commissioner. *What we do*. 2018. 11 April 2018.

<http://www.ohchr.org/EN/AboutUs/Pages/WhatWeDo.aspx>

^k The Universal Periodic Review (UPR) is a process based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States. It provides an opportunity for all States to declare what actions they have taken to improve the human rights situations in their countries and to overcome challenges to the enjoyment of human rights. The UPR involves assessing States’ human rights records and addressing human rights violations wherever they occur. United Nations Human Rights Council. *Basic facts about the UPR*. 2018. 11 April 2018.

<http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>

^l Within the Universal System, Venezuela has ratified the following treaties: International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social, and Cultural Rights (ICESC), Convention against Torture (CAT), Convention for the Protection of All Persons from Enforced Disappearance (CED), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Elimination of All Forms of Racial Discrimination (CERD), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW), Convention on the Rights of the Child (CRC), Convention on the Rights of Persons with Disabilities (CRPD).

^m The Rules of Procedure of the Human Rights Committee allow any State Party to the ICCPR to request a special session:

Rule 3

1. Special sessions of the Committee shall be convened by decision of the Committee. When the Committee is not in session, the Chairperson may convene special sessions in consultation with the other officers of the Committee. The Chairperson of the Committee shall also convene special sessions:

- (a) At the request of a majority of the members of the Committee;
- (b) At the request of a State party to the Covenant.

2. Special sessions shall be convened as soon as possible at a date fixed by the Chairperson in consultation with the Secretary-General and with the other officers of the Committee, taking into account the calendar of conferences as approved by the General Assembly.

United Nations Human Rights Office of the High Commissioner. *CCPR Documents*. 11 January 2012. 11 April 2018.

session to address the particular situation in Venezuela and obtain new observations of human rights violations.

Regarding regional mechanisms, despite the fact that Venezuela has denounced the OAS Charter⁷³, the American Convention on Human Rights (ACHR)⁷⁴, and rejected the jurisdiction of the Inter-American Court of Human Rights, the Inter American Commission of Human Rights and the Inter American Court are able to hear cases of human rights violations that took place while Venezuela was a state party or until the denunciationⁿ to the Charter takes effect (April 28, 2019).

Recommendation 9. The international community, in conjunction with national and international human rights organizations, should strengthen the use of the “naming and shaming” mechanisms that are available through the Universal and Regional Human Rights systems, in order to press the Venezuelan Government towards engagement in good faith mediation processes and towards the ceasing and prevention of future human rights violations.

B. International Criminal Court


The ICC’s prosecutor announced the opening of a preliminary examination^o into the situation in Venezuela on February 8th, 2018. This procedure is based on Venezuela’s ratification of the Rome Statute on June 2000 and analyses crimes allegedly committed since, at least, April 2017 by state security forces. The possible charges include the frequent use of excessive force to disperse and put down demonstrators, thousands of which were arrested and detained, many of whom were actual or perceived members of the opposition, and a number of whom were allegedly subjected to serious abuse and ill-treatment while in detention.⁷⁵

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=65.

ⁿ Article 143 of the OAS Charter establishes: “The present Charter shall remain in force indefinitely, but may be denounced by any Member State upon written notification to the General Secretariat, which shall communicate to all the others each notice of denunciation received. After two years from the date on which the General Secretariat receives a notice of denunciation, the present Charter shall cease to be in force with respect to the denouncing State, which shall cease to belong to the Organization after it has fulfilled the obligations arising from the present Charter.” Organization of American States . "Charter of the Organization of American States ." 1993. 11 April 2018.

http://www.oas.org/en/sla/dil/inter_american_treaties_A-41_charter_OAS.asp#Chapter_XXI.

^o The Preliminary Examination consists on examining the information available in order to determine whether there is a reasonable basis to proceed with an investigation. According to article 53 of the Rome Statute, the Prosecutor must consider issues of jurisdiction, admissibility and the interests of justice in making this determination. International Criminal Court. "Rome Statute of the International Criminal Court." 2011. 11 April 2018. <https://www.icc-cpi.int/NR/rdonlyres/ADD16852-AEE9-4757-ABE7-9CDC7CF02886/283503/RomeStatutEng1.pdf>.



According to article 17 of the Rome Statute, in order to determine the admissibility of a case, under the logic of the complementarity principle, the ICC obtains jurisdiction when the state where the violations were committed fails to prosecute or investigate the alleged crimes under the “unwilling or unable”^p test. The Venezuelan Ministry of Foreign Affairs rejected the announcement of the ICC and stated that Venezuela is both respectful of human rights and has the capacity within its domestic judiciary to address the situation.⁷⁶

The implementation of ICC procedures can create pressure toward the Venezuelan Government^q, inducing both short-term and long-term effects. The short-term effect is one of deterrence, namely, the ceasing of the human rights violations that could be constituted as crimes against humanity in an attempt to avoid prosecution. In cases such as Kenya, “the evidence showed that higher levels of ICC intervention, investigations, and prosecutions seem to have led to a decrease in mass atrocities.”⁷⁷

The long-term effect is the promotion of change through actions that the Venezuelan Government could take in order to improve the accountability of human rights violations. If the Venezuelan Government proves that a real effort is being made to ensure accountability and if they undertake a major re-building of judicial institutions and overhauling of human rights practices (particularly concerning the independence of the judiciary), these actions could prevent, or at least delay the ICC from obtaining jurisdiction. The case in Colombia serves as an example for possible actions that could be taken by the Venezuelan government. Namely, Colombia has set a precedent as a country within the region that is subject to the jurisdiction of the ICC and has taken steps to avoid the forward movement of preliminary examinations. Although procedures in Colombia started in 2004, the government has made great efforts to demonstrate to the ICC that the Colombian domestic forum is capable of managing the conflict.⁷⁸

Additionally, it is important that the international community, or at the very least, states which are party to the Rome Statute, expresses its support for the ICC's addressing of this issue.⁷⁹ Moreover, Venezuelan organizations should continue documenting human rights violations that could amount to crimes against humanity. Further, “naming and shaming” mechanisms should also be used to provide information to the ICC regarding

^p For the “unwillingness” test, the Court would assess if: The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility; There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice; The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.

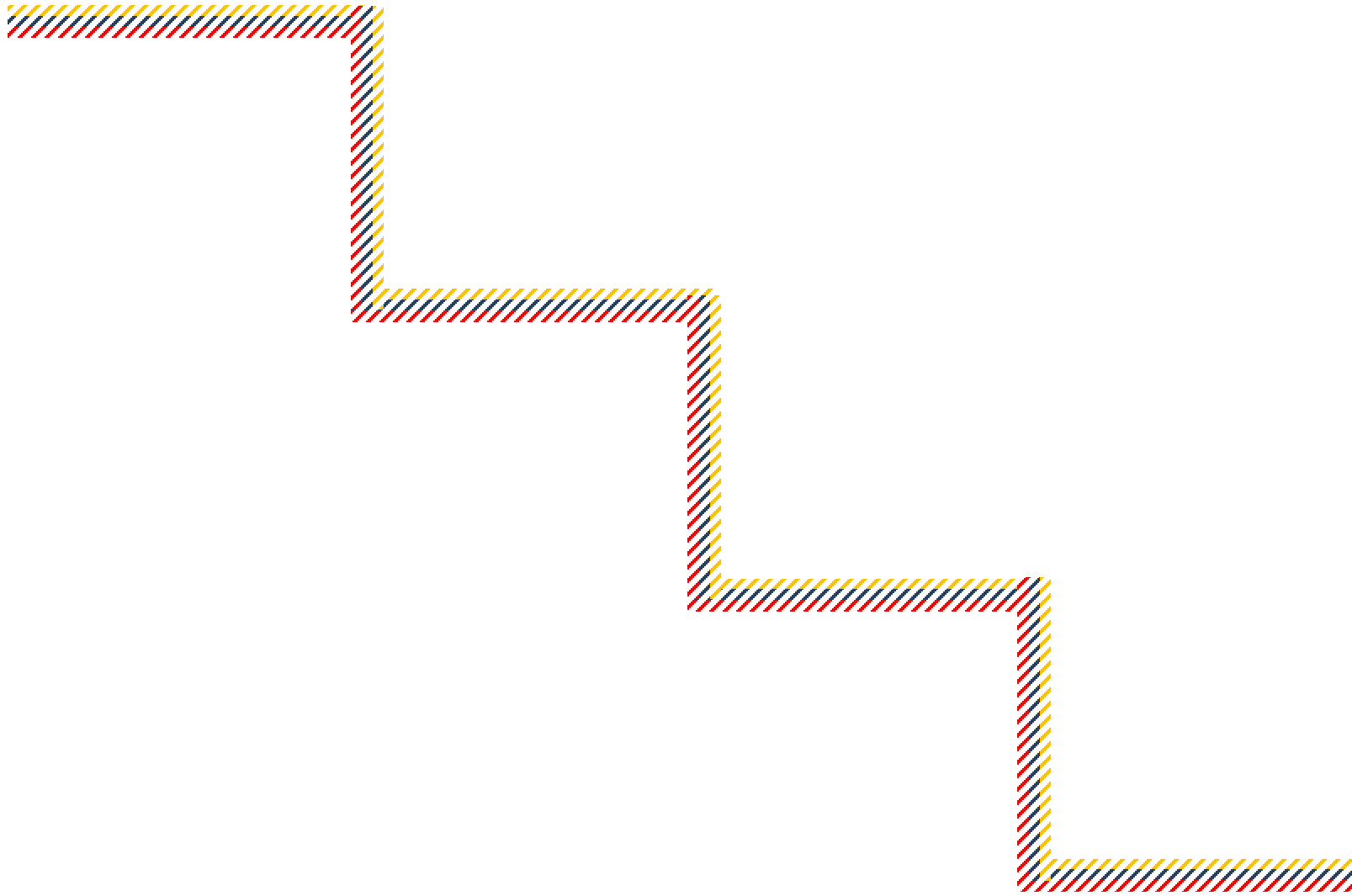
For the “unableness” test, the Court would consider if due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

^q Even when the ICC attributes criminal responsibility to persons in particular, at this procedural stage, the interaction is with the Government and not with particular individuals.



the capacity and the willingness of the Venezuelan authorities to prosecute the alleged crimes.

Recommendation 10. The opposition, Venezuelan organizations, and the international community must take advantage of the pressure generated by the preliminary examination of the ICC in order to deter human rights violations, ensure that a political solution includes actions that will improve the rule of law, and provide justice and human rights protections.






VII. TRANSITIONAL JUSTICE

Transitional justice refers to the ways in which countries emerging from periods of conflict and repression address large scale or systematic human rights violations so numerous and serious that the normal justice system is unable to provide an adequate response.⁸⁰ In the event of a transition in Venezuela, transitional justice procedures could potentially affect all of the key stakeholders involved, based on domestic precedents and Venezuelan law. According to the Venezuelan Constitution, serious human rights violations and crimes against humanity cannot be subject to special treatments, such as pardons and amnesty.⁸¹ Yet, historically and throughout the world, transitional leaders have often chosen to offer amnesties to human rights violators of previous regimes for the sake of stability and reconciliation.⁸² Therefore, amnesty is a transitional justice mechanism that could be applied during negotiations if a transition were to take place in Venezuela. However, even if a political transition does not take place in Venezuela, there are other transitional justice measures that can be explored, such as reparations, to address human rights violations. Reparations are another transitional justice approach that is traditionally used⁸³ and could be utilized in Venezuela during mediation.

A. Reparations

Reparations can be applied even when a transition of power is not taking place.⁸⁴ Reparations acknowledge the legal obligation of a state, individual, or group, to repair the consequences of human rights violations, either because it has directly committed them or has failed to prevent them from happening.⁸⁵ They often come in the form of compensation, satisfaction, and/or restitution. The 2016 Colombian Peace Agreement is an example of how reparations can be applied to negotiations even when there is no transition of power. This agreement included a Victims' Agreement section which guaranteed comprehensive reparations for victims, such as the rights to restitution, indemnification, and collective reparation of territories.⁸⁶ In 2017, the Colombian government invested 2.6 million U.S. dollars, or 8 billion Colombian pesos, to resources allotted for the attention and reparation policy for victims.⁸⁷ The inclusion of victims of human rights abuses in Colombia's peace agreement indicates that victims are key stakeholders and that their concerns need to be addressed in mediation processes. In addition, reparations are ensured by the Venezuelan Constitution, which says that the state has the obligation to make full reparations to the victims of human rights violations for which it may be held responsible, and should adopt the necessary legislative measures to implement the reparations.⁸⁸ Colombia's Victim's Agreement and the Venezuelan Constitution demonstrate regional and domestic precedents that should be applied to transitional justice procedures in Venezuela through the provision of reparations for victims, whether or not a transition of power takes place.




Recommendation 11. Mediation procedures should seek to ensure reparations for victims of human rights abuses in Venezuela including, but not limited to, compensation, apologies, and the restoration of civil and political rights.

B. Special Guarantees

While a transition has not taken place in Venezuela, certain transitional justice mechanisms have been put forth by civil society groups. In June of 2017, a proposal for a transitional justice initiative was presented by Paz Activa, a NGO focused on promoting the Venezuelan population's human development in the field of social coexistence,⁸⁹ with the support of 26 other NGOs in Venezuela.⁹⁰ According to this proposal, there was a clear resistance to change from those in power. This could have been due to a fear that upon leaving their positions of power, these individuals could become victims of human rights abuses due to retaliation from groups that might assume power.⁹¹ The proposal also states that, "[Transitional justice] is a wall of contention against these tendencies. It is a guarantee that the justice of the victors will not be applied and decreases the cost of tolerance towards the losers."⁹² Members of the alliance have asked that those responsible for human rights violations, depending on their degree of fault, have mitigating measures.⁹³ Several commitments were made in the proposal, one of which was to promote a transitional justice law that, in the case of citizens subject to judicial processes, will apply mitigating conditions in the framework of this law and respect for their fundamental rights and due process.⁹⁴ Mitigating conditions are measures that diminish the criminal liability according to the circumstances.⁹⁵ The notion that certain violations could be addressed with mitigating conditions shows that there was an interest in providing guarantees for government officials who could lose power. However, with the changing nature of activities on the ground, it is possible that sentiments could have changed since the formulation of this proposal. Nevertheless, the fact that the proposal presented the use of transitional justice mechanisms to avoid retribution to those who would lose power during a transition suggests that amnesty could be utilized to a certain degree. A form of legally-recognized amnesty could be applied to civil servants and military members who have not committed crimes against humanity. Thus, mediation processes would need to address the concerns of individuals who would lose power and have not committed crimes against humanity, as well as obtain the guarantees of those who would gain power in order to ensure that all parties are able to reach an agreement in the event of a transition.

In May of 2017, the National Assembly mandated that an internal commission would be created to prepare proposals to establish the necessary guarantees for the civil servants and military members who may want to separate from the national government of Nicolás Maduro.⁹⁶ The proposals were for a draft law that, if implemented, would set



up a transitional process in which any military officers or civil servants who refrained from committing gross human rights violations would have special treatment in transitional justice proceedings.⁹⁷ The concept for the proposal was presented during an assembly session in which Freddy Guevara, the first vice president of the National Assembly, explained that guarantees provided to public officials and military officers who want to separate themselves from those in power can contribute towards a peaceful transition: “There cannot be a process of revenge nor of persecution.”⁹⁸ The creation of an internal commission to develop a law for special treatment demonstrates that those who are currently not in power would be willing to provide guarantees to certain individuals who would lose power in the event of a transition. It also hints at a possibility that those who have power under the current government in Venezuela could have concerns regarding retribution in the form of persecution if a transition were to take place.

If mediation talks were to be revived at some point between all key stakeholders, guarantees for current public officials and the military could be an issue that would need to be negotiated. These special treatment guarantees could come in the form of a legally-recognized amnesty. Moreover, the special treatment guarantees could be determined by a UN Commission, which would clarify which crimes could and could not be included in the special treatment guarantees. Crimes against humanity, for example, should not be included in a legally-recognized amnesty because doing so would violate the Venezuelan Constitution,⁹⁹ as well as international criminal law.¹⁰⁰ In general, amnesties foreclose prosecutions for stated crimes, often by reference to crimes or conduct that took place before a stated date.¹⁰¹ Legal experts have said while the Rome Statute does not include a provision on amnesties, the discretionary power of the prosecutor and the judges to take into account “the interests of justice” was understood to provide a basis for considering amnesties, particularly if they were granted to low-level and mid-level perpetrators who would not rise to the attention of the ICC in any investigation and prosecution guided by the Rome Statute.¹⁰² Therefore, the consideration of a legally-recognized amnesty for civil servants and military members in Venezuela would not be outside the parameters of international criminal law, as long as the crimes committed are not that of genocide, crimes against humanity, war crimes, and crimes of aggression.¹⁰³

Recommendation 12. Negotiation procedures should use transitional justice mechanisms, such as special treatment guarantees, which could include, but are not limited to, legally-recognized amnesty, to address the concerns of public officials and military members who have not committed crimes against humanity, genocide, war crimes, or crimes of aggression, and who stand to lose power in the event of a transition in Venezuela.

VIII. SANCTIONS

The United States, the European Union (EU), Canada, and most recently, Panama^r and Switzerland^s, have adopted targeted sanctions on Venezuelan elites and current and former officials. Sanctions are used as tools to signal displeasure with behavior and to compel a change in a given behavior.^t In general, sanctions are controversial and their effectiveness for compelling behavior change is debatable.¹⁰⁴ Sanctioning parties imposed targeted sanctions in Venezuela for reasons ranging from money laundering to corruption, and from human rights violations to the deterioration of democratic standards and ill-compliance with the rule of law. These sanctions have acted as a mechanism to not only respond to the actions of the Venezuelan government, but also as a tool to push the parties back to the negotiating table.^u However, if the international community wishes to pressure the Maduro Government and other Venezuelan officials toward renewed mediation and political resolution, the following policy options and recommendations should be taken into consideration.

A. Multilateral Efforts

Recommendation 13. The United States, the EU, Canada, Switzerland, and Panama should coordinate and close the gaps between their respective targeted sanction regimes on Venezuela.

While the United States (57 sanctioned), the EU (7 sanctioned), Canada (56 sanctioned), Panama (55 sanctioned + 16 companies), and Switzerland (7 sanctioned) are the primary actors imposing targeted sanctions on Venezuela, only 6 individuals are sanctioned by all five.¹⁰⁵ By coordinating to close the gaps, these actors can increase

^r Panama is the first Latin American country to impose sanctions on Venezuela. They have imposed targeted sanctions 55 individuals including 16 companies tied to first lady Cilia, Flores. Camacho, Carlos. "Panama Sanctions Venezuela, including Maduro & First Lady Family Companies." 3 April 2018. *Latin American Herald Tribune*.

<http://www.laht.com/article.asp?ArticleId=2453678&CategoryId=10717>

^s The Swiss Federal Council on March 28, 2018 aligned itself with European Union sanctions against Venezuela. The Swiss Federal Council. "Media Release: Sanctions Against Venezuela." 28 March 2018. *Federal Department of Foreign Affairs FDFA*. <https://www.fdfa.admin.ch/eda/en/home/news/news-fdfa.html/content/eda/en/meta/news/2018/3/28/70265>.

^t Haass states, "Sanctions are a way to signal official displeasure with a certain behavior. They can serve the purpose of reinforcing a commitment to a behavioral norm, such as respect for human rights or opposition to proliferation." Haass, Richard. "Economic Sanctions: Too much of a bad thing? ." 1 June 1998. *Brookings Institution*. <https://www.brookings.edu/research/economic-sanctions-too-much-of-a-bad-thing/>.

^u The utility of these sanctions to accomplish the latter was, at least in part, demonstrated by the Maduro governments desire to use the Santo Domingo talks as a vehicle for alleviating the sanctions.

pressure on the targeted individuals and prevent further circumvention.^v Additionally, a true multilateral effort would need to include some form of participation from Latin America countries.^w

Recommendation 14. Latin American countries and Lima Group members who support the current sanctions should consider implementing their own sanction regimes or explore other options to assert pressure on the Maduro regime.

Less severe forms of punitive measures can include diplomatic sanctions, visa restrictions against targeted officials, or actions similar to Peru's ban on Maduro's attendance at the 2018 Summit of the Americas.¹⁰⁶

B. Conditions for Lifting Sanctions

Recommendation 15. Lifting targeted sanctions should be conditioned upon efforts toward achieving specific political solutions and directly tied to future negotiation. These conditions should be clearly communicated to the opposition and government by those imposing the sanctions.

Sanctions have not been as effective because they have not been tied to the negotiation process.¹⁰⁷ If the conditions for lifting sanctions are not communicated clearly and often, the imposition of sanctions will risk incentivizing the support of the Maduro government by targeted officials.¹⁰⁸ Thus, the Lima group should explicitly communicate and offer to lobby for sanctions to be lifted, if conditions are met. These conditions should include, but not be limited to: releasing political prisoners, providing reasonable advanced notice for elections, a politically balanced CNE, and other steps which can lead to more democratic processes and inspire acts of good faith for negotiation.^x In exchange for satisfied conditions and a return to mediation, parties should also be explicitly offered inducements. For example, sanctioning parties can offer emergency aid or loans.^y

^v In preventing further circumvention and assessing the expansion of targeted regimes, sanctioning entities should explore possible use of *testaferros*, or front men, that may assist targeted officials in sanction circumvention.

^w According to Moisés Rendon, "The U.S. sanctions on individuals, which have frozen the assets of Venezuelan officials and former officials and barred U.S. companies and individuals from doing businesses with them, need to also be applied by countries such as Mexico, Panama and Colombia." Gamboa, Suzanne. "Experts: U.S. Needs Latin America for Pressure on Venezuela to Work ." 09 August 2017. *NBC News*. <https://www.nbcnews.com/news/latino/experts-u-s-needs-latin-america-pressure-venezuela-work-n791011>.

^x The Lima Group outlines conditions that could help restore democracy in Venezuela. Lima Group. "Statement of the fourth meeting of the Lima Group on the situation in Venezuela." 23 January 2018. *Government of Canada*. http://international.gc.ca/world-monde/international_relations_relations_internationales/latin_america-amerique_latine/2018-01-23-lima_group-

^y Jennifer McCoy states, "The response should be coordinated, it should take into account the options Venezuela has to turn to Russia and China to make up for any economic sanctions and should offer

However, while incentives are offered, individuals must understand the consequences for not meeting these conditions.^z If the conditions are not met, then, explanations for the next steps—imposing more sanctions—aimed at increasing pressure on targets will be essential.

C. Visa Restrictions^{aa}

Recommendation 16. The Lima Group should encourage members (including Canada^{bb}) and other Latin American countries^{cc} to impose visa restrictions on Venezuelan officials and individuals on EU, US, and Canada designated lists. The EU^{dd} and Switzerland should further scrutinize the visas of immediate family members of already targeted Venezuelan officials.^{ee}

Canada¹⁰⁹ has yet to extend the sanctions to restrict travel for those on their designated target list. The United States^{ff} has already imposed visa restrictions on

Venezuela some incentives such as promises of emergency aid and loans.” Gamboa, Suzanne. “Experts: U.S. Needs Latin America for Pressure on Venezuela to Work .” 09 August 2017. *NBC News*. <https://www.nbcnews.com/news/latino/experts-u-s-needs-latin-america-pressure-venezuela-work-n791011>.

^z Francisco Monaldi states, “What I expect the U.S. can do if they are smart is to coordinate with other Latin American countries, Mexico, Colombia and Peru and put specific things on the table and if the Venezuelan government does not do (them) by a certain date, let’s implement another sanction.” Gamboa, Suzanne. “Experts: U.S. Needs Latin America for Pressure on Venezuela to Work .” 09 August 2017. *NBC News*. <https://www.nbcnews.com/news/latino/experts-u-s-needs-latin-america-pressure-venezuela-work-n791011>.

^{aa} “Visa diplomacy or restrictions can be used as a mechanism or tool by issuing, or refusing to issue and prohibit entry to affect the policies and behaviors of other actors.” Basyouni, Mohamed. “Visa Diplomacy: More Openness or Isolation?” 22 March 2017. *Future for Advanced Research & Studies*. <https://futureuae.com/m/Mainpage/Item/2616/visa-diplomacy-more-openness-or-isolation>.

^{bb} Canada sanctions extend to family members but do not include visa or travel restrictions.

^{cc} For Latin American countries, this should not include family members in the beginning stages. Immediate family members can and should be included if Latin American countries feel the need to escalate.

^{dd}European Union law states that the European Union supports the use of sanctions extended to family members. The European Parliament. “The evaluation of EU sanctions as part of the EU’s actions and policies in the area of human rights P6_TA(2008)0405 European Parliament resolution of 4 September 2008 on the evaluation of EU sanctions as part of the EU’s actions and policies in the area of human rights (2008/2031(INI)).” 04 April 2009. *EUR-Lex*. <OJ C 295E , 4.12.2009, p. 49–62 (BG, ES, CS, DA, DE, ET, EL, EN, FR, IT, LV, LT, HU, MT, NL, PL, PT, RO, SK, SL, FI, SV)>.

^{ee} While other sanctioning parties such as the U.S. and Canada already extend their sanctions to family members, EU sanctions—and, by default, Switzerland as its sanctions are modelled from the EU—do not cover immediate family members. This step would further push the various sanction regimes toward a coordinated effort.

^{ff} The U.S. Department of State has already restricted the issuance of B-1, B-2, and B-1/B-2 Visas to Venezuelan officials and immediate family members into the U.S. The U.S. has done this for the Venezuelan officials within Ministry of Interior, Justice, and Peace; the Administrative Service of Identification, Migration, and Immigration; the Corps of Scientific Investigations, Judicial and Criminal; the Bolivarian Intelligence Service; and the People’s Power Ministry of Foreign Affairs. “ The White House

targeted officials and their immediate family members. Visa restrictions on targeted individuals may offer another means for inducing pressure on officials to approach the negotiating table and work toward a political solution. Visa restrictions may also offer another avenue for increasing pressure on Venezuelan officials without directly harming ordinary Venezuelans and inflaming the humanitarian crisis. However, designated individuals should be selected with care and the impacts on the political process should be taken into consideration. This and other diplomatic sanctions, if not applied cautiously, can be counterproductive by producing “losses in valuable intelligence, increased difficulty for communication, and reduced capability for public diplomacy in the target state.”¹¹⁰ This report does *not* advocate for the use of broad visa restrictions on ordinary Venezuelan citizens.⁸⁸ Doing so may also encourage unmonitored activity.^{hh} Imposing such restrictions may be another vehicle for Latin American countries to symbolically demonstrate their opposition to the Maduro government and increase pressure on Venezuelan officials to negotiate toward a political solution.

Sanctioning Countries/ Bodies	Financial Assets	Travel Bans/ Visa Restrictions	Immediate Family members
U.S.	X	X	X
EU	X	X	
Canada	X		X
Switzerland	X	X	
Panama	X		

D. Oil Embargo

Recommendation 17. The United States and others should not seek to impose oil sanctions on Venezuela and the PDVSA or impose any other broad sanctions which can pose harm to the Venezuelan people.

Office of the Press Secretary. "Presidential Proclamation 9645." 4 December 2017. *Office of International Services Indiana University*. <<https://ois.iu.edu/doc/2017-09-24-presidential-proclamation.pdf>>.

⁸⁸ This could have negative unintended effects on Venezuelan citizens as was the case in Australia. Caicedo, Soraya. "Venezuelans being denied Australian visas due to the country's 'volatile situation'." 16 August 2017. *SBS*. <https://www.sbs.com.au/yourlanguage/spanish/en/article/2017/08/16/venezuelans-being-denied-australian-visas-due-countrys-volatile-situation>.

^{hh} Unmonitored activity with regard to the creation of fake passports /visas.

To increase the pressure on the Maduro government, the United States and the international community have the option of banning crude oil exports from Venezuela,ⁱⁱ banning crude oil imports, and restricting insurance to oil shipments. Those advocating for sector sanctions hope such measures would financially starve the Maduro regime.^{jj} While imposing these sanctions would undoubtedly place further strain on the Venezuelan government, doing so comes at a high price.^{kk} 95% of Venezuela's export revenue comes from the oil sold by the state-owned oil company, PDVSA.¹¹¹ Cutting off one of the main sources of the country's revenue could potentially create serious negative humanitarian impacts^{ll} and deal a devastating blow to an already struggling Venezuelan economy,¹¹² leading to further hardship to the Venezuelan people. Moreover, it could also destabilize Venezuela's neighbors and exacerbate the refugee crisis.^{mmm} Such a drastic measure¹¹³ could further damage the United State's political positionⁿⁿ and pose serious negative effects on their oil market and consumers.^{oo}

ⁱⁱ "According to data by the EIA compiled by [Bloomberg](#), Venezuela's imports of heavy naphtha from the U.S.—all of which comes from Gulf Coast refineries—are some 2 million barrels per month. Oil production in the Orinoco oil belt, responsible for half of Venezuela's crude oil production of currently around 1.6 million bpd, depends on the imports of this heavy naphtha from the U.S., which is blended with the thick tar-like extra-heavy oil to allow it to flow through pipelines from Orinoco to Venezuela's coasts for loading onto tankers. According to analysts, while a U.S. ban on Venezuelan oil imports could hurt U.S. refiners, restrictions on U.S. oil product exports to Venezuela could push Venezuela's oil production off the cliff." Parskova, Tsvetana. "Venezuelan Oil Production Could Further Collapse On New U.S. Sanctions." 26 February 2018. *OilPrice.com*. <https://oilprice.com/Energy/Crude-Oil/Venezuelan-Oil-Production-Could-Further-Collapse-On-New-US-Sanctions.html>.

^{jj} "OAS chief, Luis Almagro states that tougher sanctions against Venezuela must happen. He states that targeting oil will help starve the regime. The sanctions should be not only personal sanctions, but sanctions also against the regime itself. And that is to affect the conditions with which the regime operates." Nebehay, Stephanie. "OAS Chief: Harsher Sanctions Needed Against Venezuela, Targeting Oil." 20 February 2018. *VOA Americas*. <https://www.voanews.com/a/oas-chief-harsher-sanctions-needed-against-venezuela-targetin-oil/4262554.html>.

^{kk} Monaldi states, "Restricting imports and financial transactions would have a big impact, but also would generate economic collapse in Venezuela and create poverty and a refugee crisis." Gamboa, Suzanne. "Experts: U.S. Needs Latin America for Pressure on Venezuela to Work ." 09 August 2017. *NBC News*. <https://www.nbcnews.com/news/latino/experts-u-s-needs-latin-america-pressure-venezuela-work-n791011>.

^{ll} "The decline in oil production is already deepening the misery for 30 million Venezuelans suffering from [food shortages](#) and a lack of basic medicines. Sanctioning oil exports could make matters much worse." Thomson, Mark. "U.S. could ban imports of Venezuelan crude oil." 5 February 2018. *CNN Money*. <http://money.cnn.com/2018/02/05/news/economy/venezuela-oil-sanctions-tillerson/index.html>.

^{mmm} "Crippling Venezuela's already fragile economy with sectoral sanctions could also lead to mass migration that would destabilize its neighbors" Alonso, Nicolás and Rodrigo Riaza. "Now Is Latin America's Chance to Rally Against Maduro." 30 May 2017. *Americas Quarterly*. <http://www.americasquarterly.org/content/now-latin-americas-chance-rally-against-maduro>.

ⁿⁿ As well as underscore the U.S.'s history of intervention within Latin America.

^{oo} "Banning cheap imports from Venezuela would force U.S. refineries to buy elsewhere, and that could push up gas prices." Thomson, Mark. "U.S. could ban imports of Venezuelan crude oil." 5 February 2018. *CNN Money*. <http://money.cnn.com/2018/02/05/news/economy/venezuela-oil-sanctions-tillerson/index.html> AND Monaldi, Francisco. *The Collapse of the Venezuelan Oil Industry*. Washington, D.C.: Atlantic Council, 2018.




IX. CONCLUSION

As the crisis in Venezuela worsens and becomes more complicated, a multilateral response from the international community is essential. The areas of the Venezuelan crisis that are addressed in this report are interconnected and should be tackled together in order to ensure a path towards mediation and a sustainable political solution. The international community should understand that pushing towards a sustainable solution will require actions that protect the rights and well-being of those most affected — the Venezuelan people. The international community must work in conjunction with the people of Venezuela in applying these tools and best practices, while also ensuring that they are implemented with a nuanced and multilateral approach in order to achieve significant change.

Despite the breakdown of the Santo Domingo talks, lessons learned from past mediation attempts should be applied to the structuring of future talks. Thus, prior to the next round of formal negotiations, outside actors should assist the opposition with tools that can assist with the creation of a more unified stance. Furthermore, future efforts would benefit from the direct participation of civil society in the mediation process.

Failure to successfully negotiate a solution between the opposition and the Maduro government has led to a worsening of the ongoing crisis and the continued suffering of the Venezuelan people. The path towards a political solution involves mitigating the effects of the humanitarian crisis and thus, requires further attention from the international community. A multilateral humanitarian response from international actors and local agents on the ground requires a better understanding of the disparate needs of the host-countries receiving Venezuelans. The response should include a thorough needs assessment, including sectors, such as food, health, psychosocial assistance, and enhanced protection and security. Additionally, mitigating the migration crisis and ensuring protection can be achieved through coordinated enforcement of the Cartagena Declaration Framework and through the use of best practices in countries, such as Colombia, Peru, and Brazil, to tackle issues of labor, education, transit, and documentation for the newly arrived refugees and migrants.

Bringing an end to the crisis and ensuring the human rights and protection of the people is an integral part of encouraging parties to reach a sustainable political solution. This effort requires the international community and human rights organizations to build pressure upon the Venezuelan Government towards engagement in good faith mediation processes. It is also important to take advantage of the pressure generated by the preliminary examination of the ICC in order to deter human rights violations and to ensure that a political solution includes actions that will improve rule of law, as well as provide justice and human rights protections.



The international community and those assisting in mediation processes should ensure that transitional justice mechanisms are included in the negotiation process. In the interest of the Venezuelan people, mediation processes should include reparations to the victims of human rights violations. Following, compensation, apologies, and a restoration of civil and political rights should be among the reparations given to the victims. Furthermore, special guarantees should be explored for civil servants and military officers who have not committed crimes against humanity and may stand to lose power in the event of a political transition in Venezuela.

To incorporate these tools, the international community should collaborate more closely — particularly with Latin American countries and regional organizations, such as the Lima Group — to apply the necessary pressure to push parties to negotiate. While sanctions have helped to assure this in the past, a more multilateral, coordinated, and targeted sanction plan can help jumpstart another mediation process. Once at the table, the conditions for lifting sanctions, as well as the potential inducements or rewards for doing so, will need to be clearly stated to both parties.

By applying pressure, employing the tools available, and helping to integrate new mediation practices, the international community stands to greatly impact the possibility of renewed talks and a sustainable political solution that protects the Venezuelan people. All of the efforts that this report recommends be put forth to resolve the crisis are, in essence, to ensure the well-being of the Venezuelan people.





X. RECOMMENDATIONS

Recommendation 1. Prior to the next round of negotiations, outside actors should assist the opposition with the tools necessary for implementing a more unified message. Specifically, mediation specialists should be enlisted to work directly with opposition parties including the MUD, Frente Amplio Venezuela Libre, and other opposition groups, such as Avanzada Progresista and Soy Venezuela.

Recommendation 2. Given the above mentioned factors, a proposal of preparatory mediation services, provided by a neutral party, such as the UN, should be proposed to both the Maduro government and the opposition parties.

Recommendation 3. In order to help garner the support of the Venezuelan people during future mediation processes, the direct inclusion of civil society should be considered for future talks. This can be accomplished through the direct participation of civil society groups that represent large portions of the Venezuelan populace or through the direct participation of civil society groups from Frente Amplio Venezuela Libre.


Recommendation 4. Given the present crisis, the aims of humanitarian aid should be expanded to Venezuelan refugees living in Colombia. Additionally, future aid should be directed towards Venezuelans residing in Venezuela and could include programs which focus on psychosocial assistance, the building of resilient families, strengthening protection, and security.

Recommendation 5. USAID should consider partnering with reputable neutral local actors and organizations in the distribution and the implementation of humanitarian aid and should consider a rebranding of their distributed materials.

Recommendation 6. As Colombia and Brazil have witnessed different regional and institutional challenges in receiving refugees, aid should be allotted in ways that are specific to the needs of each receiving country.

Recommendation 7. Countries in the region, specially countries bordering Venezuela, should collaborate to enforce a coordinated effort following the guidelines provided by the Cartagena Declaration framework in order to best address the challenges pertaining to the large outflow of Venezuelans.

Recommendation 8. Countries receiving the largest share of Venezuelans can benefit from group coordination and assistance with regional partners in the



implementation and expansion of best practices in sectors, such as border security and immigration policy.

Recommendation 9. The international community, in conjunction with national and international human rights organizations, should strengthen the use of the “naming and shaming” mechanisms that are available through the Universal and Regional Human Rights systems, in order to press the Venezuelan Government towards engagement in good faith mediation processes and towards the ceasing and prevention of future human rights violations.

Recommendation 10. The opposition, Venezuelan organizations, and the international community must take advantage of the pressure generated by the preliminary examination of the ICC in order to deter human rights violations, ensure that a political solution includes actions that will improve the rule of law, and provide justice and human rights protections.

Recommendation 11. Mediation procedures should seek to ensure reparations for victims of human rights abuses in Venezuela including, but not limited to, compensation, apologies, and the restoration of civil and political rights.


Recommendation 12. Negotiation procedures should use transitional justice mechanisms, such as special treatment guarantees, which could include, but are not limited to, legally-recognized amnesty, to address the concerns of public officials and military members who have not committed crimes against humanity, genocide, war crimes, or crimes of aggression, and who stand to lose power in the event of a transition in Venezuela.

Recommendation 13. The United States, the EU, Canada, Switzerland, and Panama should coordinate and close the gaps between their respective targeted sanction regimes on Venezuela.

Recommendation 14. Latin American countries and Lima Group members who support the current sanctions should consider implementing their own sanction regimes or explore other options to assert pressure on the Maduro regime.

Recommendation 15. Lifting targeted sanctions should be conditioned upon efforts toward achieving specific political solutions and directly tied to future negotiation. These conditions should be clearly communicated to the opposition and government by those imposing the sanctions.

Recommendation 16. The Lima Group should encourage members (including Canada) and other Latin American countries to impose visa restrictions on



Venezuelan officials and individuals on EU, US, and Canada designated lists. The EU and Switzerland should further scrutinize the visas of immediate family members of already targeted Venezuelan officials.

Recommendation 17. The United States and others should not seek to impose oil sanctions on Venezuela and the PDVSA or impose any other broad sanctions which can pose harm to the Venezuelan people.

XI. ENDNOTES

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