

How Can Oil End the Venezuelan Presidential Crisis?

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I. INTRODUCTION

Hugo Chávez started a revolution that would ruin Venezuela’s economy.¹ What began as a platform to use the government to assist the poor turned into a dictatorship that concentrated the power of a country in one man.² As Chávez’s successor, Nicolás Maduro has driven the country

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1. See Allan R. Brewer-Carías, *The Collapse of the Rule of Law in Venezuela 1999-2019*, 52 INT’L L. & POL. 741, 742-43 (2020).

2. See *id.*

into further ruin, with actions in his first term culminating in what is now called “The Venezuelan Presidential Crisis.”³ In response to his fraudulent election to the presidency and the continued human rights abuses his administration has perpetrated, countries across the world rejected his claim to the presidency and issued sanctions that further crippled the economy, which relies on oil exports to keep itself afloat.⁴ The United States imposed some of the harshest of these sanctions by banning all imports of Venezuelan oil in 2019.⁵ However, now that Russia has invaded the Ukraine and begun a new war, some countries are reconsidering the oil sanctions imposed on Venezuela. Specifically, the United States has already sent a delegation to Venezuela to discuss with Maduro the possibility of easing sanctions, despite still recognizing Juan Guaidó as the interim president.⁶ Before any of the sanctions can be lifted, it is important to address the problems the Venezuelan government has neglected over the years. For example, they have allowed their oil infrastructure to fall in disrepair, perpetrated continued human rights abuses, and failed to ensure the legitimacy of the presidency.⁷ Before any relationship with Venezuela can be renewed, each of these issues must be addressed or the world will simply be trading one dictator for another.

II. OVERVIEW OF THE COUNTRY

According to the Venezuelan Constitution, each new presidential term begins on January 10th of the inaugural year and lasts for six years.⁸ The new Constitution that set forth this procedure was presented to the

3. See Brian Pascus, *Understanding the Venezuelan Presidential Crisis: Who Are Juan Guaidó and Nicolás Maduro?*, CBS NEWS, (May 1, 2019, 8:29 PM), <https://www.cbsnews.com/news/who-is-venezuelas-president-juan-guaido-or-nicolas-maduro-understanding-the-venezuela-crisis-and-protests/>.

4. See Michelle Nicols & Mayela Armas, *U.S. Calls on World to ‘Pick a Side’ on Venezuela; Europeans Set to Recognize Guaido*, REUTERS (Jan. 26, 2019, 1:51 PM), <https://www.reuters.com/article/us-venezuela-politics/u-s-calls-on-world-to-pick-a-side-on-venezuela-europeans-set-to-recognize-guaido-idUSKCN1PK0PL>; Exec. Order No. 13,850, 31 C.F.R. 591 (2018).

5. See Exec. Order No. 13,850, 31 C.F.R. 591 (2018).

6. John Hudson & Samantha Schmidt, *U.S. Officials Visit Venezuela for Talks with Russia-Aligned Maduro Government*, WASH. POST (Mar. 7, 2022), <https://www.washingtonpost.com/world/2022/03/06/venezuela-american-officials-visit/>.

7. Tamara T. Broner, *Venezuela Under Scrutiny at the UN Human Rights Council*, HUM. RTS. WATCH (Mar. 17, 2022), <https://www.hrw.org/news/2022/03/17/venezuela-under-scrutiny-un-human-rights-council>; Ryan C. Berg, *The Role of the Oil Sector in Venezuela’s Environmental Degradation and Economic Rebuilding*, CTR. FOR STRATEGIC & INT’L. STUD. at 1, 2 (Oct. 2021).

8. CONSTITUTION OF THE BOLIVARIAN REPUBLIC OF VENEZUELA, Dec. 20, 1998, arts. 230, 231 [hereinafter Venezuelan Constitution].

national electorate and ratified shortly after Hugo Chávez won the 1998 presidential election.⁹ Chávez's ability to have this new Constitution ratified so quickly allowed him to concentrate power between him and his trusted officers.¹⁰ The new Constitution allowed him to eliminate checks and balances between different branches, minimize the separation of powers, and transform the Supreme Court of the country into a figurehead institution.¹¹ Chávez would stay in power for the next fifteen years, winning three more presidential elections before dying of cancer shortly after his final re-election.¹² His handpicked successor, then-Vice President Nicolás Maduro, continued Chávez's ideology after beating the opposition in a special election with just 50.6% of the vote.¹³

A. *The 2019 Presidential Election*

With the Venezuelan economy in a state of disrepair from his first presidential term, many were hopeful that the 2018 presidential elections would remove Maduro from power and replace him with the opposition. However, on May 20th, Maduro was declared the winner of the election, securing 67.7% of the vote.¹⁴ Rumors circulated around the country of candidates being barred from running and others fleeing the country for fear of imprisonment.¹⁵ Additionally, only 46% of voters participated in the election compared to the 80% turnout in the 2013 special election.¹⁶ Finally, those who voted for Maduro did so on promises he made of aid and government subsidized food handouts if he won the re-election.¹⁷

9. Allan R. Brewer-Carías, *The 1999 Venezuelan Constitution—Making Process as an Instrument for Framing the Development of an Authoritarian Political Regime*, in *FRAMING THE STATE IN TIMES OF TRANSITION: CASE STUDIES IN CONSTITUTION MAKING* 505, 505 (Laura E. Miller ed., 2010).

10. Brewer-Carías, *supra* note 1, at 742.

11. *Id.* at 743.

12. See Marianna Parraga, *The Agony of Hugo Chavez: Details Emerge of His Final Days*, REUTERS (Mar. 9, 2013, 10:46 AM), <https://www.reuters.com/article/us-venezuela-chavez-death/the-agony-of-hugo-chavez-details-emerge-of-his-final-days-idUSBRE9280CJ20130309>.

13. Jonathan Watts, *Nicolás Maduro Narrowly Wins Venezuelan Presidential Election*, GUARDIAN (Apr. 15, 2013, 6:31 PM), <https://www.theguardian.com/world/2013/apr/15/nicolas-maduro-wins-venezuelan-election>.

14. CLARE R. SEELKE, CONG. RSCH. SERV., IN10902, VENEZUELA'S 2018 PRESIDENTIAL ELECTIONS (2018).

15. See *Venezuela Crisis: How the Political Situation Escalated*, BBC (Aug. 12, 2021), <https://www.bbc.com/news/world-latin-america-36319877> [hereinafter *Venezuela Crisis*].

16. SEELKE, *supra* note 14.

17. See Ana V. Herrero & Megan Specia, *Venezuela is in Crisis. So How Did Maduro Secure a Second Term?*, N.Y. TIMES (Jan. 10, 2019), <https://www.nytimes.com/2019/01/10/world/americas/venezuela-maduro-inauguration.html>.

Because of the widespread belief that the election results were fraudulent, the country's parliament, the National Assembly, which at the time was controlled by the opposing party, refused to recognize Maduro as the winner of the election.¹⁸ It was at this point opposition leader Juan Guaidó appointed himself as acting president, claiming the Venezuelan Constitution permitted such an act because Maduro's claim to the presidency was based on an illegitimate election.¹⁹

The refusal of Maduro's claim to the presidency and Guaidó's institution as the interim president caused strife within the country.²⁰ Maduro has remained the head of State throughout the crisis; he has always retained control of the military and now has control over the Supreme Court and the electoral body.²¹ Internationally, he received support from allies such as Iran, China, and Russia.²² Guaidó, on the other hand, received backing by dozens of countries as the legitimate interim president of Venezuela.²³ The United States was one of the first countries to recognize Guaidó as the acting leadership in the country and refuse to

18. Venezuela Crisis, *supra* note 15.

19. *Id.*; Venezuelan Constitution, *supra* note 8 (stating that “[t]he President of the Republic shall become permanently unavailable to serve by reason of any of the following events: death; resignation; removal from office by decision of the Supreme Tribunal of Justice; permanent physical or mental disability certified by a medical board designated by the Supreme Tribunal of Justice with the approval of the National Assembly; abandonment of his position, duly declared by the National Assembly; and recall by popular vote. When an elected President becomes permanently unavailable to serve prior to his inauguration, a new election by universal suffrage and direct ballot shall be held within 30 consecutive days. Pending election and inauguration of the new President, the President of the National Assembly shall take charge of the Presidency of the Republic. When the President of the Republic becomes permanently unavailable to serve during the first four years of this constitutional term of office, a new election by universal suffrage and direct ballot shall be held within 30 consecutive days. Pending election and inauguration of the new President, the Executive Vice-President shall take charge of the Presidency of the Republic. In the cases describes above, the new President shall complete the current constitutional term of office. If the President becomes permanently unavailable to serve during the last two years of his constitutional term. of office, the Executive Vice-President shall take over the Presidency of the Republic until such term is completed.”).

20. CLARE R. SEELKE, CONG. RSCH. SERV., IF10230, VENEZUELA: POLITICAL CRISIS AND U.S. POLICY 1 (2021).

21. *See* Venezuela Crisis, *supra* note 15.

22. *See* Moises Rendon & Claudia Fernandez, *The Fabulous Five: How Foreign Actors Prop up the Maduro Regime in Venezuela*, CTR. FOR STRATEGIC & INT’L. STUD. (Oct. 19, 2020); *Russia Receives Venezuela’s ‘Strong Support,’* FRANCE 24 (Mar. 1, 2022, 11:40 PM), <https://www.france24.com/en/live-news/20220301-russia-receives-venezuela-s-strong-support> (shortly after Russia invaded Ukraine, Maduro expressed his support for Vladimir Putin).

23. *See id.*

acknowledge Maduro as president.²⁴ Other European countries followed suit after their calls for a new election went unanswered.²⁵

In response to these contested results and Maduro's refusal to accede to the presidency or hold new, fair elections, the United States issued a series of sanctions against the country. In Executive Order 13857, the United States recognized Guaidó as the interim president and redefined "Government of Venezuela" to ensure Maduro and his supporters remained the target of U.S. sanctions.²⁶ Meanwhile, Executive Order 13850 prohibited transactions between any person from or within the United States and the government of Venezuela, which includes the *Petroleos de Venezuela S.A.* (PdVSA), the country's government-owned oil company.²⁷ This second order prohibited all importation of Venezuelan oil, minus a few special licenses issued by the United States government.²⁸ According to the Department of Treasury Press Release announcing the sanctions, PdVSA has a longstanding history of fraud and embezzlement reaching over a billion dollars.²⁹ In the months leading up to the 2019 inauguration date, the United States imported approximately 600-700,000 barrels of crude oil weekly from Venezuela.³⁰ Once sanctions against Petroleos de Venezuela, S.A. (PdVSA), Venezuela's state-owned oil company, were instituted, the import of Venezuelan crude oil declined dramatically before stopping altogether in the first week of May of 2019.³¹ When these sanctions were imposed, the United States made up the shortfall in their imports by increasing their purchases of Russian crude oil.³²

Although support for Guaidó was strong in the beginning, it has wavered as this presidential crisis has dragged on, and the United States is one of the last major countries to recognize him as the interim president.³³ The European Union announced last year that it could no

24. See Nicols & Armas, *supra* note 4.

25. See *id.* (noting that Britain, Germany, France, and Spain acknowledged Guaidó after Maduro did not call for new elections within eight days).

26. See Exec. Order No. 13,857, 31 C.F.R. 591 (2018).

27. See Exec. Order No. 13,850, 31 C.F.R. 591 (2018).

28. See *id.*

29. Press Release, Dep't of Treasury, Treasury Sanctions Venezuela's State-Owned Oil Company Petroleos de Venezuela, S.A., (Jan. 28, 2019).

30. See *Weekly U.S. Imports from Venezuela of Crude Oil*, U.S. ENERGY INFO. ADMIN. https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=W_EPC0_IM0_NUS-NVE_M BBLD&f=W (last visited Dec. 20, 2022).

31. See *id.*

32. See Hudson & Schmidt, *supra* note 6.

33. See Robin Emmott, *EU No Longer Acknowledges Venezuela's Guaidó as Interim President*, REUTERS (Jan. 6, 2021, 11:08 AM), <https://www.reuters.com/article/us-venezuela->

longer recognize him as the interim president because he lost his position as the head of parliament in the last round of elections.³⁴ Comparatively, the United States issued a statement that, despite the new election results, it recognizes the 2015 National Assembly and Guaidó as the legitimate leaders of the country.³⁵ The last round of elections that turned countries' opinions were held in December of 2020.³⁶ Maduro loyalists, including Maduro's own son and daughter-in-law, won 256 out of the 277 seats in the National Assembly.³⁷ However, most of the opposition boycotted the election, claiming it was neither free nor fair, and Guaidó had his own, separate re-swearing-in ceremony for the previous National Assembly members.³⁸

Throughout this crisis, Maduro has maintained control of the military through a system of spies and bribery.³⁹ Although the oil market has collapsed, the mining industry has provided Maduro with plenty of resources to maintain control of the military.⁴⁰ Additionally, he has kept favor by allowing those loyal to him to build lavish houses in one of the country's national parks.⁴¹

One of the last unsettled areas between the two parties lies in the Bank of England, where Venezuela has almost two billion dollars stored

election-eu/eu-no-longer-acknowledges-venezuelas-guaido-as-interim-president-idUSKBN29B2A9; Press Release, White House, Readout of President Biden's Call with Venezuelan Interim President Juan Guaidó (June 8, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/readout-of-president-bidens-call-with-venezuelan-interim-president-juan-guaido/>.

34. *Id.*

35. Press Statement, U.S. Dep't of State, U.S. Recognition of Venezuela's 2015 National Assembly and the Interim President Guaidó (Jan. 4, 2022).

36. See Alex Vasquez, *Maduro Consolidates Power with New Venezuelan National Assembly*, WORLD OIL (Jan. 5, 2021), <https://www.worldoil.com/news/2021/1/5/maduro-consolidates-power-with-new-venezuelan-national-assembly>; *Venezuela Crisis: Maduro Loyalists Take Control of Parliament*, BBC (Jan. 5, 2021), <https://www.bbc.com/news/world-latin-america-55545352>.

37. *Id.*

38. *Id.*

39. See *Six Ways Nicolás Maduro Stays in Power in Venezuela*, ECONOMIST (Nov. 9, 2021), <https://www.economist.com/the-americas/six-ways-nicolas-maduro-stays-in-power-in-venezuela/21806197>.

40. See Vasco Cotovio, Isa Soares, & William Bonnett, *A Trail of 'Bloody Gold' Leads to Venezuela's Government*, CNN (Aug. 23, 2019), <https://www.cnn.com/2019/08/20/americas/venezuela-gold-mining-intl/index.html>; Herrero & Specia, *supra* note 17.

41. See Andreina I. Acosta, *Why Wealthy Venezuelans are Building Mansions in a National Park*, BLOOMBERG (Mar. 4, 2022, 6:00 AM), <https://www.bloomberg.com/news/features/2022-03-04/wealthy-venezuelans-are-building-mansions-in-a-national-park>.

in gold.⁴² Both Maduro and Guaidó have appointed their own set of governors to Venezuela's central bank, meaning there is currently a question of which administration should be able to access the gold set aside in the Bank of England.⁴³ The Supreme Court of the United Kingdom overturned a decision by the Court of Appeals, which had in turn overturned the decision by the High Court recognizing Guaidó as the country's acting president.⁴⁴ On remand, the High Court continued to recognize Guaidó's board appointees and refused to recognize judgments from Venezuela's Supreme Court as controlling.⁴⁵

B. Oil Production

Oil is Venezuela's biggest export and at times has constituted ninety-nine percent of its GDP.⁴⁶ The country is a classic example of a "petrostate," which is a country where "the government is highly dependent on fossil fuel income, power is concentrated, and corruption is widespread."⁴⁷ In fact, one of the co-founders of the Organisation of Petroleum Exporting Countries (OPEC), Juan Pablo Perez Alfonso, who was also a Venezuelan Oil Minister, believed the oil that made his country so rich in the beginning was actually "the devil's excrement."⁴⁸ This was in the 1970s, before Venezuelan oil had even reached peak production levels.⁴⁹ As it turns out, Juan Pablo Perez Alfonso was correct; the resource that would help build Venezuela up would also lead to its downfall.⁵⁰

The problem in the Venezuelan oil industry lies not only in its government, but also in what type of oil it exports. In Venezuela, the crude

42. *Venezuela: Maduro Suffers Setback in Claim to Gold at BoE*, BBC (Dec. 21, 2021), <https://www.bbc.com/news/business-59733321>.

43. *See id.*

44. *Id.*

45. Marc Jones, *London's High Court Rules Against Venezuela's Maduro in \$1 Billion Gold Battle*, REUTERS (July 29, 2022, 12:44 PM), <https://www.reuters.com/world/britains-high-court-rules-against-venezuelas-maduro-latest-gold-battle-2022-07-29/>; William Hibbits, *UK High Court Rules Disputed Venezuela President Maduro Cannot Access Gold Held by Bank of England*, JURIST (July 29, 2022, 3:20 PM), <https://www.jurist.org/news/2022/07/uk-high-court-rules-disputed-venezuela-president-maduro-cannot-access-gold-held-by-bank-of-england/>.

46. *See* Org. of Petroleum Exporting Countries [OPEC], *Venezuela Facts and Figures*, https://www.opec.org/opec_web/en/about_us/171.htm (last accessed Apr. 4, 2022).

47. Amelia Cheatham et al., *Venezuela: The Rise and Fall of a Petrostate*, COUNCIL ON FOREIGN REL. (Dec. 29, 2021, 10:30 AM), <https://www.cfr.org/backgrounder/venezuela-crisis>.

48. Jerry Useem, *The Devil's Excrement*, FORTUNE (Feb. 3, 2003), https://archive.fortune.com/magazines/fortune/fortune_archive/2003/02/03/336434/index.htm.

49. *See id.*

50. *See id.*

oil is “heavy and sour” and requires a “complex” refinery to process it.⁵¹ These complex refineries are more expensive in both startup and operating costs, and, therefore, countries that produce crude oil are limited in who will purchase their products.⁵² In the United States, complex refineries can be found along the Gulf Coast, Midwest, and California.⁵³ Globally, the majority of complex refineries are found in China and India.⁵⁴ In 2019, ninety percent of the United States’ oil imports were heavy crude oil.⁵⁵

When Maduro assumed power in 2013, he continued policy changes that decimated the country’s oil industry.⁵⁶ The Venezuelan oil market is controlled by PdVSA.⁵⁷ When he assumed power in 1998, Chávez began firing thousands of employees of PdVSA who refused to embrace his socialist revolution.⁵⁸ Additionally, he nationalized private businesses and foreign-owned assets to centralize the oil industry under government control.⁵⁹ Shortly after taking over, Maduro continued the persecution and replaced PdVSA leaders with loyal supporters, even if the new leadership lacked the necessary knowledge to guide the industry.⁶⁰ In 2017, the government allowed the military to take over PdVSA operations and they were able to continue their internal persecution of the institution, causing more than 30,000 employees to leave.⁶¹ With qualified individuals driven out and political figureheads put in their place, Venezuela’s oil production began tanking, taking the country’s economy with it.⁶²

If Maduro’s actions were a critical blow to his country’s oil industry, then the sanctions imposed worldwide after the contested 2019 elections

51. Eric Smith, *U.S. Sanctions on Venezuelan Oil Could Cut the Output of Refineries at Home*, CONVERSATION (Feb. 20, 2019, 6:38 AM), <https://theconversation.com/us-sanctions-on-venezuelan-oil-could-cut-the-output-of-refineries-at-home-110864>, (explaining that “heavy and sour” means that the oil contains a high percentage of sulfur).

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. See Rafael D. Ramírez, *The Venezuelan Oil Industry Collapse: Economic, Social, and Political Implications*, ISTITUTO AFFARI INTERNAZIONALI 2 (Nov. 2021), <https://www.iai.it/sites/default/files/iaicom2152.pdf>.

57. See PHILLIP BROWN, CONG. RSCH. SERV., R46213, OIL MARKET EFFECTS FROM U.S. ECONOMIC SANCTIONS: IRAN, RUSSIA, AND VENEZUELA (2020).

58. See Rory Carroll, *Embrace Hugo Chávez’s Ideas or Be Fired, Venezuelan Oil Workers Told*, GUARDIAN (July 16, 2009, 11:30 AM), <https://www.theguardian.com/world/2009/jul/16/venezuela-oil-hugo-chavez-politics>.

59. See Cheatham et al., *supra* note 47.

60. See Ramírez, *supra* note 56.

61. See *id.* at 3.

62. See *id.*

were a death knell. Shipments from Venezuela to the United States constituted approximately seventy-five percent of the money Venezuela received from crude oil shipments.⁶³ This is because, in the past, Venezuela has traded future promises of oil for immediate cash relief from countries such as China and Russia.⁶⁴ In 2019, it was estimated that Venezuela owed China and Russia more than fifty-five billion and seventeen billion dollars, respectively, due to these cash for oil loans.⁶⁵ With their oil production still spiraling and their economy still tanking, it is unlikely this number has done anything but grow in the past three years. Therefore, the decision of the United States to pull out of Venezuelan oil sent the country further into economic spiral. Many citizens chose to flee the country as the situation grew dire, in terms of both the economy and the country's living conditions.⁶⁶

C. Human Rights Violations

In late 2019, the United Nations Human Rights Council (UNHRC) instigated an “independent fact-finding mission” in Venezuela to investigate reported human rights abuses that had been occurring since 2014, shortly after Nicolás Maduro assumed the presidency.⁶⁷ Members of the mission were unable to actually visit the country, after being rebuffed by the Venezuelan government, and, therefore, had to collect their information through confidential documents and interviews, submissions to the mission, and open source information.⁶⁸ At the end of the mission, the UNHRC published a massive report detailing hundreds of reported instances of human rights abuses and how they violated

63. Devika K. Kumar & Collin Eaton, *U.S. Sanctions on Venezuela Would Reroute Crude, Leave Refiners Short*, REUTERS (Jan. 23, 2019, 1:07 PM), <https://www.reuters.com/article/us-venezuela-politics-usa-oil-graphic/u-s-sanctions-on-venezuela-would-reroute-crude-leave-refiners-short-iduskcn1ph2gu>.

64. See Allan D. Frank, *Who Gets Venezuela's Oil?*, CNN (May 16, 2019, 11:20 PM), <https://www.cnn.com/2019/05/16/americas/venezuela-oil-debt-opinion-intl/index.html>.

65. *Id.*

66. Amnesty Int'l, *Venezuela 2021*, at 402, AI Index POL 10/4870/2022 (Mar. 29, 2022).

67. See U.N. Hum. Rts. Council, Detailed Findings of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, ¶ 1, U.N. Doc. A/HRC/45/CRP.11 (Sept. 15, 2020) [hereinafter “Fact-Finding Mission in Venezuela”].

68. *Id.* ¶¶ 6, 9, 11. For their standard of proof, the mission used “reasonable grounds to believe” which they describe as “when factual information has been collected which would satisfy an objective and ordinarily prudent observer that the incident occurred as described with a reasonable degree of certainty.” *Id.*

Venezuela's responsibility to international law and treaties.⁶⁹ They found these crimes against humanity were committed in furtherance of two specific State policies: (1) a policy to silence Maduro's opposition by targeting individuals who demonstrated their dissent, and (2) a policy to combat crime by eliminating supposed "criminals" through extrajudicial execution.⁷⁰ Additionally, they found that not only was Maduro aware these abuses were occurring, but, in some instances, reports indicate he ordered certain attacks.⁷¹

One specific example of the opposition being suppressed and jailed can be found in General Raúl Isaías Baduel, formerly Chávez's most-senior military official, who split from the current government in 2007 when Chávez began his efforts to eliminate term limits to remain in power indefinitely.⁷² He was convicted in 2009 of political corruption and then convicted once again in 2017, shortly before he was set for release, for allegedly holding secret meetings to overthrow the government.⁷³ According to the government, he passed away in October of 2021 from COVID-19, but his family, who had seen him just a week before his death, said he showed no signs of illness and seemed in good health.⁷⁴ Conveniently, government guidelines in Venezuela meant that almost all people who die from COVID-19 are cremated, with no chance to view the body beforehand.⁷⁵

Recently, the UNHRC gave an oral recap on the three ongoing human rights crises in Venezuela: the oppression of the opposition, the mass exodus to other countries, and the extreme poverty that has left millions without health care and nutrition.⁷⁶ The COVID-19 pandemic has exacerbated existing problems while creating new problems on its own. When the pandemic started, the government reported that very few people were infected with the disease and only a small percentage were

69. *See id.* ¶ 2087. (These abuses included extrajudicial executions or false imprisonment of opposition members, enforced disappearances, torture, sexual violence, and "other severe deprivations of physical liberty).

70. *Id.* ¶ 2088.

71. *Id.* ¶ 2103.

72. *See* Kejal Vyas, *Venezuelan Army General Who Save Hugo Chávez from Coup Dies in Jail*, WALL STREET J. (Oct. 13, 2021, 4:42 PM), <https://www.wsj.com/articles/venezuelan-army-general-who-saved-hugo-chavez-from-coup-dies-in-jail-11634156236>.

73. *Id.*

74. *Id.*

75. *Id.*

76. *See* Broner, *supra* note 7.

dying from the disease.⁷⁷ However, there is little doubt those numbers are incorrect, especially since many citizens stayed home after contracting the disease, not wanting to go to hospitals that were run-down even before the start of the pandemic.⁷⁸ Additionally, Maduro refused to accept help from several different countries during the pandemic, believing it to be a ploy for countries like the United States to come and remove him from power.⁷⁹ However, he did accept assistance from known allies such as Russia and China.⁸⁰

Finally, the country has failed to work on any of the recommendations proposed by the UNHRC in its fact-finding report and has continued to perpetrate human rights abuses.⁸¹ By the end of 2021, 244 people were being detained based on the perception they constituted part of Maduro's opposition.⁸² The government also used its police forces to attack fifty-nine different protests that took place that year over various issues, such as the lack of basic services as well as economic and social rights.⁸³ Despite receiving international condemnation for its actions, Maduro's government continues to suppress any rising dissent.⁸⁴ These government policies, in addition to the failing economy, have led to over 5.6 million people fleeing the country and seeking refuge elsewhere.⁸⁵

77. See Kejal Vyas & Ryan Dube, *In Venezuela, Covid-19 Data is a State Secret, but Citizens See Many Deaths*, WALL STREET J. (June 2, 2021, 9:00 AM), <https://www.wsj.com/articles/in-venezuela-covid-19-data-is-a-state-secret-but-citizens-see-many-deaths-11622638800>. By June of 2021, the country had only officially recorded 2,500 deaths from COVID-19, despite South America having the highest mortality rate at the time.

78. See *id.*

79. See Luciana Magalhaes & Juan Forero, *Venezuela's Health Crisis is Crossing the Border*, WALL STREET J. (Oct. 31, 2018, 10:54 AM), https://www.wsj.com/articles/venezuelas-latest-export-infectious-diseases-1540997657?mod=article_inline. The government issued a similar response shortly before the pandemic, as the country was also experiencing epidemics of diseases such as measles, diphtheria, and malaria, with some of these epidemics running concurrently with one another.

80. See Oriana Van Praag & Cynthia J. Arnson, *A Crisis Within a Crisis: Venezuela and COVID-19*, WILSON CTR. (May 2020), https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/A%20Crisis%20Within%20a%20Crisis_Venezuela%20and%20COVID-19%20%281%29.pdf.

81. See Amnesty Int'l, *supra* note 66, at 398-403.

82. *Id.* at 399.

83. *Id.* at 401.

84. *Id.* at 400-01.

85. CLARE R. SEELKE, REBECCA M. NELSON, RHODA MARGESSON, & PHILLIP BROWN, CONG. RSCH. SERV., R44841, VENEZUELA: BACKGROUND AND U.S. RELATIONS 11 (Apr. 28, 2021).

III. THE UKRAINE-RUSSIA CONFLICT

When Vladimir Putin gave the order to invade Ukraine in late February 2022, the United States and other nations responded in the way they know best: sanctions.⁸⁶ So far, countries across the world have instituted sanctions against Russia in response to Putin's actions.⁸⁷ These sanctions range from individual billionaires and their families, who are loyal to Putin, to entire sectors of the economy.⁸⁸ The most widely felt impact of these sanctions comes from the oil and gas industry, which, although partly due to other factors, has seen a quick rise in prices because of recent bans on Russian oil.⁸⁹ On March 8th, President Biden announced a ban on Russian oil to be imported into the United States, amounting to a loss of 700,000 barrels per day in the U.S.'s supply.⁹⁰ However, consumption of oil in the United States has not decreased in response to these new sanctions.⁹¹ Rather, with the COVID-19 restrictions being relaxed across the country, more and more people are increasing their travel.⁹² Therefore, to combat rising gas prices and to stay in public favor while upholding his promise to Ukraine, President Biden has begun looking to other avenues for oil imports.⁹³

A. *Replacing Russian Oil*

When the United States imposed oil sanctions on Venezuela in 2019, they began increasing their imports of crude oil from Russia.⁹⁴ Now that new sanctions have been imposed on Russia, the United States has decided time may have run out on Venezuela's punishment.⁹⁵ On

86. See Minami Funakoshi et al., *Tracking Sanctions Against Russia*, REUTERS (Mar. 29, 2022), <https://graphics.reuters.com/UKRAINE-CRISIS/SANCTIONS/byvrjenzmve/>.

87. See *id.*

88. See Daniel Stafford, *Russia Oligarchs: The Mega-Rich Men Facing Global Sanctions*, BBC (Mar. 15, 2022), <https://www.bbc.com/news/uk-60593022>; Andrew Van Dam, Youjin Shin, & Alyssa Fowers, *How Russia Will Feel the Sting of Sanctions*, WASH. POST (Mar. 24, 2022, 9:11 PM), <https://www.washingtonpost.com/business/2022/03/18/sanctions-russia-imports/>.

89. See Michael Corkery et al., *Rising Gas Prices Have Drivers Asking, 'Is This for Real?'*, N.Y. TIMES (Mar. 8, 2022), <https://www.nytimes.com/2022/03/08/business/high-gas-prices.html>.

90. Maria Abreu, *As Biden Bans Putin's Oil, What Are the Alternatives?*, FORBES (Mar. 8, 2022), <https://www.forbes.com/sites/christopherhelman/2022/03/08/as-biden-bans-putins-oil-is-venezuela-a-possible-replacement/?sh=4510f1461b43>.

91. Corkery et al., *supra* note 89.

92. *Id.*

93. See Abreu, *supra* note 90.

94. See Hudson & Schmidt, *supra* note 6.

95. See Abreu, *supra* note 90.

March 5th, shortly before the announcement of the ban on Russian oil, senior U.S. officials met with Maduro's government in Venezuela to discuss the future "energy security" of the United States.⁹⁶

Although there has been no official word that the oil sanctions against Venezuela will be lifted, and many are stating they find it hard to believe they ever will be, Venezuela seems confident that such a change will happen. For example, PdVSA has already begun seeking oil tankers in anticipation of their increased oil production and exportation.⁹⁷

IV. PROBLEMS WITH LIFTING SANCTIONS

Although lifting sanctions may ease the burden felt by the recent ban on Russian oil imports, there are several obstacles that such a decision faces. Already there has been pushback within the United States, both in the political and academic community, since the meeting between U.S. senior officials and the Venezuelan government was announced.⁹⁸ Additionally, there is no assurance Venezuela will be able to provide the United States with as much oil as they were importing from Russia, especially as other countries start looking for alternative sources as well.⁹⁹ Finally, the collapse of the Venezuelan economy has only exacerbated the problems the country already had, leading to environmental damages and human rights abuses that must be addressed before any sanctions can be lifted.¹⁰⁰

A. *Pushback Within the United States*

There has already been backlash from the Republican Party concerning the possibility that sanctions against Venezuela may be lifted.¹⁰¹ Several senators plan to introduce bills to ban Venezuelan and Iranian oil, believing that the United States "need[s] to increase American energy development and support our allies, not run to foreign dictators in

96. *See id.*

97. Mircely Guanipa & Marianna Parraga, *Exclusive: Venezuela's PDVSA Seeks Oil Tankers in Anticipation of U.S. Sanctions Easing*, REUTERS (Mar. 31, 2022, 1:07 PM), <https://www.reuters.com/business/energy/exclusive-venezuelas-pdvsa-seeks-oil-tankers-anticipation-us-sanctions-easing-2022-03-31/>.

98. *See* Krystal Hur, *House GOP Leader: Oil from Iran, Venezuela to Offset Russia Would Just Pay Other Dictators*, CNBC (Mar. 9, 2022), <https://www.cnbc.com/2022/03/09/house-gop-leader-kevin-mccarthy-warns-against-iran-venezuela-oil-to-offset-russia.html>.

99. *See* Abreu, *supra* note 90.

100. *See* Berg, *supra* note 7, at 1, 2; Fact-Finding Mission in Venezuela, *supra* note 66, ¶ 2100.

101. *See* Hur, *supra* note 98.

Venezuela.”¹⁰² Conversely, no Democrat has made such a statement, although last August a group of congressional members called for the Biden Administration to fix what they called a failure by the Trump Administration to properly shape Venezuela-related policy.¹⁰³ The statement issued by the group focused on the impact that the Trump Administration policies have had on the general population of Venezuela and the already failing economy.¹⁰⁴

B. Production Problems

That being said, there are doubts that the amount of oil Venezuela is capable of producing will significantly impact how much oil the United States is losing from its ban on Russian oil.¹⁰⁵ In its prime, the Venezuelan oil market could bring in ninety billion dollars a year and produce 3.8 billion barrels per day (bbp/d).¹⁰⁶ However, the mismanagement and corruption by Chávez and Maduro has run the industry into the ground, and at the end of March 2022 it was only shipping approximately 644,000 barrels a day.¹⁰⁷

According to the Venezuelan Petroleum Chamber, the country’s oil output could increase by at least 400,000 barrels a day, over a fifty percent increase in production, should the United States allow PdVSA to trade oil once more.¹⁰⁸ However, outside reports show there would need to be a significant cash infusion into the industry to bring it up to previous levels. To get it back to 1998 levels, some say the country would need an estimated fifty-eight billion dollars to restore the industry to its former

102. Renée Jean, *Senators Float Bills to Ban Oil From Venezuela, Iran*, WILLISTON-HERALD (Mar. 16, 2022), https://www.willistonherald.com/news/oil_and_energy/senators-float-bills-to-ban-oil-from-venezuela-iran/article_3c39d136-a567-11ec-8566-8b01b09280fe.html.

103. See Press Release, Grijalva, Garcia, 17 Members of Congress Call for Biden Administration to Change Failed Trump-Era Venezuela Policy, (Aug. 13, 2021), <https://chuygarcia.house.gov/media/press-releases/grijalva-garc-17-members-congress-call-biden-administration-change-failed-trump>.

104. See *id.*

105. See Abreu, *supra* note 90.

106. See *id.*

107. See Marianna Parraga & Mircely Guanipa, *Venezuela’s March Oil Exports Slip Amid Struggles with Returned Cargoes*, WTVB (Apr. 1, 2022, 10:59 AM), <https://wtvbam.com/2022/04/01/venezuelas-march-oil-exports-slip-amid-struggles-with-returned-cargoes/>.

108. Mayela Armas, *Venezuela Could Add 400,000 BPD to Oil Output if U.S. Approves Licenses—Petroleum Chamber*, REUTERS (Mar. 11, 2022, 1:20 PM), <https://www.reuters.com/business/energy/venezuela-could-add-400000-bpd-oil-output-if-us-approves-licenses-petroleum-2022-03-11/>.

glory.¹⁰⁹ Others say the outlook is even more grim, that it would take closer to 250 billion dollars in investment and seven to eight years to bring production back to former levels.¹¹⁰

Finally, there is no guarantee that the quality of oil being shipped from Venezuela will meet the necessary standards for the United States. Even before the United States implemented sanctions that hurt their oil industry, Venezuela received numerous complaints concerning the oil they were shipping out to other countries.¹¹¹ Before the import of Venezuelan oil was stopped, one U.S. refiner had to cancel over 4.4 million barrels of oil, with a market value of almost 200 million dollars, because of the high salt content in the blend it was sent.¹¹² Indian refiners have also returned oil ships because they contain much higher levels of water and sediment than called for in their contracts.¹¹³ These problems are due to a lack of chemicals to properly process the oil and the rush of PdVSA to meet the deliveries it has already promised.¹¹⁴

C. Environmental Problems

The heavy crude that Venezuela produces, combined with the lack of regulations and general state of disrepair in its facilities, presents environmental concerns in lifting the sanctions.¹¹⁵ For example, flaring, which relieves pressure that builds up in the form of flammable natural gas, is a significant problem in Venezuelan oil production as it is a large producer of greenhouse gas emissions.¹¹⁶ As the energy sector has lost its capacity to collect and utilize natural gas, the proportion of flared gas to oil production is steadily rising in the country.¹¹⁷

109. See Luc Cohen, (*OFFICIAL*) *Venezuela Needs \$58 Bln to Restore Crude Output to 1998 Levels—Document*, REUTERS (May 10, 2021, 2:23 PM), <https://www.reuters.com/business/energy/venezuela-needs-58-bln-restore-crude-output-1998-levels-document-2021-05-10/>.

110. See Abreu, *supra* note 90.

111. See Alexandra Ulmer & Marianna Parraga, *Venezuela's Deteriorating Oil Quality Riles Major Refiners*, REUTERS (Oct. 18, 2017, 11:08 AM), <https://www.reuters.com/article/us-venezuela-oil-insight/venezuelas-deteriorating-oil-quality-riles-major-refiners-idUSKBN1CN2EO>.

112. See *id.* (According to the article, “High salt content can lead to corrosion in distillation towers and other refinery equipment, so many customers reject cargoes with high salt content rather than accept them at a discount.”).

113. See *id.*

114. See *id.*

115. See Juan Forero & Patricia Garip, *The U.S. Shifts Focus to Venezuelan Oil, but Output is Low*, WALL STREET J. (Mar. 7, 2022, 6:12 PM), <https://www.wsj.com/articles/the-u-s-shifts-focus-to-venezuelan-oil-but-output-is-low-11646694776>.

116. See Berg, *supra* note 7, at 5.

117. See *id.*

Additionally, because Venezuela is trying to increase its oil production and foster relationships that will increase the purchase of its oil, it is hesitant to address any spills that occur, despite reports that they are almost a daily occurrence.¹¹⁸ In fact, in 2016 PdVSA announced it would no longer report oil spills, despite self-reporting more than 46,000 spills between 2010 and 2016.¹¹⁹ In 2020, after it had been announced that oil spills would no longer be reported, a spill originating from the El Palito refinery sent 20,000 barrels into the water.¹²⁰ It was more than a month before anyone reported on the spill, which was only detected after satellite imaging confirmed its existence near the Morrocoy National Park.¹²¹ Then, in June of 2021, an oil tanker began leaking 3.6 million liters of gasoline through a crack in the base.¹²² Each time, the PdVSA and the government have only recognized claims when outside parties brought it to the media and have been slow to cleanup the spills themselves.¹²³

The constant spills and increased flaring are due to the decrepit nature of the country's oil infrastructure, which began even before the presidential crisis. Cracked pipelines continuously leak oil and go unrepaired due to lack of funds, while ships carrying oil lie waiting in the water, stalled by U.S. sanctions.¹²⁴

V. CONCLUSION

Previously, opposition leader Juan Guaidó had given statements to the media that the Biden Administration could use the possibility of easing sanctions to force the Maduro government to hold “free and fair” elections with parties opposed to his government.¹²⁵ However, lifting the sanctions in Venezuela will likely have little immediate impact on the U.S.'s oil imports, and it will serve a devastating blow to the future of the Venezuelan government if done incorrectly.

118. *See id.* at 4.

119. *See id.* at 2.

120. *See id.* at 4.

121. *See id.*; Alejandra M. Janse, *PDVSA Turns a Blind Eye to Oil Spills in Venezuela*, CARACAS CHRONICLES (Aug. 22, 2020), <https://www.caracaschronicles.com/2020/08/22/pdvsa-turns-a-blind-eye-to-oil-spills-in-venezuela/>.

122. *See Berg, supra* note 7, at 4.

123. *See id.*; Janse, *supra* note 121.

124. *See Berg, supra* note 7, at 4; Sarah Gibbens, *This Stranded Venezuelan Oil Tanker is a Potential Disaster. Here's What We Know*, NAT'L. GEOGRAPHIC (Oct. 28, 2020), <https://www.nationalgeographic.com/environment/article/stranded-venezuelan-oil-tanker-potential-disaster-what-we-know>.

125. *Id.*

For the past three years, there has been no recognized government to lead the country, causing the economy to fall into further turmoil.¹²⁶ Additionally, the power struggle between the two parties has meant harsh tactics, specifically by Maduro, are used to suppress those that express opposition and further human rights abuses.¹²⁷ Finally, with no regulations imposed on the oil industry within the country, the facilities have fallen into disrepair, which has led to devastating environmental impacts that go unnoticed and untreated by the government.¹²⁸ If done correctly, the easing of sanctions against Venezuela can help address each of these problems. However, to do such a task correctly would also involve time, and the main reason the Biden Administration is considering easing sanctions against the country is to be able to quickly start importing oil from Venezuela again.¹²⁹

The visit of the U.S. delegation to Venezuela to discuss lifting the country's oil sanctions signals an implicit recognition of Maduro as the legitimate head of state.¹³⁰ Support for Juan Guaidó has begun to waiver as the presidential crisis drags on into its fourth year.¹³¹ This support has waived because Nicolás Maduro has such a stronghold on important government positions relating to Venezuelan oil, which other countries rely on.¹³² As a result, lifting any sanctions poses the risk of legitimizing the Maduro government and continuing the oppression of opposition the country has faced. Therefore, attached to such an action must be the condition that there be re-elections held that are conducted freely and with opposition leaders and members allowed to voice their opinions, without fear of persecution.

This ties into the next requirement, which is that any easing of sanctions must be tied to the resolution of the current human rights crisis. This includes stopping the oppression of opposition to Maduro's government in addition to bringing forward those responsible for such abuses. Recently, the International Criminal Court made an announcement that they will open an office in the capital, Caracas, to

126. See Brewer-Carías, *supra* note 1.

127. See Broner, *supra* note 7.

128. See Berg, *supra* note 7.

129. See Corkery et al., *supra* note 89.

130. See Hudson & Schmidt, *supra* note 6. (Juan Gonzalez, the NSC's senior director for Western Hemisphere affairs, stated in an interview with *America's Quarterly* that the Biden administration is focused on negotiations with Venezuela and not on removing Maduro from his claimed position).

131. See Emmott, *supra* note 33.

132. See *ECONOMIST*, *supra* note 39.

investigate certain abuses relating to anti-government protests in 2017.¹³³ This is certainly a step in the right direction, but it does not address the continued crises that abound in the country, evidenced by the continued migration of citizens to other countries.¹³⁴ Addressing things such as food insecurity and health care, which constitute a large portion of the current crises, are necessary.

Finally, with the state of the Venezuelan oil industry in such disrepair, it would be irresponsible for the United States to lift the sanctions against Venezuela without instituting a plan to rebuild its infrastructure. Not only is it unclear that Venezuela will be able to provide the necessary amount of oil, it is also unclear if they will be able to provide a quality product.¹³⁵ The disrepair of facilities and lack of regulation means that oil is allowed to sit for long periods of time before being shipped off, allowing it to separate and increasing its chances of leakage.¹³⁶ Because it is unlikely that this could be done quickly, it does not seem that lifting sanctions on the Venezuelan government would provide the necessary relief the United States is looking for in its oil imports.

VI. NOTE

Since this Article was written, the Biden Administration has begun lifting sanctions on Venezuela in exchange for renewed negotiations between Maduro and the opposition.¹³⁷ The Chevron Corporation received a special six-month license to produce petroleum and its products in the country through a joint venture with the PdVSA.¹³⁸ However, that license does not allow them to transact with Russian-owned or controlled entities located in Venezuela, or for PdVSA to receive dividends from Chevron's sales.¹³⁹ The profits from sales will be

133. See *ICC to Open Office in Venezuela to Investigate Rights Abuses*, REUTERS (Apr. 1, 2022), <https://www.aljazeera.com/news/2022/4/1/icc-to-open-office-in-venezuela-to-investigate-rights-abuses>.

134. Amnesty Int'l, *supra* note 66, at 402.

135. See Ulmer & Parraga, *supra* note 111.

136. See Berg, *supra* note 7.

137. Fabiola Zerpa & Lucia Kassai, *U.S. Eases Sanctions on Venezuela with Chevron Resuming Output*, TIME (Nov. 26, 2022, 2:03 PM), <https://time.com/6236995/venezuela-us-eases-sanctions-chevron/>.

138. See *id.*

139. See *id.*

used to repay the hundreds of millions the country owes to Chevron.¹⁴⁰ The license is meant to be an incentive for continued, good-faith negotiations on Maduro's part, and may be revoked if that does not happen. If the negotiations continue, more than three billion dollars in much-needed humanitarian relief may be released to the country after being frozen by sanctions.¹⁴¹

140. Collin Eaton, Patricia Garip, & Andrew Restuccia, *Chevron Gets U.S. License to Pump Oil in Venezuela Again*, WALL STREET J. (Nov. 26, 2022, 5:02 PM), <https://www.wsj.com/articles/chevron-gets-new-u-s-license-to-pump-oil-in-venezuela-again-11669487483>.

141. *See id.*