

LAW AND GOVERNANCE OF SOCIAL POLICIES IN VENEZUELA:
A CASE STUDY OF THE BOLIVARIAN *MISIONES* RELATED TO LAND TENURE AND THE
REDISTRIBUTION OF UNUSED PRIVATE AND PUBLIC LAND

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I. Introduction

In 2003, the Venezuelan government launched the Bolivarian *Misiones*, a group of social programs and poverty alleviating initiatives intended to deliver goods and services directly to the population. These programs were financed with resources coming directly from the Special Oil Fund (SOF), a mechanism created by the executive to manage the windfall of petrodollars generated by an unprecedented surge in oil prices. By 2004, the government had already invested in the *Misiones*, approximately USD \$5 billion the equivalent of 4.5% of the country's annual GDP (Ferrell 2008). The *Misiones* have also been projected beyond the national territory, thus becoming the centerpiece of the government's foreign policy. USD \$ 43 Billion, or roughly 6% of the country's fixed capital has been invested in social programs targeted to foreign countries (Corrales 2009:99). By these standards, the Bolivarian *Misiones* have been regarded as one of the largest and most ambitious social programs launched in Latin America during the last decade (Penfold-Becerra 2007:65).

There are 26 different *Misiones* that cover a broad range of areas, from literacy and other educational programs, to health services for marginalized communities, job training, assistance to the homeless population, housing development, land reform, and agricultural programs. Each

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Mision serves a specific purpose set forth by the government, but collectively, their overall goal is to help promote solidarity, redistribute wealth, empower the traditionally disenfranchised members of society, and facilitate the pursuit of a sustainable economic growth.

In order to achieve these ambitious goals, the government has relied on a variety of intervention strategies, including the enactment of new laws, the creation of new institutions and the encouragement of new practices. This process has also encountered important obstacles that arise from preexisting laws, institutions and practices, and also from a number of external factors including a fierce political opposition and a rapidly increasing social instability.

In recent years, the Bolivarian Misiones have attracted the attention of scholars interested in a wide number of issues, ranging from the assessment of different forms of social investment, to the redistribution of state resources for clientelistic purposes, and the use of social programs as vote-purchasing strategies. (Hawkins and Rosas 2006, Penfold-Becerra 2007, 2008, Ferrel 2008, Corrales 2008). While most of this scholarly body of work focuses on the economic, social and political angles of these initiatives, the legal dimension has been always overlooked. This research plans to at least begin to contribute in filling that vacuum.

In that respect, this paper seeks to discuss the variety of intervention strategies pursued by the Venezuelan government through the promotion of new laws, institutions and practices deployed to support the four Bolivarian Misiones that focus on land tenure and the redistribution of unused private and public land. Out of this subset, two Misiones (Mision Zamora and Mision Guaicaipuro) are of particular interest to this research because of their focus on land ownership and tenure.

The discussion offered in this paper is based on an empirical investigation conducted between December of 2008 and April of 2010. In addition to relying on several secondary sources, that include historical documents (e.g. congressional reports on past initiatives and proposed legislation), legislation, and administrative data dealing with social policies affecting property rights; my analysis is also based on a series of semi-structured interviews conducted during various trips to Venezuela, with several individuals, including key officials of the Venezuelan government, policy-makers, representatives of multilateral organizations involved in Venezuela (e.g. World Bank, IADB), legislators, and also representatives of the local business and industrial sectors. This methodological approach has allowed me to offer a rich and contextualized description of the legal tools, implementation strategies, and practices; and also about the corresponding obstacles pertaining to the subset of government Misiones dealing with land tenure and the redistribution of unused private and public land.

In examining the selected Bolivarian Misiones, this research also considers the legal, institutional and practical obstacles posed to the implementation of the aforementioned social programs, and to the government's broader social agenda. Ultimately, this paper also seeks to contribute to the nascent literature about the impact of law and legal institutions on innovative social policies, and conversely, on the effect that social policy and other development initiatives might have on existing laws, institutions and practices.

Two particular reasons make my focus on the selected subset of Misiones particularly useful. First, the fact that land reform and property rights-related policies in Venezuela have always held a prominent place in the different governments' agendas throughout the last fifty years, allows me to contrast and compare the policies enacted under different historical, political and economic circumstances and draw inferences on their success or failure in redistributing wealth, achieving

social balance, attaining modernization, and ultimately development. And second, regardless of the particular circumstances under which a set of property rights-related policies have been deployed, they have always faced similar challenges from the different stakeholders involved. A prime example can be found in land reform policies, which in spite of being generally perceived as a key condition to rural development, are often resisted by land owners who consider them as a threat to their individual rights. (Leftwich 1998:61)

In order to situate the Bolivarian Misiones into context and to determine the level of innovation brought by these social programs, the following Section (II) provides a historical overview of the different social policies and development strategies proposed or implemented in Venezuela during the last five decades, with particular interest on those referred to land tenure and the redistribution of unused private and public land.

In section III, I begin by describing the different social policies promoted under the current administration in Venezuela, and delve into the analysis of how the Bolivarian Misiones work. I conclude this section with a description of the two misiones (Zamora and Guaicaipuro) deployed by the government to implement its social policies related to land tenure and the redistribution of unused private and public land.

Finally, in Section IV, I discuss the specific legal tools have been enacted to support the Misiones and well as other implementation strategies and practices employed by the government as part of its social agenda.

II. Five decades of social policies and development strategies in Venezuela

The Agrarian Reform and the fight against latifundio

Since the restoration of democracy in 1958, land reform and property rights-related policies have held an important place in the agenda of Venezuelan governments. The revival of democratic values after eight years of fierce military dictatorship (1950-1958), helped renew the interest of politicians in undertaking some efforts to advance policies that would strengthen the “social function”² of property rights in Venezuela, and to devise different intervention tools for effectively promoting social welfare and development.

One of the first and most salient forms of legislative intervention was the Agrarian Reform Act (*Ley de Reforma Agraria*) of 1958, which created a regime for the redistribution of agricultural land. The policy behind the agrarian reform was designed to serve three specific goals: it was directed at suppressing the high concentration of land ownership, at establishing a system of rural finance with the intervention of private and public financial institutions, and at creating different incentives for landowners to make a more productive use of their property. The agrarian reform, had originally been proposed in the late 1940s during a brief period of democracy in the country, but was suddenly abandoned by the military regime that took control of Venezuela during most of the 1950s.

The eradication of *latifundio*, that is, the holding of vast extensions of rural land in the hands of a few wealthy individuals, became the centerpiece of the new agrarian reform policy (Eckstein et al 1978). Latifundio, had been historically identified as one of the main obstacles to agricultural development throughout Latin America. (Friedmann 1966)

² Article 545 of the Venezuelan Civil Code defines the social function of property

Under the latifundio system, the landowners traditionally held the upper hand when it came to decide which types of agricultural activities were to be encouraged, a determination naturally based on the potential for their own individual profit, and not necessarily on the welfare of the general population or in the best interest of the farmer-tenants. Landowners would often enter into individual arrangements with small farmers and unilaterally determine the conditions under which their land was to be exploited, including the compensation and other incentives given to the farmer-tenants in exchange for their labor. Moreover, most of these farmer-tenants did not have any rights to the land or to the crops, thus making their position even more fragile. As a consequence, the living standards of small farmers were very low, and the majority of the country's rural population subsisted under conditions of extreme poverty and malnutrition (Kriby 1973). In a nascent democracy, this seemed to be a perfect justification for state intervention.

The poor conditions of rural life motivated a large portion of the population to begin migrating to urban areas in order to improve their living conditions, obtain steady employment, health and other services. The fact that the government had already started using the state's oil revenues to finance large infrastructure and urbanization projects was yet another factor that contributed to the expansion of the country's urban population and the abandonment of rural areas, as the general perception was that Venezuela's future was in the cities.

The rapid increase in the country's urban population created a new set of problems as the private and public sectors could not meet the increased demand for employment, and the government's infrastructure was not prepared to serve an unexpected wave of citizens in need of health services, education and housing. The solution was to slow down the rural-urban migration by creating better incentives for people to stay in the rural areas. This motivated the government to take more seriously the agrarian reform process and to complement its strategy with the

creation of specialized public entities. The newly devised strategy also included the encouragement of certain practices to help articulate the policy.

As a result, the agrarian reform system was left in the hands of the National Agrarian Institute (*Instituto Agrario Nacional*), a governmental agency situated within the Ministry of Agriculture, which main goal was to administer the redistribution of rural lands, create a financing system for small farmers, and help articulate the government's social policies. Another legal tool was the Expropriation Act of 1958³ as a way to force the transfer of privately held lands and to facilitate the redistribution efforts. During the first decade of the agrarian reform, the National Agrarian Institute was able to meet its policy targets only by 44%, thus helping only 117,000 families (out of the estimated 264,000) to settle on individual lots or on communally run farms (Kirby 1973). According to official accounts, most new landowners were satisfied with the results, and the exodus to urban areas seemed to have slowed down. However, very little could be said about the real impact of these initiatives on the country's development agenda.

Even though well intentioned, the agrarian reform policy faced at least two significant obstacles. The first one, having to do with the absence of a basic infrastructure such as drainage, irrigation systems, poor communication between rural and urban centers, as well as the lack of a support system to help the new farmers, which made it extremely difficult for the policy beneficiaries to develop and thrive. The second difficulty resulted from the pressure exerted by the central government on the National Agrarian Institute to meet its goals, which led the latter to tap into unproductive land already owned by the state and distribute among the policy beneficiaries. In the few instances that the National Agrarian Institute took land from private

³ Ley de Expropiación por causa de utilidad Pública y Social

hands in order to redistribute it among small farmers, it was unused or simply unwanted land. Moreover, some well-connected latifundistas found in the agrarian reform a great opportunity to get rid of unproductive lots, and obtain compensation for otherwise unsellable assets (Kirby 1973).

Social policies during the “Saudi” Venezuela

In a decade signaled by a widespread political and social instability in Latin America, by the 1970s Venezuela had managed to maintain a relatively stable and steady growing democracy. The perception of political and social stability in Venezuela was enhanced by the idea of economic prosperity, which resulted from the unprecedented benefits obtained almost exclusively from oil exports, and to a lesser extent from other natural resources (natural gas, bauxite, and iron, among others). The sustained increase in oil revenues, and the country’s emerging role as a key player in the world’s energy sector, (IEA 2006) put Venezuela in a most enviable position marked by the placement of its per capita income as the highest in the continent. (Karl 1997: 234)

Petroleum allowed Venezuela to enter into the world market as an influential force. It also helped the country migrating from its status as a rural and poor society, reliant on a small scale, agricultural-based economy, (Izard et. al. 1976) to an urban, wealthy and modernized one. This economic boom also accelerated, once again, the migratory wave from rural areas to the cities and helped create the conditions for the emergence of a new bourgeois class. (Karl 1997: 82) Another important effect was the rise of political and economic elites whose power depended almost exclusively on the influx of petrodollars. The new reality allowed people from lower

socio-economic strata -but with the right political connections- to rapidly climb the social and economic ladder.

In domestic terms, a fiscal bonanza generated by volatile oil prices and the subsequent nationalization of the hydrocarbons industry in 1975, enabled the Venezuelan government to become the sole ruler of its own wealth (Makhija 1993) as well as the most important local investor and benefactor (Neuhoser 1992). Not surprisingly, oil “shaped institutions that in turn structured the preferences and behavior of state authorities and private citizens”. (Karl 1997: 90) The colossal windfall of petrodollars and the ostentatious lifestyle of the emerging economic elites during that period earned the country the nickname of Saudi Venezuela. (Tinker Salas 2005)

With a need to invest and diversify its income, the state created a myriad of opportunities that favored an emerging clientele of businesspeople, while simultaneously becoming involved in every imaginable economic activity, (Brewer-Carias 1981) ranging from the exploration, exploitation and commercialization of natural resources, to the sponsorship of other activities like product manufacturing, transportation, services, utilities, and mass communications. The economic expansion was accompanied by a broad range of protectionist and interventionist measures, such as import substitution policies, price controls, fixed interest rates, and extensive regulations, geared to deter foreign threats and to hinder local rivalry. (Jatar 1999)

The government also took a new approach to social policies and redefined its priorities, which obviously affected the initiatives related to land distribution, tenure and property rights. One of the first impacts of this new agenda was a shift from a policy that favored rural development, to one that gave preference to urban growth and modernization (Ferrell 2008). For

the political leaders, the rapid expansion of the country's major cities and the modernization of the state justified the need to facilitate urban life, instead of sending people back to the farmlands. The agrarian reform was thus abandoned, and the priorities shifted to the development of urban centers, which included the regularization of property rights in the numerous urban squatter settlements, and several house financing initiatives. The country was perceived as being so rich, that the government saw no need in encouraging domestic production due to the fact that virtually anything could be (and was in fact) imported. Production forces had to be concentrated around the country's main source of revenues represented by the oil industry, so the rest of the industrial and the productive sector was not considered as a priority. The main goal of the government was, simply put, to transfer oil revenues into private hands. (Briceño-Leon 1982)

The government's new forms of legislative intervention related to the few remaining initiatives included in the package of social policies incorporated an array of laws and decrees that empowered specific government agencies such as the National Fund for Urban Development (*Fondo Nacional de Desarrollo Urbano, FONDUR*) and the National Housing Institute (*Instituto Nacional de la Vivienda. INAVI*), to lead programs geared to guarantee access to urban property.

Aware of the fragility of other political systems in the region, the threat posed by dictatorships and military regimes from neighboring countries, and the perceived need to maintain democratic stability as a precondition to economic and social development, the political establishment paid more attention to protecting and consolidating democracy than to directly stimulate growth and socio-economic equality (Leftwich 1998). The perception that Venezuela enjoyed one of the most stable and a well-functioning democracy in the developing world was widespread.

Below the surface, however, the Venezuelan democracy was far from perfect. Presidential and congressional elections were indeed held every five years, and all three government branches were formally organized according to the principle of separation of powers; but electoral results were often subject to negotiations between the main political parties, and the integration of the legislative and judiciary branches always depended on bargains and compromises between strong party leaders, and were not always a result of a transparent democratic process.

On 31 October 1958, barely nine months after Venezuela had made a transition from dictatorship to democracy, the leaders of the three major political forces at the moment reached an agreement known as *Pacto de Punto Fijo*,⁴ by which they vowed to set the bases for future democratic stability.(Navarro 1988) The document contained a general declaration of principles according to which the main parties reassured their willingness to guarantee the respect for basic democratic principles, defend the constitution and to form a government of national unity that effectively represented the key sectors of society.(Karl 1997)⁵

In real terms, this *pacto* meant the allocation of political power among the leading parties, through the permanent distribution of key government positions, congressional seats, judicial appointments, and public contracts. Even though the general elections determined which party would enjoy the dominant position during a given period, those bound by the pact were guaranteed at least a minimum share in the overall benefits, regardless of the electoral results. (Karl 1997: 99) Once established, the system reassured the political survival of its promoters, legitimized manipulation and influence, and created a breeding ground for powerful clientele

⁴ http://www.analitica.com/bitbliblioteca/venezuela/punto_fijo.asp

⁵ The idea of a “pacted democracy” (Karl 1997: 93) was not an original creation of Venezuelan politicians. A similar arrangement known as “Turno Pacífico” was implemented in Spain by Antonio Canovas del Castillo between 1876 and 1923, during the reestablishment of the Bourbon monarchy.

networks that would govern the most important sectors of the country during the next four decades.

On the other hand, the *pacto* system discouraged the idea of a transparent democracy and hindered the formation of a professional bureaucracy. Loyalty to the political establishment was far more valued than competence or professionalism. For years, *Acción Democrática* and COPEI, the two dominant parties, amassed considerable power, and divided the country into different political territories submitted to their influence. Party leaders also shared –indirect, but significant- control over the state’s resources, most notably, the massive revenue of petrodollars. As political parties -and not their constituencies- were the main beneficiaries of the political system, some preferred to say that Venezuela did not have a real democracy but a Partyocracy. (Calero 1982)

To members of the private sector, the only way to succeed and participate in the distribution of the oil rent was through political mobilization and by strengthening their networks. (Jatar 1999, Gómez 2007) Businesspeople understood that having the proper connections would guarantee them access to government contracts, joint ventures, concessions, subsidies, low-interest loans, and other forms of preferential treatments, including the possibility of exerting influence over judicial and administrative decisions in which their interests were at stake.

As a result of this political scenario, most developmental strategies, including social policies, were devised and implemented by the executive in a way that kept them out of legislative control or popular participation (Leftwich 1998). Even though effective for maintaining the political status quo and the appearance of democratic stability, this strategy did very little to stimulate development, promote equality and social welfare.

Furthermore, the government's exclusive reliance on oil revenues to fund its social policies made these extremely fragile and unstable. Once the oil prices fell in the mid 1980s, so did the government programs (Ferrell 2008) and the stability of the social and political environment.

The collapse of the "pacted" democracy and the new social agenda

In 1988, Carlos Andres Perez, the political force behind the nationalization of the oil industry, and who during his first term in office had led Venezuela through the economic bonanza of the 1970s, became elected President once again. This time, Perez found a very different country to the one he had left ten years earlier. Venezuela was now facing an unmanageable external debt, a profound political crisis and an explosive level of social inequality (Ellner and Hellinger 2003, Gomez 2009).

The new administration vowed to bring Venezuela back to its old glory (Gomez 2009), and a comprehensive development plan dubbed "The great turnaround" (*El Gran Viraje*) was laid out. The plan outlined a series of industrial, trade, and social policies that largely followed the recommendations from multilateral organizations including the World Bank and the International Monetary Fund. For the implementation of this package, the government relied on a "dream team" of independent technocrats instead of the traditional political allies. The key economic and cabinet posts were offered to outsiders to the political establishment as a signal of the President's departure from traditional party politics (Kornblith 1998). This political move enraged the traditional parties to the point that they withdrew all support to the President (Perez-Linan 2007, Corrales 2002) which contributed to the rapid deterioration of the political scenario.

The public announcement of the economic package was received with an uncontrollable spiral of social unrest that began with three days of violent protests in Caracas, and which quickly spread to the rest of the country. Almost immediately, the government announced a new set of social programs devised to mitigate the adverse effects of the neoliberal policies that formed the administration's initial agenda. These programs, announced as part of a Plan to face Poverty (*Plan de Enfrentamiento de Pobreza*) basically focused on health issues, including the establishment of nutrition programs, day care centers, employment opportunities and the improvement of urban-squatter settlements.

As the government's proposed package of policies was mainly geared to jumpstart the economy, and to help reduce the looming social unrest, most measures were designed to tackle urgent issues in the short term. In 1992, as resistance to the government's economic policies was still strong, the administration launched a more ambitious social agenda known as the Social Mega Project (*Mega Proyecto Social*) which expanded the scope of previous social programs to include "investment in areas such as water infrastructure, education, health, housing, social security and environment" (Fernandes 2008). Unlike during past administrations, this time the government outsourced funding for these programs to a number of non-governmental organizations, which demanded a difficult coordination and made very difficult the implementation of the policy.

After suffering two frustrated coup d'état (Perez-Linan 2007), one of which was led by the then-future president Lt. Col. Hugo Chavez, President Perez was impeached and the country was thrown, one more time, into a spiral of instability and uncertainty. Two successive interim presidents -Octavio Lepage, and Ramón J. Velazquez- were appointed by Congress within a year, and the next general election, which took place in December of 1993, brought Rafael

Caldera, a prominent lawyer and politician who had also served as president between 1969 and 1974, to a second term in office (Kornblith 1998, Gomez 2009).

During this administration, the country faced the worst financial crisis of its recent history, as the private financial sector collapsed and the government unleashed a series of drastic measures to intervene the economy and regain control of the banking system. The series of bankruptcies that followed were so complex and numerous that the government was prompted to create a special banking jurisdiction to handle the financial cases (Crisp 1997, Gomez 2009).

In 1994, the government launched its Plan of Social Solidarity (*Plan de Solidaridad Social*) to replace the Mega Proyecto Social. This new set of policies included measures “to combat poverty through constructing a healthy economy that would reduce unemployment and increase salaries” (Fernandes 2008), but paid little or no attention to land tenure, housing finance, and the redistribution of unused private and public land. Given the depth of the economic crisis, and the impact of the neoliberal agenda implemented by the government, none of these policies had any significant impact on social indicators.

Social policies and the advent of the Bolivarian revolution

1998 marked a turning point in the political, social and economic landscape of Venezuela as Lt. Col. Hugo Chavez, an outsider to the political establishment, became elected President, thus putting an end to the dominance of the two traditional parties that steered the country through an apparently solid democracy for almost forty years. At the time, Venezuela was going through a deep crisis fueled by numerous corruption scandals, a dire economic situation, and social unrest, all of which rapidly eroded the legitimacy of the traditional political actors, and facilitated the conditions for a newcomer to take charge.

The rise of a new leader portrayed as anti-corruption, anti neo-liberalism, and anti-political establishment, gained wide acceptance among most sectors of society. Chavez's main pledge was to embark in an ambitious transformation of the state through a comprehensive constitutional and legal reform process that would promote solidarity, empower the traditionally disenfranchised members of society, and give preponderance to a socially-minded agenda. In order to symbolize its desire to break abruptly from the previous economic and political models which generally followed neoliberal agendas, the new administration called itself the Bolivarian Revolution, as an evocation to Simon Bolivar, the eighteenth century's military leader who contributed decisively to the independence of Venezuela, Colombia, Bolivia, Peru, Ecuador and Panama.

In order to promote the conditions for successfully achieving its goals, the new government set itself to attain a tight control over the economy, to expand its presence to most commercial and industrial activities, and to minimize the role of the private sector. Political institutions also needed to be transformed in order to facilitate the promotion of a broad number of social policies. Regarding the latter, the implementation of measures related to property rights, more specifically to land ownership and tenure, housing finance, and the redistribution of unused private and public land were –and still are- at the forefront of the government's agenda.

In the following section, I describe the different social policies promoted under the current administration in Venezuela, and delve into the analysis of how the Bolivarian Misiones work, what specific legal tools have been enacted to advance their goals, and which implementation strategies and practices are dominant.

III. Social power and the Bolivarian Misiones

Rise and fall of the Plan Bolivar 2000

During the first year of the Bolivarian revolution, most of the government's social policies were not very different from the intervention strategies used by previous administrations, notably those during the 1970s. However, starting in the year 2000, the government began to drift away from past practices, guided by the policy principles set forth in the then-newly approved Bolivarian Constitution of 1999.⁶

On 27 February 1999, the Chavez administration launched its first comprehensive poverty alleviation initiative called "Plan Bolivar 2000". With an initial budget of USD\$ 170 million, the oversight of this program was entrusted to key members of the armed forces and it involved approximately 40,000 troops, who were sent around the country to distribute food in poor areas, vaccinate children, paint hospitals, rebuild schools, help fight literacy, and use military aircraft to transport people, as a way to subsidize their travel expenses. The government used the plan as a vehicle to foster military-civilian cooperation, and according to its critics, to bypass opposition governors and mayors in handling social investment funds, and to reward loyalty to the president.

On December of 2000, a presidential decree⁷ was issued to authorize the heads of any "exceptional development plans", which obviously included the Plan Bolivar 2000, to award contracts and allocate resources directly to private parties and individuals without any outside control, thus eliminating the need for competitive bids, and other safeguards applicable to public

⁶ Constitution of the Bolivarian Republic of Venezuela, article 307

⁷ Presidential Decree 1221 of ___December of 2000

contracts. The plan Bolivar 2000 was set to be executed into three phases shown in the following table:

Table 1: Stages of the Plan Bolivar 2000⁸

Stage	Implementing entity	Activities/Goals
Proyecto País (Pro-País)	Armed forces/military personnel	Provide assistance to the most disadvantaged and excluded groups of the Venezuelan society in order to alleviate their urgent social needs. (instead of facilitating access, it created a parallel system)
Proyecto Patria (Pro-Patria)	Selected public employees and unemployed citizens enrolled as voluntary personnel	Involve larger social groups into socially-minded activities geared to promote “productivity”.
Proyecto Nación (Pro-Nación)	Several government agencies, under the supervision of CORDIPLAN, the Presidential Office for Coordination and Planification.	A variety of “structural” projects focused on the petrochemical, agricultural, and educational sectors.

Source: <http://www.mpd.gob.ve/prog-gob/proyb2000.htm>

The Plan Bolivar 2000 did not live beyond phase 1 as numerous tensions grew within the armed forces surrounding its management and oversight. More critically, the Plan commanders became the target of a corruption scandal, thus adversely affecting the public perception of the policy and eroding the government’s initial popularity. Little is known about the real impact of the Plan Bolivar because of the secrecy surrounding its implementation. The government claimed that it was a great success, but quickly dismantled it after the allegations of corruption involving its members became widespread.

⁸ <http://www.mpd.gob.ve/prog-gob/proyb2000.htm> (last visited, October 28, 2009)

The Fondo Unico Social

In the aftermath of the Plan Bolivar 2000, the administration launched the Unified Social Fund (*Fondo Unico Social*)⁹, a government entity under the direct supervision of the Presidency and completely detached from the central bureaucracy. The USF was put in charge of administering and allocating the resources set aside by the central government to finance its social policies, and was also given broad discretion on how, where and with whom to invest its capital. The decree that established the fund, mentioned a wide variety of programs geared to strengthen social development, health, education, and to foster a “competitive popular economic model”, with emphasis on micro financing and cooperativism. The USF is still in operation to this day, and has become a very powerful entity within the government.

Alongside the creation of agencies such as the USF, the government also promoted the enactment of legislation intended to advance a number of social policies related to land tenure, housing finance, and the redistribution of unused private and public land. One of the first steps in this direction was the passing of the Land and Agrarian Development Act of 2001 (*Ley de Tierras y Desarrollo Agrario*, or LADA)¹⁰, intended to further advance the policy set forth in article 307 of the Constitution to eliminate latifundios and foster economic development through the promotion of agribusinesses.¹¹ The LADA established three separate autonomous entities to replace the National Agrarian Institute that had existed since the 1960s. These new entities are, the National Land Institute (*Instituto Nacional de Tierras*), The Venezuelan Agrarian Corporation (*Corporación Venezolana Agraria*) and the National Institute for Rural Development (*Instituto Nacional de Desarrollo Rural*).

⁹ Gaceta Oficial de la República Bolivariana de Venezuela, número 37.322 de fecha 12 de noviembre del año 2001. <http://www.fus.gov.ve/> (last visited, October 28, 2009)

¹⁰ Ley de Tierras y Desarrollo Agrario.

¹¹ Constitution. Art. 307

In recent years, the government has continued supporting legislation to advance its social policies, and has given preference to the ones related to land tenure and property rights. More recently, on 14 August 2009, the Venezuelan National Assembly passed the Urban Lands Act (Ley de Tierras Urbanas, or ULA), a legislative effort to regulate unused urban lands and to facilitate its expropriation by the state for the development of residential projects, and other socially-minded goals. The ULA was ratified by the President on 21 October 2009 and entered into force soon thereafter.¹²

In spite of these significant legislative efforts and the creation of government entities in charge of overseeing social projects, the core of the administration's social policies has traditionally rested on a parallel system largely excluded from external oversight and control, and subject to the direct influence of the Presidency. This system is formed by the Bolivarian Misiones, which I now turn to describe.

*Misiones to save the people*¹³

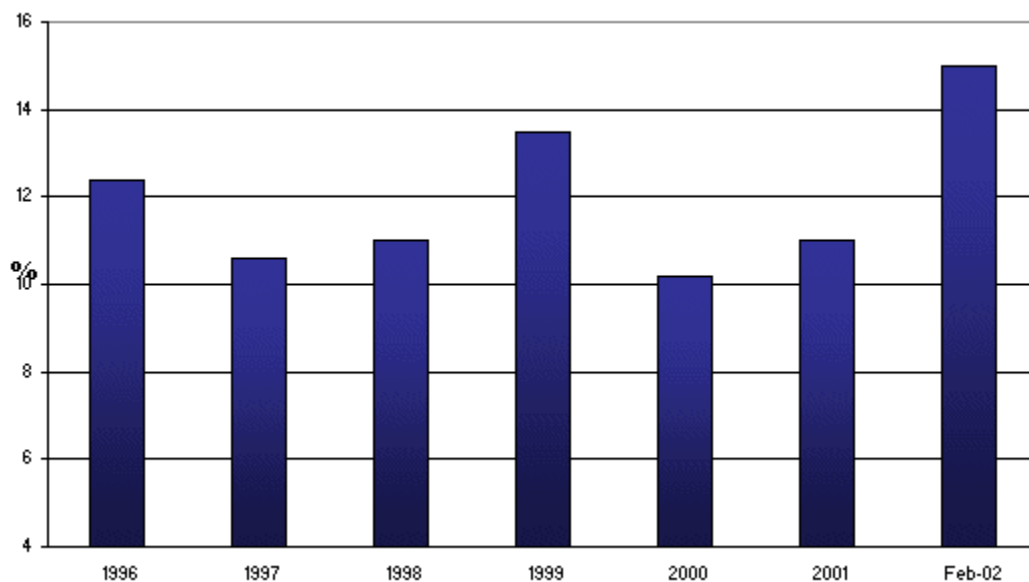
The LADA was part of a controversial “package” of forty nine law-decrees enacted by the President on November of 2001 as part of the extraordinary legislative powers granted to him by the National Assembly, in order to help him bypass the hurdles of congressional debates and defuse the growing political opposition to his regime.¹⁴ The failure of the government's early social programs and efforts to jumpstart the economy became evident as the unemployment rate increased from 10% in 2000 to 15% in early 2000 as shown in the following table:

¹² Ley de Tierras Urbanas, Official Gazzette of the Bolivarian Republic of Venezuela # 5,933 Extra.

¹³ This was the initial name given by President Chavez to his new social intervention tools during the speech given to outline his administration's social policy.

¹⁴ The use of Presidential extraordinary or emergency powers to legislate is not new in Venezuela. Previous Presidents, notably during the 1970s and 1980s also employed this strategy when they could not garnish enough Congressional support for their legislative initiatives.

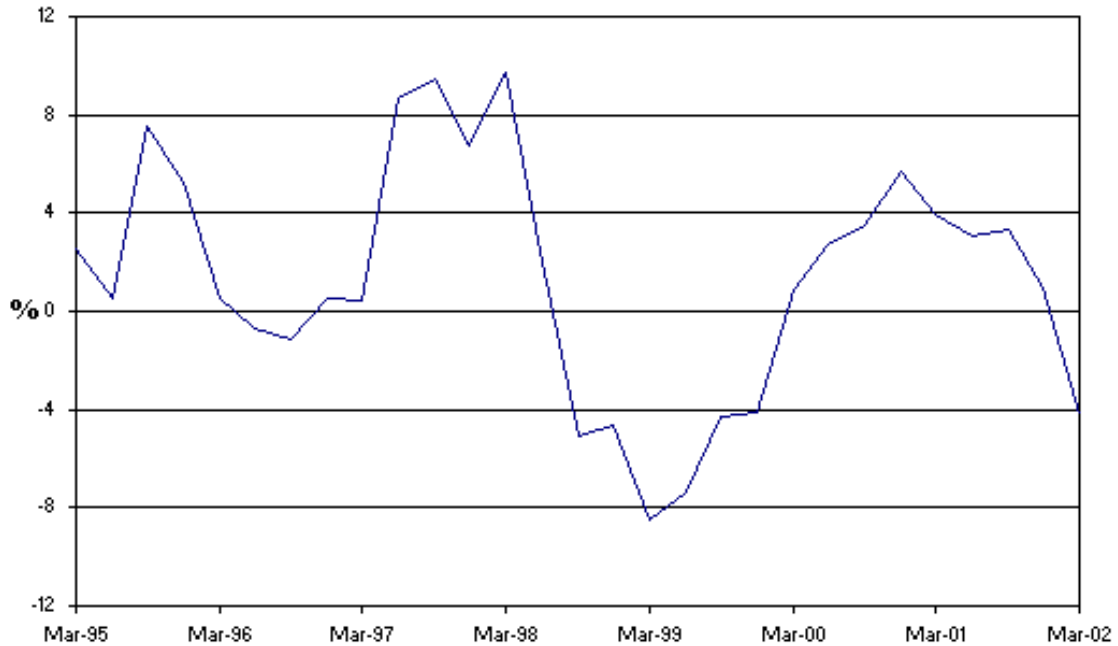
Table 2: Unemployment rate between February 1996 and February 2000



Source: Venezuelan National Statistical Institute (Instituto Nacional de Estadísticas de Venezuela, INE).

The fast rising unemployment rate was obviously linked to a significant decrease in the country's economic activity. By the end of the year 2001, the Venezuela's GDP had fallen dramatically to minus-4%, while the government had initially projected it at 2.7%. Oil prices had also dropped 21.65% between 2000 (USD\$ 25.91 per barrel) and 2001 (USD\$ 20.30 per barrel) and the country's international reserves decreased accordingly from USD\$ 15,685 million to USD\$ 12,289 million. The following table shows the annual GDP variation between March 1995 and March 2002:

Table 3: Annual GDP variation-March 1995 to March 2002



Source: Venezuelan Central Bank (Banco Central de Venezuela, BCV)

By early 2002, the social and political climate was, naturally, one of significant tension and turmoil. Numerous street protests took place and a national oil strike was organized. The government took a radical stance and threatened to nationalize the banking system, take direct control of PDVSA, the national oil company, and unleash a series of measures against the private sector, including a series of confiscations, and expropriations. In the midst of an attack on

civilians who were marching towards the Presidential palace on April 11, 2002, the President was briefly deposed and a de-facto regime took over, just to be displaced again 24 hours later.

Immediately after his return, President Chavez vowed to lead a national campaign of reconciliation, but quickly unleashed an offensive against members of the political opposition, the private sector, religious leaders, and against virtually anyone who did not show unconditional support for his government (Gomez 2009). Opposition forces focused their attention on the organization of a recall referendum, a mechanism included for the first time in the Constitution of 1999 to activate the impeachment of any public elected official, including the President. With the levels of popularity at its lowest, the government felt the need to react in a swift manner to regain support from the masses, defeat the recall referendum petition, and stay in power. The launching a series of poverty alleviation initiatives seemed to be the solution (Ortega and Penfold 2008).

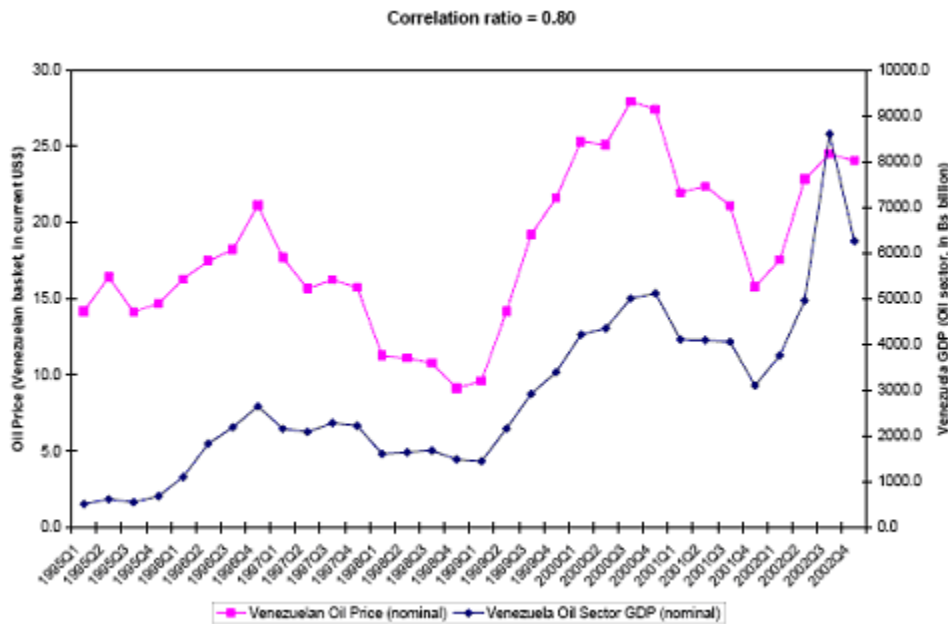
As part of its new Strategic Social Plan (*Plan Estratégico Social*), the government announced the deployment of several state-funded poverty alleviation initiatives called *Misiones*. The goal of the Misiones was to deliver goods and services directly to the poor, thus circumventing the traditional bureaucracy and other official channels. The Misiones were directly administered and funded by the Presidency, “through irregular budgetary and accounting channels” (Hawkins and Rosas 2006, Ortega and Penfold 2008), which gave the government ample flexibility to decide how, where and when to allocate resources, and for which purposes.

Taking into consideration the fragile position of the government with respect to its popular support and the increased polarization of the Venezuelan society, the use of the Misiones in a clientelistic fashion came as no surprise. During his weekly televised speeches, the president

made no secret that the Misiones were intended to bolster his political support, and that the only beneficiaries were those fully committed to defend the Bolivarian revolution.

As oil prices began rising, thus contributing fill up the government’s coffers, the President was able to inject much more cash into the Misiones and expand their initial scope from a handful of modest social programs to a vast network of 26 different initiatives that covered almost every area of the country’s economic and social dimensions. The following chart shows the fluctuation of the Venezuelan oil basket in relation to the country’s GDP as related to the oil sector.

Table 4: Oil Prices and Country’s GDP from 1995 to 2002



Source: <http://www.clas.ufl.edu/jur/200707/images/mcgrady-1.gif> (last visited, October 29, 2009)

The following table contains a list of all the Misiones (in alphabetical order), indicating their specific goals:

Table 5: List of Bolivarian Misiones

Mision	Objective
Mision 13 de Abril ¹⁵	To strenghten the people's power through the creation and development of socialist communities
Mision Alimentación (MERCAL) ¹⁶	To ensure the supply of food for the economically disadvantaged in Venezuela.
Mision Árbol	To engage the community in the creation of a new development model based on the recovery, conservation and sustainable use of forests, in order to improve the quality of life.
Mision Barrio Adentro ¹⁷	To guarantee access to health services for excluded groups, using a model of comprehensive health management aimed at achieving a better quality of life through the creation of clinics, in addition to the hospitals, located within the poor communities that do not have access to hospitals.
Mision Ché Guevara ¹⁸	To design and implement training activities, sustainable work organizations, develop ethical awareness and the moral revolution as factors in the formation of a new society.
Mision Ciencia ¹⁹	To promote scientific and technological development throughout the country's productive sectors, promoting the socialization of knowledge, and joining efforts to strenghten the strategic guidelines for the creation of a new economic and productive system
Mision Cultura ²⁰	To develop and consolidate a national identity within a decentralized and democratized Venezuela
Mision Guaicaipuro ²¹	To restore the rights of indigenous peoples
Mision Habitat ²²	To ensure the constitutional right to housing by the year 2021
Mision Identidad ²³	To provide anyone with national ID cards and facilitate access to other social services

¹⁵ <http://www.gobiernoonlinea.ve/miscelaneas/misiones.html>

¹⁶ <http://www.mercal.gob.ve/web/index.php>

¹⁷ <http://www.barrioadentro.gov.ve/>

¹⁸ <http://www.misioncheguevara.gob.ve/>

¹⁹ <http://www.misionciencia.gob.ve/>

²⁰ <http://www.misioncultura.gob.ve/>

²¹ http://minpi.gob.ve/minpi//content/view/51/68/lang.es_VE/

²² <http://www.fmh.gob.ve/>

²³ http://www.onidex.gov.ve/Mis_ident/mision_ident.php

Mision Jose Gregorio Hernandez	To provide people with disabilities and their caretakers with specific programs to diagnose, treat, and manage their ailments.
Mision Madres del Barrio	To provide support to mothers/housewives and their families facing extreme poverty.
Mision Milagro ²⁴	A joint effort between the Venezuelan and the Cuban governments to provide medical attention to visually impaired citizens.
Mision Miranda ²⁵	Aimed at restructuring the reserve system of the National Armed forces through organization, monitoring, recruitment, registration and retraining.
Mision Musica	To promote Venezuela's musical talent through the creation of social action centers for music and Escuelas Bolivarianas so that all children have access to music.
Mision Negra Hipólita ²⁶	To rescue, recover and ensuring the rights of the most impoverished and homeless in Venezuela.
Mision Niños y Niñas del barrio	To create programs geared to adress issues facing children in Venezuela.
Mision Niño Jesús	To develop projects to improve the quality of life and health of mothers and children under the principles of universality, equality, accessibility, cultural appropriateness, fairness, generosity and stewardship.
Mision Piar ²⁷	Designed to integrate and promote small-scale miners into the five main areas of the Nacional Social and Economic Development Plan.
Mision Revolución Energética ²⁸	To achieve and promote a more rational use of energy through the replacement of iridescent lightbulbs with fluorescent ones.
Mision Ribas ²⁹	Launched to ensure the continuity of education for all Venezuelans, primarily those who had failed to enter or complete a third degree education, and to those seeking secondary or professional level education.
Mision Robinson ³⁰	Launched as a mass literacy program aimed at

²⁴ <http://www.mpps.gob.ve/ms/modules.php?name=Content&pa=showpage&pid=427>

²⁵ <http://www.milicia.mil.ve/>

²⁶ <http://gp.cnti.ve/site/minpades.gob.ve/view/Mision%20Negra%20Hipolita.php>

²⁷ <http://www.fundacionmisionpiar.gob.ve/>

²⁸ <http://www.menpet.gob.ve/portalmenpet/secciones.php?option=view&idS=144>

²⁹ <http://www.misionribas.gov.ve/>

³⁰ <http://www.misionrobinson.gov.ve/>

	teaching reading and writing to all Venezuelans.
Mision Sonrisa	To ensure dental services to all Venezuelans.
Mision Sucre ³¹	To ensure access to college education to all high school students.
Mision Villanueva ³²	To redistribute population and improve living conditions of Venezuelans.
Mision Zamora ³³	The reorganization of unused lands with agricultural potential in order to eradicate the latifundio system, promote rural development, and ensure food supply through sustainable agriculture.

The 26 Misiones that exist today are part of a comprehensive strategy called “Mision Cristo”,³⁴ which main goal is to eradicate poverty in Venezuela by the year 2021.³⁵ Depending on their scope, implementation mechanism and objectives, the Misiones can be classified into three groups. The first group comprises the Misiones that address education, culture, as well as the political and social organization. The second group includes the Misiones that focus on food supply, nutrition and health. Finally, the third group includes the Misiones geared to target public infrastructure, land reform, land ownership, and housing development. I now turn to discuss the two most salient programs from the latter group.

Mision Zamora and the land reform process³⁶

The stated goal of Mision Zamora is to reorganize land tenure and redistribute unused rural lands in a way that benefits small farmers and helps to eradicate the latifundio system.

³¹ <http://www.misionsucre.gov.ve/>

³² <http://www.mopvi.gob.ve/habitat/pag/index.php>

³³ <http://www.gobiernoonlinea.ve/miscelaneas/misionzamora.pdf>

³⁴ <http://www.rnv.gov.ve/noticias/index.php?act=ST&f=2&t=1450> (last visited, October 29, 2009)

³⁵ http://fegs.gerenciasocial.org.ve/paginas/RMISION_CRISTO.html (last visited, October 29, 2009)

³⁶ http://ceims.mre.gob.ve/index.php?option=com_content&view=article&catid=23&id=53:mision-zamora (last visited, October 29, 2009)

Mision Zamora also proposes to strengthen the development of agriculture through a system of micro credits and other financial incentives, including the free distribution of heavy machinery and other equipment necessary for agricultural development, as well as the provision of technical support and the expansion of a comprehensive agricultural infrastructure. In a more general way, this program is also tied to the government's plan to promote social and economic equality in rural areas. In addition, Mision Zamora supports the implementation of other policies geared to guarantee food supply and the distribution of agricultural products for domestic consumption rather than export (Linton 2006).

As per the government's own account, Mision Zamora is one of the most successful social programs implemented to date. The government has based this assertion on the amount of reclaimed land (1.3 hectares between 2005 and 2005), the amount of unused private land on which the government has begun to expropriate (125,336 hectares), and also the amount of active crops affected by other forms of government intervention (125,336 hectares). What we do not know, however, is the actual percentage of recovered or expropriated land for agricultural purposes that have been further utilized under the aegis of Mision Zamora. It is not clear either whether how much of the active crops that were affected by government intervention, are still being utilized, and by whom. In other words, the government has made public the extensions of land that has been subject to expropriation, but has not disclosed whether that land has been reassigned, or to whom, and in any case, what has been the level of productivity after intervention.

Unlike under most land reform policies enacted by previous administrations, which stressed the importance of guaranteeing private property and were mainly geared at facilitating

the acquisition of property rights by small farmers, Mision Zamora has given much more importance to promoting the organization of cooperatives and similar forms of collective work without encouraging the transfer of property (Linton 2006). Mision Zamora has instead sponsored initiatives by which farmers are only granted limited use to the land, while its ownership is almost always retained by the state. To this end, farmers are often encouraged to apply for a land-use certificate known as *carta agraria* (agrarian letter). The certificate does not grant ownership over the land, but simply a limited right to exploit it, and to obtain micro credits to support specific agricultural activities.

Another initiative sponsored by Mision Zamora has been the organization of cooperatives or structured communities (Linton 2006) known as *fundos Zamoranos*, which consist of a group of farmers organized into a “nucleus of endogenous development” (*núcleo de desarrollo endógeno*) to harvest and commercialize specific agricultural products. Being part of a fundo does not entail any right of individual ownership over the land, and the possibility of obtaining any other form of individual benefit or economic revenue is limited. The goal of a fundo is rather to encourage farmers to work towards the collective goal of harvesting for their own communities, and not toward the pursuit of personal wealth.

There are no public records of how many fundos Zamoranos have been organized since the inception of the Mision Zamora, or how many there are today, but different sources report that there were at least 57 in 2006 (Linton 2006, _____), and that in early 2010 there were between 100 and 120 fundos Zamoranos scattered throughout the country.³⁷

³⁷ On 15 April 2008, the Ministry of Agriculture and Land launched a national census intended to obtain statistical information on the country’s agricultural sector, but the results have not been released by the time of writing. See, http://www.inia.gov.ve/index.php?option=com_content&task=view&id=338&Itemid=73.

Mision Zamora was first launched by the government as a political initiative outside the state bureaucracy. In 2003, the President announced it as Plan Zamora, and it basically consisted in a program to administer the free distribution of heavy machinery and vehicles for agricultural use, to small farmers around the country. In 2004, the scope of Plan Zamora was broadened to include land redistribution strategies and the program was re launched as Mision Zamora. At that time, as it also occurred with the rest of the social programs sponsored by the executive, Mision Zamora functioned separately from other government agencies and was headed by a special presidential appointee outside the government. The head of the program reported directly to the President instead of the Ministry of Agriculture or any other official, and his activities fell outside any other form of external oversight or control. The specific strategies and course of action to be followed by the head of Mision Zamora were not outlined in any official document or concerted national plan but rather on direct orders from the Executive. However, as I explain below when describing the legal tools on which the government has relied to implement its different social policies, several instruments enacted during the last five years have provided support to Mision Zamora and have facilitated the pursuit of some of its stated goals.

In 2005, Mision Zamora became de facto integrated into the state's bureaucracy with the enactment of a Presidential decree that created the National Agricultural Commission (*Comisión Agrícola Nacional*, or NAC)³⁸. The NAC's main role was to devise and coordinate the different policies geared to eliminate the latifundio system, to reassign land for agricultural use, and to promote the sustainable and productive use of rural land. Interestingly, the decree did not mention Mision Zamora, but it was apparent from its stated goals and from the appointment of

³⁸ See, Presidential Decree 3,048 of January 10, 2005, On "The Reorganization of Use and Tenure of Agricultural Lands".

certain individual members to the NAC³⁹, that Decree 3,408 intended to extend its scope to the activities of Mision Zamora and to subject its operation to the NAC's oversight.

Furthermore, Presidential Decree 3,408 also stated that policies involving land redistribution and land tenure should be implemented in coordination with the National Land Institute (*Instituto Nacional de Tierras*, or NLI), an agency within the Ministry of the Popular Power for Agriculture and Land (MPPAL). As a result, at least since 2005, Mision Zamora should have become integrated into the MPPAL and was supposed to operate within the government's official bureaucracy. In reality, however, Mision Zamora –as a number of other social programs- still retains a certain degree of independence from the MPPAL and remains subject to direct influence from the President. This has given the executive ample flexibility to redirect the activities of Mision Zamora to certain areas that it deems a priority mostly around elections' season, or to reformulate its social programs without being subject to any formal control. I will elaborate more on this issue when referring to the implementation strategies employed by the government for its different social policies, in section IV of this paper.

*Mision Guaicaipuro and the empowerment of indigenous peoples*⁴⁰

As part of its agenda to promote social equality, the Venezuelan government has devised and implemented a series of policies geared to advance the rights of indigenous peoples, and to help them become active participants in the country's political, economic and social life. From the several misiones that target indigenous populations, Mision Guaicaipuro is perhaps the most

³⁹ Article 2 of the decree, for example, mentions that one of the members of the Commission is the Joint Commander of the National Armed Forces (CUFAN in Spanish), and another one is the Legal Counsel to the President, who is thereby appointed as the Commission's Executive Secretary. See, Presidential Decree 3,048 of January 10, 2005, On "The Reorganization of Use and Tenure of Agricultural Lands".

These two officials had also an important role in the administration of various Misiones.

⁴⁰ Presidential decree 3,040 of _____, 2003

important one. Symbolically named after Guaicaipuro, a legendary native chief who during the XVI century led the resistance against the Spanish conquistadores, Mision Guaicaipuro seeks to help Venezuelan indigenous communities gain access and utilize their ancestral lands traditionally occupied by their own ethnic groups for generations. In addition, Mision Guaicaipuro also aims at providing financial assistance to indigenous groups towards a sustainable rural and agricultural development. In this sense, there is an obvious overlap between Mision Guaicaipuro and Mision Zamora.

Unlike the case of most other Bolivarian Misiones, which were initially launched either informally during election times, or as improvised plans and then morphed gradually into more formalized structures, Mision Guaicaipuro has always been formally incorporated into the government's apparatus. The creation of Mision Guaicaipuro was first announced on 12 October 2003.⁴¹ However, it was not until 9 August 2004 when this social program was legally recognized and given the rank of Presidential Commission (*Comisión Presidencial Misión Guaicaipuro*).⁴²

Since its inception in 2003, the formal oversight of Mision Guaicaipuro has been transferred at least two times. After being initially assigned to the Ministry for the Environment, Mision Guaicaipuro was transferred to the Ministry for Participation and Social Protection, and the last time, on August 30, 2007 to the newly formed Ministry for Indigenous Peoples (MIP).⁴³

⁴¹ This day, formerly known in Venezuela as America's Discovery Day (Columbus Day in the U.S.) has since become known as the Day of Indigenous Resistance (Dia de la Resistencia Indígena). See, Presidential Decree of 10 October, 2002. Available at: http://www.minci.gob.ve/actualidad/2/5649/dia_de_la.html

⁴² Presidential Decree 3,040 of 9 August 2004, published in the Official Gazette of the Bolivarian Republic of Venezuela # 37,997.

⁴³ Presidential Decree 5,550 of 30 August 2007, published in the Official Gazette of the Bolivarian Republic of Venezuela # 38,758.

According to Mision Guaicapuro's organizational chart, this program is supposed to coordinate its activities with at least nine different ministries, including Environment, Education, Health, Agriculture, Nutrition, Defense, Energy and Oil, Housing, and Participation and Social Protection and Communal Economy. In reality, however, it appears that Mision Zamora's main agenda and objectives are the result of a series of Presidential directives and not necessarily from a concerted strategy that involves other government agencies.

In a similar fashion, even though according to the MIP's organizational chart Mision Guaicaipuro is part of that ministerial branch, it is also expressly excluded from the oversight of the internal comptroller, the head of personnel, the planning officer and the head of the legal department.⁴⁴

In political terms, Mision Guaicaipuro has been often brandished by the administration as a signal of its forward-thinking and progressive social agenda. During the last five years, the Venezuelan government has become an active sponsor of numerous events organized to empower indigenous peoples throughout Latin America, and has also provided support to a number of grass roots movements that advocate to empower native ethnic groups. The overall impact of these policies in comparison with the country's total population is, however, very small. There are 28 different indigenous groups in Venezuela, but they only comprise 2 percent of the country's total population. Moreover, the majority of the indigenous population is

⁴⁴ See, Ministry of the Popular Power for Indigenous Peoples, Annual Management Report 2009. Available at _____

concentrated in only four groups, the Wayuú, Warao, Pemón, and Añu.⁴⁵ Most of them are basically assimilated into urban life, and thus face similar problems to the rest of the population.

Several social programs announced by the government in the context of Mision Guaicaipuro are directed to alleviate poverty, and to provide indigenous populations with basic infrastructure such as telecommunication centers and other services. To this end, in 2005 the government allocated \$23.6 million dollars to a plan geared to provide basic services to indigenous groups located in the south and western regions of the country. Around that time, the government also promoted the creation of several indigenous-run cooperatives, and provided scholarships for indigenous youth. Critics pointed out that most of these initiatives were launched during election times, and that the government really used these initiatives to purchase votes from indigenous peoples.

With regards to property rights, since the inception of Mision Guaicaipuro, several indigenous groups have successfully achieved the demarcation of their territory, and in some cases have acquired titles over their ancestral lands. For example, in 2005 the Yukpa, Bari, Karanakae and Saimadoyi indigenous groups obtained the protection of approximately 7,200 hectares in the Sierra de Perija region in the western part of the country (Zulia state), and the Karina indigenous groups located in the eastern states of Anzoategui and Monagas were recognized as owners of approximately 127,000 hectares of land.⁴⁶ It is unclear, however, whether the government has also provided financial support to these indigenous groups for agricultural activities geared to their own sustenance and development.

⁴⁵ University of Maryland's Center for International Development and Conflict Management, Assessment for Indigenous Peoples in Venezuela. Available at: <http://www.cidcm.umd.edu/mar/assessment.asp?groupId=10102>

⁴⁶ Id.

Also, none of the government-sponsored initiatives have helped indigenous peoples in asserting their rights against a series of industrial activities, including coal and gold mining, and the extraction of hydrocarbons, that adversely affect their environment and traditional way of life.

IV. The use of legal tools and other strategies in the implementation of the Bolivarian Misiones.

*Legal tools*⁴⁷

A major legitimating factor in the implementation of the Bolivarian Misiones rests on the existence of laws that reflect the state's aspiration to promote economic growth, political stability and social justice. When launching and carrying out its different Misiones, the government has often linked them with specific language from the 1999 Constitution and other key legislation enacted since the beginning of the Bolivarian Revolution.

The 1999 Constitution is the result of a political process led by President Chavez as part of an anti-party, anti-establishment platform that enabled him to attain initial support from most sectors of Venezuelan society. The rise to power of a political outsider like President Chavez, was an obvious reaction to the deep economic and social instability, as well as the series of corruption scandals that deteriorated the political establishment during most of the 1990s (Hellinger 2004). With a promise to rethink government institutions in a way that empowered the disenfranchised and contributed to social justice and economic prosperity, President Chavez actively promoted the idea of a new Constitution that included large number of socially-oriented

⁴⁷ This subsection includes ideas previously discussed in Manuel A. Gomez, *Political Activism and the Practice of Law in Venezuela*, in *Cultures of Legality: Judicialization and Political Activism in Latin America*, edited by Javier Couso, Alexandra Huneeus and Rachel Sieder (Cambridge University Press, 2010).

provisions, and that gave importance to a number of third generation rights and stressed the social function of property rights.⁴⁸ The Constitution expanded the protection of social rights and included language that addressed social groups which had been traditionally absent from the political speech. This is obviously the case of indigenous groups.

The new Constitution has also been portrayed as the backbone of the government's ideological project, and the energetic condemnation of past political practices by members of the new government have brought law to the center stage, thus helping generate the perception that law is a vital element in the operation of the state. In the eyes of the government, however, the centrality of the legal system does not mean that legal institutions should operate independently from political interference. To the contrary, the government has made clear that and legal principles are subject to a very elastic interpretation that depends on the changing needs of the political establishment (Delgado Ocando 1979).

The approval of the new constitution has been understood by the government as an important step toward ensuring the complete subordination of the remaining parts of the legal system to the executive. To this end, the law-making process has also been streamlined through the transformation of Congress into a unicameral body (*Asamblea Nacional*), and the president has obtained extraordinary powers to legislate extensively via emergency legislation in areas otherwise limited to congressional authority. Most of the legal instruments enacted to advance social policies within the framework of the Mision Zamora and Mision Guaicaipuro, for example, have resulted from emergency legislation created by the president.⁴⁹

⁴⁸ LADA and ULA, art. 2.

⁴⁹ Special decrees related to land tenure and land distribution enacted since 2003.

Other implementation strategies

In addition to the passage of enabling legislation and its reliance on Constitutional provisions as a general framework for its social policies, the Venezuelan government has also relied on at least three specific strategies during the implementation phase of the Mision Zamora and Guaicaipuro. These strategies seem to be common to most other social programs as well.

The first and perhaps the most important strategy employed by the government in the operation of the Bolivarian Misiones has been the diversion of a significant percentage of Venezuela's oil revenues to a special fund exclusively controlled by the executive and insulated from any form of congressional oversight. The tenfold increase in oil prices occurred during the mid 2000s has enabled the Venezuelan government to gain access to a significant reserve of petrodollars and to use it at its sole discretion.

The second key strategy employed by the government has been the involvement of the armed forces in the implementation of these social programs. Since the beginning, the armed forces have provided the government with an important support base that has allowed the president's political project survive in spite of a fierce political opposition from members of the traditional establishment. Moreover, the political machinery that brought the president to power came from military ranks. The president himself was once a military commander and his political platform was a spin-off of the rebel group that, under his own leadership, attempted to overthrow the government in 1992.

Once in charge of the government, the president quickly realized that his strongest allies were his former military comrades. They were, after all, the only ones unconditionally committed to the objectives of the Bolivarian Revolution. The obvious result was that most key government positions were given to active or retired military leaders, and the administration of the social programs was not the exception. Unfortunately for the government, it was precisely the allegations of corruption against key military commanders, which contributed to the demise of the Plan Bolivar 2000, the social program that preceded the Bolivarian Misiones.

Notwithstanding, the important setback generated by the Plan Bolivar 2000, the government has continued relying on military personnel for the implementation of its social programs. In the specific case of the Mision Zamora and Guaicaipuro, members of the armed forces are continuously involved in the management of these social programs.

A third strategy is the initial separation of the Misiones from the official bureaucracy and their gradual insertion into the state apparatus. In order to keep tight control over the Bolivarian Misiones and retain ample flexibility over their implementation and utilization for clientelistic purposes, the Venezuelan government initially launched the Misiones as political initiatives outside the state apparatus. As a result, the Misiones were identified more with the government's ideological project than with an official long-term policy. Several scholars have characterized the Bolivarian Misiones as vote-purchasing strategies (Corrales 2008, Penfold-Becerra 2007, 2008) and have highlighted their utilization as mechanisms geared to distribute resources in a clientelistic fashion.

As the government has gradually attained control and expanded its influence over most institutions -including the legislative and judicial branches- the Misiones have also been slowly

incorporated into the state apparatus, but the executive still retains a ample power over them, as we saw in the case of the Mision Guaicaipuro.

The Bolivarian Misiones may serve a legitimate goal in enabling the government reaching out to groups who were traditionally excluded from state support. The Misiones may also help delivering direct benefits to the poor, but the lack of transparency in their implementation and the overt control exerted by the executive over these and other social programs hinders their effectiveness and has a negative impact on their long-term stability.

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