

CORRUPTION AND CRISIS IN VENEZUELA: ASSET REPATRIATION FOR HUMANITARIAN RELIEF

Policy Options and Considerations

A Policy Brief from the Inter-American Dialogue's
Peter D. Bell Rule of Law Program

SEPTEMBER 2020

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Foreword

The Inter-American Dialogue is pleased to present *Corruption and Crisis in Venezuela: Asset Repatriation for Humanitarian Relief*. This groundbreaking report is the culmination of over a year of research by the Dialogue's Peter D. Bell Rule of Law Program. Against the backdrop of the ongoing institutional breakdown and humanitarian emergency in Venezuela, the report analyzes one of the salient features of contemporary Venezuela—industrial scale corruption—and presents detailed proposals for repatriating potentially billions of dollars of stolen assets for the benefit of the Venezuelan people. The policy options and recommendations offered in the report are based on careful legal analysis, comparative case studies, and a detailed grasp of the complexity of the political situation in Venezuela and the intricacies of US policy. But the report is motivated, fundamentally, by the urgency of the man-made tragedy in Venezuela, and by the need for innovative solutions to address the humanitarian consequences for millions of Venezuelans.

This report builds on the Dialogue's longstanding interest and attention to the situation in Venezuela and in particular on the work of our Venezuela Working Group, a task force of regional experts created in 2018 to develop and advance actionable policy responses to the Venezuelan crisis. Our interest in asset repatriation also owes much to a collaboration with the World Refugee and Migration Council and the Centre for International Governance Innovation (CIGI) on the Venezuelan migration crisis.

The report was written by Michael J. Camilleri, Director of the Dialogue's Peter D. Bell Rule of Law Program, who conceived and led this project. It benefited from the essential support of two consultants. William Skewes-Cox, a law student at Georgetown University, conducted extensive research on US and international asset repatriation authorities and experiences, and built a database of US criminal cases against accused Venezuelan kleptocrats. Mary Beth Goodman, a senior fellow with the Digital Impact and Governance Initiative at New America and a former Senior Director for Development, Democracy and Humanitarian Affairs at the White House, provided invaluable guidance on the strategic orientation of the project and extensive input into the drafting of this report. Dialogue program assistant Catharine Christie led the final review, editing, and layout of the report, with support from intern Azul Hidalgo.

We are grateful to the many public officials and experts in the fields of anticorruption, law, human rights, humanitarian assistance, and Venezuelan politics and policy who shared insights and advice over the course of this project. We extend particular thanks to those who took time to review drafts of the report.

This project was supported by a grant from the Open Society Foundations (OSF). The Dialogue is grateful to OSF for supporting this initiative and, together with the Ford Foundation, our Venezuela Working Group.

Venezuela has long defied easy solutions. The ideas put forward in this report will not be simple to implement. However, we are convinced that creative thinking is more necessary than ever in Venezuela, and we hope the proposals developed here will be of tangible benefit to those most victimized by the corruption and crisis in that country.

MICHAEL SHIFTER

President, Inter-American Dialogue

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Introduction and Executive Summary

Over the past half century, no national economy in the world collapsed as far and as fast as that of Venezuela in recent years. The humanitarian consequences of this collapse are predictable: poverty, hunger, infant mortality, communicable diseases, and—perhaps most visibly—the exodus of some five million Venezuelan refugees and migrants, mainly to other countries in South America. Venezuelans once resided in the richest country in South America. Today, they survive with intermittent electricity, water shortages, food handouts, and a public health system on the verge of complete collapse amidst a global pandemic.

Venezuelans require humanitarian assistance on a far greater scale than is currently being delivered, a need that is only more acute as a consequence of the Covid-19 pandemic.

Perhaps the only thing more staggering than the scale of Venezuela's economic and humanitarian collapse is its cause. Venezuela was not afflicted by war or natural disaster, but by consecutive leaders acting with gross incompetence and greed. Presiding over the country that claims the world's largest petroleum reserves, Venezuela's government hollowed out industrial and agricultural production, printed money to the point of hyperinflation, and failed even to maintain its oil wells. The common thread was catastrophically misguided economic policymaking, but also corruption on a staggering scale. Venezuela's oil

industry, its highly distorted currency exchange market, even its food assistance program became opportunities for government insiders and their cronies to extract billions of dollars from the Venezuelan people—who today shoulder the consequences of the private fortunes minted from their misery.

The international community has, to its credit, taken steps to respond to the humanitarian crisis afflicting Venezuela and spilling across its borders. Neighboring countries, especially Colombia, receive Venezuelan migrants with considerable generosity. The United Nations seeks to mobilize humanitarian assistance inside and outside the country, in partnership with local and international aid organizations. These efforts, however, are modest in scale and significantly underfunded, and will likely remain that way. The traditional infrastructure of humanitarian fundraising—appeals, solidarity funds, donor conferences, and so on—has come up short in the case of Venezuela. To put the inequity of international support into context, while the Venezuelan displacement crisis now rivals Syria's as the world's largest, the international community mobilized \$7.4 billion for refugee response in the first four years of the Syrian crisis compared to just \$580 million for the Venezuelan crisis over the same time span.¹

As a consequence, two things are now clear. First, Venezuelans require humanitarian assistance on a far greater scale than is currently being delivered, a need that is only more acute as a consequence of the Covid-19 pandemic. Second, mobilizing the necessary funds to assist the Venezuelan people will require innovating beyond traditional approaches to identifying resources.² Given the sheer scale of need and the magnitude of Venezuelan corruption, which may reach hundreds of billions of dollars, it is logical to ask whether the money stolen from Venezuela could now be recouped and repurposed to address the humanitarian needs of the Venezuelan people.³

International law provides for the return of confiscated proceeds of corruption to the country of origin,⁴ and the United States and some foreign jurisdictions have practical experience doing so, even under challenging political conditions. In the case of Venezuela, the US Department of Justice is already undertaking legal proceedings to forfeit potentially billions of dollars from dozens of Venezuelan insiders, including former government officials and associates of the country's *de facto* leader, Nicolás Maduro.

This legal process will take years to complete, but with some cases nearing the final procedural stages, planning should begin immediately to determine how to best return

this money to the Venezuelan people. Given the country's complicated politics and Maduro's continued control, this will be challenging. While international best practices call for stolen assets to be returned to benefit the people of Venezuela, care must be taken to ensure that they are not again stolen by corrupt officials. As such, asset return by the United States or any other country to Venezuela will necessarily require assiduous arrangements to avert another cycle of corruption. Experience suggests this is achievable. Moreover, the humanitarian emergency renders it vital.

This report outlines the underlying humanitarian and political conditions, legal framework, comparative experience, and policy considerations that should drive and shape efforts to return corruption-linked assets to the Venezuelan people. Based on these elements, we then analyze options for accountable and effective asset

repatriation in the case of Venezuela. While acknowledging the political hurdles and kleptocracy concerns involved, we conclude that workable vehicles exist for using the recovered proceeds of Venezuelan corruption to address the country's humanitarian emergency, even in the absence of a political transition. At the least, such vehicles are worthy of serious consideration by policymakers in the United States and likeminded countries given the gravity of the humanitarian crisis in present-day Venezuela.

The report is informed by extensive legal and policy research, as well as consultations with current and former officials of the US executive and legislative branches, members of the administration of Venezuelan interim president Juan Guaidó, European and Latin American governments, and multilateral development banks, as well as anticorruption, human rights, and humanitarian assistance experts.

IMAGE 1: FORMER RESIDENCE OF ALEJANDRO ANDRADE CEDENO, FORMER NATIONAL TREASURER OF VENEZUELA, WHO PLEADED GUILTY IN US FEDERAL COURT TO MONEY LAUNDERING AND BRIBERY IN CONNECTION WITH RECEIVING OVER \$1 BILLION IN BRIBES



US Department of Treasury / CC 4.0

Background: Crisis and Corruption in Venezuela

Venezuela today suffers from intersecting political, economic, and humanitarian crises. Seven years after Nicolás Maduro succeeded Hugo Chávez as president, life for most Venezuelans is uncertain and often dire—even before the emergence of the deadly Covid-19 pandemic. Maduro's authoritarian, incompetent, and often criminal leadership renders Venezuela ill-equipped to find homegrown solutions to these challenges. The country's zero-sum politics, presently manifested in the competing claims of Maduro and National Assembly leader Juan Guaidó to the presidency, create additional obstacles to support from the international community.

How did we get here?

Democratic Decay and Disputed Leadership

For much of the late twentieth century, Venezuela was the envy of its neighbors: a stable democracy in a region of dictatorships and the richest country in South America, buoyed by the world's largest oil reserves. By the time Hugo Chávez was elected in 1998, Venezuela's sheen had begun to fade—its economy suffering as oil prices slumped, its politics increasingly corrupt and out of touch, and its inequalities ever more glaring. Chávez exploited these weaknesses to great political effect, and he achieved some results in redistributing part of an oil bonanza to the poor. But his government's authoritarian leanings and erosion of checks and balances,⁵ overreliance on oil revenue, and growing corruption set the country up for a political crisis and economic collapse.

The country's zero-sum politics, presently manifested in the competing claims of Maduro and National Assembly leader Juan Guaidó to the presidency, create additional obstacles to support from the international community.

Chávez died in 2013 and his appointed successor Nicolás Maduro narrowly won a presidential election shortly thereafter.⁶ In Maduro's first term, the Venezuelan economy began to suffer on account of falling oil prices and years of corruption and economic mismanagement. As the economy went into freefall, the humanitarian crisis began in earnest.

At the same time, Maduro sought to consolidate power and silence critics by building on the tactics employed by his predecessor. When the opposition won a majority of seats in the National Assembly in 2015, Maduro responded by creating a National Constituent Assembly stacked with his supporters to undercut the opposition-held legislature. Maduro has arrested prominent members of the opposition, used Venezuela's courts and electoral council to suppress dissent, and met opposition protests with deadly force. An independent international fact-finding mission created by the UN Human Rights Council concluded that the Venezuelan State has committed crimes against humanity in furtherance of a "policy to silence, discourage, and quash opposition to the Government of President Maduro." These crimes include murder, imprisonment, torture, rape and other forms of sexual violence, and enforced disappearance.⁷ As of September 21, 2020, Maduro's regime continues to hold 334 political prisoners.⁸

In January 2019, National Assembly member Juan Guaidó of the opposition Popular Will party was chosen by his colleagues to lead Venezuela's legislative body. That same month, Maduro purported to begin a new presidential term based on May 2018 elections that were widely denounced as unfair and fraudulent.⁹ Guaidó and the majority in the National Assembly rejected the legitimacy of Maduro's new electoral mandate and declared the presidency vacant, triggering a series of events that led Guaidó to assume the mantle of interim president based on the order of succession established by the Venezuelan Constitution.¹⁰ Almost 60 countries, including the United States, Canada, and most countries in the European Union and Latin America recognize Guaidó as Venezuela's legitimate leader. However, with the exception of the National Assembly, Venezuela's territory and institutions remain under the control of Maduro, and the leadership of the armed forces has proven loyal to him.

While Maduro needs to manage competing interests among the factions of his governing clique, he rules essentially as a dictator, unencumbered by formal checks on his power, which he has either coopted or neutralized. Maduro has not completely extinguished the political opposition and, at least initially, confronted a formidable rival in Juan Guaidó, whose popularity far exceeded his own. But he has navigated challenges to his leadership effectively, at times employing outright repression against his rivals and

at other times dangling the possibility of dialogue in order to wait out the opposition's periodic bursts of political energy. Contrary to many observers' expectations, Maduro has maintained his *de facto* control of Venezuela despite economic collapse, international isolation, and expanding sanctions by the United States and other countries. While Venezuela's crumbling economy and institutions make it impossible to dismiss the possibility of regime collapse or negotiations leading to a political transition, the timeline and likelihood of a democratic transition are at this stage highly uncertain. In legislative elections scheduled for December 2020, Maduro is expected to orchestrate a takeover of the National Assembly, Venezuela's lone remaining democratic institution and the only one he does not presently control.

Corruption and Kleptocracy

Though corruption was pervasive in Venezuela long before the Bolivarian revolution, it has exploded under Chávez and Maduro. Venezuela ranks 173rd out of 179 countries in the world and last in the Western Hemisphere in Transparency International's 2019 Corruption Perceptions Index.¹¹ Venezuela also ranks last in the world on the World Justice Project's 2020 Rule of Law Index.¹² The World Bank's 2020 Ease of Doing Business report ranks the country 188th of 190 countries surveyed.¹³

Corruption is common at all levels of Venezuelan society, and particularly so among the political elite and military leadership. The US Government has taken steps across several agencies to draw attention to and take action against corrupt actors in Venezuela. An advisory released by the Financial Crimes Enforcement Network (FinCEN) of the US Treasury Department described corruption in Venezuela as "endemic" and accused Maduro's government of "engag[ing] in massive corruption" resulting in "significant wealth for senior political figures."¹⁴ FinCEN declared that "all Venezuelan government agencies and bodies...appear vulnerable to public corruption, money laundering, and other financial crimes."¹⁵ The US State Department, in its 2019 Human Rights Report on Venezuela, denounced "pervasive corruption and impunity among all Maduro-aligned security forces and in other national and state regime offices, including at the highest levels" in addition to "credible allegations of corruption and political influence throughout the judiciary."¹⁶

Documented corrupt enrichment schemes in Venezuela include: exchange rate manipulation,¹⁷ the illegal gold trade,¹⁸ fraud in public procurement, particularly in infrastructure construction¹⁹ and food distribution;²⁰ as well as participation in drug trafficking,²¹ forgery,²² and bribery.²³

Corruption in Venezuela is a significant contributing factor to the "grave violations of economic, social, civil, political, and cultural rights" documented by the United Nations and other bodies.

Maduro, members of his family, and high-ranking officials in his inner circle have been directly implicated in the criminality.²⁴ In 2019, the State Department publicly accused "Maduro and his associates [of being] responsible for the theft and embezzlement of billions of dollars from the Venezuelan people over many years."²⁵ That same year, Maduro's stepsons were sanctioned by the United States for their participation in fraud involving food imports.²⁶ Then, in March 2020, the Department of Justice (DOJ) announced the indictment of Maduro, president of the Constituent Assembly Diosdado Cabello, the former Director of Military Intelligence Hugo Carvajal, and former General Clíver Antonio Alcalá on charges of running "a narco-terrorism partnership with the FARC for the past 20 years."²⁷ The DOJ also charged the Chief Justice of the Venezuelan Supreme Court, Maikel Moreno, with "conspiracy to commit money laundering and money laundering in connection with the alleged corrupt receipt or intended receipt of tens of millions of dollars and bribes to illegally fix dozens of civil and criminal cases in Venezuela."²⁸ Vladimir Padrino, the Minister of Defense, was indicted, too, for "conspir[ing] with others to distribute cocaine on board an aircraft registered in the United States."²⁹ Attorney General William Barr stated that the goal of the charges was "rooting out the extensive corruption within the Venezuelan Government – a system constructed and controlled to enrich those at the highest levels of the government."³⁰

Corruption in Venezuela is a significant contributing factor to the "grave violations of economic, social, civil, political and cultural rights"³¹ documented by the United Nations and other bodies. The UN High Commissioner for Human Rights, Michelle Bachelet, has denounced corruption in Venezuela

as a violation of the right to an adequate standard of living, given its relation to the collapse of public services such as water, electricity, and public transportation.⁴² And in a July 2020 report on the situation in the Orinoco Mining Arc, Bachelet's office found high levels of labor exploitation, trafficking, and violence attributable to the corruption of military commanders by groups controlling the mines.⁴³ Press and civil society organizations have also documented the connection between corruption and hunger in Venezuela.⁴⁴

Precisely quantifying how much public money has been stolen in Venezuela is impossible, but estimates are commonly in the tens or hundreds of billions of dollars. In 2017, the opposition-held National Assembly announced it had documented \$87 billion in misappropriated funds,⁴⁵ and a year later the head of the legislature's *Comisión de Contraloría* estimated that the cost of corruption over a 20-year span was between \$350 billion and \$400 billion.⁴⁶ In 2016, the Organized Crime and Corruption Reporting Project (OCCRP) estimated that Maduro's regime steals \$70 billion per year.⁴⁷ In 2018, the former chair of the board of Transparency International estimated that from 2002 to 2015, \$120 billion was lost to corruption in Venezuela.⁴⁸

State oil company *Petróleos de Venezuela, SA (PDVSA)* has proven particularly fertile ground for corruption. Venezuela

claims the largest oil reserves in the world, and oil traditionally accounts for as much as 98 percent of export revenue and 50 percent of GDP.⁴⁹ Between 1999 to 2017, PDVSA produced more than \$1 trillion worth of oil.⁵⁰ In 2016, two former economic ministers under Chavez called for an investigation into an estimated \$300 billion in PDVSA revenue that was unaccounted for.⁵¹

To date, the US Department of Justice has filed more than a 20 indictments for corruption crimes against Venezuelan government officials, PDVSA employees,⁵² and public contractors (see Appendix). Most cases have been brought in federal courts in the Southern District of Texas,⁵³ given that PDVSA's US headquarters is located in Houston, and the Southern District of Florida,⁵⁴ where many defendants have real estate and other real property, as well as bank account holdings. Approximately \$1.5 billions of assets held in the United States have been identified in U.S court filings as proceeds of corruption in Venezuela. The biggest case involves former Venezuelan National Treasurer Alejandro Andrade (see Box 1). As part of his plea agreement with the DOJ, Andrade agreed to turn over \$1 billion in cash and property.⁵⁵ Other large forfeiture agreements include \$38 million from former banker Gabriel Arturo Jimenez and \$18 million from former PDVSA employee Abraham Jose Shiera.⁵⁶

BOX 1: THE ANDRADE CASE

Alejandro Andrade Cedeno is a former bodyguard to then-Venezuelan President Hugo Chávez who eventually became the Venezuelan national treasurer.³² On December 22, 2017, he pled guilty in the United States to one count of conspiracy to commit money laundering stemming from his participation in a fraudulent currency exchange scheme.³³ In his plea agreement, Andrade admitted to receiving over a billion dollars in bribes from several co-conspirators, including Raúl Gorrín Belisario, the Venezuelan businessman and president of Globovision.³⁴ The bribes took the form of cash, private jets, yachts, cars, homes, champion horses, and high-end watches. Andrade provided his co-conspirators with access to dollars at the official government exchange rate.³⁵ These dollars were then sold for bolivars at the black-market rate, which at the time reached up to ten times the official rate.³⁶ This allowed those involved to easily multiply their money with no work or value added while also impoverishing common Venezuelans attempting to move out of a currency that was rapidly losing its value.³⁷

On November 27, 2018, Andrade was sentenced to ten years in prison by a US District Judge for the Southern District of Florida.³⁸ As part of his plea agreement, he agreed to forfeit \$1 billion in total assets.³⁹ The assets subject to forfeiture include at least six residential properties, ten vehicles, a dozen horses, twenty watches, and nine financial accounts, including bank accounts in Switzerland.⁴⁰ According to press reports, the federal government has so far received checks from Andrade totaling \$250 million and seized real property worth close to \$40 million.⁴¹

Several defendants are not in the custody of the US Government and have been classified as fugitives by US courts.^{57 58} The largest outstanding case of indicted individuals who are not yet in custody involves Alex Saab and Alvaro Pulido, who are accused of money laundering and bribery in connection with inflated public contracts to build low income housing. In that case, the DOJ is seeking forfeiture of \$350 million in laundered money.⁵⁹ Saab was arrested in Cape Verde on June 13, 2020, and the US is seeking his extradition.⁶⁰

The precise amount of money actually recovered by the Justice Department in these cases has not been confirmed by US officials.⁶¹ However, press reports citing federal authorities indicate that the DOJ has already successfully seized or recovered at least \$450 million,⁶² including \$250 million from Andrade.⁶³ The DOJ has also seized several Miami-area apartments from defendants in other cases.⁶⁴ As the DOJ continues to pursue fulfillment of court ordered forfeitures, the amount of money recovered and available for repatriation seems certain to increase.

It should be noted that these judicial forfeiture proceedings led by the Department of Justice are separate from the asset freezes instituted by the Department of Treasury pursuant to sanctions against Venezuelan officials complicit in corruption, antidemocratic actions, and human rights violations.⁶⁵

Legal proceedings against those alleged to have stolen money from Venezuela are not limited to the United States. A recent DOJ filing in the case of Abraham Edgardo Ortega notes, for example, numerous cases in foreign jurisdictions with regard to PDVSA-related corruption alone. These include: an investigation in Spain against Raúl Gorrín⁶⁶ (who is also under indictment in the US) and a separate investigation against a former PDVSA executive related to a 4.5 million Euro (\$5.25 million USD) money laundering scheme;⁶⁷ an investigation in Portugal into money laundering by PDVSA officials;⁶⁸ charges in Andorra against Venezuelan officials in a \$2.3 billion PDVSA graft probe;⁶⁹ an investigation by the financial supervisory authority in Switzerland into the laundering of approximately \$1.2 billion linked to PDVSA;⁷⁰ an investigation in Lichtenstein into a Swiss banker's role in PDVSA money laundering;⁷¹ and a money laundering investigation in New Zealand into \$17 million in transactions by the wife of a PDVSA official.⁷²

These cases are likely the tip of the iceberg. NGO *Transparencia Venezuela* has identified 50 investigations in 20 countries related to Venezuelan corruption, with a total of over \$24 billion in stolen funds allegedly implicated.⁷³

The Humanitarian Crisis: An Emergency Within an Emergency

Many years of incompetent and corrupt leadership have bequeathed Venezuela the world's most severe economic contraction outside of war in at least 45 years,⁷⁴ with the economy shrinking by two-thirds since Maduro came to office in 2013.⁷⁵ This freefall has in turn produced the largest Latin American displacement crisis in the region's modern history and a complex humanitarian emergency affecting more than 9 in 10 Venezuelans. International Monetary Fund (IMF) data projects another difficult year: Venezuelan GDP fell by 35 percent in 2019 and is expected to drop another 15 percent in 2020.⁷⁶

Hyperinflation over the last several years produced soaring food prices and scarcity. An assessment by the UN World Food Program released in February 2020 found that only eight percent of Venezuelans are food secure. One in three Venezuelans, some 9.3 million people, are either severely or moderately food insecure, with an additional 60 percent of the population marginally food secure.⁷⁷

Some 5.2 million Venezuelans have fled the country altogether,⁷⁸ with 4.3 million of them taking up often precarious lives elsewhere in Latin America and the Caribbean. The UN lists the primary recipient countries as Colombia (1.8 million), Peru (861,000), Chile (455,500), Ecuador (366,600) and Brazil (253,500) as of March 2020.⁷⁹

Precisely quantifying how much public money has been stolen in Venezuela is impossible, but estimates are commonly in the tens or hundreds of billions of dollars.

Most of the burden for providing emergency relief and social services has fallen on destination countries with budgets that were strained even before the Covid-19 pandemic and oil price shock of early 2020. In Colombia, for example, the annual cost of attending to the Venezuelan migrant influx is equivalent to 0.4 to 0.8 percent of GDP.⁸⁰

Arriving on the back of the existing humanitarian crisis, the Covid-19 pandemic has been termed an “emergency within an emergency.”⁸¹ Venezuela confronts this new threat with the worst health system in the Americas, ranking 176th in the world on the Global Health Security Index and last in the region.⁸² The deficient public health infrastructure, coupled with a scarcity in basic medicines, has meant an increase in maternal and infant mortality and in cases of malaria, diphtheria, tuberculosis, measles and other vaccine-preventable diseases.⁸³ Human Rights Watch characterizes the health system as “grossly underprepared” for the Covid-19 pandemic, with soap and disinfectants virtually nonexistent in clinics and hospitals, and hospitals experiencing regular water shortages that oblige patients and personnel to bring their own water for drinking, for scrubbing up before and after medical procedures, for cleaning surgical supplies, and sometimes for flushing toilets.⁸⁴ According to the International Rescue Committee, the existing humanitarian crisis has already forced more than half of doctors to leave the country, nine out of ten hospitals face shortages of medicine and critical supplies, and there are only 84 ICU beds nationwide.⁸⁵

The international community has recognized the humanitarian needs of Venezuelans and taken significant steps to mobilize resources in response. The United States has provided \$1.2 billion since fiscal year 2017 in response to the crisis in Venezuela,⁸⁶ and the European Union convened a May 2020 solidarity conference that elicited \$2.79 billion in pledges for Venezuelan migrants and refugees, including \$653 million in grants.⁸⁷

Still, the international community is playing catch-up after an initial response that fell well short of the funding for comparable displacement crises such as Syria’s, and the global response to the humanitarian needs of Venezuelans both at home and abroad has failed to keep pace with the crisis. In 2019, the UN budgeted \$223 million for its Humanitarian Response Plan, of which it had raised just \$76.3 million (roughly 34 percent) as of February 2020,⁸⁸ and the plan reached only 2.4 million Venezuelans of an estimated 7 million in need of humanitarian assistance.⁸⁹ In addition to being underfunded, the plan was criticized upon publication by over 100 Venezuelan civil society organizations who argued it underestimated the scale and cost of the humanitarian needs in the country.⁹⁰ In July 2020 the UN released an updated Humanitarian Response Plan requesting \$762.5 million to provide health care, water, sanitation and hygiene, food security and nutrition, shelter, protection, and education support.⁹¹ As of September, it had raised just \$134.3 million in all of 2020.⁹²

Efforts to assist Venezuelan refugees and migrants have been similarly underfunded. The UN Refugee Agency and the International Organization for Migration released a joint statement following the Covid-19 outbreak urging the international community to boost support for humanitarian and protection programs in the region.⁹³ As of July 2020, the Regional Inter-Agency Coordination Platform led by the UN Refugee Agency (UNHCR) and the International Organization for Migration (IOM) had raised just 17 percent of its \$1.4 billion funding appeal.⁹⁴

Compounding the funding shortfall, politics has frequently proven an obstacle to humanitarian assistance for Venezuelans, at least those within the country. For years Maduro denied the existence of a humanitarian crisis and refused to countenance accepting foreign aid. He finally began to relent in April 2019,⁹⁵ but the entrance of assistance is still subject to delays and bureaucratic obstacles generated by the Maduro regime. Some international relief organizations

IMAGE 2: HUMANITARIAN SUPPLIES FOR VENEZUELAN MIGRANTS



Cristal Montanez / Flickr / CC BY-SA 2.0

have been left waiting indefinitely for authorization to work in the country, and notably the UN's World Food Program has not been allowed to begin operations in Venezuela. The country's disputed leadership is also an impediment to international support. When Maduro requested a \$5 billion loan from the International Monetary Fund to fight Covid-19, for example, the IMF quickly rebuffed him as a result of the ongoing dispute with Guaidó over who is the country's legitimate president.⁹⁶

Nonetheless, there are recent developments in Venezuela that could open a path to increased humanitarian assistance for the country, notwithstanding the ongoing political impasse.

First, several international agencies are now operating on the ground in Venezuela, including the UN's Office for the Coordination of Humanitarian Affairs (OCHA), the World Health Organization (WHO), the UN Development Program (UNDP), and the Food and Agriculture Organization (FAO).⁹⁷ These organizations' current operational presence and funding levels are far short of what the situation demands.⁹⁸ But the fact that a bona fide international humanitarian infrastructure now exists to deploy assistance in Venezuela is a hugely important development, in light of Maduro's past refusal to accept international aid.

Second, Guaidó's interim government has sought to mobilize and channel resources using this humanitarian infrastructure, which has been authorized by Maduro but operates independent of his regime's direct control. In March 2020, Guaidó announced it had recovered \$20 million in government funds (Venezuelan Central Bank assets frozen by the US Treasury and released for disposition by the interim government) that would be delivered to and administered by multilateral organizations for direct humanitarian relief in Venezuela.⁹⁹ The relevant transactions were structured in such a way as to shield them from Venezuela's creditors. The following month the National Assembly approved a budget allocation that included the provision of \$17 million to international organizations for Covid-19 response.¹⁰⁰

Finally, in early June 2020, Maduro's health minister and a health advisor to the opposition-held National Assembly jointly reached an agreement with the Pan-American Health Organization (PAHO) to cooperate on a series of Covid-19 response measures, including obtaining financial resources to strengthen national capacities.¹⁰¹ On the National Assembly side, this agreement taps the Venezuelan Central Bank funds, now held in the Federal Reserve Bank in New York, to which the Guaidó government successfully gained access in March. The UN Secretary General, among others, welcomed the agreement and encouraged the parties to

Many years of incompetent and corrupt leadership have bequeathed Venezuela the world's most severe economic contraction outside of war in at least 45 years and a complex humanitarian emergency affecting more than 9 in 10 Venezuelans.

"build on this foundation to continue seeking common ground to overcome the country's protracted crisis."¹⁰² In August, it was confirmed that the US government would allow the interim government to tap some \$300 million in frozen Venezuelan state assets, including \$20 million to send pandemic relief supplies to Venezuela via international health organizations, as well as a monthly \$100 subsidy for frontline health workers.¹⁰³

While incipient and limited in scope, the agreement with PAHO offers tangible hope that, even amidst Venezuela's continuing political confrontation, the country's parallel governments could jointly agree (or acquiesce) to mobilize additional humanitarian resources provided they are delivered through international organizations operating according to humanitarian principles and independently of either side. Indeed, the Spanish government subsequently applauded the agreement and announced it would transfer frozen Venezuelan funds to PAHO "with the agreement of implicated Venezuelans."¹⁰⁴

Frozen assets belonging to the Venezuelan state are different than stolen assets forfeited through judicial proceedings. Nonetheless, relevant lessons can be applied from the disposition of the former to the eventual repatriation of the latter. Taken together, the decisions to release frozen Venezuelan assets by the United States and Spain, and the announced deployment of these assets for pandemic relief via international humanitarian organizations operating in Venezuela with the consent of both Guaidó and Maduro, could provide a model for disposing the recovered proceeds of Venezuelan corruption. We return to this issue in the fourth section "Asset Repatriation and the Venezuelan Humanitarian Crisis."

Returning Stolen Funds to the People: Experiences with Asset Repatriation

At the international level, the recovery and return of the proceeds of corruption is regulated by Chapter V of the United Nations Convention against Corruption (UNCAC), to which both the United States and Venezuela are parties. UNCAC establishes the recovery and return of these assets as a “fundamental principle” and stipulates that “States Parties shall afford one another the widest measure of cooperation and assistance in that regard.”¹⁰⁵ UNCAC further provides that the confiscated property (i.e., the proceeds of corruption) should be returned to “its prior legitimate owners or [to] compensating the victim of the crime.”¹⁰⁶

In other words, as a general principle, if money is stolen from one country and recovered by another, it should be returned to the state from which it was stolen. This obligation distinguishes corruption-linked assets from those derived from other illegal activities such as international narcotics trafficking, which are typically retained by the country that recovers them.

US policy and practice with respect to asset repatriation are consistent with the UNCAC obligation to return such proceeds to the state from which they were stolen. US legal authorities allow flexibility and the US adheres to several best practices negotiated through the G-8, G-20 or other specialized fora for cooperation in asset recovery and concerning the repatriation of the proceeds of corruption.¹⁰⁷

US policy and practice with respect to asset repatriation are consistent with the United Nations Convention against Corruption (UNCAC) obligation to return such proceeds to the state from which they were stolen.

To better ensure internal focus and multilateral coordination, the US created a dedicated unit of prosecutors and investigators within the Department of Justice in 2013—the Kleptocracy Asset Recovery Initiative. According to the DOJ, one of the key objectives of this unit is to “recover assets for the benefit of the people of the country harmed by the abuse of public office.”¹⁰⁸ As then-US Attorney General Eric Holder declared in 2013, “we stand resolved... [t]o locate and return stolen assets not for the benefit of those who wield power, but for the people whose futures depend on opportunity, prosperity, and progress.”¹⁰⁹

In practice, asset repatriation is difficult and still quite sporadic. In the first place, it presupposes the tracing, freezing, and confiscation of corruption proceeds as well as the execution of final judgements, which often involves lengthy and complex legal proceedings and appeals—often in the court systems of multiple countries (see Box 2). An agreement between the two (or more) governments involved is then required to outline the terms by which the assets are returned. While in some cases this is fairly straightforward, it is more challenging if the state requesting asset repatriation is governed by a weak or kleptocratic government, perhaps with the same government officials responsible for the assets being stolen in the first place still occupying positions of power and influence—leading to understandable reluctance on the part of the state returning the assets.

The Department of Justice typically consults with other government agencies, such as the Department of State, to design and negotiate asset repatriation programs that fit conditions in the country of return. Where relevant, DOJ also collaborates on asset return programs with the justice and foreign affairs ministries of foreign governments that have seized assets from the same government. The US Government may also coordinate with the finance and development ministries in the receiving country in order to leverage recovered funds for development synergies.

The United States has taken the position that asset repatriation must be transparent, accountable, and put to purposeful public use.¹¹⁰ As such, the US returns the proceeds of corruption when it believes the assets will not simply disappear again into the pockets of corrupt officials. In a 2018 report on the United States’ compliance with its UNCAC commitments, the US State Department observed that, “When funds are repatriated, it is crucial that they be transferred and administered in a public, transparent, and accountable manner in order to ensure that they benefit the people harmed by the abuse of office and to reinforce the anticorruption message from public awareness of successful asset recovery actions.”¹¹¹

BOX 2: ASSET RECOVERY AND REPATRIATION - THE BASICS¹²

Asset recovery, as outlined in Chapter V of the UN Convention against Corruption, refers to the process by which the proceeds of corruption transferred abroad are recovered and repatriated to the country from which they were taken or to their rightful owners. Each asset recovery case is different and has unique characteristics, but cases generally encompass the following four basic phases:

Pre-investigative Phase

The work to start asset recovery cases kicks off with asset tracing and identification efforts to identify the proceeds of corruption. Financial intelligence is a crucial element that investigators use to verify the theft, the movement of assets, and the potential location of the assets. Investigators work to determine if an offense or crime has taken place.

Investigative phase

In this phase, proceeds of crime are identified, located, and often frozen, and evidence in respect of ownership of these assets is collected. Freezing the assets allows investigative and prosecutorial authorities to prevent them from being transferred, hidden, or used for further criminal activity. Investigations in this phase relate to both the original offense as well as the actions taken to launder the proceeds derived from this original (predicate) offense. Investigators focus on both establishing sufficient evidence of the criminality of the original action that generated the assets in question as well as on unraveling the specific techniques that were adopted by the perpetrators to launder these assets.

Judicial phase

If an investigation finds sufficient evidence of criminal activity, the case may be referred for trial, leading to the potential issuance of a judgment against the persons identified in the investigation phase. In the event the accused are convicted, the court hands down a final decision for the legal confiscation of assets that were stolen in connection with the criminal offence committed. When all avenues of appeal have been exhausted, assets that are temporarily “frozen” can be “confiscated,” which refers to the permanent deprivation of assets by legal order. In order to effectively confiscate the assets, the judicial authorities of the requesting jurisdiction must often work closely with their counterparts in the jurisdiction(s) in which the assets have been found. While the judicial phase refers primarily to criminal proceedings, civil actions as well as non-conviction-based forfeiture proceedings are also available in some jurisdictions.

Return phase

In this phase, confiscated assets are actually returned to the rightful owner and disposed of, taking into account international asset sharing obligations. Under UNCAC, once corrupt assets have been legally confiscated, they must be returned to their “prior legitimate owners.” This final step in the asset recovery process can be complex, as it requires effective cooperation between jurisdictions and ensuring the process is both transparent and accountable. The questions to be addressed in this phase will generally include determining the amount of assets that should be returned and the ways in which these assets should be disposed of.

The United States has taken the position that asset repatriation must be transparent, accountable, and put to purposeful public use.

Though this hands-on approach to asset repatriation is controversial among some states that have been victimized by grand corruption,¹¹³ there is a growing recognition that asset repatriation must involve due diligence to ensure funds are put to good use by the receiving state—and to justify (and incentivize) the time and expense of recovering them in the first place. Diverse multilateral initiatives in recent years, including those emanating from the G8 and the Addis Agenda, have sought to identify best practices in the return of stolen assets.¹¹⁴ One of the most recent initiatives is the Global Forum on Asset Recovery (GFAR) Principles (see Box 3), which emphasize transparency and accountability in asset repatriation, and establish that stolen assets recovered from corrupt officials should benefit the people of the nations harmed and in no case benefit the persons involved in the commission of the offense.¹¹⁵ The Principles further encourage the use of case-specific agreements to “help ensure the transparent and effective use, administration and monitoring of returned proceeds,” as envisioned in UNCAC.¹¹⁶

Asset Repatriation Case Studies

Notwithstanding the legal and practical challenges involved in asset recovery cases, there is now a body of experience in the field of asset repatriation, including several cases that required working with (and around) a receiving government that was not entirely trusted to deploy the recovered assets for the benefit of its people. A review of these cases reveals a number of potential obstacles and lessons for asset repatriation, but also provides evidence that asset repatriation can generate significant resources that can be

utilized for development purposes, even under less than ideal conditions. As asset return experiences in the Americas are limited, the case studies are drawn from Asia and Africa.

Comparative experience by the United States—and to some extent in relevant foreign jurisdictions—suggests that asset repatriation can take a number of different forms. In its most straightforward modality, asset repatriation to the victim state can occur with few or no conditions attached. This is the case when the receiving government has a strong governance record and an independent court system which acts with expediency, and when the individuals responsible for the corruption are no longer in power. In 2015, for example, the United States returned to the Republic of Korea over \$1.1 million from a public corruption scheme orchestrated by former Korean President Chun Doo-hwan in the 1990s. The money was recovered by the DOJ through civil forfeiture proceedings and, as an example of a relatively “simple” asset repatriation, few conditions were placed on the administration or disposition of the funds by the Korean government.¹¹⁷

In contrast, most repatriations by the US Government involve extensive diplomacy and a more hands-on approach, with a prior agreement between the transferring country (known as the “requested state”) and the receiving country (known as the “requesting state”) regarding how the repatriated assets will be used.¹¹⁸ In the case of misappropriation of funds from the Malaysian sovereign wealth fund 1MDB, DOJ seeks to recover \$1.7 billion in stolen assets, of which hundreds of millions of dollars have already been recovered via civil forfeiture and returned to Malaysia.¹¹⁹ Pursuant to an agreement between the US and Malaysia, and based upon political agreement internal to Malaysia, the funds repatriated by the United States will reportedly be used to pay down Malaysia’s sovereign debt.

In another case, the DOJ repatriated funds to Nigeria obtained via the civil forfeiture of approximately \$500 million of assets embezzled by the country’s former dictator, Sani Abacha.¹²⁰ Though the forfeiture judgment was issued in 2014, appeals were not exhausted until 2018 with the final judicial orders completed thereafter. In February 2020, the DOJ announced an arrangement with the government of Nigeria and the Bailiwick of Jersey to return more than \$300 million in stolen Abacha assets. In May 2020, DOJ announced it had transferred \$311.7 million in accordance with this agreement,¹²¹ which “will transfer 100 percent of the net forfeited assets to the Federal Republic of Nigeria to support three critical infrastructure projects.”¹²² The agreement incorporated transparency and accountability measures such as “administration of the funds and projects

BOX 3: THE GFAR PRINCIPLES¹²³

At the Global Forum on Asset Recovery (GFAR) in December 2017, the two co-hosts (the United States and the United Kingdom) and the four focus countries (Nigeria, Ukraine, Tunisia, Sri Lanka), with the support of the World Bank's Stolen Asset Recovery Initiative (StAR) initiative, developed and adopted ten principles for the disposition and transfer of confiscated stolen assets, known as the GFAR Principles. The Principles address approaches and mechanisms for enhancing coordination and cooperation, and for strengthening the transparency and accountability of the processes involved. They are:

PRINCIPLE 1: PARTNERSHIP

It is recognized that successful return of stolen assets is fundamentally based on there being a strong partnership between transferring and receiving countries. Such partnership promotes trust and confidence.

PRINCIPLE 2: MUTUAL INTERESTS

It is recognized that both transferring and receiving countries have shared interests in a successful outcome. Hence, countries should work together to establish arrangements for transfer that are mutually agreed.

PRINCIPLE 3: EARLY DIALOGUE

It is strongly desirable to commence dialogue between transferring and receiving countries at the earliest opportunity in the process, and for there to be continuing dialogue throughout the process.

PRINCIPLE 4: TRANSPARENCY AND ACCOUNTABILITY

Transferring and receiving countries will guarantee transparency and accountability in the return and disposition of recovered assets. Information on the transfer and administration of returned assets should be made public and be available to the people in both the transferring and receiving country. The use of unspecified or contingent fee arrangements should be discouraged.

PRINCIPLE 5: BENEFICIARIES

Where possible, and without prejudice to identified victims, stolen assets recovered from corrupt officials should benefit the people of the nations harmed by the underlying corrupt conduct.

PRINCIPLE 6: STRENGTHENING ANTI-CORRUPTION AND DEVELOPMENT

Where possible, in the end use of confiscated proceeds, consideration should also be given to encouraging actions which fulfill UNCAC principles of combating corruption, repairing the damage done by corruption, and achieving development goals.

PRINCIPLE 7: CASE-SPECIFIC TREATMENT

Disposition of confiscated proceeds of crime should be considered in a case-specific manner.

PRINCIPLE 8: CONSIDER USING AN AGREEMENT UNDER UNCAC ARTICLE 57(5)

Case-specific agreements or arrangements should, where agreed by both the transferring and receiving state, be concluded to help ensure the transparent and effective use, administration and monitoring of returned proceeds. The transferring mechanism(s) should, where possible, use existing political and institutional frameworks and be in line with the country development strategy in order to ensure coherence, avoid duplication and optimize efficiency.

PRINCIPLE 9: PRECLUSION OF BENEFIT TO OFFENDERS

All steps should be taken to ensure that the disposition of confiscated proceeds of crime do not benefit persons involved in the commission of the offence(s).

PRINCIPLE 10: INCLUSION OF NON-GOVERNMENT STAKEHOLDERS

To the extent appropriate and permitted by law, individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, should be encouraged to participate in the asset return process, including by helping to identify how harm can be remedied, contributing to decisions on return and disposition, and fostering transparency and accountability in the transfer, disposition and administration of recovered assets.

by the Nigeria Sovereign Investment Authority (NSIA), financial review by an independent auditor, and monitoring by an independent civil society organization with expertise in engineering and other areas.”¹²⁴

DOJ’s timeframe and the conditions it applied regarding the disposition and oversight of the repatriated Nigerian assets may have been driven in part by the experience of Switzerland. In 2006, the Swiss government transferred approximately \$723 million in proceeds from Abacha’s corruption that were folded into the Nigerian government’s general budget and used to fund its existing development strategy.¹²⁵ A subsequent field survey by the World Bank was unable to trace the ultimate destination of the returned funds or the offset of this amount of funds in the government’s spending, and experts claimed that as much as \$200 million may have been misappropriated.¹²⁶

In a subsequent 2017 round of repatriation, the Swiss government sought to ensure that the repatriated funds would not be lost again. A new model for repatriation was developed with conditionality on the use of the funds as well as oversight measures. An agreement between the Governments of Nigeria and Switzerland and the World Bank provided for \$321 million in repatriated assets to be returned by Switzerland to Nigeria via a World Bank-administered trust fund for the negotiated use as targeted cash transfers to citizens in need in Nigeria.¹²⁷ In addition to the involvement of the World Bank throughout the process,¹²⁸ another unique aspect of this repatriation included the involvement of Nigerian civil society to assist with overseeing the use of the funds,¹²⁹ which were isolated in separate accounts to facilitate transparency and traceability of expenditures.¹³⁰

A smaller scale example is a case involving Kyrgyzstan. Here, the DOJ successfully forfeited \$6 million in connection with a criminal prosecution for insider trading, where the funds in question traced back to money stolen by the son of that country’s former president, Kurmanbek Bakiyev. Of this total, \$4.5 million has already been returned to the government of Kyrgyzstan based on a Petition for Remission from that government and a bilateral agreement between the countries.¹³¹ The Kyrgyz government and the US State Department signed an agreement requiring that the money “be used for the benefit of the Kyrgyz people, with a focus on social projects and anti-corruption and transparency.”¹³²

The Kyrgyz government committed to implementing several projects including the purchase of medical equipment for regional hospitals, the construction and upgrade of clean water facilities in collaboration with the World Bank, and providing audio and video equipment for courthouses in order to “increase transparency and public control in the justice sector.”¹³³

Importantly, in the Malaysian, Nigerian and Kyrgyz cases, agreements on asset repatriation were reached when new governments had replaced those under which the underlying corruption took place. While a change in government is not a requirement for asset repatriation, often a change in leadership is accompanied by the necessary political will to undergo the lengthy legal process and undertake the necessary commitments. In the absence of such a transition, successful asset repatriation may require working around the host government, for example by channeling recovered assets through multilateral or civil society organizations rather than the national authorities.

In countries with systemic corruption risks, the direct participation of multilateral institutions, international development organizations, and/or civil society groups in administering the funds, in lieu of the recipient government, can provide a vehicle for repatriating assets while addressing such risks.

Such was the situation confronting US officials seeking to repatriate assets to Kazakhstan, based on a 2007 judicial settlement that directed the funds to be used for the benefit of poor youth and families in Kazakhstan.¹³⁴ The DOJ prosecuted a case against a US citizen accused of bribing Kazakh government officials in order to obtain oil contracts for Western companies, and in a related action sought civil forfeiture of the proceeds of these bribes, which had been frozen in Switzerland.¹³⁵ Kazakhstan's ongoing corruption problems¹³⁶ rendered the option of returning the assets directly to the government counterproductive. At the same time, complying with the court order to deploy the funds for the benefit of the poor in Kazakhstan required collaborating with the country's government. To resolve this dilemma, the governments of the United States, Switzerland, and Kazakhstan agreed to release the recovered assets in installments to a Kazakh foundation established under the guidance and supervision of the World Bank Group and administered by international development organizations IREX and Save the Children, which managed the foundation's programs.¹³⁷ The resulting BOTA Foundation (see Box 4) operated for six years, during which it distributed \$115 million through three social programs targeting poor children and households in Kazakhstan, benefiting over 208,000 people.¹³⁸ This innovative solution, though operationally complex and expensive to administer, allowed the US and Swiss governments to repatriate recovered assets in a transparent and accountable way that benefited the people of Kazakhstan, despite the continued presence of a kleptocratic government in the receiving country.

Finally, in the case of Equatorial Guinea, asset return efforts have been stymied by the difficulty of reaching an agreement with the foreign government on a transparent and accountable vehicle for repatriation, with even creative solutions such as those in the Nigeria and Kazakhstan cases proving elusive thus far. In 2014, the DOJ agreed on a settlement with Teodoro Nguema Obiang Mangue, Vice President of Equatorial Guinea and son of the country's kleptocratic dictator, under which more than \$30 million in proceeds of corruption would be forfeited and used for the benefit of the people of Equatorial Guinea under two separate mechanisms.¹³⁹ Thus far, however, the funds have not been returned, as the same government forces are still in power and corruption remains rampant. In 2016, a DOJ official explained the delay by saying, "we don't want to see the funds disappear and go back to those who caused the harm."¹⁴⁰ The authoritarian nature of the Equatorial Guinea's ruling regime means that civil society is underdeveloped or non-existent

and there are no independent charities, complicating efforts to establish independent execution or oversight of the funds. To date, the confiscated funds remain under the jurisdiction of the US Government.

Lessons Learned

The abovementioned cases, while not representing an exhaustive review of asset repatriation efforts by the United States or other countries, do provide several relevant insights that could provide guidance for future efforts:

- Asset repatriation is a challenging, uncertain, and often lengthy process. Even after the proceeds of corruption have been successfully traced, frozen, seized, and confiscated, bureaucratic obstacles combined with policy and political considerations can complicate the asset return process. Nonetheless, the recovered proceeds of corruption can and have been effectively returned for the benefit of the people from whom they were stolen, as envisioned in international law and US policy.
- When assets are repatriated with insufficient safeguards to countries with weak or corrupt governing institutions, the assets are placed at risk for additional corruption.
- Measures exist to facilitate transparency, accountability and oversight of repatriated funds, such as sequestering the funds in a dedicated account, directing the funds to specific programs or agreed objectives, and empowering local civil society organizations to monitor disbursement of the funds.
- In countries with systemic corruption risks, the direct participation of multilateral institutions, international development organizations, and/or civil society groups in administering the funds, in lieu of the recipient government, can provide a vehicle for repatriating assets while addressing such risks. Even where multilateral organizations manage the funds, however, project design, transparency, and local monitoring remain crucial to effective and accountable asset repatriation.¹⁴¹

BOX 4: THE BOTA FOUNDATION AND KAZAKHSTAN 2

The BOTA Foundation has its origins in legal proceedings in the US District Court for the Southern District of New York against an American individual and his company for bribing “senior Kazakh officials in exchange for oil transactions and property involved in money laundering.”¹⁴² The Department of Justice reached an agreement with the defendant and the government of Kazakhstan that led to the forfeiture of over \$115 million. In order to appropriately manage the return of this money to the people of Kazakhstan, the court approved a “Stipulation and Order” drafted by the governments of the United States and Kazakhstan that incorporated a Memorandum of Understanding signed by the United States, Switzerland and Kazakhstan as well as a Service Agreement agreed to by the three governments with the World Bank.¹⁴³ These three documents gave institutional birth to the BOTA Foundation.

BOTA’s founding charter established a Board of Trustees, which included seven members: five from Kazakh civil society and one representative each from Switzerland and the United States. American representation on the Board was overseen by the State Department and USAID.

BOTA focused its resources on three main programs. Its largest effort was the Conditional Cash Transfer (CCT) program that provided direct payments to four categories of poor households: “those with preschool aged children, women with infants up to the age of six months...households who have children with disabilities up to the age of 16...[and] young people aged 16-19 who have completed school and had not yet found employment.”¹⁴⁴ Ultimately, CCT reached “154,241 beneficiaries from 95,000 households.” The second initiative was called the Social Service Program (SSP), which gave grants to “non-government or non-commercial child welfare services and systems.” In total, eight rounds of grants funded 632 projects. Lastly, the Tuition Assistance Program (TAP) provided scholarships for young people who faced economic barriers to university education. The Foundation awarded 841 scholarships overall.

While the BOTA Foundation is generally considered to be a success, aspects of the program have been criticized. Almost a third of all spending went to salaries and overhead,¹⁴⁵ and the governance structure of BOTA required the approval of each founding government in order to make decisions, which led to extensive delays that in some cases jeopardized the Foundation’s ability to operate.¹⁴⁶

Switzerland elected not to revive the Foundation when, in 2014 and 2015, it returned additional assets derived from Kazakhstani corruption.¹⁴⁷ Instead, the Swiss Agency for Development and Cooperation elected to move \$48 million into a fund administered by the World Bank. This fund provides financing for “youth policy and energy efficiency.”¹⁴⁸ The Youth Corps Project is designed to provide youths with skill building opportunities that will help them to obtain jobs later. The energy initiative focused on “selected public and social facilities...and future energy efficiency projects.” However, there has been criticism of this program by international NGOs for its links to the ruling party, a lack of transparency, and insufficient outside oversight.¹⁴⁹

Asset Repatriation and the Venezuelan Humanitarian Crisis

The proceeds of Venezuelan corruption represent a potentially sizeable source of resources that could be utilized to address the humanitarian crisis afflicting Venezuela. This extensive crisis is both acute and underfunded, even before the outset of the Covid-19 pandemic. Already, there are significant efforts underway in the US and in other jurisdictions to recover corruption-linked assets. This represents a potentially rich pipeline of funds that could be recovered and utilized to support the Venezuelan people and aid in rebuilding the country. And while repatriating these funds will be far from simple, asset return experiences in other contexts as well as recent developments around international humanitarian assistance to Venezuela offer a potential roadmap for assisting the people of Venezuela in a time of pronounced need.

As efforts to recover Venezuelan assets currently appear most advanced in the United States, the analysis here is focused primarily on how the US Government could repatriate recovered assets to the Venezuelan people in a transparent and accountable manner. The existence of parallel efforts in other jurisdictions, however, augers strongly in favor of establishing an asset return mechanism that can be employed by additional countries as they succeed in recovering proceeds of Venezuelan corruption.

While it often takes years for asset recovery cases to be finalized so that asset repatriation is possible, it is highly probable that the US Government will in the near future have a final order to repatriate corruption-linked Venezuelan assets. Anticipating such a scenario, in December 2019 the US Congress passed, and President Trump signed into law, bipartisan legislation known as the VERDAD Act. Among other elements, the legislation tasks the State Department with developing an international strategy to recover assets stolen from the Venezuelan people and return them to a “future democratic government.”¹⁵⁰

Sadly, the humanitarian crisis in Venezuela will not wait for a political transition, and in fact will likely grow only worse while Maduro is entrenched in Caracas. As a consequence, US officials will confront a thorny set of considerations around asset repatriation.

Existing DOJ policy augurs clearly in favor of repatriating assets for the benefit of the Venezuelan people, as do the dire humanitarian needs in Venezuela. In a June 2020 “Report to Congress on Recovering Assets Stolen from the Venezuelan People,” the State Department affirmed that “we look to return available forfeited funds, to the extent permitted by US law, for the benefit of the people harmed by corruption.”¹⁵¹ Moreover, the United States, including under the Trump Administration, has historically respected its UNCAC commitments on asset repatriation. In a December 2017 speech to the Global Forum on Asset Recovery, then-Attorney General Jeff Sessions lauded US efforts to return corruption proceeds to victims.¹⁵² And in repatriating the most recent tranche of money in the 1MDB case in April 2020, a US official stated, “This extraordinary sum of money is going back to the people of Malaysia where it belongs and where it can finally be used for its original intended purpose—to better the lives of everyday Malaysians.”¹⁵³

While repatriating the proceeds of corruption will be far from simple, asset return experiences in other contexts as well as recent developments around international humanitarian assistance to Venezuela offer a potential roadmap for assisting the people of Venezuela in a time of pronounced need.

Some observers have raised concerns that the proceeds of Venezuelan corruption could be redirected to other purposes, particularly after the Trump Administration transferred \$601 million in Treasury Forfeiture Funds to Customs and Border Patrol for border security purposes in 2019.¹⁵⁴ However, this is unlikely under existing policy and based on recent asset repatriation experiences.

The fundamental challenge is to customize a vehicle for repatriating the proceeds of Venezuelan corruption that responds to constraints while advancing the US Government’s policy of returning such assets to the people from whom they were stolen.

It is therefore reasonable to assume the US government will, consistent with past policy and practice, seek to repatriate stolen assets to Venezuela. However, a number of practical obstacles stand in the way. First and foremost is the political situation in Caracas. The United States recognizes National Assembly President Juan Guaidó as the interim leader of Venezuela. On the ground however, the kleptocratic regime led by strongman Nicolás Maduro continues to exercise control over Venezuela’s territory and institutions, including the flow of humanitarian assistance.

The US Government, at least under the Trump Administration, will likely be inclined to use recovered funds in ways that could accelerate or (eventually) consolidate a political transition, and in no way buttress the Maduro regime. Depositing the recovered assets in accounts controlled by the Guaidó government would be consistent with that political objective. However, transferring the funds to the interim government might do little in the near term to help Venezuelans. Guaidó’s government, persecuted and starved of resources by Maduro, would currently be unable to deploy resources within Venezuela on a meaningful scale, and his fledgling administration may also lack the means to administer them effectively to help Venezuelans outside the country. Its internal divisions, capacity limitations, and lack of clear legal authorities regarding resource allocation also raise potential concerns regarding decision-making processes and accountability mechanisms for administering large pots of money.

As a consequence, the fundamental challenge for asset repatriation in the case of Venezuela, as in the cases detailed in the prior section, is to customize a vehicle for repatriating

the proceeds of Venezuelan corruption that responds to the aforementioned constraints while advancing the US Government’s policy of returning such assets to the people from whom they were stolen.

An appropriate vehicle for Venezuela will need to meet at least three principal objectives:

- Reinforce US policy toward Venezuela, including the restoration of democratic institutions;
- Comply with US international obligations, including under the UN Convention against Corruption; and
- Benefit the Venezuelan people while guaranteeing transparency and accountability in the return and disposition of recovered assets, consistent with the GFAR Principles.

Ideally, the vehicle should also be designed in such a way that it could be utilized by other countries that are also working to identify and recover stolen Venezuelan state assets, or indeed by Venezuela itself if a future democratic government were to collaborate with foreign counterparts to recover proceeds of corruption. The vehicle should also align with current calls in the funding and humanitarian aid sectors to support locally-led approaches to foreign assistance with strong civil society participation.¹⁵⁵

What options should be considered? The following approaches, either alone or in combination, could be responsive to the policy objectives discussed.

Option 1: Discretionary fund controlled by the Venezuelan National Assembly

The Guaidó government’s then-special attorney general (*procurador especial*) developed in late 2019 a detailed strategy for recovering assets stolen from Venezuela.¹⁵⁶ The strategy notes that the National Assembly approved the creation of a dedicated fund to receive corruption-linked assets that are successfully recuperated by the interim government. The National Assembly also created a special commission to oversee the fund. The strategy notes that such a fund could be housed outside of Venezuela and administered by the Central Bank of Venezuela, whose assets in New York are controlled by the interim government. Any disposition of the recovered assets would then be determined by the National Assembly.

The idea of a dedicated fund managed by the interim government and overseen by the National Assembly would

accomplish important objectives. First, from a foreign policy standpoint, it is consistent with current US policy of recognizing Guaidó as Venezuela's legitimate president and the National Assembly as the country's sole legitimate democratic institution. Second, by segregating the recovered assets in a dedicated fund, the plan facilitates transparency and accountability in the eventual deployment of the assets. Third, placing the assets under the administration of the Central Bank would likely protect them from creditors that have outstanding court or arbitral judgments against the Venezuelan state and are actively pursuing its foreign-held assets.¹⁵⁷

The obvious shortcoming of the approach outlined in the interim government's asset recovery strategy is the unfortunate reality that the prospects and timeline of a democratic transition in Venezuela remain uncertain. The strategy does not speak to the purposes for which the recovered assets might be spent—or even whether they would be spent at all. Interim government officials have expressed their desire for the funds to be used transparently and for humanitarian purposes in collaboration with multilateral organizations.¹⁵⁸ Conceivably, however, they could also be used to pay the salaries of National Assembly members, make debt payments, contract political consultants, or fund embassies abroad. The funds could also be left to accumulate interest until a democratic transition takes place. The byzantine politics, absence of clear legal authorities for expenditures, and at-times muddled lines of decision making among the parties comprising the National Assembly leadership make it difficult to predict how the funds might ultimately be deployed, absent specific commitments.

If the past is any guide, the US government will desire assurances as to the final disposition of recovered assets before repatriating them. An approach that uses the funds for government operating expenses or delays their deployment indefinitely might not satisfy the DOJ's policy of returning funds for the public benefit and it would do nothing to alleviate the present-day humanitarian crisis in Venezuela.

US officials might also be wary of a scenario in which Maduro-aligned forces take control of the National Assembly in elections expected later this year. While the United States would be unlikely to recognize the results of those elections given the near certainty of manipulation by Maduro, the US Government might also find it untenable to hand the funds to Venezuelan authorities whose democratic mandate has expired.

As a result, if US officials conclude that recovered assets cannot reliably be repatriated to Venezuela, they may prefer to hold the funds themselves. Even so, the funds could be placed

at the disposition of legitimate Venezuelan authorities, with the US government approving expenditures (such as transfers to an international humanitarian agency for an agreed purpose) on an *ad hoc* basis.

Alternatively, the United States could hold the assets in perpetuity until a democratic transition takes place. Indeed, in the absence of any superior option, safeguarding the recovered assets until a democratic and accountable government is in place in Caracas may appear sensible and consistent with the provision, included in the 2019 VERDAD Act passed into law by the US Congress, that funds be returned to a "future democratic government."¹⁵⁹

**If the past is any guide,
the US government will
desire assurances as to
the final disposition of
recovered assets before
repatriating them.**

It should be noted, however, that in the context of an ongoing humanitarian crisis, inaction has a very tangible human cost as well as a potential reputational cost for both the US government and the political opposition to Maduro. Given the scale of the humanitarian emergency and the potential for recovered assets to address the urgent needs of potentially millions of Venezuelans, other options should be considered.

Option 2: Fund for Venezuelan migrants and refugees

A second option is to utilize the recovered funds for the benefit of Venezuelan migrants and refugees. Over 5.2 million Venezuelans have fled their country as of July 2020, most of them to neighboring countries.¹⁶⁰ Repurposing corruption-linked assets to support Venezuelans living outside Venezuela would have several clear advantages. First, it would not require any collaboration from Nicolás Maduro, as the principal

Recent developments in Venezuela suggest it may be feasible to work through multilateral humanitarian organizations to repatriate assets to Venezuela, even in the absence of a political transition.

destination countries for Venezuelan migrants (Colombia, Peru, Chile, Ecuador, and Brazil) all recognize Juan Guaidó as president. Second, it would allow assets to be repurposed for humanitarian purposes benefiting the Venezuelan people, irrespective of the political situation in Caracas, with the ability to control and monitor the destination and use of the funds. Third, it could be channeled through established organizations such as local and international humanitarian organizations, multilateral institutions, and/or municipal and national governments that are already assisting Venezuelan migrants and refugees elsewhere in Latin America. Finally, it could be done in such a way as to further the US policy objective of supporting and empowering Guaidó's interim government and the National Assembly.

While there is no precedent for assets recovered by the United States being repatriated for the benefit of the victimized people outside of the country in question, there also appears to be no law or policy against it. It is also consistent with US policy (and the spirit of UNCAC) insofar as it puts recovered assets to purposeful public use for the benefit of those victimized by the corruption, though perhaps at the risk of incentivizing increased migration. In a somewhat analogous situation, in May 2019 the US Government shifted humanitarian aid designated for the interim government to benefit Venezuelans in Colombia, with Guaidó's assent.¹⁶¹

An alternative would be to channel the funds through the Inter-American Development Bank (IDB), which recognizes Juan Guaidó as Venezuela's legitimate president and has adopted important steps to respond to the Venezuelan migration crisis.¹⁶² The IDB has thus far taken a risk averse approach to supporting the administration of funds mobilized by the

interim government, such as the formally frozen Central Bank funds released by the US Treasury Department, but this could change with sufficient pressure from major shareholders, led by the United States. As there would be no lending involved, Venezuela's arrears at the IDB¹⁶³ would not be an obstacle.

Recent public reporting suggests that the interim government may be open to using at least some recovered funds to benefit Venezuelans abroad,¹⁶⁴ though interim government representatives consulted for this report indicated that they are focused primarily on the humanitarian crisis raging inside Venezuela. The interim government could also be expected to resist an arrangement that does not formally repatriate recovered assets to the Venezuelan state, though this consideration will need to be balanced against other considerations, especially if Maduro takes control of the National Assembly.

Option 3: Multi-donor trust fund for humanitarian relief in Venezuela

A third option for repatriating funds is to use the recovered assets for the aid of Venezuelan citizens in distress inside the country. This option would constitute the most direct way to implement the US Government's policy of returning the proceeds of corruption for the "benefit of the people of the country harmed by the abuse of public office".¹⁶⁵ It would also be the most complicated to execute. As in the past, creativity is certainly necessary for asset repatriation with regard to Venezuela, where the challenge is, if anything, even more difficult than other cases where the US has engaged.

By utilizing corruption-linked assets to support Venezuelans who are currently bearing the brunt of the country's complex humanitarian emergency, the US could provide a significant amount of money to supplement the severely underfunded United Nations appeals and could use existing distribution networks of international organizations to ensure widespread delivery of the humanitarian aid. However, Maduro's regime has a well-documented history of politicizing humanitarian assistance, particularly food,¹⁶⁶ and is not only complicit in monumental corruption but also lacks the formal recognition of the US and most Western nations.

The Justice Department has employed creative means to repatriate funds to achieve policy mandates, perhaps most notably with the creation of the BOTA Foundation in Kazakhstan, which allowed assets to be returned to the Kazakh people with only minimal involvement from their corruption-stained government. The asset repatriation vehicles developed in Kazakhstan and elsewhere can help inform the approach to Venezuela. In particular, the decision to employ one or more outside parties—in Kazakhstan, it

was the World Bank Group, IREX, and Save the Children, and in Nigeria, it was the World Bank Group with oversight from local civil society organizations—could provide a pathway for circumventing the political impasse in Caracas. Recovered funds would also need to be segregated, spent on defined objectives, and strictly accounted for with local oversight and monitoring, incorporating appropriate lessons from the asset repatriations to Nigeria and Kyrgyzstan.¹⁶⁷

Recent developments in Venezuela suggest it may be feasible to work through multilateral humanitarian organizations to repatriate assets to Venezuela, even in the absence of a political transition. These initiatives, particularly the Guaidó government's effort to use state assets to fund multilateral and humanitarian organizations that are operating in Venezuela with Maduro's approval, including via a formal agreement between the parallel governments and PAHO (see section two, "Background: Crisis and Corruption in Venezuela") could in time provide proof of concept for a vehicle to repatriate the proceeds of Venezuelan corruption.

To operationalize such an approach, a multi-donor trust fund managed by one or more multilateral organizations could be employed.¹⁶⁸ Under such an arrangement, recovered Venezuelan assets could be segregated in a dedicated fund with high levels of transparency, accountability, and sound financial management. And the trust fund could, by definition, be established to administer assets recovered by the United States as well as other countries, consistent with the aims of the VERDAD Act.¹⁶⁹ Efforts can be made to ensure that such a trust fund is oriented by the humanitarian priorities of Venezuelans while simultaneously operating at the vanguard of innovative approaches to donor financing for humanitarian appeals.

For a trust fund to be feasible in the case of Venezuela, it would need to account carefully for the specific dynamics at play. The international organizations involved, for example, may need to be balanced between those that recognize Guaidó, such as the IDB, and those that recognize Maduro, such as the UN and World Bank. In lieu of a single Government of Venezuela representative, both Maduro and Guaidó—or neither of them—would need to participate in the fund's governance. And considerable thought should be given to empowering Venezuelan civil society at the decision-making and project implementation stages, drawing lessons from the Kazakhstan and Nigeria cases. In Venezuela, a broad and diverse array of civil society actors was instrumental in pushing for the recent agreement with PAHO on Covid-19 response,¹⁷⁰ and could bring essential legitimacy, pragmatism, and oversight to the mechanism.

If the approach outlined here were to prove effective, it could be a model for future asset repatriation efforts to other countries with dire humanitarian needs and kleptocratic governments still in power.

In its June 2020 "Report to Congress on Recovering Assets Stolen from the Venezuelan People," the US Executive Branch expressed resistance to the establishment of a "managed global fund" as a depository for the recovered proceeds of Venezuelan corruption, an option envisioned in the VERDAD Act. Among the Trump administration's concerns were a potential lack of appropriate legal authorities to transfer assets to such a fund, a weakening of U.S. oversight of the funds, and exposure of the funds to claims by Venezuela's creditors.¹⁷¹ These challenges merit further study, and a detailed examination of the legal considerations is beyond the scope of this report. However, it should be noted that the United States has frequently participated in multi-donor trust funds in the past, and the US government would enjoy significant leverage to structure the governance of any Venezuela-related fund to address its concerns.

If the approach outlined here were to prove effective, it could be a model for future asset repatriation efforts to other countries with dire humanitarian needs and kleptocratic governments still in power, including South Sudan, Democratic Republic of Congo, Yemen, and Syria. It could also be an attractive option for other countries active in asset repatriation efforts such as the United Kingdom and Switzerland. Asset recovery efforts and repatriation efforts will never result in a reliable stream of funding for humanitarian budgets given the unpredictable pace of court proceedings and the prolonged appeals process. However, when and where available, asset recovery and repatriated monies can help address humanitarian shortfalls to relieve human suffering and to fulfill the mantra that the returns should benefit the victims of corruption. This is particularly the case as the world seeks to recover from the Covid-19 pandemic and governments prioritize domestic budgetary needs.

CONCLUSION AND RECOMMENDATIONS

In the United States today, federal prosecutors are in court seeking to recover over one billion dollars in estimated assets linked to Venezuelan corruption. Globally, at least \$24 billion is under similar legal scrutiny and other investigations will surely follow. If a small fraction of these assets—say, ten percent of the global sum—were effectively recovered, the total would exceed the entirety of the humanitarian assistance provided by the international community to Venezuelans both inside and outside their country over the past several years. This simple arithmetical reality suggests it is time for a serious examination of asset recovery efforts and repatriation options with respect to Venezuela. These efforts should supplement rather than displace existing efforts to mobilize funding for Venezuelans in need.

For the millions of Venezuelans at home and abroad who today suffer the consequences of a man-made complex humanitarian emergency exacerbated by a global pandemic, the industrial-scale looting of government coffers by regime officials and their cronies is a particularly cruel insult. While both US Government policy and the UN Convention Against Corruption dictate that the recovered proceeds of Venezuelan corruption should be returned to its people, the mechanics of doing so are exceedingly complex and will likely remain so as long as the authoritarian and kleptocratic regime of Nicolás Maduro remains entrenched in Caracas.

Certainly, the inclination to take a wait-and-see approach to asset repatriation in Venezuela is understandable. Under no circumstances should funds be deployed if there is a risk they would be stolen or politicized by Maduro's regime. Weighing heavily on the other side, however, is the urgency and gravity of the humanitarian emergency. US policy and international law indicate that the recovered proceeds of corruption should be returned to benefit the Venezuelan people. A decision to delay such a step indefinitely in the midst of a humanitarian crisis should be taken only after exhausting potential avenues, such as the vehicles outlined here, for deploying such resources in the near term while accounting for the political dynamics and corruption risks involved.

Drawing on over a decade of experience in asset repatriation to countries around the world, we believe it is possible for the United States to conceive of one or more potential vehicles for deploying the recovered proceeds of corruption for the benefit of the Venezuelan people in a transparent, accountable, and effective way.

WE RECOMMEND THE FOLLOWING ACTIONS:

- The US Government should affirm its commitment to administer the recovered proceeds of Venezuelan corruption consistent with Department of Justice policy, the UN Convention Against Corruption, and the Global Forum on Asset Recovery (GFAR) Principles. Ongoing discussions between the executive branch and Congress in relation to the VERDAD Act's mandated strategy for asset recovery provide an opportunity to publicize this commitment and deliberate options for returning stolen assets to the Venezuelan people.
- The United States should lead a diplomatic effort to establish mechanisms for using the proceeds of asset recovery efforts for humanitarian purposes and actively coordinate with other jurisdictions and operational partners working on asset recovery to develop support for this concept.
- As envisioned in the VERDAD Act, the United States should convene a multilateral process to actively trace, seize and confiscate the proceeds of Venezuelan corruption. Building the necessary multilateral support and coordination among all the financial centers involved might best be focalized in a Venezuelan Forum on Asset Recovery, modeled on past efforts with respect to Ukraine,¹⁷² the Arab countries in transition¹⁷³ and the Global Forum on Asset Recovery.¹⁷⁴
- The Egmont Group, the grouping of financial intelligence units for enhanced collaboration, should deepen existing coordination efforts around Venezuela, including by ensuring the existence of a secure channel to facilitate cross-border sharing of financial intelligence related to the movement and holdings of Venezuelan assets stolen through corruption.
- As asset repatriation often involves extensive study and lengthy negotiations, US policymakers from the Departments of Justice, State, and Treasury and USAID should immediately begin examining options for repatriating corruption-linked assets to the Venezuelan people through transparent and accountable means. Asset repatriation to Venezuela should occur only with sufficient guarantees that recovered assets can be returned to the Venezuelan people in an effective, transparent, and accountable way. While that may not prove possible until a democratic transition occurs, US policymakers should, in dialogue with the legitimate representatives of Venezuela, closely examine creative alternatives for deploying at least some of these assets in the absence of such a transition in light of Venezuela's ongoing humanitarian crisis. The three asset return options outlined in this report, which could be employed individually or in combination, provide a starting point for serious discussions over the mechanics of returning recovered assets to Venezuelans victimized by the country's complex humanitarian emergency.
- In designing a potential asset return mechanism, the United States should prioritize a cooperative framework that can be employed by other countries that recover Venezuelan assets, and should coordinate with these countries and relevant multilateral organizations to ensure common standards and economies of scale in asset repatriation. Foreign jurisdictions should be encouraged to implement asset return procedures that make use of such a mechanism and are consistent with the GFAR Principles, and accelerate efforts to trace and recover the proceeds of Venezuelan corruption. Any asset return vehicle should exploit technological innovations that enhance the transparency, accountability, and traceability of public spending, such as digital ledger technology and/or the IDB's *MapaInversiones* platform.
- The Stolen Asset Recovery Initiative (StAR), an initiative of the World Bank and the United Nations Office of Drugs and Crime, should be utilized to build the capacity of Venezuelan journalists and civil society to monitor and inform citizens regarding the status and procedures for recouping and returning stolen monies. The trainings provided by StAR should be highly encouraged regardless of whether the Maduro or Guaidó government is official recognized by the pertinent international institutions.
- The US Government should augment the transparency and efficiency of its asset recovery and disposition efforts, including through expanded civil society oversight, available technological advancements, and the creation of a standing inter-agency framework to develop and implement asset return vehicles.

APPENDIX 1: NOTABLE CASES OF VENEZUELAN CORRUPTION PENDING IN US COURTS¹⁷⁵

NAME (CURRENT OR FORMER AFFILIATION)	ALLEGED CRIME	VENUE	LEGAL STATUS	STATUS OF ASSETS	VALUE (USD)	FACTS
Alejandro Andrade Cedeno ¹⁷⁶ (National Treasurer)	Money Laundering/ Bribery	Southern District of Florida	Final Judgment; 10 years prison	Forfeiture ordered	\$1 billion	Andrade received over \$1 billion in bribes from Gorrin and others in exchange for access to Venezuela's foreign exchange
Gabriel Arturo Jimenez Aray ¹⁷⁷ (Gorrin's banker)	Money Laundering	Southern District of Florida	Final Judgment; 3 years prison	Forfeiture ordered	\$38 million	Jimenez conspired with Gorrin and others to acquire Banco Peravia, through which he helped launder bribe money and scheme proceeds
Abraham Jose Shiera Bastidas ¹⁷⁸ (PDVSA contractor)	Money Laundering/ Bribery	Southern District of Texas	Pleaded; sentencing on 8/19/20 (delayed)	Forfeiture ordered	Around \$18 million	Shiera paid bribes to make sure that he received lucrative contracts from PDVSA
Gustavo Adolfo Hernandez Frieri ¹⁷⁹ (PDVSA)	Embezzlement	Southern District of Florida	Pleaded; sentencing on 9/10/20 (delayed)	Forfeiture ordered	\$12.33 million	Used a currency exchange scheme to embezzle money stolen from PDVSA
Abraham Edgardo Ortega ¹⁸⁰ (PDVSA)	Money Laundering	Southern District of Florida	Pleaded; sentencing on 9/10/20 (delayed)	Forfeiture ordered	\$12 million	Was paid with bribes from currency exchange scheme in order to give out lucrative contracts to PDVSA suppliers
Jose Luis Ramos ¹⁸¹ (PDVSA Purchasing Manager)	Money Laundering	Southern District of Texas	Final Judgment; 18 months prison	Forfeiture ordered	\$10 million	Received bribes in exchange for preferential selection in contract bidding
Cesar David Rincon Godoy ¹⁸² (PDVSA)	Money Laundering	Southern District of Texas	Pleaded; sentencing on 10/26/20	Forfeiture ordered	\$7 million	Accepted bribes and kickbacks from PDVSA suppliers

Jesus Ramon Veroes¹⁸³ (Corpoelec)	Money Laundering/ Bribery	Southern District of Florida	Final Judgment; 51 months prison	Forfeiture ordered	At least \$5.5 million plus house	Accepted millions in bribes in exchange for awarding contracts at state electric company
Luis Alberto Chacin Haddad¹⁸⁴ (Corpoelec)	Money Laundering/ Bribery	Southern District of Florida	Pleaded; 51 months prison	Forfeiture ordered	At least \$5.5 million plus house	Accepted millions in bribes in exchange for awarding contracts at state electric company
Matthias Krull¹⁸⁵ (Banker to PDVSA officials)	Money Laundering	Southern District of Florida	Final Judgment; 10 years prison	Forfeiture ordered	\$600 thousand	Helped clients at PDVSA and in the Venezuelan government to launder their money from bribes and currency exchange schemes into foreign bank accounts
Roberto Enrique Rincon Fernandez¹⁸⁶ (PDVSA contractor)	Money Laundering/ Bribery	Southern District of Texas	Pleaded; sentencing on 8/19/20 (delayed)	Forfeiture ordered	Under seal	Rincon paid bribes to officials at PDVSA so that they would select his companies for inflated contracts
Leonardo Santilli¹⁸⁷ (Goods supplier to PDVSA)	Money Laundering/ Bribery	Southern District of Florida	Indicted (Deceased, September 1, 2020)	Seized pursuant to warrant from magistrate judge	\$44.7 million	Sold overpriced equipment to PDVSA
Edoardo Orsoni¹⁸⁸ (PDVSA General Counsel)	Conspiracy/ Bribery	Southern District of Florida	Indicted (plead guilty); trial on 7/15/20 (delayed)	Forfeiture requested	\$4.5 million plus two apartments	Accepted bribes in exchange for steering contracts to a contractor
Alex Nain Saab Moran¹⁸⁹ (Construction of low income housing in Venezuela)	Money Laundering/ Bribery	Southern District of Florida	Indicted; awaiting extradition in Cabo Verde (no extradition treaty with the US)	Subject to forfeiture	\$350 million	Bribed officials to receive inflated contract to build low income housing and also participated in currency exchange corruption

Alvaro Pulido Vargas ¹⁹⁰ (Construction of low income housing in Venezuela)	Money Laundering/ Bribery	Southern District of Florida	Indicted; formal fugitive status	Subject to forfeiture	\$350 million	Bribed officials to receive inflated contract to build low income housing and also participated in currency exchange corruption
Raul Gorrin Belisario ¹⁹¹ (Owner Globovision)	Bribery/ Mail Fraud Conspiracy	Southern District of Florida	Indicted; formal fugitive status	Subject to forfeiture	At least 24 homes/ apartments	Gorrin bribed high level government officials to receive dollars at official exchange rate and then sell them on the black market
Francisco Convit Guruceaga (et al) ¹⁹² (PDVSA)	Money Laundering	Southern District of Florida	Indicted; formal fugitive status	Forfeiture ordered	Around \$45 million	Laundered the proceeds from exchange rate fraud at PDVSA through South Florida real estate and investments
Luis Alfredo Motta Dominguez ¹⁹³ (Minister of Electrical Energy/Head of Corpoelec)	Money Laundering/ Bribery	Southern District of Florida	Indicted; formal fugitive status	N/A	Unknown	Paid bribes to officials at state electric company in order to win inflated procurement contracts
Eustiquio Jose Lugo Gomez ¹⁹⁴ (Procurement director at Corpoelec)	Money Laundering/ Bribery	Southern District of Florida	Indicted; formal fugitive status	N/A	Unknown	Paid bribes to officials at state electric company in order to win inflated procurement contracts
Javier Alavarado Ochoa ¹⁹⁵ (PDVSA - former president of purchasing unit)	Money Laundering	Southern District of Houston	Indicted; petition for extradition rejected in Spain	N/A	Unknown	Received bribes and kickbacks in exchange for preference in selection of contracts
Nervis Gerardo Villalobos Cardenas ¹⁹⁶ (Former Vice Minister of Energy)	Money Laundering	Southern District of Florida	Indicted; awaiting extradition in Spain	N/A	Unknown	Participated in scheme to bribe Venezuelan government officials to corruptly secure energy contracts and payment priority on outstanding invoices
SUM TOTAL: \$1.5 BILLION APPROXIMATELY						

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