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Off Target

How U.S. Sanctions Are Crippling Venezuela
By Joy Gordon
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People search for food in garbage bags next to a supermarket in Caracas, Venezuela, late July (CNS photo / Ueslei Marcelino, Reuters)

Venezuela is in the midst of one of the worst economic crises in recent Latin American history, with inflation reaching 83,000 percent last July and expected to reach 1,000,000 percent by the end of 2018. A power outage in July left 70 percent of the country without electricity, including much of Caracas, the nation's capital. Transportation has deteriorated, as well as health care, and Venezuelans face growing shortages of food and medicine. An estimated 2.3 million people have left the country since 2014.

The U.S. government insists that Venezuela's economic crisis is due entirely to the corruption and mismanagement of President Nicolás Maduro and his administration. The Maduro government has been widely criticized for its harsh repression of protesters and its other human-rights violations, and the country's most recent elections were widely denounced as a sham.

Certainly the Venezuelan government's policies can be blamed for much of the country's economic trouble. When oil prices were high, the government spent hundreds of millions of dollars on social programs, including subsidized housing, food, and fuel, and free health clinics. But even with the tremendous profits from the oil boom, Venezuela ran large deficits every year. When oil prices collapsed in 2014, the economy went into free fall, while the country was burdened with massive debt.

As the economic collapse turns into a humanitarian catastrophe, U.S. sanctions have both worsened the crisis and made it harder for the Venezuelan government to turn the economy around. Last March, the UN Human Rights Council adopted a resolution criticizing the sanctions imposed by the United States, the European Union, and their allies as "unilateral coercive measures" in violation of international law. It claimed the sanctions constituted a human-rights violation because they "disproportionately affect[ed] the poor and the most vulnerable classes" in Venezuela. This is especially true of the U.S. sanctions, which are both more extensive and more indiscriminately damaging than those imposed by Europe or other nations.

Although the Trump administration has imposed stringent new measures on Venezuela, this policy of sanctions began during the Obama administration. In 2014, Congress passed the Venezuela Defense of Human Rights and Civil Society Act, and President Obama signed an executive order declaring that the Venezuelan government's human-rights abuses and crackdown on protesters constituted "an unusual and extraordinary threat to the national security…of the United States." On the basis of this "national emergency," he ordered that sanctions be imposed on anyone the U.S. Treasury Department determined to be "a current or former official of the Government of Venezuela," including those who worked for critical financial institutions such as Venezuela's Central Bank.

Both the Obama and Trump administrations have claimed that these measures are targeted at Maduro administration officials judged to be involved in corruption or repression. According to the State Department, President Obama's executive order provides authority to target persons responsible for the persecution of political opponents and erosion of human rights, but "does not target the people or economy of Venezuela." The Trump administration claims that its sanctions are "carefully calibrated." Measures that make it nearly impossible for Venezuela to restructure its debt are justified as "clos[ing] another avenue for corruption."

Yet, despite U.S. claims that the sanctions are carefully calibrated and narrowly targeted, they have helped bankrupt Venezuela and cut off its major source of foreign exchange. And while the sanctions ostensibly concern only "U.S. persons," their enforcement is so broad as to involve much of the international banking system.

The U.S. sanctions do enormous damage to Venezuela in several ways: they compromise its income from oil exports; they make it difficult to engage in many of the ordinary international banking transactions involved in oil exports, or to pay for the imports on which the country relies; and they make it nearly impossible for the government to restructure the country's crippling debt.

Venezuela's foreign debt is estimated at $150 billion, with $65 billion in outstanding bonds. Unable to make its debt payments, the Venezuelan state is now in default, and creditors have recently begun to get court orders to seize Venezuelan assets, including oil shipments. President Maduro has sought to restructure the debt in order to stave off complete financial collapse. In effect, that would mean replacing the old debt with a new one. But much of Venezuela's debt is held by U.S. investors, and, under the U.S. sanctions, no U.S. person may extend credit to the Venezuelan government for more than thirty days; so restructuring a long-term debt is prohibited. Last year the United States also blacklisted the two Venezuelan officials appointed to renegotiate the debt: the former vice president, Tareck El Aissami and former Economy Minister Simón Zerpa. U.S. persons are prohibited from engaging in business transactions with them, including the renegotiation of the country's debt.

Other U.S. measures target Venezuela's national oil company, Petróleos de Venezuela, S.A (PDVSA), which generates 95 percent of the country's export revenue and accounts for 25 percent of its GDP. But, as Francisco Rodriguez has noted in *Foreign Policy*, "Cutting off the government's access to dollars will leave the economy without the hard currency needed to pay for imports of food and medicine. Starving the Venezuelan economy of its foreign currency earnings risks turning the country's current humanitarian crisis into a full-blown humanitarian catastrophe." Two months after President Trump imposed financial sanctions, imports dropped another 24 percent, leading to scarcity of basic goods.

The U.S. blacklists also contribute to the disruption of Venezuela's oil industry. "U.S. persons" are prohibited from negotiating or transacting any business related to PDVSA with Zerpa, who is now PDVSA's vice president for finance. PDVSA is also the majority owner of the U.S. company Citgo. Last July, the United States revoked the visa of Citgo's president, the Venezuelan Asdrúbal Chávez, and ordered him to leave the country within thirty days. The Trump administration has also prohibited the payment of dividends to Venezuela from subsidiaries of Venezuelan companies, including Citgo, thus eliminating a substantial source of income. Between 2015 and 2017, Citgo provided Venezuela with nearly $2.5 billion in dividends.

Because the U.S. sanctions interfere with Venezuela's ability to obtain credit, the country's ability to import goods is compromised. Any goods or services Venezuela purchases from a "U.S. person" must be paid for within thirty days—a difficult standard for a country facing a severe liquidity crisis. The regulations do allow exceptions for the purchase of food or medicine, but not for goods or equipment that are needed for, say, the electrical grid, or public transportation, or trucks for distributing food, or water-treatment plants, or housing construction, or the maintenance of the telephone system—or anything else required for a functioning infrastructure.

The regulations impose all these prohibitions on "U.S. persons," but it turns out that this category includes many entities that are not persons and are not from the United States. The sanctions regime on Venezuela extends to any foreign bank or corporation, based anywhere in the world, that has a branch in the United States, or does business through the U.S. banking system, or is owned by a U.S. parent corporation. Such regulations are an example of "extraterritorial jurisdiction": the U.S. government purports to have a right to impose prohibitions on a broad range of foreign companies that do business with a country targeted by the United States. If the foreign company doesn't comply, it may be subject to massive penalties. The French bank BNP Paribas paid $9 billion to U.S. government bodies for violating U.S. sanctions laws; HSBC, based in London, paid $1 billion; the Dutch bank ING paid half a billion. Perhaps even worse than the penalties themselves is the risk of losing access to U.S. markets and the U.S. financial system. BNP Paribas was temporarily suspended from access to the New York Federal Reserve Bank. Because the U.S. dollar is the global reserve currency, no international bank can afford to be expelled from the U.S. Federal Reserve System—it's considered the "death penalty" for an international bank.

Many countries, including U.S. allies, have argued that Washington's "extraterritorial" sanctions violate international law. When these measures were first implemented in the 1990s, the European Union and the United Kingdom both brought actions against the United States before the World Trade Organization. Together with Canada and Mexico, they also adopted "clawback" legislation as a response to what they saw as an illegitimate attempt by the United States to restrict their trade with third countries. More recently, the European Union adopted blocking legislation, prohibiting European companies from complying with Washington's extraterritorial sanctions. But all this makes little difference: for banks, shipping companies, insurers, technology companies, or the energy industry, the bottom line is that no one can risk losing access to U.S. markets, regardless of whether U.S. sanctions accord with international law. Despite the European Union's efforts to block these sanctions, it is not surprising that Credit Suisse, BNP Paribas, and Deutsche Bank have all refused to handle transactions of oil traders and refiners with Citgo and PDVSA.

The Obama and Trump administrations have both insisted that the United States has not blacklisted either the country of Venezuela as a whole, or its government, or the national oil company on which its economy depends. But blacklisting the senior officials in Venezuela's government and oil industry have the same effect.

While the Trump administration talks about stopping corruption and punishing human-rights violators, the scope and aggressiveness of the sanctions go well beyond punishing wrongdoers. In fact, the sanctions seem designed to bring the whole Venezuelan government to a standstill by preventing its officials from doing their jobs. Both the Obama and Trump administrations have targeted many of Venezuela's most significant government leaders, not only freezing their personal assets, but also prohibiting all "U.S. persons" from having any business dealings with blacklisted persons even when they are negotiating on behalf of Venezuelan government bodies or the national oil company. In some cases, the United States claims these officials have ties to drug trafficking or money laundering, but sometimes the blacklisting has little to do with any plausible claim of criminal activity. Regardless of their rationale, these measures have the effect of compromising the basic ability of the government to function.

This year the Trump administration blacklisted both the former vice president, Tareck El Aissami, and the current one, Delcy Rodríguez. It blacklisted Rocco Albisinni Serrano, the president of CENCOEX, the government agency that sets the foreign exchange rate, on the grounds that a black market has emerged around the currency exchange, turning it into an "engine of corruption." It blacklisted Freddy Alirio Bernal Rosales, the Minister for Agriculture, along with Alejandro Antonio Fleming Cabrera, the former head of CENCOEX and the Vice Minister for Europe of Venezuela's Ministry of Foreign Affairs. It blacklisted Carlos Alberto Rotondaro Cova, the former head of the agency charged with providing medicines for chronic conditions. The rationale for blacklisting Cova was as bizarre as it was convoluted. According to the Trump administration, the Maduro government was responsible for Venezuela's economic collapse, which in turn meant that the country was not able to afford sufficient medications and vaccines, causing a resurgence of diseases such as diphtheria and measles. The United States therefore blacklisted Rotondaro for his failure to meet the Venezuelan population's need for medicines.

The Obama and Trump administrations have both insisted that the United States has not blacklisted either the country of Venezuela as a whole, or its government, or the national oil company on which its economy depends. But blacklisting the senior officials in Venezuela's government and oil industry have the same effect. Washington hasn't just frozen their personal assets or denied them travel visas; it has decided that no "U.S. person" may enter into a contract with any blacklisted individual, even if she or he is acting on behalf of the Venezuelan government or its oil company.

The Trump administration maintains that the sanctions hinder the Maduro regime's ability to engage in business transactions that might take place on "terms unfavorable to the Venezuelan people," and that is true. It is true because the U.S. sanctions make it nearly impossible for the Venezuelan government to engage in business on any terms, favorable or unfavorable; or to restructure its crippling debt so it can prevent the seizure of its oil and refineries; or to transact business through international banks; or to import the goods necessary to operate the country's infrastructure; or to pay salaries; or to sustain agriculture and industry. Announcing the new sanctions his administration imposed on Venezuela last year, President Trump declared that "the U.S. will not stand by as Venezuela crumbles." He was right. The United States is not standing by; it is doing whatever it can to make Venezuela crumble faster.

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