

FIGHTING AGAINST IMPERIALISM: THE LATIN AMERICAN APPROACH TO INTERNATIONAL SANCTIONS

BY JOSÉ IGNACIO HERNÁNDEZ G.
SEPTEMBER 2020

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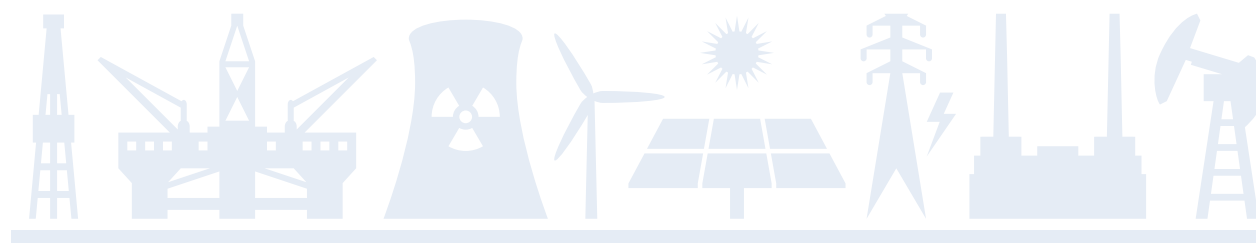
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EXECUTIVE SUMMARY

The Latin American experience with international sanctions has been mostly as *sanctioned states* rather than *targeting states*. This is not merely because Latin American countries have lacked the interest in using sanctions tools but also because of more complex factors, including the historical evolution of Latin American nationhood, a set of cultural values rooted in the defense of national sovereignty, and opposition to any foreign intervention. Although those values were embraced as a result of defending the independence of Latin American nations against European dominance, the values were also applied in intraregional relations in Latin America. As a result, there is not a strong culture of international sanctions imposed by Latin American countries. With few exceptions—such as Cuba—Latin American countries tend to rely on diplomatic negotiations conducted under the nonintervention principle.

The unparalleled crisis in Venezuela has produced a change in perspective. While the main actions adopted regarding this crisis were undertaken to facilitate diplomatic negotiations with the Venezuelan government, Latin America—particularly within the framework of the Organization of American States (OAS)—has started to implement international sanctions as a tool to promote a transition in Venezuelan governance. This shift has not been without controversy in Latin America. Consequently, the principle of nonintervention as relates to the use of sanctions is under stress in Latin America and merits re-examination.

This paper, part of the International Security Initiative at the Center on Global Energy Policy, reviews the history of international sanctions in Latin America in the context of broader diplomatic developments. It reaches five conclusions:

1. The nature of the Venezuelan crisis itself has contributed to the erosion of the nonintervention principle. It is not the result of a sudden event, like a coup, but a consequence of a chain of decisions adopted by the government of Nicolás Maduro since 2016 with the purpose to increase his authoritarian power.
2. The nonintervention principle also works to provide national governments the ability to execute their own sovereign policies.
3. The decisions to take such steps were made after the failure of the OAS and other organizations to exercise the authorities contained in their charters to timely manage the crises underway.
4. The slow nature of the OAS to respond once decisions were reached to act also contributes to the erosion of a region-wide stance toward Venezuela and, thereby, questions about the validity of the nonintervention principle.
5. There is now an opportunity—and a demand—for additional study and reform of the use of sanctions tools, particularly when issues such as human rights violations and illicit economy activity are components of the broader crisis encouraging sanctions use.



The unparalleled predicament of Venezuela has created a surprising convergence between the United States and Latin America, favoring international sanctions as a tool to address the crisis. It is hard to determine whether this trend in Latin America is the result of a new interplay between international sanctions and the nonintervention principle. The original purpose of the nonintervention principle was to protect the self-determination of the free people—and not to protect regimes that violate human rights. International sanctions adopted collectively can be a useful tool to prevent gross violations and restore democratic order as necessary conditions to reestablish self-determination of the free people in Latin America.



INTRODUCTION

The Latin American experience with international sanctions has been mostly as *sanctioned states* rather than *targeting states*. As this paper explains, this vision is a result of the historical evolution of Latin American nationhood: a set of cultural values rooted in the defense of national sovereignty and opposed to any foreign intervention.¹ International sanctions, as defined here, tend to be considered a foreign intervention and therefore a constraint on national sovereignty.

Although those values were embraced as a result of defending the independence of Latin American nations against European dominance, the values were also applied in intraregional relations in Latin America. As a result, there is not a strong culture of international sanctions imposed by Latin American countries. With few exceptions—such as Cuba—Latin American countries tend to rely on diplomatic negotiations conducted under the nonintervention principle.

The unparalleled crisis in Venezuela (2016–2020) has produced a change in perspective. While the main actions adopted regarding this crisis were undertaken to facilitate diplomatic negotiations with the Venezuelan government, Latin America—particularly within the framework of the Organization of American States (OAS)—has started to implement international sanctions as a tool to promote a transition in Venezuelan governance. This change in posture has been defended as consistent with the principles of the Inter-American Democratic Charter, adopted in 2001. (See a list of Latin American organizations and their sanctions in the appendix.) The charter allows the implementation of international sanctions in case of an “unconstitutional interruption of the democratic order.” This very imprecise concept was originally interpreted only in cases of abrupt democratic breakdowns. However, the Venezuela crisis demonstrates that slow-motion collapses could also be interpreted as an “unconstitutional interruption of the democratic order.” Similarly, in 2019, through an innovative interpretation of the Inter-American Treaty of Reciprocal Assistance (a.k.a. the Rio Treaty), international sanctions were adopted through collective decisions. This could lead to a new interpretation of the nonintervention principle and the recognition of international sanctions as a legitimate foreign policy instrument to promote constitutional democracy and prevent human rights violations. But this controversial reading of the charter and the Rio Treaty is both new and not universally accepted.

Hence, the Venezuela crisis, particularly since 2016, has created new tensions in the region regarding international sanctions. Some countries have decided to adopt or promote international sanctions while other countries have rejected those measures and prefer solutions based on diplomatic negotiations with the Maduro government. In all, it is reasonable to say that the principle of nonintervention as relates to the use of sanctions is under stress in Latin America and merits re-examination.

To address this need, this paper is divided into five sections. The first section analyzes the early evolution of the nonintervention principle and the recognition of a very narrow



framework for international sanctions in the Rio Treaty and the OAS Charter. The second section addresses the limited and problematic implementation of this framework through collective sanctions in the Cuba case. The third section summarizes the transformation derived from the democratic clause, while the fourth section studies the Venezuela crisis as a turning point in the Latin American vision toward international sanctions. The fifth section includes relevant conclusions.



LATIN AMERICA AND THE NONINTERVENTION DOCTRINE: THE RIO TREATY AND THE OAS CHARTER

Latin American public law is rooted in the nonintervention principle, which is a legacy of colonial and post-colonial history.

After expelling Spain from its position as the region's colonial master, the newly independent countries of the region were insistent that they not fall under the suzerainty of another European power. As a result of the tensions between the new Latin American countries and Europe, Latin America defended the Westphalian principle by saying each state has absolute sovereignty to decide domestic affairs and, as a result, any foreign intervention on domestic affairs should be forbidden—even in cases that do not encompass military actions.²

The nonintervention principle strengthens the idea of absolute sovereignty, restricting any foreign or external interference in domestic affairs. From a Latin American perspective, this principle is based on the idea that each country has an absolute sovereign right to define its political regime, considering that the people have the right to self-determination. Although this principle was designed as a protection against Europe and later the United States, it also influenced intraregional relations in Latin America.³

From a Latin American perspective, the concept of international sanctions falls directly within the scope of the nonintervention principle. Generally, international sanctions encompass coercive measures that impose restrictions on or constraints against a state or individuals from a state.⁴ Those restrictions could be adopted by a state, a group of states, or international organizations. Considered restrictive to national sovereignty, they are deemed exceptional limitations to the nonintervention principle—under which countries would rather implement other foreign policy tools as diplomatic negotiations.⁵

This vision of international sanctions adopted from the perspective of the nonintervention principle is, however, inadequate and at tension with more recent developments in international affairs (such as the implementation of sanctions by international organizations such as the United Nations Security Council),⁶ Moreover, it is arguable that sanctions such as travel or economic bans are domestic measures that should be considered a manifestation of the national sovereignty. However, because those domestic measures impair the sanctioned states, they have been deemed as coercive measures, even prohibited in the OAS Charter, as is later explained.⁷



Whose Sovereignty Is It?

The nonintervention principle also creates difficulties and confusion, as there remains a persistent question of which sovereignty merits more respect: the country taking an action or the country targeted by the action.

A particularly illustrative manifestation of the nonintervention principle's resulting debate concerns the recognition of de facto governments.⁸ In the first decades of the 20th century, Central American countries assumed the Tobar Doctrine (1907), which denied the recognition of de facto regimes—a stance that explicitly requires a review of a foreign country's domestic affairs. However, this doctrine had a very limited scope of influence.⁹ On the contrary, the nonintervention principle was reinforced in the Estrada Doctrine (1930), which denied the nonrecognition of de facto governments and sought to force such recognition in deference to the sovereignty of the government in question.¹⁰

Different attempts tried to revert this doctrine. The Larreta Doctrine (1945) proposed that the nonintervention principle should not hinder the international protection of democracy and human rights.¹¹ Later, in response to the Estrada Doctrine, Venezuelan president Rómulo Betancourt (1959) established the principle according to which Venezuela should not maintain foreign relations with nondemocratic governments (a similar approach to the Tobar Doctrine). The so-called Betancourt Doctrine challenged that the nonintervention principle hampered unilateral actions against nondemocratic governments, thereby undermining the principle of national sovereignty while ostensibly trying to defend it. According to the Betancourt Doctrine, national sovereignty justifies the decision of governments to reject those regimes that do not comply with some values and principles—for instance, those related to democracy and human rights.¹²

However, the region leaned in favor of strong protection of the nonintervention principle, regardless of the democratic origins of the government. Thus, the nonintervention principle was assumed in the Buenos Aires Conference of 1936,¹³ the Rio Treaty of 1947, and finally, in the OAS Charter of 1948.

In 1947, the nonintervention principle was adopted in the Rio Treaty,¹⁴ negotiated at the beginning of the Cold War with the purpose of designing a regional security system aimed to “prevent and repel threats and acts of aggression against any of the countries of America.”¹⁵ For that purpose, the treaty formalized the nonintervention principle.¹⁶ According to Article 1, the signatory states will “formally condemn war and undertake in their international relations not to resort to the threat or the use of force in any manner inconsistent with the provisions of the Charter of the United Nations or of this Treaty.”

However, the Rio Treaty allows collective actions against targeted states, an exception to the nonintervention principle. But this exception applies only in cases of extreme acts of aggression that might “endanger the peace of America” (Article 5),¹⁷ including “any other fact or situation that might endanger the peace of America” (Article 6).¹⁸ Those imprecise concepts are not



connected to the democratic origin of the government but to threats to the peace of America.

In situations like this, the Organ of Consultation (namely, the Meetings of Consultation of Ministers of Foreign Affairs) is entitled to adopt any “measures which should be taken for the common defense and for the maintenance of the peace and security of the Continent.”¹⁹ This demonstrates a preference for collective measures rather than for unilateral ones. The Organ of Consultation—not the signatory states—is entitled to impose any measures to promote the restoration of the “peace of America.” These broad collective measures include the recall of chiefs of diplomatic missions; breaking of diplomatic and consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed forces (Article 8). The Meetings of Consultation of Ministers of Foreign Affairs requires the vote of two-thirds of the signatory states to adopt those measures. Hence, this decision-making process is based on collective decisions adopted by the governments of the region rather than in a decision adopted by an international body, as the UN Security Council.

The recognition of broad international sanctions adopted collectively bounded the scope of the nonintervention principle. Precisely, the strained relationship between the Rio Treaty and the nonintervention principle is reflected in the withdrawal from the treaty by some states, basically arguing that it was a menace to the nonintervention principle, particularly after the failed attempt to apply the treaty in the Falklands War.²⁰ For instance, to denounce the Rio Treaty in 2014, Ecuador argued that the treaty “constitutes an instrument promoted by the United States of America to confront alleged attacks on the peace and security of the region and against the sovereignty and political independence of the American states caused by interventions of powers outside the Hemisphere.”²¹

The OAS Charter, adopted in 1948, reinforced the traditional nonintervention principle. Article 3 states the following:

Every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State. Subject to the foregoing, the American States shall cooperate fully among themselves, independently of the nature of their political, economic, and social systems.

Unilateral measures adopted by one state against another were considered “external interference” forbidden in Article 20:

No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind.

The prohibition of “coercive measures” adopted by any state encompasses the broad definition of international sanctions—that is, the coercive decisions adopted by one state to promote or encourage changes in another state. Article 20 establishes an absolute prohibition, because those coercive measures are prohibited without any exception. However,



Article 20 does not apply in cases of collective decisions adopted in accordance with treaties, as the Rio Treaty.

Even though that charter was the result of the tense evolution of the nonintervention principle in Latin America, Article 9 establishes a democratic clause applicable in case a democratic government of the OAS is overthrown by force. In that case, the affected state could be suspended from the OAS if diplomatic consultations failed to promote the restoration of the democratic government. The suspension would be adopted by the OAS General Assembly by a vote of two-thirds of the member states. Therefore, suspension is the ultimate sanction that could be adopted if diplomatic efforts are exhausted. As happened with the Rio Treaty, the recognition of coercive measures against targeted states, even adopted collectively, was an exception of the nonintervention principle, whose scope was reduced to unilateral measures.

Paradoxically, Venezuela, which prompted a major change in the field in the 21st century, endorsed the implementation of international sanctions under the scope of the Rio Treaty and the OAS Charter. This early experience with the Rio Treaty's implementation was related to the assassination attempt against President Betancourt in 1960. A car bomb exploded—after which Betancourt barely survived—and investigations determined that Dominican Republic dictator Rafael Trujillo was responsible. As a result, Venezuela requested a meeting of the Organ of Consultation to consider the risk posed by Trujillo's regime in the Dominican Republic. In San José, Costa Rica, during the VI meeting on August 16–21, 1960, the Organ of Consultation suspended diplomatic and economic relations with the Dominican Republic. The decision was an international sanction—that is, a coercive measure adopted, in that case, to promote the political change of Trujillo's regime. But it was adopted collectively, not through unilateral decisions.²²

In conclusion, both the Rio Treaty and the OAS Charter are limited exceptions to the traditional approach of the nonintervention principle, because they recognize the implementation of international sanctions. However, those sanctions can be adopted only through a collective decision-making process that requires a supermajority. This creates an important constraint, due to the difficulties of promoting a collective decision in which each state party has a vote, notwithstanding its political and economic power. This governance limitation, together with the traditional protection of the nonintervention principle, demonstrates the limited experience in the implementation of these collective actions until the 2016 Venezuela crisis.



THE LIMITED EXPERIENCE OF LATIN AMERICA WITH INTERNATIONAL SANCTIONS AND THE CUBA CASE

The nonintervention principle hindered the practical implementation of international sanctions in Latin America with few exceptions—Cuba, especially.

In 1961, Colombia thought the political system in Cuba was endangering America's peace, especially with the influence of the former Union of Soviet Socialist Republics (USSR) and China. As a result, the Meetings of Consultation of Ministers of Foreign Affairs scheduled a meeting to discuss the Cuba case in Punta del Este, Uruguay, between January 22 and 31, 1962.²³

The risks related to Cuba were not based on a specific event (as had happened with the Dominican Republic) but on the general appreciation of USSR and China influence.²⁴ This influence was considered contrary to the inter-American system, a declaration unanimously adopted in the Punta del Este summit. But the consequence of that declaration was controversial: some countries rejected Cuba's exclusion from the inter-American system based on legal formalities, although the nonintervention principle could have been the reason behind those legalisms.²⁵

As with the Dominican Republic, Cuba's international sanctions were a collective measure adopted by the Meetings of Consultation of Ministers of Foreign Affairs.²⁶ This collective approach contrasts with the unilateral policy of the United States against Cuba since the 1960s, which has boosted the anti-imperialist approach of sanctions, particularly after creation of the Bolivarian Alliance for the Peoples of Our America (ALBA in Spanish), promoted by then Venezuelan president Hugo Chávez (2006).²⁷

This anti-imperialist approach was rooted in the nonintervention principle. A very important example of this vision was the resurgence of the debate against international sanctions in 2009, when the OAS General Assembly overruled the exclusion of Cuba. However, Cuba's participation in the organization was conditioned to "dialogue process" under the OAS's principles—an objective that has not been fulfilled.²⁸

The Cuba case brings several lessons. First, in extraordinary circumstances, Latin America has been willing to adopt coercive measures to promote political changes, but only through a collective decision. Second, even in those cases, the nonintervention principle is used as a protection mechanism against any coercive measure. The overruling of the Cuba expulsion in 2009—even though the country did not show any advance in democratic values—could demonstrate that Latin American nondemocratic governments tend to be tolerated by the region if they are not a consequence of an overthrow. Lastly, there is a clear contrast between Latin American reluctance toward international sanctions and the approach of the United States, which endorses sanctions as a relevant tool of its foreign policy—including economic sanctions boosted during the Colombia drug crisis of the 1990s.²⁹



A NEW APPROACH TO INTERNATIONAL SANCTIONS: THE DEMOCRATIC CLAUSE

After the third wave of democratization in the region in the late 1970s, Latin American international law evolved into an order based on human rights and democracy.³⁰ This international dimension of the democratic transition and consolidation was based on the recognition of a democratic clause—that is, a provision that allows the implementation of international sanctions adopted collectively in case of a democratic breakdown.

One of the first examples of this reformed concept was the Ushuaia Protocol, adopted in 1998 within Mercosur, a regional economic bloc.³¹ The Ushuaia Protocol's purpose is to reinforce democratic institutions as a necessary condition for the economic integration process in the Mercosur (Article 1).³² Thus, in case of a “rupture of the democratic order” (Article 3), and if diplomatic consultations were insufficient to reestablish such order (Article 4), the contracting states would have the right to adopt any measure—for instance, the suspension of the affected state from Mercosur (Article 5). Such measures would be adopted by consensus (Article 6).

In 2011, the protocol was extended through the Ushuaia II Protocol, which incorporates additional measures that could be adopted in case of democratic breakdowns—for instance, border closings, suspension of air and ground transportation and commercial activities, and other political and diplomatic measures—and was adopted in accordance with the proportionality principle (Article 6).³³ Those measures could be adopted only if diplomatic actions failed to produce a political change (Articles 2 and 3). Also, the protocol allows the affected government to request the Mercosur Council to implement any of such measures (Articles 4 and 5).³⁴

A similar provision was included in the Additional Protocol of the Cartagena Agreement to the Andean Community Commitment to Democracy (2000).³⁵ The Andean Community was created in 1969 as an international organization to promote economic integration.³⁶ The Additional Protocol expanded the scope of the Andean Community to include the protection of democratic institutions as a necessary condition for economic, social, and cultural integration (Article 1). Therefore, in case of a “rupture of the democratic order” (Article 2), and if diplomatic consultations were not able to promote a restoration of such order (Article 3), the Andean Council of Foreign Ministers could adopt the necessary measures to promote the restoration of such order (Article 4). Pursuant to this article, those measures should be limited to the necessary ones, adopted within the Andean integration process, including the suspension of the affected state from the bodies of the Andean system or international cooperation projects. Also, measures could encompass the prohibition to participate in financial aid, the suspension of rights derived from the Cartagena Agreement, or any other similar measures adopted by the Andean Council of Foreign Ministers (Article 5). In any case, the Additional Protocol has not been entered into force because the contracting states have not completed the ratification process.³⁷

Those democratic clauses are unique for several reasons. First, they were included in economic agreements. Originally, the Mercosur and the Cartagena Agreement were negotiated with



the purpose to promote economic integration in the region, not democratic institutions. However, in both cases, economic integration was later conceived as a complex process based on democratic institutions, not only in economic and social terms. Second, the democratic clauses explicitly involve consideration and response to changes in domestic affairs. However, they are limited to the prevention of democratic breakdowns and do not necessarily include the prevention of democratic declines or the promotion of democratic transitions from authoritarian regimes.³⁸ But they constitute a significant departure from past practice.

That said, from a practical perspective, the democratic clause has had limited utility. The clause in the Mercosur, the only one in force, was applied in only two cases: Paraguay in 2012, after President Fernando Lugo's impeachment,³⁹ and Venezuela in 2017—an extreme case, as is later explained. In both cases, the measures adopted were the suspension of the rights and duties of Paraguay and Venezuela as contracting states.

The democratic clause was reinforced within the OAS. An important milestone was Resolution AG/RES. 1080 (XXI-O/91), adopted by the General Assembly in 1991. Pursuant to that resolution, the OAS Permanent Council should adopt diplomatic measures in case of a breakdown of the democratic order.⁴⁰ As noted, in 2001, the Inter-American Democratic Charter was approved and adopted by the OAS General Assembly.⁴¹ The purpose of that charter is to compile the general principles of democracy adopted in the region, regulating collective sanctions in case of a democratic collapse. This idea is summarized in Article 1: "Democracy is essential for the social, political, and economic development of the peoples of the Americas." For that purpose, democracy is defined in a broad way—to encompass rule of law; respect for human rights and fundamental freedoms; and holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people, among other principles (Articles 2 and 3).

Chapter IV of the charter defined several safeguard measures for democracy, applicable when the democratic order is at risk or in cases of "unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state" (Articles 17 and 19). If diplomatic actions are not able to solve the situation (Article 20), the suspension of the affected state should be adopted pursuant to Article 21:

When the special session of the General Assembly determines that there has been an unconstitutional interruption of the democratic order of a member state, and that diplomatic initiatives have failed, the special session shall take the decision to suspend said member state from the exercise of its right to participate in the OAS by an affirmative vote of two thirds of the member states in accordance with the Charter of the OAS. The suspension shall take effect immediately.

The suspended member state shall continue to fulfill its obligations to the Organization, in particular its human rights obligations.

Notwithstanding the suspension of the member state, the Organization will maintain diplomatic initiatives to restore democracy in that state.



There are, however, several constraints to the implementation of this sanction. The Inter-American Democratic Charter followed the scheme of the OAS Charter—the suspension of the affected state could be adopted as a collective decision by at least two-thirds of the votes at the General Assembly. As a result of this supermajority rule, the imposition of collective sanctions is quite exceptional—which means that, traditionally, the charter is implemented through diplomatic negotiations.

Another constraint derives from the language. It is not clear what an “unconstitutional interruption of the democratic order of a member state” is. The charter adopted a complex concept of democracy not limited to the formality of elections. Therefore, the democratic order could be interrupted in several ways. However, the traditional interpretation limits this concept to abrupt breakdowns, as happened in Honduras in 2009 with the removal of President Manuel Zelaya.⁴² As a result of these constraints, there is a sort of deference standard: only gross interruptions of the democratic order—for instance, military rebellions or coups d’état—could be deemed as evidence that may lead to the ultimate sanction, namely, the suspension.⁴³

Finally, the charter allows the suspension of the state only in which democratic order has been interrupted. Because this is an exceptional measure, the implementation of the charter is, commonly, through diplomatic negotiations (Articles 20 and 21).⁴⁴

The democratic clause demonstrates the evolution of the nonintervention principle, because democratic breakdowns are considered a valid reason to adopt international sanctions under two conditions: (1) international sanctions are exceptional measures that proceed only if diplomatic initiatives have failed, and (2) international sanctions can be adopted only through collective actions. Because of the difficulties associated with collective actions, diplomatic negotiations tend to be the desirable foreign policy tool to achieve the objectives of the charter. The Venezuela crisis, however, is changing this tendency.



THE VENEZUELA CRISIS AND THE TURNING POINT IN INTERNATIONAL SANCTIONS

In keeping with the broader shift in how countries of the region perceive their rights and responsibilities under the nonintervention principle, the evolution of international sanctions in Latin America shows a slow movement toward international sanctions as a relevant tool of foreign policy to protect democracy, and therefore human rights.

However, implementation of democratic clauses has been constrained by the traditional vision of the nonintervention principle together with the collective decision-making process and the use of vague language.

The Venezuela crisis (2016–2020) could be a turning point. Even though it is too soon to jump to definite conclusions about the current trends in Latin America regarding this crisis still underway, it is undeniable that Latin American countries have a more favorable approach to international sanctions—including ones adopted by individual states. This case also marks a break with the past because the democratic breakdown in Venezuela was not caused by a sudden action but was the result of the authoritarian populist regime of President Nicolás Maduro's progressive deterioration of constitutional democracy and human rights.

Initial Crisis Period and Response

In December 2015, the Venezuelan opposition won the congressional election with a supermajority of two-thirds of the seats. Amid an incipient economic and social crisis, the electoral triumph of the opposition should have promoted a peaceful and democratic political transition from Maduro's administration to one led by the opposition. However, Maduro, with the support of other branches of government, blocked the authority of the Venezuelan Congress, which instead was assumed by the Supreme Tribunal and by a fraudulent constituent assembly created and controlled by Maduro.⁴⁵

Based on these facts—and also considering the growing collapse of the economy—OAS Secretary General Luis Almagro recommended applying the Inter-American Democratic Charter to the Venezuelan situation in 2016.⁴⁶ The purpose of that initiative was to promote diplomatic consultations to facilitate the restoration of constitutional democracy. This was an innovative interpretation of the charter, because the interruption of the democratic order was not based on a sudden event like a coup but on several decisions adopted by Maduro to hinder the authority of the National Assembly. Review of those domestic decisions was possible only after examination of domestic affairs, usually protected by the nonintervention principle.

At the same time, the US government started an active foreign policy toward Venezuela based on sanctions. Initially, those sanctions were limited to specific servants of the Maduro government, but in 2017 they were expanded to economic sanctions.⁴⁷ This created a clear distinction: while Latin America preferred a cautious approach based on diplomatic negotiations, the United States assumed an active policy based on unilateral sanctions.

Neither the Permanent Council nor the General Assembly of the OAS decided to advance any



coercive measure against Maduro (namely, consider the suspension of Venezuela). On the contrary, the Permanent Council favored a negotiated solution (resolution dated November 15, 2016). Even after Maduro dismantled the National Assembly in March 2017, the Permanent Council preferred an approach based on diplomatic negotiations (resolution dated April 3, 2017).⁴⁸

Almagro maintained the position based on the necessary adoption of measures established in the charter, including suspension. For that purpose, Almagro invoked the “responsibility to protect”⁴⁹ (according to which countries have the duty to prevent gross violations of human rights) after human rights violations during the repression of the 2017 protest.⁵⁰ This position was summarized on November 13, 2017, during a meeting at the Security Council based on the Arria Formula. The international community argued that the secretary could not ignore the Venezuela situation or tolerate the systematic violation of human rights.⁵¹

Also, several countries subscribed in 2017 the Lima Declaration that originated with the so-called Lima Group, a diplomatic cooperative alliance interested in promoting a peaceful solution to the Venezuela crisis. Even though the 2017 declaration concluded that democratic order had been interrupted, it reinforced the necessity of a negotiated solution in respect of Venezuelan sovereignty.⁵²

As was explained, Venezuela was suspended from Mercosur in 2017 pursuant to the Ushuaia Protocol.⁵³ Argentina, Brazil, Paraguay, and Uruguay considered that Venezuela was facing a breakdown of the democratic order that could not be solved only by diplomatic negotiations. This suspension was, then, a collective sanction against Venezuela adopted with the purpose of promoting a political change. In practical terms, the suspension did not have major effects because the Mercosur regulations lacked application in Venezuela.⁵⁴

Escalating Tensions

On May 20, 2018, Maduro organized a rigged presidential election⁵⁵ that was rejected by the OAS Permanent Council⁵⁶ and also by the Lima Group.⁵⁷ This triggered the path to new sanctions by some regional actors:

- Panama banned several Venezuelan politicians, including Maduro.⁵⁸
- Peru banned the entrance of Venezuelans related to Maduro’s regime in 2019,⁵⁹ a decision also adopted by Chile⁶⁰ and Colombia.⁶¹
- the United States reinforced its policy with new economic sanctions.⁶²

But more generally, Latin America—including the OAS—preferred an approach focused on diplomatic negotiations rather than the imposition of pressure through conserve measures. This could be explained by two reasons. First, the general Latin American reluctance toward international sanctions was bolstered by the fact that the opposite approach was adopted by the US government.⁶³ This allowed critics to argue their opposition was in defense of anti-imperialism, particularly after growing discourse over application of the “responsibility to protect” principle.⁶⁴ Second, the Permanent Council and the OAS General Assembly hoped to bring Maduro back to the fold, particularly after Maduro denounced the OAS Charter in April 2017. Diplomatic negotiations with Maduro’s government were favored.



A turning point emerged on January 10, 2019, in response to international recognition of the speaker of the National Assembly, Juan Guaidó, as interim president of Venezuela. That day, according to the Venezuela Constitution, a new presidential term began: Maduro had no authority to assume the presidency because he had not been elected in free and transparent elections. On January 4, 2019, the Lima Group issued a statement declaring Maduro could not be considered the Venezuelan president after January 10.⁶⁵ On January 15, the National Assembly ratified Maduro's illegitimacy and on January 23, Guaidó reiterated that, as speaker of the National Assembly, he would act as interim president based on Article 233 of the Venezuelan Constitution. Since then, more than 60 countries have recognized Guaidó as the Venezuelan interim president, including most Latin American countries (with some exceptions, including Cuba and Nicaragua).⁶⁶

A similar path was chosen by the OAS Permanent Council. On January 22, 2019, the National Assembly appointed a special representative of Venezuela before the OAS—a decision later ratified by Guaidó. However, the representative previously appointed by Maduro preserved his post. Finally, on April 9, 2019, the Permanent Council recognized the special representative as the Venezuelan permanent representative. Consequently, Maduro's representative was disowned.⁶⁷ Recognition of the representative appointed by the National Assembly was later ratified by the General Assembly on June 28, 2019.⁶⁸

Some countries—such as Mexico—thought the recognition of the representative appointed by Guaidó was not only a clear misuse of power but a violation of the nonintervention principle. The majority of the Permanent Council, however, considered that the protection of democracy justified such repudiation. To some extent, the decision produced a similar consequence as an international sanction: Venezuela, as a country, was not suspended but the representative appointed by Maduro was removed and the National Assembly and Guaidó were recognized as the sole democratic authorities in Venezuela.⁶⁹

Also, the Inter-American Development Bank made an unprecedented decision when its assembly recognized the governor appointed by Guaidó on March 15, 2019. This decision implied the repudiation of the governor who was appointed by Maduro's regime.⁷⁰

The international recognition of Interim President Guaidó produced an effect similar to international sanctions against Maduro's regime.⁷¹ Diplomatic relations are generally held by President Guaidó, not by Maduro. The isolation of Maduro's regime, as a result of collective decisions regarding the recognition of the Interim President, could be interpreted as an international sanction aimed to promote the Venezuela transition.

The recognition of Guaidó as interim president facilitated implementation of the Rio Treaty to adopt sanctions against servants of Maduro's regime that preserved control over the weak institutions of the Venezuelan government.⁷² Because Venezuela withdrew from that treaty in 2012, it was necessary to subscribe again to this treaty.⁷³ Then, in an unprecedented decision adopted on September 11, 2019, the OAS Permanent Council called a meeting of the Organ of Consultation, considering that the Venezuela crisis was a threat to the "peace of America" pursuant to Article 6 of the Rio Treaty.⁷⁴ On September 23, the Organ of Consultation imposed sanctions against officials and representatives of Maduro's regime,⁷⁵ a decision implemented on December 3 with the approval of a list of sanctioned persons.⁷⁶ Although the sanctions



were adopted as a collective decision, their implementation was deferred to domestic authorities. This was an innovative interpretation because the Rio Treaty was not implemented based on violent acts of aggression but because of the progressive breakdown of Venezuelan democracy and the recognition of the speaker of the National Assembly as interim president.

Also, the deterioration of the Venezuela crisis in 2019 moved the European Union to organize the International Contact Group,⁷⁷ an informal meeting of European governments with the cooperation of some Latin American countries as well as the Lima Group.⁷⁸ The EU's approach to the Venezuela crisis is based on limited personal sanctions—rejecting the economic ones—as a coercive mechanism to promote diplomatic negotiations, and recognizing Guaidó as the interim president with the main objective to promote an electoral solution to the Venezuela crisis.⁷⁹

With a different approach, and after recognizing Guaidó as interim president, the United States advanced its sanctions programs, restricting economic transactions with the oil industry in Venezuela—the main source of foreign currency.⁸⁰ On August 5, 2019, President Donald Trump issued Executive Order 13884, which established a general prohibition on economic transactions with the Venezuelan government, blocking its assets in the United States.⁸¹

Assessment of the Shift

The Venezuela case shows a real shift in how Latin American governments think about the nonintervention principle and sanctions but also residual conservatism.

It is notable that Latin American governments tried to adapt a new approach in the past but were constrained until the 2019 succession crisis. That they took advantage of international recognition to impose sanctions on Maduro—as states could justify sanctions against a *government* that was no longer recognized and therefore not sovereign, while claiming respect for the original principle—shows less a fealty to noninterventionism than creativity in getting around it.

This change could be explained in part due to the unique humanitarian dimension of the Venezuela crisis. Gross domestic product has fallen more than 50 percent, while imports have collapsed amid hyperinflation. As a result, a complex humanitarian emergency is threatening the lives of vulnerable sectors of the population, triggering a massive crisis of migrants and refugees. Maduro's regime not only dismantled the constitutional democracy but adopted policies of systematic violations of human rights that could be deemed crimes against humanity. Under these extraordinary circumstances, the nonintervention principle could be set aside to some degree.

Though the nonintervention principle is not as strong as it used to be and innovative approaches have been demonstrated that might become precedents, Latin American conservatism does still persist and might render Venezuela a *sui generis* case to some degree.

The lack of coordination in the international sanctions framework creates an important obstacle. The diversity of positions toward international sanctions and the lack of uniformity in the framework create additional constraints for the collective action required to implement



efficient policies based on international sanctions. Also, the very limited role of the UN in the Venezuela crisis prevented proper coordination.⁸²

In addition, skepticism about the effectiveness of sanctions policy remains. Beyond the different scopes of international sanctions adopted in Latin America, the EU, and the US, the objective is the same: to promote a peaceful democratic transition through a free and fair presidential election. However, neither the sanctions program nor the recognition of Guaidó has promoted the democratic transition in the short term—Maduro is still in power and the Venezuela crisis is advancing. While not instigating the democratic changes sought, economic sanctions imposed by the United States may have contributed to the acceleration of the collapse of Venezuela's oil industry, creating additional strain on a country already facing a complex humanitarian.⁸³

The COVID-19 pandemic has increased concerns about the impact of economic international sanctions in Venezuela. Although the United States government has clarified that the sanctions program does not prevent humanitarian aid, which has been supplied with very limited scope, the United Nations High Commissioner for Human Rights has been disquieted by the humanitarian consequences of the economic sanctions. At the same time, it is necessary to consider that the United States program has helped to protect Venezuelan assets abroad from legacy creditors and Maduro's regime—a consequence not related to the original purpose of those sanctions. But, in any case, the consequences of the pandemic increase the cost of the economic sanctions, particularly because Maduro is still in power.⁸⁴

The Venezuela crisis shows a turning point in international sanctions in Latin America. Strong defense of the nonintervention principle as a recall of the anti-imperialist principle has given rise to a relative defense that understands that such ideals cannot cover up decimation of constitutional democracy and the violation of human rights, even if the democratic breakdown is caused by progressive authoritarian measures. In this context, the innovative interpretation of the Rio Treaty has demonstrated that it is possible to implement collective sanctions that do not necessarily lead to the suspension of the sanctioned state—the ultimate sanction under the OAS Charter and the Inter-American Democratic Charter.



CONCLUSIONS

The Latin American position toward international sanctions is deeply influenced by the nonintervention principle. Because international sanctions are based on review of domestic affairs, they tend to be considered an inappropriate tool of foreign policy. The only exception has been provisions that restrictively allow collective measures adopted with the purpose to influence political changes in countries facing severe crises, as is regulated in the Rio Treaty and the OAS Charter. Beyond that, Latin American countries prefer a strategy based on diplomatic negotiations rather than sanctions, particularly considering the prohibition of coercive measures adopted in the OAS Charter.

This is why in the Latin American perspective it is necessary to differentiate between international sanctions and diplomatic negotiations. Both are relevant tools of foreign policy, although sanctions are deemed exceptional measures that hinder the nonintervention principle, tolerable only through a collective decision-making process in severe circumstances if diplomatic initiative fails.

The general trend in Latin America is that democratic declines cannot be sanctioned because this will interfere with domestic affairs. The internationalization of the democratization process leads to the recognition of democratic clauses in the Ushuaia Protocols, the Additional Protocol of the Cartagena Agreement to the Andean Community Commitment to Democracy, and, more recently, the Inter-American Democratic Charter. Nonetheless, the actual implementation of those democratic clauses has been quite exceptional, which demonstrates a preference for diplomatic negotiations rather than in sanctions—including those adopted collectively.

The Venezuela crisis is a turning point in this trend. Several details of this crisis should not be overlooked.

First, this crisis was not the result of a sudden event, like a coup, but a consequence of a chain of decisions adopted by the government of Nicolás Maduro since 2016 with the purpose to increase his authoritarian power. Those decisions were adopted through different branches of the government—controlled by Maduro—and therefore should have been protected by the nonintervention principle, as Maduro's regime is still arguing. However, Latin American countries and the OAS “pierced the veil” of domestic sovereignty to challenge those decisions to prevent political decay and a humanitarian crisis.

Second, several Latin American countries adopted unilateral personal sanctions against the Maduro regime. Also, those countries disowned Maduro as president of Venezuela and recognized National Assembly speaker, deputy Juan Guaidó, as interim president of Venezuela—a decision that clearly interferes with Venezuelan domestic affairs.

Third, neither the OAS Charter nor the Inter-American Democratic Charter favored an international policy to address the Venezuela crisis based on sanctions. Despite the 2016 efforts of OAS Secretary General Luis Almagro to implement the charter, the Permanent



Council and the General Assembly preferred an approach based on diplomatic negotiations. After the collective recognition of Guaidó as interim president, the charter's implementation was inadequate: rather than suspend Venezuela, the purpose was to recognize the representation of Venezuela through its legitimate government. Also, suspending Venezuela from Mercosur (in 2017) did not have any relevant effect. Thus, Venezuela was not expelled from the OAS, but Maduro's regime was disowned.

Fourth, the OAS Permanent Council, with the participation of Venezuela's representative appointed by the legitimate government, applied Article 6 of the Rio Treaty to implement personal sanctions against Maduro's officials. It took almost a year after Guaidó's recognition to adopt those sanctions.

Maduro's permanence in power and Venezuela's deterioration—aggravated by the pandemic—have raised some questions about the effectiveness of international sanctions. It is necessary to consider that sanctions are not only tools to promote a democratic transition in Venezuela but also to prevent human rights violations and illicit economic activity (and incidentally, to protect Venezuelan asset abroad). Also, the lack of coordination and delay in implementing international sanctions in Latin America could have diminished the effect of this policy.

Although economic sanctions are contested because of their effect on the humanitarian crisis, personal sanctions are recognized as a legitimate tool of foreign policy to promote the Venezuelan transition. The unparalleled predicament of Venezuela has created a surprising convergence between the United States and Latin America, favoring international sanctions as a tool to address the crisis.

It is hard to determine whether this trend in Latin America is the result of a new interplay between international sanctions and the nonintervention principle. But to move to a more balanced interplay, it will be necessary to realign the OAS Charter with the new democratic clauses established in the Ushuaia Protocols, the Additional Protocol of the Cartagena Agreement to the Andean Community Commitment to Democracy, and the Inter-American Democratic Charter. Also, this charter could be amended to introduce other collective measures different than suspension, as was recognized in the Rio Treaty, that could be embodied in an expanded democratic charter. With a uniform framework derived from the new democratic charter, Latin America will have a better tool to address crises like the one in Venezuela.

Definitive reform, in any case, will require revisiting the nonintervention principle further, now that it has been confirmed the principle cannot be used to ignore gross violations of human rights caused by democratic breakdowns. The original purpose of the nonintervention principle was to protect the self-determination of the free people—and not to protect regimes that violate human rights. International sanctions adopted collectively can be a useful tool to prevent gross violations and restore democratic order as necessary conditions to reestablish self-determination of the free people in Latin America.



APPENDIX

The lack of coordination among the different organizations that have to deal with international sanctions in Latin America impairs an articulated overview of the international sanctions framework. To facilitate better understanding of this disarticulated framework, table 1 summarizes the current international organizations that have to deal with international sanctions, and table 2 summarizes the informal organizations created to address the Venezuela crisis with a diplomatic approach.

Table 1: Organizations created to administer international sanctions

Organization	Year	International sanctions	Authority
Rio Treaty	1947 (amended 1975)	Recall of chiefs of diplomatic missions; breaking of diplomatic and consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed forces.	Meetings of Ministers of Foreign Affairs and OAS Permanent Council
OAS Charter	1948	Suspension from the OAS	General Assembly of the OAS
Ushuaia Protocol	1998 and 2011	Any necessary measure, such as border closings; suspension of air and ground transportation and commercial activities; and other political and diplomatic measures, including suspension from Mercosur.	Unanimous decision of the countries (represented by foreign ministers)
Additional Protocol of the Cartagena Agreement to the Andean Community Commitment to Democracy	2000 (not in force)	Any necessary measure related to the Andean Community framework, such as suspension of the affected state from the bodies of the Andean system or international cooperation projects. The measures could prohibit participation in financial aid and suspend rights derived from the Cartagena Agreement.	Foreign Ministers Council
Inter-American Democratic Charter	2001	Suspension from the OAS	OAS General Assembly

Table 2: Organizations created to promote a democratic approach to the Venezuela crisis

Organization	Year	Countries
The Lima Group	2017	The May 3, 2019, declaration was approved by Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Panama, Paraguay, Peru, and Venezuela.
Int'l. Contact Group	2019	The February 7, 2019, informal meeting of EU Foreign Affairs Ministers included the following countries: Costa Rica, Ecuador, France, Germany, Italy, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, and Uruguay.



NOTES

1. James Dunkerley, ed., *Studies in the Formation of the Nation-State in Latin America* (London: Institute of Latin America Studies, 2002).
2. Among others, see Gerhard Masur, *Nationalism in Latin America: Diversity and Unity* (New York: Macmillan Company, 1966), 227.
3. The traditional definition of the *nonintervention principle* in Latin America is based on the idea that each country, through the sovereignty of the people, has the right to define its own political regime. The “self-determination of the people” has not been interpreted in the sense of a democratic determination but as a political determination according to the domestic decisions of the government. Therefore, even authoritarian governments can claim the protection of the self-determination of the people. See, from a retrospective perspective, Javier Couso, “Back to the Future? The Return of Sovereignty and the Principle of Nonintervention in the Internal Affairs of the States in Latin America’s ‘Radical Constitutionalism,’” in *Constitutionalism in the Americas* (Cheltenham, UK: Edward Elgar Publishing, 2018), 140–154.
4. In this paper, *international sanctions* refer to the coercive measures adopted to restrict or prohibit some actions related to a specific state or nationals from that state or to promote a desirable objective, usually related to the protection of constitutional democracy, human rights, or the security against threats of economic crimes or terrorism. Sanctions are coercive measures because they are imposed against the will of the targeted state. See R. Nephew, *The Art of Sanctions: A View from the Field* (New York: Columbia University Press, 2018), 1–9. From a narrow perspective, international sanctions include economic sanctions—that is, “measures of an economic—as contrasted with diplomatic or military—character taken to express disapproval of the acts of the target or to induce that state to change some policy or practices or even its governmental structure.” See Andreas Lowenfeld, *International Economic Law* (Oxford: Oxford University Press, 2008), 850.
5. Articles 3 and 20 of the OAS Charter differentiate sanctions (or coercive measures) from diplomatic negotiations. While the first is a unilateral decision—adopted individually or collectively—the second is a noncoercive measure. As a principle, international sanctions in Latin America are admitted only in exceptional cases when diplomatic efforts are exhausted.
6. Until the 1990s, sanctions adopted by the UN Security Council were quite exceptional. After that, the Security Council adopted a more dynamic approach. Generally see Ramesh Thakur, *The United Nations, Peace and Security: From Collective Security to the Responsibility to Protect* (Oxford: Oxford University Press, 2017), 135.
7. As later explained, Article 20 of the OAS Charter prohibits the coercive measures adopted by states.
8. Generally see Laurence Whitehead, “Democratic Regions, Ostracism, and Pariahs,” in *The*



International Dimensions of Democratization: Europe and the Americas, ed. Laurence Whitehead (Oxford: Oxford University Press, 2001), 395–412.

9. The doctrine was named after Carlos R. Tobar, the former foreign minister of Ecuador, who proposed in 1907 the nonrecognition of de facto governments. Central American countries defended the doctrine in two conferences held in Washington, DC, in 1907 and 1923. See C. Stansifer, “Application of the Tobar Doctrine to Central America,” *Americas* 23, no. 3 (1967): 251–272.
10. The doctrine was named after Gerardo Estrada, then Mexican secretary of foreign relations, on September 27, 1930. It stated that Mexico would not question new governments that came into power by military revolutions or other similar means. See P. Jessup, “The Estrada Doctrine,” *American Journal of International Law* 25 (1931): 719.
11. Tom Long and Max Friedman, “The Promise of Precommitment in Democracy and Human Rights: The Hopeful, Forgotten Failure of the Larreta Doctrine,” *Perspectives on Politics* (2019): 1–16. On October 19, 1945, the foreign minister of Uruguay, Eduardo Rodríguez Larreta, sent a note to the United States ambassador arguing that the nonintervention principle should not be used to cover human rights violations by authoritarian regimes.
12. According to Betancourt, Venezuela could maintain foreign relations only with democratic governments, rejecting nondemocratic regimes, particularly those derived from revolutions. See M. Romero, *Venezuela en Defensa de la Democracia 1958–1998: El Caso de la Doctrina Betancourt* (Caracas: Fundación para la Cultura Urbana, 2005).
13. Convened by former US president Franklin Roosevelt, the Inter-American Conference for the Maintenance of the Peace in Buenos Aires, Argentina, in 1936, reinforced the nonintervention principle, supported even by the US government. Previously, the Convention on Rights and Duties of States, signed at Montevideo in 1933, adopted a definition of state based in the sovereignty—as the power to exclude any foreign interference in domestic affairs. See “The Inter-American Conference for the Maintenance of Peace,” *World Affairs* 99, no. 4 (1936): 199–201.
14. The Rio Treaty was subscribed in 1947 in the context of the Pan-American Union, the organization that later evolved into the OAS. As a result, in 1975, the treaty was amended to assign to the General-Secretary the competencies related to the deposit of the treaty, while the Permanent Council was designed as the competent body to organize the consultations in case of a treaty breach. The amendment, however, never entered into force, although the OAS is in charge of the administration of the treaty.
15. The Rio Treaty has been a controversial pact since it was deemed a tool of US intervention in the region, a sort of return of the Monroe Doctrine, which excluded the European intervention in Latin America while promoting—in some sense—US intervention.
16. As noted in the preamble, the treaty reaffirms “and strengthens the principle of nonintervention as well as the right of all states to choose freely their political, economic and social organization; and to recognize that, for the maintenance of peace and security



in the Hemisphere, it is also necessary to guarantee collective economic security for the development of the American States.”

17. The extreme situations are related to acts of aggressions that impair “the inviolability or the integrity of the territory or the sovereignty or political independence of any State Party.”
18. Pursuant to Article 6, the Rio Treaty also applies “if the inviolability or the integrity of the territory or the sovereignty or political independence of any American State” is “affected by an aggression which is not an armed attack or by an extra-continental or intra-continental conflict, or by any other fact or situation might endanger the peace of America.”
19. The Permanent Council of the OAS can act as provisional Organ of Consultation. Any consultation request in case of a treaty breach should be filed before the Permanent Council.
20. Bolivia, Ecuador, Nicaragua, Mexico, and Venezuela denounced the treaty. In 2019, Venezuela signed the treaty again, after the recognition of Juan Guaidó as interim president.
21. See <http://www.oas.org/juridico/english/sigs/b-29.html#Ecuador>.
22. C. Brown-John, “Economic Sanctions: The Case of the O.A.S. and the Dominican Republic, 1960-1962,” *Caribbean Studies* 15, no. 2 (1975): 73-105.
23. See the documents of the meeting here: <http://www.oas.org/consejo/MEETINGS%20OF%20CONSULTATION/Actas/Acta%208.pdf>.
24. During the meeting, Resolution I was approved regarding the “communist offensive in America.” Also, Resolution VI was approved regarding “the exclusion of the present Government of Cuba from participation in the Inter-American System” based on the intervention or threat of intervention “of extracontinental communist powers in the hemisphere,” and also considering that “the present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology.” Finally, Resolution VIII, Economic Relations, approved the suspension of trade in arms and implements of wars with Cuba.
25. Mexico, for instance, considered that it was not possible, from a legal perspective, to suspend a country according to the Rio Treaty. It is important to recall that during the meeting Resolution III was approved; it said the nonintervention principle should be interpreted in accordance with the self-determination of the people expressed through free elections. This was a similar approach to the Betancourt Doctrine.
26. In 1964, during the Ninth Meeting of Consultation in Washington DC, the Organ of Consultation declared that Cuba was responsible for acts of aggression against Venezuela, and consequently, adopted international sanctions—mainly the rupture of diplomatic and consular relations as well as the trade suspension. See <http://www.oas.org/consejo/MEETINGS%20OF%20CONSULTATION/Actas/Acta%209.pdf>.
27. The “Bolivarian Alliance for the Peoples of Our America” was an international alliance promoted by Chávez to reinforce the nonintervention principle in the region through an anti-imperialist approach to foreign relations. See J. Black, N. Hashimzade, and G. Myles,



- “Bolivarian Alliance for the Peoples of Our America,” *A Dictionary of Economics* (2017).
28. “OAS revokes resolution suspending membership of Cuba in the Inter-American System,” June 3, 2009, https://www.oas.org/en/media_center/press_release.asp?sCodigo=GA-12-09.
 29. The so-called Clinton List or Specially Designated Nationals and Blocked Persons List, administered by the Office of Foreign Assets Control (OFAC) of the US Department of Treasury, prohibits economic activities in the United States or with US persons. Originally it was implemented through Executive Order 12978 of October 24, 1995, “Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers.”
 30. Samuel Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman, OK: University of Oklahoma Press, 1991), 85–100.
 31. In 1991, Argentina, Brazil, Paraguay, and Uruguay signed the Asunción Treaty that created Mercosur, an economic integration organization aimed to promote international commerce and investments. In 2012, Venezuela was admitted as a contracting state. See <https://www.mercosur.int/quienes-somos/en-pocas-palabras>.
 32. Bolivia and Chile also subscribed to the protocol. See http://www.mercosur.int/msweb/portal%20intermediario/es/archivos/destacado4_es.doc.
 33. Bolivia, Chile, Colombia, Ecuador, Peru, and Venezuela also signed the protocol. See http://www.mercosur.int/innovaportal/file/2485/1/ushuaia_ii.pdf.
 34. The Mercosur Council is the highest authority of Mercosur. The Foreign Relations and Economy Ministries are part of the council.
 35. In 1998, Bolivia, Colombia, and Ecuador signed the protocol, while Peru signed it in 2000.
 36. In 1969, Bolivia, Colombia, Ecuador, Peru, and Venezuela signed the Cartagena Agreement that created an economic integration organization that has evolved into a supranational organization. See <http://www.comunidadandina.org/Seccion.aspx?id=189&tipo=QU&title=somos-comunidad-andina>. In 2006, Venezuela denounced the Cartagena Agreement.
 37. See http://www.sice.oas.org/CAN/Protdemc_s.asp.
 38. In the Brasilia Declaration (2000), the heads of state of South America declared that the preservation of the rule of law and democracy are common values and necessary conditions to participate in international summits. They also considered that, in case of a breakdown of the democratic order, it will be necessary to promote political consultation to address the situation. See <http://integracionsur.com/wp-content/uploads/2016/11/CumbreSudamericanaBrasilia2000.pdf>.
 39. In 2012, Lugo was impeached. One week later, the state members suspended Paraguay because they thought the impeachment was an arbitrary decision. See “El Mercosur suspendió a Paraguay y oficializó el ingreso de Venezuela” (“Mercosur suspended Paraguay and formalized the inclusion of Venezuela”), *La Nación*, June 29, 2012, <https://>



www.lanacion.com.ar/politica/cumbre-mercosur-cristina-kirchner-paraguay-nid1486249.

40. See <https://www.oas.org/juridico/spanish/res-1080.htm>.
41. The charter was approved on September 11, 2001, during the OAS General Assembly meeting. It was signed by Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, United States, Uruguay, and Venezuela.
42. The charter can be applied to promote diplomatic and political solutions to crises that threaten the democratic order or can be implemented to decide the suspension as a unilateral and coercive measure adopted by the General Assembly. While the charter has been implemented for diplomatic measures in several cases, in only one case has it been implemented to decide the suspension. In 2009, in the middle of a political crisis, Zelaya was removed from office by the armed forces in a very confusing event. As a result, Honduras was suspended but later readmitted after a free presidential election. See Rubén M. Perina, “Los Desafíos de la Carta Democrática Interamericana,” *Estudios Internacionales* 44, no. 173 (2012): 7–36.
43. The *deference standard* is based on the tense interplay between nonintervention principle and democratic values. As highlighted by the Inter-American Democratic Charter preamble, “one of the purposes of the OAS is to promote and consolidate representative democracy” but “with due respect for the principle of nonintervention.” There could be a sort of contradiction here: while nonintervention tends to prohibit any review of domestic affairs, protection of the democratic values is possible only after a review of domestic affairs—to declare the breakdown of democracy.
44. The *diplomatic initiatives* are basically diplomatic negotiations or noncoercive measures compatible with the nonintervention principle. Therefore, as reflected in the charter, the foreign policy in Latin America is based on the preference of diplomatic negotiations and, as extreme measures, international sanctions adopted collectively.
45. Generally see Allan Brewer-Carías and Carlos García Soto, ed., *Estudios Sobre la ANC y Su Inconstitucional Convocatoria* (Bogotá: Temis-Editorial Jurídica, 2017).
46. On May 31, 2016, the OAS secretary-general requested a meeting of the Permanent Council to debate the Venezuela crisis. See “Secretary General invoked Democratic Charter and convened Permanent Council on Venezuela,” OAS, May 31, 2016, https://www.oas.org/en/media_center/press_release.asp?sCodigo=E-068/16.
47. The basis of this policy is Executive Order 13692 of March 8, 2015, “Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela.” The policy based on economic sanctions started with Executive Order 13808 of August 24, 2017, “Imposing Additional Sanctions with Respect to the Situation in Venezuela.” See <https://www.treasury.gov/resource-center/sanctions/programs/pages/venezuela.aspx>.
48. See Luis Almagro, *La crisis de la Democracia en Venezuela, la OEA y la Carta Democrática Interamericana: Documentos de Luis Almagro* (Miami: Editorial Jurídica Venezolana



Internacional, 2017).

49. The responsibility to protect is a general political commitment that has been developed under the framework of the UN. That principle tends to prevent gross human rights violations by rogue and predatory governments. See Richard Barnes and Vassilis Tzevelekos, “Beyond Responsibility to Protect,” in *Beyond Responsibility to Protect*, (Cambridge: Intersentia, 2016), 7–20. That principle has been invoked to justify military interventions or more coercive measures as an attempt to address the Venezuela crisis. See Adrian Gallagher, “We need to understand the Responsibility to Protect before we (mis)apply it in Venezuela,” March 11, 2019, <https://blogs.lse.ac.uk/latamcaribbean/2019/03/11/we-need-to-understand-the-responsibility-to-protect-before-we-misapply-it-in-venezuela/>.
50. In March 2017, the Supreme Tribunal stripped all the authority of the National Assembly, and in May, Maduro convened an unconstitutional “constituency assembly” to assume legislative power. Those events triggered mass protests that Maduro repressed. See Inter-American Commission on Human Rights, *Institucionalidad Democrática, Estado de Derecho y derechos Humanos en Venezuela*, 2017.
51. See the text of the speech can be seen here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-032/17.
52. In Lima, Peru, the Foreign Relation Ministries of Argentina, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Mexico, Panama, Paraguay, and Peru subscribed a declaration about the breakdown of the democratic order of Venezuela. Since then, the Lima Group has acted as an informal organization that promotes a diplomatic solution to the Venezuela crisis. See <https://www.cancilleria.gov.co/newsroom/news/declaracion-lima-8-agosto-2017>. The countries that participate in the Lima Group may vary according to the declaration that is approved. In 2019, Mexico decided not to support the declarations of the group in defense of the nonintervention principle. See “Lima Group says it won’t recognize Maduro’s new term as president of Venezuela,” *Miami Herald*, January 4, 2019, <https://www.miamiherald.com/news/nation-world/world/americas/venezuela/article223932475.html#storylink=cpy>.
53. On August 5, 2017, Venezuela was suspended from Mercosur by the unanimous decision of Argentina, Brazil, Paraguay, and Uruguay. In practical terms, this means that the Venezuelan government cannot participate in any of the bodies and meeting of Mercosur. See the resolution approved that day here: <https://www.mercosur.int/suspension-de-venezuela-en-el-mercosur/>.
54. Although Venezuela was admitted to Mercosur in 2012, it failed to implement Mercosur regulations—a necessary condition to comply with the common economic standards in areas such as commerce, customs, and health regulation. As a result, Mercosur’s regulatory framework was never fully implemented in Venezuela, and the suspension did not have any economic effect. If Venezuela would have been fully integrated, then the suspension could have caused major economic constraints.
55. On May 20, 2018, Maduro called an election in Venezuela in a clear violation of the



- constitutional and international standards of electoral integrity. The electoral council declared Maduro as president, but several countries have rejected that election. See G. Hernández and José Ignacio, “Rigged Elections: Venezuela’s Failed Presidential Election,” The Electoral Integrity Project, May 30, 2018, <https://www.electoralintegrityproject.com/international-blogs/2018/5/30/rigged-elections-venezuelas-failed-presidential-election>.
56. The resolution was adopted on June 5, 2018. See the text here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-032/18.
 57. See <https://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article211577669.html>.
 58. See “Panama Sanctions Venezuela, Including Maduro & 1st Lady Family Companies,” *Latin America Herald Tribune*, March 27, 2018, <http://www.laht.com/article.asp?ArticleId=2453678&CategoryId=10717>.
 59. See “Perú anuncia que no permitirá la entrada al país a Nicolás Maduro” (“Peru announced that it will ban Maduro entry to the country”), January 8, 2019, <https://www.notimerica.com/politica/noticia-peru-anuncia-no-permitira-entrada-pais-nicolas-maduro-miembros-gobierno-venezolano-20190108092800.html>.
 60. See “Chile veta el ingreso a país de 100 funcionarios del Gobierno de Maduro” (“Chile bans the entry of a hundred officials from Maduro’s government”), *Diario El Día*, July 5, 2019, <http://www.diarioeldia.cl/pais/chile-veta-ingreso-pais-100-funcionarios-gobierno-maduro>.
 61. See “Maduro encabeza lista de 200 venezolanos que no pueden entrar al país” (“Maduro in the list of two hundred Venezuelan that cannot enter the country”), *El Tiempo*, January 30, 2019, <https://www.eltiempo.com/politica/gobierno/colombia-prohibe-el-ingreso-al-pais-a-200-personas-cercanas-a-maduro-320994>.
 62. See, for instance, Executive Order 13827 of March 19, 2018, “Taking Additional Steps to Address the Situation in Venezuela.”
 63. See “Explainer: U.S. sanctions and Venezuela’s exports and imports,” *Reuters*, May 2, 2019, <https://www.reuters.com/article/us-venezuela-politics-crude-exports-expl/explainer-u-s-sanctions-and-venezuelas-exports-and-imports-idUSKCN1S82BI>.
 64. The growing discourse based on this principle, however, did not lead to any effective measure, not even in terms of humanitarian action. See Aidan Hehir, “The Responsibility to Protect and Venezuela,” Berkley Center of Georgetown University, April 8, 2019, <https://berkleycenter.georgetown.edu/responses/the-responsibility-to-protect-and-venezuela>. The application of this principle is challenged with the nonintervention principle and the rights of Venezuela to solve its own problems. See, for instance, the Cuba position in the Security Council meeting on February 26, 2019: <https://www.un.org/press/en/2019/sc13719.doc.htm>.
 65. See “Venezuela’s Presidential Crisis and the Transition to Democracy,” <https://www.csis.org/analysis/venezuelas-presidential-crisis-and-transition-democracy>.



66. See “Venezuela: 65 countries support Guaido, while UN backs Maduro,” *Al Jazeera*, February 15, 2019, <https://www.aljazeera.com/news/2019/02/venezuela-65-countries-support-guaido-backs-maduro-190215134801090.html>.
67. See “Permanent Council Accepts Appointment of Designated Permanent Representative of Venezuela’s National Assembly to the OAS,” OAS, April 9, 2019, http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-019/19.
68. That day, the General Assembly recognized the representative of Venezuela appointed by the National Assembly; Bolivia, Guyana, and Mexico rejected the resolution, while Uruguay did not participate. See the resolution here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-013/19.
69. The decision was approved by Argentina, Bahamas, Brazil, Canada, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Jamaica, Panama, Paraguay, Peru, St. Lucia, and the United States against Antigua and Barbuda, Bolivia, Dominica, Grenada, Mexico, Saint Vincent and the Grenadines, Suriname, Uruguay, and Venezuela. Barbados, El Salvador, Guyana, Nicaragua, Saint Kitts and Nevis, and Trinidad and Tobago did not vote. See <https://www.larepublica.co/globoeconomia/consejo-permanente-de-la-oea-acepto-a-gustavo-tarre-briceno-como-embajador-ante-el-organismo-2849624>.
70. See the resolution here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-013/19.
71. About collective nonrecognition and sanctions, see James R. Crawford, ed., *Brownlie’s Principles of Public International Law* (2012), 155–157, retrieved from <http://opil.ouplaw.com/view/10.1093/he/9780199699698.001.0001/he-9780199699698>.
72. “Guaidó says opposition overestimated military support for uprising,” *Washington Post*, May 4, 2019, https://www.washingtonpost.com/world/need-more-soldiers-venezuelas-guaido-says-opposition-overestimated-military-support-before-failed-uprising/2019/05/04/72561cb8-6e8b-11e9-bbe7-1c798fb80536_story.html?utm_term=.617625cae76e.
73. In July 2019, the National Assembly authorized the signature of the Rio Treaty. As a result, Venezuela again became a state party. See: “Venezuela rejoins regional defense treaty but Guaido warns it’s no ‘magic’ solution,” *Reuters*, July 23, 2019, <https://www.reuters.com/article/us-venezuela-politics/venezuela-rejoins-regional-defense-treaty-but-guaido-warns-its-no-magic-solution-idUSKCN1UI2JX>.
74. See the resolution here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-065/19.
75. See the resolution here: https://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-018/19.
76. See the resolution here: https://www.oas.org/es/centro_noticias/comunicado_prensa.



[asp?sCodigo=D-027/19](#). The Organ of Consultation instructed the authorities of the governments to adopt travel and migration bans as well as investigations of financial intelligence.

77. The International Contact Group on Venezuela was created in an informal meeting of EU Foreign Affairs Ministers that took place January 31–February 1, 2019, in Bucharest, Romania. The group is based on two principles: (1) the presidential elections held on May 20, 2018, were “neither free, fair, nor credible, lacking democratic legitimacy, and strongly called for the urgent holding of free, transparent and credible presidential elections in accordance with internationally democratic standards and the Venezuelan constitutional order;” and (2) the National Assembly is “the democratic, legitimate body of Venezuela.” See European External Action Service (EEAS), “International Contact Group on Venezuela, February 4, 2019, https://eeas.europa.eu/headquarters/headquarters-homepage/57639/international-contact-group-venezuela_en.
78. In February 2019, the International Contact Group held a meeting in Uruguay. In the final statement of the meeting, the group concluded that the solution to the Venezuela crisis should be a fair election. That statement was signed by Costa Rica, Ecuador, France, Germany, Italy, the Netherlands, Portugal, Spain, Sweden, the United Kingdom, and Uruguay. See the statement here: https://eeas.europa.eu/headquarters/headquarters-homepage/57788/international-contact-group-%E2%80%93-meeting-7-february_en. In a statement dated May 3, 2019, the Lima Group proposed a coordinated strategy with the International Contact Group. See the statement here: <https://cnnespanol.cnn.com/2019/05/03/la-declaracion-completa-del-grupo-de-lima-sobre-la-tesis-en-venezuela/>.
79. On November 13, 2017, the European Council introduced sanctions against Venezuela, including an embargo on arms and on equipment for internal repression, and a travel ban and an asset freeze on 25 officials who were “considered responsible for human rights violations as well as for undermining democracy and the rule of law in Venezuela.” See the resolution here: <https://www.consilium.europa.eu/en/policies/venezuela/>. But the goal is to promote a negotiated and electoral solution. As was summarized December 21, 2019, by High Representative Josep Borrell, “Only a democratic path will sustainably resolve the Venezuela crisis and bring an end to the suffering of the population.” See the declaration here: <https://www.consilium.europa.eu/en/press/press-releases/2019/12/21/venezuela-declaration-by-the-high-representative-josep-borrell-on-behalf-of-the-eu-on-the-latest-developments/>. This strategy has been reiterated. For instance, see: European External Action Service (EEAS), “Venezuela: Meeting of the Senior Officials of the International Contact Group,” June 24, 2020, https://eeas.europa.eu/headquarters/headquarters-homepage/81513/venezuela-meeting-senior-officials-international-contact-group_en.
80. See Executive Order 13857 of January 25, 2019, “Taking Additional Steps to Address the National Emergency with Respect to Venezuela.”
81. See Executive Order 13884 of August 5, 2019, “Blocking Property of the Government of Venezuela.” The government of Venezuela was defined in a broad perspective, including the legitimate government of Guaidó. For that purpose, the Office of Foreign Assets Control issued General License 31 that excludes from sanctions the government offices



under control of Guaidó—although the assets of Venezuela are blocked.

82. With the notable exception of the reports of the High Commissioner of Human Rights (see “UN Human Rights report on Venezuela urges immediate measures to halt and remedy grave rights violations,” July 4, 2019), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24788&LangID=E>, the UN has been silent regarding the Venezuela crisis. This could be explained because Maduro’s regime is still the recognized government in the UN.
83. For instance, with a critical approach, see Mark Weisbrot and Jeffrey Sachs, “Economic Sanctions as Collective Punishment: The Case of Venezuela” (April 2019), <http://cepr.net/publications/reports/economic-sanctions-as-collective-punishment-the-case-of-venezuela>. An accurate reply is in Ricardo Hausmann and Frank Muci, “Don’t Blame Washington for Venezuela’s Oil Woes: A Rebuttal” (May 2019), https://www.americasquarterly.org/content/dont-blame-washington-venezuelas-oil-woes-rebuttal?utm_content=buffer1c9e4&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.
84. See United States Department of Treasury, August 6, 2019, “Treasury Underscores U.S. Commitment to Humanitarian Support for Venezuelan People,” <https://home.treasury.gov/news/press-releases/sm752>. According to the High Commissioner for Human Rights, “with regard to economic and social rights, the imposition of new economic sanctions is concerning, notably those affecting airline CONVIASA, as well as sanctions on the oil industry, which reduce the Government’s resources for social spending” (Oral update on the human rights situation in the Bolivarian Republic of Venezuela, March 10, 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25699&LangID=E>). On December 9, 2019, OFAC clarified that “a specific license from OFAC is required for the entry into a settlement agreement or the enforcement of any lien, judgment, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to the Venezuela Sanctions Regulations.” As a result, legacy claimants were barred from any attachment measure against properties of the Government of Venezuela in the United States.” Consequently, sanctions work as protective measures of the Venezuelan assets before the legacy claims.



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