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**Safeguarding Democracy?
The regional Democratic Charters
and their (lack of) application in
Venezuela's Crisis**

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Safeguarding Democracy?

The regional Democratic Charters and their (lack of) application in Venezuela's crisis

Carolina Zaccato¹

Abstract

This work draws a comparison between the democratic charters from OAS, UNASUR, and MERCOSUR, analyzing what they understand by 'rupture of the democratic order', what mechanisms for action they establish in order to mediate in case a democratic crisis should arise in the region, which are the similarities and differences between the three instruments, and which are the potential opportunities for improvement within these legal frameworks. Moreover, this article discusses the regional responses towards the political and humanitarian crisis in Venezuela, taking into account the three democratic charters aforementioned, and emphasizing the consequences this crisis can have in terms of regional security and stability, in particular, due to the constant flux of irregular migrants and refugees to neighboring Latin American countries, and to the rest of the region.

Key words

Democratic Charters – OAS – UNASUR – MERCOSUR – Venezuela – International Law – International Security – Refugees

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Introduction

This paper analyzes the democratic clauses of the Organization of American States (OAS), the Union of South American Nations (UNASUR), and the Common Market of the South (MERCOSUR) while putting an emphasis on the place they give to democracy within the regional integration scheme, and what they understand by 'rupture of the democratic order', the key concept to activate a democratic clause and impose sanctions and/or suspend a country from these regional organizations.

Moreover, this work also studies the current crisis in Venezuela as a paradigmatic case in which these regional democratic clauses have the potential to be applied (as it has been in the case of MERCOSUR). In order to do so, we will offer data and a brief analysis of the current situation in Venezuela, as well as the regional spillover effects of this crisis.

The paper is structured as follows: The first section analyses the Interamerican Democratic Charter of the OAS. The second section studies the Additional Protocol to the Constitutive Treaty of UNASUR on Democratic Commitment. The third section focuses on the Ushuaia Protocol on Democratic Commitment of MERCOSUR. The fourth section is devoted to the analysis of the Venezuelan crisis, offering data on poverty, malnutrition, repression, institutional violence, protests, among others. The fifth section studies the regional spillovers of the crisis, focusing on the new Venezuelan migrant waves and the challenges they imply for the recipient countries in the region. Last, the sixth section summarizes the findings and offers some conclusions to this work.

The Hemispheric Regime of Democratic Protection:

The Interamerican Democratic Charter of the Organization of American States (OAS)

The Interamerican Democratic Charter (OAS), approved on September 11, 2001, in Lima, Perú, begins by stating that "representative democracy is indispensable for the stability, peace, and development of the region", and that "one of the purposes of the OAS is to promote and consolidate representative democracy, with due respect for the principle of nonintervention."

The pre-ambulatory clauses of the Charter also recognize that "solidarity and cooperation" among American states and "economic growth and social development" are interdependent with democracy. In addition, they also affirm that "the promotion and protection of human rights is a basic prerequisite for the existence of a democratic society".

The Charter states that “any unconstitutional alteration or interruption of the democratic order in a state of the Hemisphere constitutes an *insurmountable obstacle* to the participation of that state's government in the Summits of the Americas process” (emphasis added).

Moving into the operative clauses of the Charter, it is stated that the peoples of the American hemisphere “have a *right* to democracy” and that their governments have “an *obligation to promote and defend* it” (Art. 1, emphasis added). It is also reaffirmed that “The effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes” of the member states of the OAS (Art. 2).

Then, Article 3 enumerates the “essential elements” of representative democracy:

- “Respect for human rights and fundamental freedoms;
- Access to and the exercise of power in accordance with the rule of law;
- The holding of periodic, free, and fair elections based on secret balloting and universal suffrage as an expression of the sovereignty of the people;
- The pluralistic system of political parties and organizations;
- Separation of powers and independence of the branches of government”

To which Article 4 adds

- “Transparency in government activities, probity, responsible public administration on the part of governments;
- Respect for social rights;
- Freedom of expression and of the press [...]
- The constitutional subordination of all state institutions to the legally constituted civilian authority
- Respect for the rule of law on the part of all institutions and sectors of society [...]

On Art. 7, the Charter, again, establishes a strong nexus between democracy and human rights protection, by stating that “democracy is *indispensable* for the effective exercise of fundamental freedoms and human rights [...]”; and reemphasizing the importance of the inter-American system for the protection of human rights for the consolidation of democracy in the Hemisphere (Art 8). In addition, it affirms that in order to strengthen democracy, it is vital that ethnic, cultural and religious diversity (Art. 9) and workers’ rights (Art 10) are respected.

Regarding the mechanisms of democratic protection, the Charter affirms that the government of a member state can request assistance to the Secretary-General or the Permanent Council when it considers that “its democratic political institutional process or its legitimate exercise of power is at risk” in order to strengthen and preserve its democratic system (Art 17). Additionally, when situations that may affect the development of a member state’s democratic political institutional process or the legitimate exercise of power, such a state can authorize the Secretary-General or the Permanent Council to arrange

visits, undertake a collective assessment of the situation and, if necessary, adopt decisions for the preservation of democracy (Art 18).

The heart of the hemispheric system of democratic protection is Article 19 of the Charter, establishing that:

“[...] an unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, constitutes, while it persists, an insurmountable obstacle to its government’s participation in sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organization, the specialized conferences, the commissions, working groups, and other bodies of the Organization”

In case of a rupture of the democratic order, any member state can call for a Permanent Council meeting to evaluate the situation and adopt decisions to promote the normalization of democratic institutionalism. These decisions may involve “diplomatic initiatives” including “good offices” and convening a “special session of the General Assembly” (Art 20).

If, during this special session, it is determined that a rupture of the democratic order has occurred in a member state, and the diplomatic initiatives prove unsuccessful, the General Assembly 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” (Art 21).

An attentive reader can appreciate that the Charter does not define what it considers to be a “rupture of the democratic order,” nor does it state which actions (or omissions) qualify as a severe violation of the democratic institutionalism. It is because of this that member states confront big challenges when deciding on such cases as they are not provided with a clear bar to measure a potential democratic crisis.

In the case of Venezuela, the nature of the authoritarian regression of the regime makes it difficult to apply the Inter-American Democratic Charter, as it is not easy to pick a single event marking the rupture of the democratic regime, but rather a series of events that, taken together, evidence the breakdown of the democratic institutionalism (such as electoral fraud, human rights violations, disrespect for the electoral calendar, repression, etc.).

In addition to this, it is worth noting that the application of the Charter is, finally, a political matter rather than a technical one as it requires the affirmative vote of two-thirds of the member states, power politics, strategic and contextual alliances, economic (inter-)dependencies, and ideological affinities.

Even if the Charter has not been applied in the current Venezuelan crisis, the Secretary-General, Luis Almagro, has been an active denouncer of the systematic violations to the

democratic processes and human rights in the country, calling member states to condemn the situation in Venezuela. His Fourth Assessment of the Permanent Crisis in Venezuela, Almagro, recalling Article 19, states:

*“This General Secretary understands that the reestablishment of the democratic constitutional order in Venezuela calls for a dialogue between member states and said country, and with the different parties in conflict within said state, but it is its **obligation, responsibility and power** to call attention to the systematic violations to the essential elements and fundamental components to **the effective exercise of democracy** that the Inter-American Democratic Charter states”*
(Almagro, 2017: 4; the translation and emphasis are mine)

However active and vocal Almagro might be, regional organizations are not the bureaucracies. Rather, the member states are the ones that have the decision power to impose sanctions, and within the OAS that 2/3 threshold has not been reached yet. The last vote on Venezuela on the last 19th of June, ended up with 21 affirmative votes (Argentina, Bahamas, Barbados, Belize, Brazil, Canada, Chile, Colombia, Costa Rica, USA, Guatemala, Guyana, Honduras, Jamaica, Mexico, Panama, Paraguay, Perú, Saint Lucy and Uruguay). The negative votes were from Bolivia, Nicaragua, Saint Kitts and Nieves, Saint Vincent and Grenadines, and Dominica. Even more, there was a high number of abstentions, pertaining to Antigua and Barbuda, Ecuador, El Salvador, Granada, Haiti, Dominican Republic, Surinam, and Trinidad and Tobago².

In this vote, it is evident the importance that small Caribbean states acquire - countries that are highly dependent on Venezuelan petrol. In addition, some states that show an ideological affinity with concepts such as direct/participative democracy (as Ecuador and Bolivia) impeded a sanction towards Venezuela to be issued.

The South American democratic protection regime:

The Additional Protocol to the Constitutive Treaty of UNASUR on Democratic Commitment

In its introduction, the Protocol establishes that “the democratic institutions and the unrestricted respect for human rights are *essential conditions* for building a shared future of peace and economic and social prosperity and for the development of the integration processes between the member states” (from here on, translation and emphasis are mine); which is to say that democracy and human rights are viewed as *sine qua non conditions* to regional integration and that commitment towards the strengthening and defense of democracy is “an essential requisite to take part in UNASUR”.

Moving onto the operative clauses, the Protocol shall be applied in case of a “rupture or warning of a rupture of the democratic order, a violation of the constitutional order or any situation that can put into risk the legitimate exercise of power and the democratic

² It is worth mentioning that Venezuela could not take part in the voting, given that Art. 21 of the Interamerican Democratic Charter states that the country being evaluated cannot take part in voting processes on the application of measures in the case that concerns himself.

principles and values” (Art. 1). In such cases, the *pro tempore* Presidency would call an extraordinary session of the Council of Chiefs of State (or, if that option is not available, summit of the Council of Ministers of Foreign Affairs), by the solicitude of the affected state or any other state member of UNASUR (ART. 2). During that extraordinary session it would decide by ‘consensus’ ‘the nature and reach’ of the measures to be applied; ‘*respecting the sovereignty and territorial integrity of the affected state*’ (Art. 3, emphasis added).

The plausible measures that can be adopted by said Council, in the case that a rupture of a democratic order in the affected country had been confirmed, are: ‘(a) suspension of the right to participate in the different bodies and instances of UNASUR and of the rights and benefits that entail the Constitutive Treaty of UNASUR; (b) the partial or total closing of territorial borders, including the suspension or limitation of trade, air and maritime commercial fluxes, communications, provision of energy, services and supplies; (c) to promote the suspension of the affected state in other regional and international organizations; (d) to promote, in front of third countries and/or regional blocs, the suspensions of the rights and/or benefits of the affected state that emanate from the cooperation agreements signed between said state and the third party; (e) the adoption of further political and diplomatic sanctions” (Art. 4). Parallel to this, the Council will interpose its good offices to arrive at a diplomatic solution of the crisis (Art. 5).

MERCOSUR’s democratic clause:

The Ushuaia Protocol on Democratic Commitment

The Ushuaia Protocol begins by stating that the full enforcement of democratic institutions is an “*essential condition* for the development of the integration processes among member states” of this juridical instrument³ (Art. 1, emphasis added).

It also states that the Protocol shall be activated in cases of the rupture of the democratic order in any of the member states (Art. 2); and that, in that case, the rest of the member states will promote consultations among them and with the affected state (Art. 4). In case these consultations prove unsuccessful, the member states will evaluate the nature and reach of the measures to be applied, taking into account the gravity of the situation; which can entail “from the suspension of the right to participate in the different organisms of the integration processes, to the suspension of the rights and obligations that emerge from these processes” (Art. 5). These measures shall be adopted by consensus between member states (Art. 6).

As with the Interamerican Democratic Charter and the Additional Protocol from UNASUR; the Ushuaia Protocol fails to state in a clear way what it understands by

³ Which also comprises Bolivia and Chile.

rupture of the democratic order. Also, similarly to the democratic clause of UNASUR, this Protocol does not define which are the inherent characteristics of a democratic regime, without which we shall consider that the democratic institutionalism of said regime has been broken.

Another important aspect to highlight is the “consensus” criteria adopted in the Protocol of Ushuaia, which contrasts with the 2/3 voting criteria established by the OAS Interamerican Charter. Taking into account that the number of MERCOSUR members is significantly less than that of OAS, it's understandable that this bloc adopts a consensus criterion to make decisions; nonetheless, a consensus always requires that no member state expresses an opinion contrary to the rest, as the suspension could not be made effective if that were the case. Because of this, the consensus criterion requires a high degree of homogeneity of visions between member states in order to activate a democratic clause.

Venezuela has been recently suspended from MERCOSUR because of technical criteria (for not having complied with the requirements imposed to all the new members of the bloc). Before that, MERCOSUR's member states had issued a series of messages condemning the systematic human rights violations in Venezuela and had warned about a potential application of this Protocol towards the government of Nicolás Maduro. Finally, on August 5, 2017, in a meeting between the Ministers of Foreign Affairs, the states that comprise MERCOSUR decided, unanimously, to suspend Venezuela from the bloc, alleging a "rupture of its democratic order".

The road towards the application of the Protocol had begun last April 1, 2017, when the Ministers of Foreign Affairs of the founding members of MERCOSUR invoked the democratic clause after the two judiciary sentences dictated by the Supreme Court of Justice in Venezuela that practically dissolved the National Assembly, taking away its constitutional powers, and thus initiating an institutional breakdown in the country. In the first phase, a consultation process was carried away, to try to reinstate democratic institutionalism in the country. If said mechanism proves unsuccessful, as MERCOSUR's resolution from last August, Venezuela finally gets suspended from the South American bloc.

On MERCOSUR's sanction to the Venezuelan regime, it is worth highlighting a peculiar political juncture in the Southern Cone, which finds governments with similar ideologies among the bloc's member states, and particularly, governments close to the traditional liberal conception of democracy. Even more, the limited number of member states in MERCOSUR raised the probabilities to build a consensus that could eventually lead to the activation of the democratic protection mechanism.

The current state of Venezuela's crisis

The Venezuelan crisis has escalated drastically during the last two years, and particularly after April 1, 2017, when a wave of massive protests was unleashed after the Supreme

Court of Justice tried to dissolve the country's National Assembly.⁴ The Venezuelan regimen answered the protests with a fierce repression, embodied by the National Bolivarian Guard corps.

According to the Venezuelan Observatory on Social Unrest (Observatorio Venezolano de Conflictividad Social -OVCS-), from April 1 to June 19, 2017, there were a total of 2,675 protests. Following the Fourth Report on the Venezuelan Crisis, presented last October by OAS Secretary General, Luis Almagro, government repression left a toll of 130 dead and 16,000 injured. Moreover, according to the same report, there are currently 645 political prisoners in Venezuela (Almagro, 2017: 5). Even before the outburst of the protests that lasted more than one hundred days, the Venezuelan NGO PROVEA had registered 23,227 violations to personal integrity between 2013 and 2016, including aggressions made by public security forces, massive detentions, and illegal searches (PROVEA, 2017a).

Even more, the breakdown of Venezuela's democratic institutionalism does not begin with the decision of the Supreme Court of Justice to close the National Assembly. Following a recent work by Javier Corrales (2017), the author assesses a total of 93 irregularities over the last 22 elections that took place during the nineteen years that the *Chavismo* had been in power (1998-2017). The article enumerates and describes every single one of these 93 irregularities, and it is a vital tool to understand the progressive erosion of the democratic institutionalism in Venezuela.

However, the crisis in Venezuela is not only political-institutional, but it is also, above all, a humanitarian one, with serious consequences in terms of access to food and healthcare. On this matter, the last report presented by Luis Almagro affirms that 54% of Venezuelan children are undernourished. Moreover, 75% of Venezuelans have, on average, lost 19 pounds over the last year (Tankin, 2017). The health panorama is acute as well. Just in 2016, PROVEA processed 4,885 denunciations on this matter (a 31% rise compared with 2015) of which 62% had to do with lack of access to essential medicines, basic medical supplies, medical equipment, and trained medical personnel; while 30% referred to violations of access to adequate and timely medical attention (PROVEA, 2017b). These declines in health urge Venezuelans to acquire medicine and medical supplies at astronomical costs, preventing more than 63% to access them, as they do not count on medical insurance to cover for them nor money to buy them in the illegal market.

Within this scenario, it might be good to recall this phrase pronounced by OAS General Secretary over the situation in Venezuela:

“The breakdown of the constitutional and democratic order by the regime relies on a systematic strategy of human right violations, in a procedure that is common to authoritarian or dictatorial regimes” (Almagro, 2017:5). With this phrase, we can see that,

⁴ This judicial resolution was eventually reversed after Luisa Ortega Díaz, then National Prosecutor, denounced it.

as stated in the regional democratic clauses, the protection of democracy and human rights are always linked to one another.

Venezuela's crisis regional spillover effects

The crisis in Venezuela has worsened as a migratory one, as spillovers that spread throughout the entire region, have developed. The current situation has forced many Venezuelans to migrate to different countries of the region, sometimes as asylees but oftentimes in an irregular condition.

The last report presented by Luis Almagro (cited above) states that *more than two million* Venezuelans have been displaced since the crisis erupted.

As early as 2015, the International Organization for Migration (IOM) had estimated that a total of 606,281 people had fled Venezuela over that year. The World Bank estimated that there were 655,400 people who had emigrated in the same period. This massive exodus has intensified during the last year, following the events of the Supreme Court of Justice trying to dissolve the National Assembly and the referendum to call for a National Constituent Assembly, called by Nicolás Maduro last 30th of July.

During the (symbolic) recall referendum organized by the opposition in Venezuela, on 16th of July, two weeks earlier than the referendum to call a Constituent Assembly, it was estimated that more than 700,000 Venezuelan "voted" outside of their country. In countries such as Argentina, Brazil, Colombia, and Mexico, there were huge lines to the improvised voting polls. This referendum called by the opposition –though lacking any legal backing– has served as a further tool to estimate the number of Venezuelans currently living abroad. A total of 700,000 voters among the region squares well with the prediction of more than two million Venezuelans being displaced.

Let's look at the current situation in some of the countries in the region that have been receiving a big influx of Venezuelan migrants over the last years:

First, **Colombia** has been the major destination of Venezuelan migrants. The numbers speak for themselves: roughly 560,000 Venezuelans have asked for a *Tarjeta Fronteriza* (TMF) to enter Colombia, according to Colombian government authorities. The TMF allows people to enter Colombian soil without having a passport and has been a vital tool for many Venezuelans to cross to the neighboring country and petition for asylum along the 2,200 kilometers of shared border. The TMF has also been used by Venezuelans to buy food and medicine in Colombia and then later return to their home country. However, an increasing number of those who recur to this practice in the past are now choosing not to come back to Venezuela after crossing to Colombia with a TMF. In fact, over the last six years, a total of 348,312 Venezuelans have migrated to Colombia. Almost half of them (164,086 people or 47%) have done so during the last two years. Venezuelans migrating to Colombia do so in a context of extreme socio-economic vulnerability and, to make matters worse, arrive to a Colombian region with high levels of economic informality, unemployment, and narco-trafficking.

The Colombian national government has chosen to make invisible the increasing influx of Venezuelan migrants arriving in the country. It is the local governments that make a census upon these migrants and the civil society organizations who provide them with assistance and support. Even more, the Colombian government has taken steps towards securitizing this problem, by raising the number of deportations. In 2016, more than 6,000 Venezuelan migrants were deported from Colombia (data gathered in Stanley Foundation and CRIES, 2017).

Brazil also shares 2,200 kilometers of border with Venezuela. The Brazilian states of Roraima and Manaus, both located in the northeast of the country, are those in which the Venezuelan humanitarian crisis is strongly felt. Every day, thousands of Venezuelans cross from Santa Elena (Venezuela) to Pacaraima (Brazil) in order to purchase food and hygiene products. Even more, tens of thousands of Venezuelans have migrated to these states, most of them in a situation of high socio-economic vulnerability and with a large percentage of youth, women and indigenous minorities. These kinds of migrants tend to be victims of human trafficking, work and sexual exploitation, and xenophobia. It is also worth mentioning that Roraima and Manaus are economically disadvantaged states, with high rates of unemployment. As a result, the big influx of Venezuelan migrants only aggravates this problem. Up until now, Brazil has shown a lack of political will to find solutions to the massive wave of Venezuelan migrants in its territory. As with what happened in the Colombian case, the Brazilian federal government does not make economic investments to deal with this challenge, so most of the expenses must be affronted by the local governments and councils.

In the case of Argentina, since 2014 the number of Venezuelan migrants that have come into the country has grown exponentially. In fact, during 2016, more than 12,500 solicitudes of temporary and permanent residence permits from Venezuelan citizens have been processed. Thanks to several MERCOSUR agreements, the temporary residence permit (valid for two years) can be easily turned into a permanent residence permit (for a period of ten years). Nonetheless, in practice, there are still many hurdles which make this process more difficult, given that the Venezuelan consulate states often adduces problems with the beech apostille in the passports of those that want to relocate to Argentina, and thus does not grant them the validation letters that are necessary to initiate this process. This leaves many Venezuelans in Argentina in a situation of irregularity (and, therefore, of high social and economic vulnerability). Even though Argentina is not the main recipient of Venezuelan migrants, the number of said migrants have been steadily increasing and, consequently, the country will have to further design policies to assimilate this migratory influx.

It is also worth mentioning that the number of asylum applications made by Venezuelan citizens in the Refugee Agency of the United Nations (UNHCR) has increased exponentially over the last few years, skyrocketing in the year 2016 [see Figure 1 in the Appendix section].

The same trend replies in the case of the United States, where applications for asylum from Venezuelan nationals have also grown exponentially since 2016. According to data

from the Pew Research Center, asylum applications from Venezuelans have increased by 168% from 2015 to 2016, placing Venezuela, with a total of 10,221 in 2016, in the top-three of asylum requesters in the USA, after China (with 11,826) and very close to Mexico (10,749) [see Figure 2 in the Appendix section]. It is worth recalling that, in order to be able to apply for asylum in the United States, one needs to demonstrate suffering from political, ethnic, or religious persecution.

The United States has generally preferred the OAS as the main forum to discuss potential solutions to the democratic crisis in the region. However, facing the inaction of several Hemispheric multilateral organizations, the administration of Donald Trump has turned towards the adoption of unilateral measures, such as, for example, the imposition of economic sanctions to a number of Venezuelan government officials. It has also considered the possibility of initiating an oil embargo on the country, given that the USA represents 75% of the economic revenue obtained by Venezuelan oil exportations (Stanley Foundation and CRIES, 2017). Such a sanction would inevitably provoke an economic default in Venezuela, and thus aggravate its social and humanitarian crisis, leaving a counterproductive net effect.

The same study made by the Pew Research Center (quoted above) states that Spain now numbers 15,000 Venezuelan immigrants, making it the second biggest destination for Venezuelans fleeing their country. At the same time, during the period January-May 2016, 1,040 Venezuelans applied for asylum to the European Union, most of whom did so in Spain. These figures represent a big increase when compared to the 790 Venezuelans that applied for asylum in the totality of 2015, according to data from Eurostat, the EU's statistics agency.

To 'traditional' destinations such as Spain, the United States, Canada, and regional countries such as Argentina, Brazil, Chile, Colombia, and Panama; over the last years, the Venezuelan diaspora has added 'new' destinations such as Ecuador, Peru, Dominican Republic, Uruguay, Aruba, Bonaire, and Curaçao. Moreover, while in the period 2000-2014 the Venezuelan diaspora was highly qualified, usually young professionals of medium and high socio-economic status; over the period 2014-2017 the flux of migration comprises every socio-economic status. For both periods, the ages of the Venezuelan migrants range from 25-40 years, which implies a severe economic loss for Venezuela because this segment represents a big part of its economically active population that is fleeing away (Stanley Foundation and CRIES, 2017).

Latin America and the Caribbean have a highly developed refugee regime, expressed in the Declaration of Cartagena on Refugees (1984). This regime can be activated to provide a framework of normative protection for Venezuelan migrants all over the region. In addition to this, the national governments of each country in the region should design and implement policies to facilitate the registration and census of Venezuelan migrants in a legal irregular status and give them the opportunity to regularize their migratory situation, offering them temporary and/or permanent residence permits. Another important step to facilitate the economic insertion of the Venezuelans that have chosen to migrate over the last few years would be to ease and shorten the process of the recognition

of Venezuelan university degrees, so that the migrants can exercise their profession in their new home, thus not only improving their personal financial situation but also contributing to the economy of the countries that take them in.

**Rethinking the concept of 'democracy':
from the legitimacy of origin to the legitimacy of
exercise**

The crisis in Venezuela presents several characteristics that serve to highlight the necessity for a profound revision and reformulation of the concept of democracy and the regional regimes of democratic protection. It is of utmost importance to debate and rethink these concepts in order to adapt them to the threats of contemporary ruptures of democratic orders that no longer seem to have originated through military coups, but many times created by the democratic governments themselves that, seeking to perpetuate themselves in power, progressively undermine democratic institutions and guarantees.

Instruments such as the Interamerican Democratic Charter have drawn a red line, establishing that 'democracy shall not be touched'; but they have done so with their view set on the rear-view mirror, that is to say, from the historical experience of numerous military coups in the region (Merke, 2016).

Today, no government in our region seems to be willing to cross that red line and give a military coup to perpetuate himself in power. But it does not seem necessary to recur to a coup to achieve such an objective.

Following Fareed Zakaria (2013), democracy does not end in elections, but it entails a series of public liberties. The author differentiates between *liberal* and *illiberal* democracies, in which the latter signal governments that allowed an access to power through free and fair democratic elections (i.e. that has a *legitimacy of origin*), but once it has reached office, it starts to ignore the constitutional limitations to its authority and does not respect the rights and liberties of its constituency (in other words, it lacks *the legitimacy of exercise*).

The current Venezuelan government can be characterized as a hybrid regime, that rose to power through democratic mechanisms and with a massive popular support (legitimacy of origin). Nonetheless, it lacks the legitimacy of exercise, because it comprises fraudulent electoral processes (e.g. numerous denunciations of fraud during the elections for the Constituent Assembly last July and in the regional elections last October), interruptions to previously accorded democratic processes (e.g. the postponement of the election of municipal authorities by the end of 2016, and the several shackles imposed to prevent the realization of the recall referendum), severe attacks on democratic powers (e.g. the Supreme Court of Justice trying to close the National Assembly), a routine repression exercised by the security forces and paramilitary groups aimed at public demonstrations, and the abuses of the freedom of press and speech, and of the most basic human rights.

The regime of Nicolás Maduro violates the rules of the democratic game on a daily basis, but it still needs to recur to the ballot boxes – even if that involves committing fraud – in order to showcase its democratic credentials to the international community. Because of these practices, this kind of hybrid regime camouflages easily into the global scenario and often within the international organizations that seek to protect and promote democracy. This makes it very difficult to condemn and sanction a regime with said characteristics (contrary to those ‘classical’ or ‘pure’ authoritarianism).

The democratic clauses from regional blocs such as OAS, UNASUR, and MERCOSUR are easily activated in cases of clear *coups d'état* (e.g. a military coup that suspends all the constitutional liberties). However, when faced with hybrid regimes like the illiberal democracies that Zakaria defines, which began as ‘full’ democracies but have slowly and progressively eroded every liberty and right of their citizens, these regional democracy protection regimes fall short of accomplishing their mission.

At this point, perhaps the most relevant question is: which is the characteristic event that draws the line between democracies and authoritarian regimes? Following suit, we should also ask: which measures shall be adopted to respond to these hybrid regimes, particularly considering this is a region that highly values the principle of nonintervention in domestic affairs?

It is worth making an effort to comprehend the concept of democracy holistically, going beyond the dimension of its legitimacy of origin. To put it in different words, it is necessary to consider not only if the government got to office by free, fair and competitive elections, but also to include the dimension of the legitimacy of exercise. In order to do so, it must be evaluated whether the government respects the division and separation of powers, the liberties of its constituents, such as freedom to assemble and petition, and their civil and human rights, such as the right to physical integrity and fair trial, among many others. On one hand, the Interamerican Democratic Charter of the OAS makes an explicit mention to all these characteristics of a democratic regime, but then falls short of its task when it does not state in a clear way what it understands by ‘rupture of a democratic order’. On the other hand, democratic clauses like the ones in UNASUR and MERCOSUR protocols do not even mention these characteristics as an integral part of a democratic regime. In those cases, then, it is also necessary to include clear and precise criteria to assess potential cases of ruptures of the democratic institutionalism in any given country.

As the regional spillovers caused by the crisis in Venezuela exemplify, these ruptures of the democratic order are far from being solely a ‘domestic’ issue from the moment they generate a massive influx of irregular migrants seeking for political asylum, physical security, food, medicine, jobs, and stability.

The region must face the current crisis in Venezuela, think of different ways to ease the integration of Venezuelan migrants to their host societies, and also rethink the way it acts (or fails to act) in front of cases of rupture of the democratic order in any Latin American country. Venezuela evidences the necessity to restructure the multilateral instruments for

the protection of the democratic regimes and the regional human rights regimes. It also needs to reassess a wider number of related concepts, such as the responsibility to protect (R2P), and coordinate these efforts with other international forums, regional and international blocs, NGOs, civil society organizations, broader international organisms, etc.

The crisis in Venezuela forces our region to design collective strategies to process these new migratory fluxes, generate alliances that champion International Humanitarian Law, and respond in ways that do not involve a violation of the national sovereignty of a Latin American state and complete inaction.

Appendix

Figure 1:

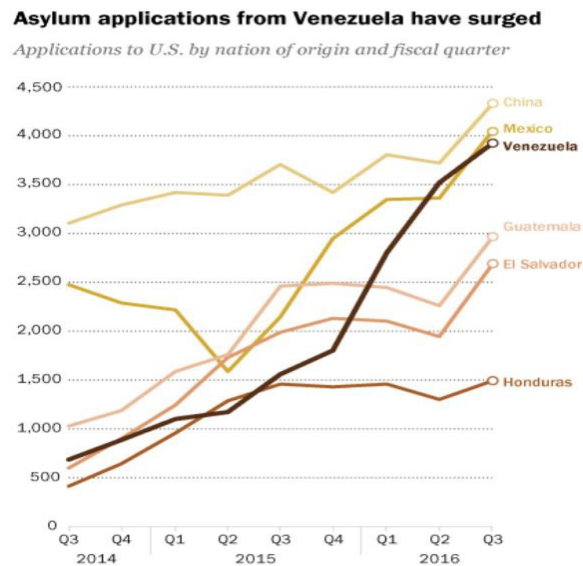
Number of Venezuelan asylum applications - UNHCR



Source: data from UNHCR, quoted in CNN (2017).

Figure 2:

Asylum applications from Venezuela in the USA



Source: Pew Research Center (2016)

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