

The Venezuela Crisis and Latin America's Future:

Toward a Robust Hemispheric Agenda on Democratic Stability

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EXECUTIVE SUMMARY

Venezuela's downward spiral has left the country poised between crisis and collapse.

Over the last three years, the country's economy fell into a depression marked by severe shortages and hyperinflation; social protest frequently erupted into violent instability; and the little that remained of one of Latin America's oldest democracies vanished, yielding an authoritarian regime.

Worse yet, the already acute political crisis took a turn for the worse. The government now openly relies on military force and institutionalized repression to maintain a modicum of stability. The government of President Nicolás Maduro blocked the opposition's constitutional push for a recall referendum, using its control over the judiciary and electoral institutions to suspend a process that mobilized millions. Then, after Vatican- and Union of South American Nations (UNASUR)-sponsored talks between the Maduro Government and the opposition's Mesa de la Unidad (The Democratic Roundtable) coalition broke down, the country's human rights crisis escalated. Among other illegal detentions, the government arbitrarily jailed an elected member of Congress. As the rule of law further collapsed, the number of political prisoners rose to 116. Great uncertainty persists about whether gubernatorial elections postponed in 2016 will take place in 2017. Without any elections this year, Venezuela would likely experience a significant, but ultimately not destabilizing, street clash.

This sharp decline has brought the country, and the hemisphere, to a moment of truth.

Venezuela's descent is the direct result of *chavismo's* failed model. Yet Venezuelans must recognize that crafting a new, sustainable governance framework will require broad-based participation from political and civil society, including chavistas. For the hemisphere, the country's current trajectory constitutes an unacceptable interruption of democracy while the possibility of collapse into civil strife poses an enormous danger for regional stability.

International Pressure: The OAS and Beyond

For the United States, rising to the challenge will require sending a clear message about its support for peaceful, constitutional political solutions in Venezuela and coordinating determined leadership on three fronts: supporting efforts to cut off the government's remaining sources of international legitimacy; marshalling a multilateral coalition to apply pressure on Maduro; and laying the groundwork for facilitating reconstruction assistance. The goal of such efforts should be reestablishing democratic stability in this oil-rich nation of thirty million people that now has a growing diaspora population, roughly half a million of which reside in the United States.

The Secretary General of the Organization of American States (OAS), Luis Almagro, is taking the lead in speaking out about Venezuela's descent into authoritarian rule. His renewed call for holding a vote to apply the OAS Inter-American Democratic Charter (IADC) regarding Venezuela's violations of democratic principles and practice represents a crucial first step. The United States should enthusiastically support these efforts.

The IADC's value is that it embodies an important duality—the possibility of sanctioning a government for the sake of facilitating re-democratization reforms. Ideally, a successful vote to apply the IADC would trigger Venezuela's suspension from the OAS, with this outcome leading to a diplomatic mission regarding reforms the government needs to undertake to re-enter the hemisphere's oldest regional body. Though the evidence of Venezuela's violation of the Charter is overwhelming, the two-thirds support needed to apply the IADC may not materialize. Moreover, suppose Almagro's efforts do in fact receive the needed two-thirds backing to apply the Charter?

The incentives for Venezuela to comply with demands for reentry are not particularly strong. Suspension may result in the Venezuelan government losing access to some multilateral financing, but those funding lines are already closing down due to these institutions' disapproval of the government's authoritarian treatment of the opposition-controlled National Assembly, the constitutional authority charged with reviewing the budget. Moreover, Almagro and Maduro have squared off multiple times in the last two years, and there is virtually zero probability that Maduro begins to view Almagro's efforts as genuinely concerned with re-democratization. Consequently, Maduro may simply cut ties, framing exit from the OAS as a unilateral decision, as close ally Cuba did in 1962.

This scenario raises an important consideration. If Venezuela leaves the OAS in the setting of an impending successful vote for applying the IADC, then the hemisphere will have taken a stand for democracy and a stand against Maduro's authoritarian rule. But the IADC's future as a document embodying dual utility for censuring and promoting reform would be less secure.

With the outcome of the OAS route uncertain, the international community urgently needs to prepare other options. Preventing a collapse into civil strife remains the most critical issue. This means that contingency planning should remain a top priority. However, the risk of collapse does not mean international leadership should be exclusively concerned with promoting talks between the government and the opposition. Rather, the current juncture presents the challenge of creating a new equilibrium marked by improved conditions for the opposition's participation in a future round of dialogue.

Attempting to pressure the Maduro government through targeted sanctions is an option worth considering. However, any consideration of sanctions needs to be mindful that they are tools in the policy toolkit, not a policy. They need to be used sensibly, based on a high targeted impact/low multilateral cost calculus.

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In Latin America, targeted sanctions for human rights abuses and international narcotics trafficking have substantial legitimacy of origin as efforts to uphold the rule of law. But in a region still sensitive about the historical legacies of Monroe Doctrine, their implementation can raise questions about the legitimate boundaries for Washington's exercise of public authority. The blowback potential of sanction action was on display when the Maduro government counter-mobilized UNASUR and CELAC condemnation of the Obama administration's March 2016 invocation of executive authority to sanction, using a legal process that involved deeming Venezuela an "unusual and extraordinary threat to national security" before formally imposing the sanctions.

Fortunately, the Trump administration has the option to employ a new legal basis for employing targeted sanctioning while accomplishing two key related objectives: assuaging concerns about the intentions of such actions and including the voice of the U.S. Congress, where a bipartisan group of legislators has made Venezuela a top priority. The new Global Magnitsky Act allows the U.S. government to sanction human rights abusers without also invoking the National Emergency Act—the clause requiring the executive branch to determine a country's "situation" represents an "unusual and extraordinary national security threat" to the United States.

If the United States pursues further sanctions, then it may consider using the Magnitsky tool, and leverage the much less ominous-sounding language in its application it to seek backing for the action from Latin American countries or the European Union. Furthermore, to show awareness that sanction actions do not themselves constitute a policy, the Trump

administration should step up engagement by supporting Latin American-based diplomatic initiatives and expressing support for the creation of a United Nations Special Envoy for Venezuela.

Hemispheric Interests in Venezuela and the Costs of Collapse

Laying out the costs associated with a collapse into civil strife helps illustrate the urgency of developing a strategy for putting these steps together into a policy plan.

In Latin America, a collapse would trigger greater instability for Venezuela's neighbors: Colombia, Brazil, and the Caribbean. These countries are likely to experience the effects of even higher levels of massive out-migration of Venezuelans under this scenario. The stakes are highest in Colombia, where implementation of the country's recent peace accord has only just begun.

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More broadly, Venezuela's collapse would send a negative message about the broader state of affairs in the region. First, it would strongly suggest that

Latin America cannot solve regional problems through regional diplomatic efforts, which would throw into question the crisis management capacity of regional bodies, particularly for the UNASUR but also the OAS. Second, collapse in Caracas would threaten hard-won hemispheric gains in terms of progress toward a more secure and stable environment for economic and social development.

Globally, a collapse in Venezuela would likely produce three sets of effects: financial panic amid an increased chance of a sovereign debt default, disruption of Venezuelan oil exports, and exacerbation of already complex security challenges regarding transnational crime.

First, a collapse would heighten concern about a debt default, an outcome that would not only impact Wall Street but also other countries. With Chinese and Russian state enterprises extending critical loans to Venezuela, these governments are in a position of strategic leverage with regards to making claims on Venezuela's oil assets in the context of a default. Such claims could also include U.S.-based Citgo, a Venezuelan-owned company of which the Maduro government recently mortgaged 49.9 percent to Russia's Rosneft, in exchange for a \$1.5 billion loan. Second, collapse would roil international oil markets and create challenges for large importers of Venezuela's oil. A disruption of Venezuelan oil exports to the United States would have a significant commercial effect, but no broader national security impact. From 2000 to 2016, Venezuelan oil exports to the United States declined roughly fifty percent—1.54 million barrels a day to 796 thousand barrels a day, according to the United States Energy Information Agency. Venezuelan oil now makes up 9 percent of total U.S. imports. Caribbean and Central American countries that have benefitted from the subsidized oil sales arranged

through Venezuela's Petrocaribe policy (2005–present) have the most at stake. In the context of suspended oil sales, one could expect heightened instability in these countries. Third, a collapse in Venezuela would likely worsen the country's security situation with regards to the ability to fight narcotrafficking, confront organized crime, and protect borders. European countries—mainly Italy, Portugal, and Spain—would be concerned about protecting the estimated eight hundred thousand to one million Venezuelans with European Union passports.

It is encouraging that, as the crisis in Venezuela has escalated, international interest in seeking a resolution has extended well beyond the hemisphere. Likewise, the growing consensus that Venezuela is well off the democratic path, and that the OAS is the appropriate forum for holding Venezuela accountable, is an important positive development. However, regardless of whether efforts at the OAS to apply the Charter are successful, more hard work will remain. To preserve power while it waits out the worst of the crisis, the Maduro government has hunkered down. Placing Venezuela on a path to democratic stability requires determined international leadership from the United States and other key partners in the region and around the globe.

The Venezuelan Crisis and Latin America's Future

This report on the Venezuelan crisis and Latin America's future considers what the United States and the inter-American community, acting diplomatically, including through the Organization of American States, can do in response, specifically with regards to the erosion of democratic norms and practice in Venezuela. The first half of the narrative chronicles Venezuela's descent from a hybrid regime under President Hugo Chávez into an authoritarian regime under Maduro. The narrative tracks this deterioration by examining the expanding scope of disenfranchisement over time. This is linked to a discussion of inter-American community defense of democracy based on a rubric of ordinary and extraordinary violations of democratic norms for exercising power as established in the OAS Inter-American Democratic Charter. It also briefly reviews Secretary General Almagro's 2016 efforts to invoke the Charter and the Maduro government's responses.

To help frame the stakes of this historic moment, the report's second half situates the Venezuelan case in the broader context of inter-American democracy promotion via the OAS. Section 3 recounts the 1990s-era emergence of democracy promotion efforts at the OAS and briefly addresses the relationship between the Peruvian case of Alberto Fujimori's authoritarian rule and the subsequent birth of the Inter-American Democratic Charter (IADC) in Lima on September 11, 2001. It further discusses proposals to reform the IADC, such as developing a more precise definition of what an "unconstitutional alteration" that seriously impairs the democratic order entails, and expanding the powers of the Secretary General. The paper then illustrates a general lesson about the delayed, but real, positive effects of



Graffiti of Hugo Chavez and Nicolas Maduro on a wall in Pampatar, Venezuela 2015. Photo Credit: Shutterstock.com

multilateral democracy promotion. The paper concludes by elaborating on the proposed policy options summarized below.

Policy Options Summary

The chavista model under which Venezuela has been governed for eighteen years (1999–current) is severely discredited; there is a risk of broad-based regional instability from civil strife; and the country’s outlook is highly uncertain. Consequently, the Venezuela crisis is a regional problem.

It is time to recognize that the Venezuela crisis needs more than vigilance. Venezuela needs forward-looking action. A first step for the Trump administration is to officially reaffirm the 2015 pledge made by the United States to “stand by the citizens of countries where the full exercise of democracy is at risk, such as Venezuela” and “work with all governments that are interested in cooperating with us in practical ways to reinforce the principles enumerated in the Inter-American Democratic Charter (IADC).”

The Trump administration can take the next step by building on the bipartisan consensus in Congress that the Venezuelan crisis is a main impediment to hemispheric progress. It can help define a proactive regional agenda by marshalling a multilateral coalition to help improve country conditions so that a peaceful, democratic resolution can be found in Venezuela.

Three policy options for the Trump administration and hemispheric government to place Venezuelan on a path to democratic stability follow.¹ It bears mention that these policy options should be viewed as complementary.

1. Multilateral Democracy Promotion: Applying the Inter-American Democratic Charter

In the context of Secretary General Almagro's renewed call for applying the IADC, the United States should work closely with regional allies to ensure the Charter is at the heart of multilateral efforts to protect and promote democracy in Venezuela. The United States might consider working strategically with moderate regional governments that favor applying the Charter to better reach out to those that have been less open to the idea of applying the IADC regarding Venezuela's violation of democratic principle and practice. Pursuing the OAS route is not certain to result in attaining the votes to apply the Charter and then facilitating re-democratization reforms in Venezuela. But calling for its application may strengthen the consensus that the Maduro Government is authoritarian, and this has broader value for developing new initiatives based on a shared diagnosis of the government's behavior. Furthermore, the costs of non-action are high. Not pressing to hold Venezuela to account would set a very bad precedent. It would send the message that authoritarians may not be held accountable for their actions.

2. Strategic Diplomacy and the Pros and Cons of Sanction Action

The Trump administration should articulate a full-fledged policy and strategy for democratic stability in Venezuela and consult with Latin American and European allies to develop these in a regionally coordinated fashion. Multilateral support for democratic stability in Venezuela is critical to the legitimacy and sustainability of re-democratization. The underlying premise of such diplomatic engagement should be that the United States supports peaceful, constitutional solutions to the Venezuelan crisis. This message is crucial given the Bush administration's tacit support for the coup against Hugo Chávez in 2002.

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Sanctions are an important tool in the policy toolbox, but their effectiveness ultimately depends on their ability to advance a policy. The Trump administration needs to carefully weigh the strategic value of imposing sanctions on the Maduro government. Holding Venezuelan authorities to account for criminal actions, human rights violations, and undermining the rule of law and democratic practice is important, but moving beyond condemnation to articulating a policy with regional support should be the ultimate goal.

The United States might consider use of the Global Magnitsky Act if further sanctions of Venezuelan authorities are deemed necessary. The law specifically

allows the U.S. government to sanction human rights abusers without also invoking the National Emergency Act—the clause that requires the administration to determine that the “situation” in the country in question represents an “unusual and extraordinary national security threat” to the United States. If invoked, the Global Magnitsky law would create greater clarity about U.S. intentions when announcing sanctions.

The possibility of placing sanctions on the state-owned oil industry in Venezuela constitutes one of the most aggressive measures available for attempting to place pressure on the Maduro government. Venezuela exported 796,000 barrels of oil to the United States, the sale of which constituted crucial cash flow for the Maduro government. Sanctioning the oil industry would set a major new precedent. However, it seems highly unlikely. Venezuela’s crisis includes the growing influence of narcotrafficking inside the highest levels of the government and places regional stability at risk but does not threaten the vital national security interests of the United States.

In the meantime, it is important to continue using the Foreign Corrupt Practices Act to ensure that commerce does not illegally benefit Venezuelan government actors. More broadly, U.S. efforts to promote alternative energy sources in the Caribbean and Central America remain crucial for developing sustainable solutions to the problem of dependence on subsidized Venezuelan crude. In this respect, the Trump administration should strongly consider strengthening the Caribbean Security Initiative previously led by Vice President Biden.

To the extent possible given legal and confidentiality restrictions, the Treasury and State Departments should report to Congress on the impact of sanctions already leveled to inform international community stakeholders about the effects these measures have had.

3. International Mediation: Double Down on Mediation by Reframing the Dialogue’s Value

The United States should double down on international mediation by reframing the value of talks and the broader dialogue process. The central goals of mediation efforts should be to help Venezuela avoid civil strife and change the status quo of the government’s authoritarian treatment of all opposition groups, starting with the opposition majority in the National Assembly, by helping restore the constitutionally established checks and balances between the National Assembly and the Executive. For the Vatican-facilitated national dialogue to serve the purposes of both changing the status quo of authoritarian rule, and helping prevent conflict, talks must yield an electoral solution—i.e., dates for the regional and presidential elections established in the Constitution.

Toward these ends, an immediate first step is to explore options for recomposing the team of mediators that are working with the Vatican to support dialogue efforts. The inclusion of statespersons without electoral politics backgrounds would be highly useful for giving the team of mediators added authority and increased legitimacy within Venezuela. Coordinating a recomposed team of mediators would not mean the exclusion of UNASUR. A continued role for UNASUR would help the Maduro government, and the South American community, feel as though their voices and preferences are being represented.

1. CHAVISMO'S AUTHORITARIAN TURN: VENEZUELAN DEMOCRACY COLLAPSES

In a 2000 address to the Community of Andean Nations, President Hugo Chávez effectively placed his cards on the table. Chávez's speech invoked Latin American independence hero Simon Bolívar's vision of democracy as a system of government premised on political order and social stability. A Bolivarian democracy, Chávez argued, was essentially about "happiness for the people, socio-economic security for the people, and political stability for the people."²

Noticeably absent were the linked issues of separation of powers and pluralistic governance. The Bolivarian model evoked comparisons with managed and guided democracies characterized by autocratic rule. To be sure, Chávez made clear he did not believe in liberal democracy or find much worth in its foundational principles. Nor did Chávez show hesitation about implementing his top-down vision. Thanks largely to Chávez's actions, independent powers were neutralized. Moreover, instead of operating as checks on his rule, institutions became politicized instruments of the ruling coalition.

Chávez's First Term: Elections and Political Conflict

Between 1999 and 2006, three patterns dominated Venezuelan politics: an institutional overhaul via the autocratic rule of the charismatic President Chávez; open political conflict, including a failed coup and an economic strike; and heated electoral competition. Together, these patterns yielded a hybrid regime characterized by authoritarian as well as democratic elements. Before the 2002 coup, the Chávez government had made extensive use of decree power, shirked legislative oversight in the course of rewriting the Constitution, restricted judicial independence, placed a halt on decentralization reforms, and took steps to limit the freedom of the press. Of Chávez's strong reactions to the coup, perhaps his most influential action was the one that followed a year and a half later:

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Mural of Hugo Chávez in Mérida, Venezuela. Photo Credit: David Hernández / Flickr / Creative Commons

reorganizing the Supreme Court in 2004. Chávez expanded the Court's size, and proceeded to stack it in his favor by naming new judges to fill the bench. This change resulted in the neutralization of the key check on his power.³

Simultaneously, Chávez won elections by wide margins, including a recall referendum on his mandate in 2004 and the 2005 National Assembly vote in which the opposition abstained. In Chávez's 2006 reelection, international election observers participated for the last time. After the 2006 vote, the country's electoral council implemented a new framework for election monitoring. Termed "international accompaniment," this framework entailed a more symbolic role for international monitors.⁴ Venezuela had functioning competitive elections, but it lacked the checks and balances needed for genuine democratic rule.

Democracy Under Heavy Strain

Despite the government's actions placing democracy under heavy strain, at this juncture there was no compelling case for applying the Inter American Democratic Charter (IADC). Evidence suggested that Chávez's government was unlikely to uphold rules for the democratic exercise of power; but the situation was very fluid and it was not clear that violations amounted to a serious impairment of the democratic order. Moreover, the George W. Bush administration's tacit endorsement of the failed 2002 coup, along with the hemisphere's general rejection of the war in Iraq, created a difficult environment for building inter-American consensus about such a weighty decision. Finally, and perhaps most importantly, application of the IADC for violations of Article 20 would have been at counter-purposes with diplomatic efforts—led in part by OAS Secretary General César Gaviria—to lower tensions between Chávez and the opposition.

Chávez's Second Term: Electoral Enclave in Autocratic Rule

From 2006–2012, opposition political parties fully participated in the electoral processes. They used elections as opportunities to challenge the government about the need for fairer competition in the electoral arena and more pluralistic conditions at the systemic level. The opposition won important elections during this period. But Chávez's reactions to these electoral results, and decisions by government-controlled state institutions, which are spelled out below, yielded episodic examples of selective disenfranchisement.

In 2007 Chávez lost a key vote. A referendum on reforming the Constitution, a step that Chávez argued was necessary to build Bolivarian Socialism, was defeated by a 1.4 percent margin. The result shocked the government but, crucially, did not cause a course correction. In fact, Chávez used an expletive to describe the loss as "something of very poor quality."⁵

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In early 2008, hard evidence of undue restrictions on citizens' right to run for office emerged. The Venezuelan Comptroller General published a list of two hundred and sixty citizens disqualified from running for elected office, alleging their involvement in the misuse of public funds.⁶ The government contested claims that the list disproportionately disqualified pro-opposition politicians and that the Comptroller's rulings lacked legitimacy.⁷ Such denials were not very compelling.

The Comptroller General disqualified high profile, popular opposition politicians such as Leopoldo López, the former Mayor of Chacao Municipality in Caracas then running for Metropolitan Mayor of Caracas. Moreover, given that the Chávez government had thorough control of the judiciary, it was not surprising when López's appeals of the Comptroller's disqualification failed to advance through the courts. In its 2009 report, the Inter-American Commission on Human Rights described the "lack of judicial independence and autonomy vis-à-vis political power" as "one of the weakest points in Venezuelan democracy" and went on to question the legitimacy of the Comptroller's rulings, observing that "disqualifications from holding public office were not the result of criminal convictions and were ordered in the absence of prior proceedings, in contravention of the American Convention's standards."⁸ These restrictions on citizens' rights to compete for public office amounted to disenfranchisement. These violations, as well as the controversial decision by the government not to renew the broadcast license of television station RCTV, overshadowed the opposition's political gains.

In early 2009, two highly significant developments took place. In February, Chávez won a referendum vote on eliminating term limits for all offices. The provision violated the spirit of public accountability. For example, the defeated 2007 Constitutional Reform had included

a proposed ban on presidential term limits but, crucially, not on other offices. Chávez had reincorporated the most pivotal question, the one permitting the perpetual continuation of his rule through re-election, in the 2009 vote. Second, in April 2009 Chávez enacted a law that created a parallel authority to the opposition Metropolitan Mayor of Caracas, Antonio Ledezma. The position was filled by presidential appointment. The law essentially stripped Metropolitan Mayor Ledezma of budgetary and other significant governance authorities.

This was not an isolated event. Chávez also appointed parallel authorities that directly competed with elected opposition governors. In the populous state of Miranda, governed by opposition leader Henrique Capriles, the government established CorpoMiranda, a parallel authority to that of the governor that received funds directly from the national government, instead of having resources disbursed to the governor's offices. About these appointments, and others that re-centralized governance for ports and airports, the Inter-American Commission on Human Rights observed "that a series of legal reforms have left opposition authorities with limited powers, preventing them from legitimately exercising the mandates for which they were elected."⁹

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In 2008–2009 Venezuela crossed a threshold into competitive authoritarian rule. Political contestation through elections remained but the electoral playing field was highly skewed.¹⁰ This inequality was symptomatic of a broader problem: institutional power was not fully at play. The ruling party controlled institutional levers—such as the judiciary—and used them for, among other purposes, intimidating elected opposition politicians by threatening them with jail, weakening sub-national authorities, and blocking Parliamentary efforts to check executive power.¹¹ Thus, though the opposition's commitment to electoral participation helped its domestic popularity and boosted its international legitimacy, a hard truth became evident: electoral victories would primarily hold symbolic value.

Despite abusing state power to bolster its incumbent advantage, chavismo's competitiveness declined. It narrowly won—by one percent—the popular vote in the 2010 legislative elections while obtaining a majority in Congress.¹² In 2012 Chávez depended on both a record level of election-year government spending and widespread abuse of state power to help attain a ten percent victory in his reelection bid against opposition Governor Henrique Capriles. The election was a David versus Goliath-like contest.¹³ But, on voting day, the vote was relatively clean and peaceful.

Democracy Imperiled

Context is crucial for painting a full picture of the state of democracy at the end of Chávez's second full term. Comprehending this context requires performing some basic addition—that is, considering the accumulation of violations during Chávez's first and second terms.



Caracas, Venezuela. Photo Credit: Shutterstock.com

The accumulation of ordinary violations of democratic rules for the exercise of power (e.g., neutralized independent powers, restrictions on the freedom of the press, extensive use of decree power, centralization, a politicized judiciary), alongside some extraordinary violations (e.g., voter disenfranchisement), suggested a sharp deterioration in conditions for democracy. By 2009, the Chávez government had imperiled democracy.

International outcry about its deterioration resulted in pressure on then-OAS Secretary General José Miguel Insulza to take a stronger stand. Insulza, serving his second term (2005–2010; 2010–2015), spoke out about arbitrary detentions of high profile figures and politicians. He also publicly questioned whether Chávez’s request of 18 months of decree power, passed by the lame duck Congress in 2010, was in the spirit of the Charter.¹⁵ Insulza did not, however, take the next step of invoking the Charter on his own.

If Insulza had invoked the Charter, he might have satisfied critics. Following a strict interpretation of Article 19, Charter application would have been justified. Beyond the abuse of power, Chávez’s government began to disable the opposition by disenfranchising some of the top anti-government politicians and hindering elected opposition officials’ abilities to rule based on the popular mandate they received at the ballot box.

However, it is highly unlikely that the Charter’s application at the time would have been backed by two-thirds of OAS member states, as is needed to suspend a member. Chávez’s Petrocaribe program was selling cheap oil to poor Caribbean Basin and Central American countries, and his strong alliances with popular left-leaning governments across the region, helped him construct an international shield against criticism. Moreover, in the broader context of the opposition’s strategic pivot to contest the government via electoral competition, and its control of 65 out of 165 seats in the National Assembly, moderate hemispheric governments favored letting the situation play out electorally.¹⁶ Regional governments wagered that remaining democratic institutions were resilient enough to generate a homegrown electoral solution.

Maduro's Election: Instability and Authoritarian Rule

Hugo Chávez's death—he was officially pronounced dead on March 5, 2013—severely weakened the chavista movement's competitiveness. Chávez's chosen successor, Nicolás Maduro, narrowly won the April 14, 2013, election by a margin of 1.5 percent, as 700,000 votes moved to the opposition. Opposition presidential candidate Henrique Capriles alleged fraud but pulled back from a call for mass street protests, instead only pursuing a legal route to contest the outcome.¹⁷ Later that year, the December 2013 municipal elections shaped up as a plebiscite on Maduro's rule. After trailing in the polls, the government engineered a highly cynical populist ploy with four weeks remaining in the campaign. Arguing that an "economic war" started by the private sector was responsible for sluggish growth, high inflation, shortages, and production bottlenecks, on November 8, 2013, Maduro ordered the armed forces to supervise a "sale"—tantamount to a giveaway—of entertainment and other goods at depressed prices. Maduro called for "nothing to be left on the shelves."¹⁸ The government-imposed "sale," backed by the force of the military, lasted approximately a week.

The ploy provided Maduro a lifeline for vote mobilization efforts. Using the metric of total votes cast for pro-government candidates, the ruling party won eight percent more votes than the opposition.¹⁹ The military-enforced populist measure—known as the *Dakazo* since the operation targeted the Daka electronics good store—demonstrated the extent to which the government was willing to use quick fixes to shape public opinion as well as its reliance on the military to enforce policy decisions and employ coercive measures to buy votes.²⁰

Entering 2014, there already existed grave concern about Maduro's authoritarian turn. In January 2014, government repression of student protests caused tensions to boil over.

A segment of the opposition called for direct action protests framed as part and parcel of the quest to find "*La Salida*"—a term meaning both "The Exit" and "The Solution." Leopoldo López, as well as Caracas Metropolitan Mayor Antonio Ledezma and Congresswoman María Corina Machado, called for scaling up direct action protests.

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Together, they led a mass mobilization on National Youth Day (February 12). The march started peacefully but as it moved toward downtown Caracas it devolved into violence. Three died from bullet wounds during a highly confusing firefight involving state security forces and unidentified groups of hooded gunmen.²¹

López was jailed on February 18. His detention spurred a more intense nationwide cycle of protests that entailed vandalism, 43 deaths (with casualties among pro-opposition and pro-government supporters), an estimated 800 injured, a very heavy dose of state repression that led to 2,000 protestors being detained, and the government clamping down on press freedom.²² This cycle of protests and harsh repression came to a close in April when the opposition's Mesa de Unidad Democrática (MUD) umbrella coalition agreed to hold UNASUR-

sponsored dialogue talks with the government. The talks lasted approximately two months, breaking down without agreements.

Softer forms of repression continued. The government jailed two opposition mayors—Enzo Scarano and Daniel Ceballos—after accusing them of promoting destabilization during the protests. Elections were held to select new officials for these posts but the arbitrary detentions held intrinsic significance.²³ In 2014 opposition figure María Corina Machado was stripped of her seat in the National Assembly and later faced trumped-up charges of conspiring to assassinate the president. In 2015 Venezuela’s intelligence police (SEBIN) arbitrarily detained Mayor Antonio Ledezma on charges of coup plotting. The Machado and Ledezma cases sparked international outrage and deepened the sense of a combined political and human rights crisis.²⁴

In the context of the Maduro government’s increasing repression, in March 2015, the Obama administration imposed targeted sanctions on seven Maduro government officials involved in human rights abuses.²⁵ The president’s executive order put into place the targeted sanctions contained in the Venezuela Defense of Human Rights and Civil Society Act of signed into law by President Obama on December 18, 2015.²⁶ As part of the legalisms involved in issuing this executive order, the Obama administration had to deem Venezuela an “unusual and extraordinary” threat to national security, though the diagnosis was divorced from reality. Thanks in great part to the inflammatory language, there was a strong Latin American backlash against the measure.

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Obama had imposed the sanctions a month before the April Summit of the Americas in Panama. Ahead of the Summit, both the Community of Latin American and Caribbean States (CELAC) and UNASUR issued declarations condemning the sanctions.²⁷ But news of Cuba’s first ever participation in the OAS-organized conference overshadowed the Venezuela issue.²⁸ Thus, after Maduro successfully counter-mobilized support, the sanctions issue faded to the background as U.S.-Cuba relations and Cuba’s reemergence on the OAS agenda moved to the foreground. Three months after the sanctions action, Undersecretary of State Thomas Shannon visited with Maduro government officials to reduce bilateral tensions and preserve a role for the United States in encouraging the country’s leaders to stick to an electoral path.

Elections for the National Assembly took place December 6, 2015. With the government losing popularity amid an economic crisis marked by shortages of basic goods and runaway inflation, the opposition won in a landslide. Its Mesa de la Unidad (MUD) coalition won 56 percent of the popular vote and obtained two-thirds of the seats. According to the Constitution, a two-thirds majority would have given the opposition powers ranging from

removing Supreme Court justices to amending the Constitution and calling plebiscites on pressing matters, including the president's mandate.

Pro-government lawsuits challenged the results in one state (Amazonas) and the Supreme Court immediately ruled in their favor, nullifying the two-third majority. The opposition accepted a qualified majority (60 percent) as the next best thing. The Supreme Court became the government's judicial shield, knocking down every piece of politically significant legislation passed by the Assembly.²⁹ The opposition's power as a congressional majority was strictly symbolic.

The government's authoritarian treatment of the opposition majority in the Assembly set the stage for confrontation over the opposition's proposal to revoke President Maduro's mandate through a recall referendum that relied on citizen petitions. Reliable polling from multiple survey companies indicated that 65 percent of the population were willing to sign a petition for the recall and vote to revoke Maduro's mandate—which would have required obtaining 7,587,533 votes.³⁰ The opposition likely had sufficient backing to turn out the votes, as in fact the initial phases of petition gathering and protest mobilization suggested.³¹ The opposition, however, never received a fair chance to show its muscle. In late October 2016, the government orchestrated a judicial coup against the recall process. It used control of courts at the sub-national level to rule that opposition groups had submitted fraudulent signatures to electoral authorities.³²

Surrounding the recall referendum's suspension, Venezuela's South American neighbors showed their increasing concern with the government's path. The Mercosur trade bloc, whose initial members included Argentina, Brazil, Paraguay, and Uruguay, notified Venezuela that it was in violation of the group's rules on human rights and trade. After Mercosur placed Venezuela on notice regarding its non-conformity in September, and gave Caracas until December 1 to comply, the Maduro government made no real changes. The bloc voted to suspend Venezuela, a move that might not have taken place if a recall referendum had been allowed to proceed.³³

Structural Damage

By the end of 2016, three layers of problems had accumulated:

- Repeated ordinary violations of the democratic order—e.g., neutralized independent powers, restrictions on the freedom of the press, extensive use of decree power, centralization of power in the executive, and a politicized judiciary;
- Episodic extraordinary violations—disenfranchisement in 2009, plus severe human rights abuses against elected politicians in 2014–2015; and
- Continual extraordinary violation of norms regarding the democratic exercise of power

on a nationwide scale—the unjustified nullifications of both the National Assembly’s super majority and institutional power, as well as the illegitimate suspension of the recall referendum process.

- It bears underscoring that the third set of violations in 2016 entailed disenfranchisement on a nationwide level and inflicted structural damage. The government’s actions were in violation of the steps specified in the Constitution for both congressional oversight of the executive branch and the holding of the referendum.
- Consider, for example, what might have taken place had the National Assembly been permitted to exercise its constitutional power, and had the recall referendum process moved ahead in accordance with a fair interpretation of both the Constitution and associated statutes. There likely would have been a national plebiscite on the continuation of Maduro’s rule. Such an electoral event would have provided a special opportunity for a democratic solution to Latin America’s biggest country-level crisis.

2. VENEZUELA AT THE OAS

Given the serious erosion of democratic norms in Venezuela, OAS Secretary General Luis Almagro has undertaken a forceful effort to invoke the IADC over Venezuelan President Nicolás Maduro’s rule. Almagro’s efforts thus far have cast into sharp relief two challenges: generating consensus about defining an alteration of the constitutional order that “seriously impairs the democratic order”; and agreeing on decision-making procedures for proactive efforts by the Secretary General to invoke the Charter.

In his May 31, 2016, letter invoking the Charter, Almagro utilized a broad interpretation of the IADC to justify his actions. He cited a May 5, 2016, internal OAS interpretation of what violations needed to be present to apply the Charter. That interpretation came from the Inter-American Committee of Jurists (IACJ).³⁴ The Committee is part of the Secretary General’s

legal counsel, which also works for the OAS. On the substantive issue of the empirical standard to be met to justify the Charter’s invocation, the Committee ruled that “alterations of the constitutional order that seriously impair the democratic order” refer to “situations which should be determined in light of the validity of the essential elements of representative democracy and the existence of the fundamental components for its exercise.”³⁵ In setting the general principles of representative democracy as the standard to be met, the Committee’s ruling gave Almagro

considerable latitude to define what events in Venezuela constituted such an alteration of the constitutional order. And, in fact, Almagro’s 130-page letter invoking the Charter covers a wide

In setting the general principles of representative democracy as the standard to be met, the Committee’s ruling gave Almagro considerable latitude to define what events in Venezuela constituted such an alteration of the constitutional order.



A protest against the government in Caracas, Venezuela. Photo Credit: GMEVIPHOTO / Shutterstock.com

range of topics—from the country’s economic and social crises to domestic political obstacles and the core institutional problems at the heart of democracy’s breakdown. At the same time, neither the ruling on process from the IACJ nor the Secretary General’s substantive charges resulted in either: a) a careful effort to enumerate the gravest of the violations or b) the establishment of a threshold point at which a cumulative amount of violations yielded broad-based disenfranchisement and thus the conclusion that the government’s actions had resulted in a serious impairment of the democratic order.

On the procedural issue of the decision-making process underlying the Secretary General’s authority to invoke the Charter, the IACJ argued that either a member state or the Secretary General can invoke the Charter. It further noted that it corresponds to the Permanent Council to make a final decision about whether the democratic order is seriously impaired, how the Charter should be applied, and what actions should be undertaken.³⁶

Venezuela’s Response to Secretary General Almagro

The Venezuelan Ambassador to the Organization of American States, Bernardo Álvarez, criticized Almagro’s efforts on two grounds.³⁷ First, Álvarez accused Almagro of abusing his office. Citing the OAS Founding Charter’s emphasis on sovereignty and non-intervention, Álvarez argued that the Secretary General does not possess the authority to invoke the IADC. Second, he denied that an “alteration of the Constitutional Order” that “seriously impairs the democratic order” of Venezuela had taken place.³⁸

Especially with regards to Álvarez’s first criticism, the Venezuelan government’s position received substantial backing from other OAS member states.³⁹ Historical political alliances between Venezuela and ALBA countries like Bolivia, Ecuador, and Nicaragua, and with Caribbean countries such as the Dominican Republic, Haiti, Dominica, and Grenada, help explain governments’ hesitation to side with Almagro’s invocation of the Charter.⁴⁰ But, beyond this juncture, there is a fundamental question of procedure at stake—whether Almagro, in asserting his authority as Secretary General, created a new precedent that will

be accepted by the member states or, instead, that will generate backlash in the form of member states rejecting his reelection to a new term or growing extremely cautious about appointing a Secretary General with an independent streak.⁴¹

Between Disagreement and Dialogue

After the suspension of the recall referendum, Secretary General Almagro rapidly responded with criticism. He described the denial of the process as an “inflection point.” Almagro elaborated by calling for countries of the region to take “concrete actions to defend democracy in Venezuela,” observing that he is “more convinced than ever of the breakdown of the democratic system.” Almagro also made critical remarks about the dialogue initiative led by former presidents José Luis Rodríguez Zapatero, Martín Torrijos, and Leonel Fernández, underlining: “it has failed to prevent institutional breakdown; on the contrary whatever its intentions it has aided the string of obstacles placed before the realization of the recall referendum.”⁴² Two months after calling for a “new mediation” effort that would “[give] moral force to the solutions needed by the Venezuelan people,” Almagro criticized the government for threatening not to recognize the newly appointed opposition leadership of the Congress and sent a more conciliatory message about dialogue efforts, calling on “all parties in the ongoing dialogue, as well as those facilitating it, to find real, specific and urgent solutions, putting first the rights and interests of the people of Venezuela, whose daily suffering should be the first concern to all political officials.”⁴³ While Almagro volleyed this criticism at the Maduro government, the OAS did not hold any new meetings on the Venezuela issue. In the last quarter of 2016, Almagro spent a substantial portion of his time starting a dialogue process between the OAS Secretariat and the recently re-elected Nicaraguan government of Daniel Ortega.⁴⁴

3. UNFULFILLED PROMISE: THE OAS AND DEMOCRACY PROMOTION

In the wake of the Cold War, democracy promotion moved to the center of the inter-American policy agenda. Both transitions to democracy in Latin America and broader shifts in U.S. foreign policy facilitated this new consensus. At the Organization of American States (OAS), this consensus gained formal expression through the adoption of Resolution 1080. Adopted in 1991, Resolution 1080—entitled “Representative Democracy”—called for a collective response to two types of situations: those involving the “sudden or irregular” interruption of either “the democratic political institutional process,” or “the legitimate exercise of power by the democratically elected government.”⁴⁵

The idea of an irregular interruption and the inclusion of a democratic political institutional process as a central element of democratic governance aimed to broaden the basis for collective responses. In this vein, the Resolution’s reference to interruptions of democracy

stemming from the violation of principles for the democratic exercise of power—not just access to power—represented a pivotal step forward for raising the bar for democratic governance. However, the subsequent “Washington Protocol,” which specified procedures for a collective response, only referred to a coup type of interruption—examples in which governments are “overthrown by force.”⁴⁶

The gap between principle and practice was perfectly evident. The international community accepted the premise that democracy could be subverted by elected leaders. But it was on the lookout for one type of interruption: military coups against elected leaders.

Horizontal Accountability: Norms for the Democratic Exercise of Power

Amid growing citizen frustration with elected presidents using and abusing executive power and the slow pace of political change under democracy, debate about the quality of Latin American democracy centered on a central issue: woefully weak checks and balances. Guillermo O’Donnell captured this weakness in terms of horizontal accountability—the checks on presidential power that independent state institutions are supposed to impose.⁴⁷ For policymakers, deficient horizontal accountability synthesized a crucial lesson about democracy beyond elections. Without mechanisms for imposing checks on elected leaders, countries where horizontal accountability is deficient run the risk of two types of backsliding: hyper-presidentialist government or soft authoritarian rule.

These institutional weaknesses were not unique to Latin America. Rather, they were highly indicative of problems observed in new democracies all over the globe. Moreover, the central issue—tensions over holding elected leaders accountable—continued to exist in advanced democracies. Within this context, the challenge for democracy promotion was to diagnose the difference between a growing pain and a debilitating habit. To make better sense of the specific challenge that deficient horizontal accountability poses, a basic distinction about the severity of the problem may be useful. It is crucial to draw a distinction between ordinary and extraordinary violations of norms for the democratic exercise of power.

Ordinary violations of horizontal accountability range from presidents stacking the courts to limiting freedom of the press, shirking legislative oversight, proposing controversial constitutional amendments, and centralizing political authority at the expense of decentralization and the rule of law. These examples entail, or raise the possibility of, the neutralization of independent powers. They are growing pains that can turn into debilitating bad habits.

Without mechanisms for imposing checks on elected leaders, countries where horizontal accountability is deficient run the risk of two types of backsliding: hyper-presidentialist government or soft authoritarian rule.

In contrast, extraordinary violations of horizontal accountability may involve actions ranging from suspending constitutions, dismissing supreme courts, dissolving the legislature, nullifying elections, and ruling by decree with the specific intent of hampering other powers.⁴⁸ These examples entail eliminating the conditions for independent checks on power. They imply a bad habit of anti-democratic behavior that inflicts crippling damage on democratic rule. In drastically lowering the possibility of leaders being held accountable, extraordinary violations undermine core norms regarding the democratic exercise of power. They may indicate a presidential self-coup.

The OAS and Fujimori's "Auto-Golpe"

Peru's Alberto Fujimori (1992–2000) set the benchmark for the modern-day presidential self-coup (*auto-golpe*).⁴⁹ Two years after his election, Fujimori violated a core tenant of the democratic exercise of power: respect for separation of powers. Without any provocation, Fujimori closed Congress in April 1992. Some Latin American governments, including Venezuela, suspended diplomatic relations with their neighbor. Foreign donors such as the United States, key OECD members, and multilateral banks brought development assistance programs to a halt.⁵⁰ The OAS invoked Resolution 1080, calling an emergency meeting of foreign ministers. This resulted in fact-finding missions meant to press Fujimori to restore democracy. Fujimori reopened the Congress but continued to follow an authoritarian script. In 1997 his congressional majority removed members of the Constitutional Court who voiced opposition to a law that allowed Fujimori to run for a third term in office.⁵¹ Unchecked abuses of power became the central political pattern of an authoritarian system.⁵² Though Fujimori faced consequences for his actions, his presidential self-coup did not result in Peru's suspension from the OAS via the application of Resolution 1080. Neither did his government become wholly ostracized.

In 2000 the Fujimori government accepted an OAS electoral observation mission to the presidential elections. Despite the observation mission chief's report indicating the election was neither free nor fair, the OAS General Assembly did not issue a call for Peru to hold a new vote. The Brazilian government of Fernando Henrique Cardoso, the Mexican government of Ernesto Zedillo, and the Venezuelan government of Hugo Chávez explicitly staked out pro-sovereignty positions. In effect, they defended the vote's outcome in Peru.⁵³ Without a consensus to apply Resolution 1080, the OAS instead proposed "Dialogue Tables" to facilitate reforms. The proposal fell on deaf ears within the Fujimori government. But many other stakeholders listened. In late 2000, shortly after the Fujimori government collapsed amid a corruption scandal, dialogue became a key element of support for an orderly, electoral transition.⁵⁴

The Inter-American Democratic Charter

The OAS failed to stop Fujimori from inflicting structural damage on Peru's democracy. However, from this failure emerged the opportunity for strengthening the OAS through reform. The organization needed a more powerful tool than Resolution 1080. The Inter-American Democratic Charter (IADC) became this tool. The IADC, which Peruvian reformer Javier Pérez de Cuéllar took the lead in promoting, established new standards for democratic governance.⁵⁵

The Charter had two central innovations: explicitly raising the bar for democratic governance to include norms regarding access to and exercise of power, and judging the violation of these norms as carrying equal consequence. Signed by 34 countries of the Western Hemisphere on September 11, 2001, in Lima, Peru, the IADC represented a global gold standard in multilateral efforts to promote and defend democracy. Secretary of State Colin Powell remained in Lima on that fateful day, urging regional governments to sign the Charter after news broke of the terrorist attacks in New York and Washington, D.C.⁵⁶ John W. Graham, a leading Canadian diplomat involved in the 2000 OAS electoral mission to Peru, described the document as “a Magna Carta for the Americas.” According to Graham, the IADC represented a “significantly advanced reciprocal contract of peoples with governments.”⁵⁷

Chapter IV of the IADC, which addresses the “Strengthening and Preservation of Democratic Institutions,” contains the key articles (See page 23). Article 1 of the Charter explicitly outlines that the “peoples of the Americas have a right to democracy and their governments have their obligation to promote and defend it.” Article 19 states 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.” An “unconstitutional interruption” of the democratic order is a reference to a classic coup that violates access to power rules while “an unconstitutional alteration” refers to the subtle self-coup that usually involves the president’s violation of the core rule for the democratic exercise of power.⁵⁸

Implementation Mechanisms

In a global moment still characterized by optimism regarding the unfolding post-Cold War transitions, the progressive nature of the IADC charter generated enthusiasm for OAS-based democracy promotion. At the same time, the more conservative roots of the OAS as an organization founded on respect for sovereignty need to be recognized. The IADC Charter is subordinate to the OAS’s founding Charter signed in 1948. That Charter is based on twin principles: collective solidarity and non-interventionism. The IADC’s subsidiary status is crucial

THE INTER-AMERICAN DEMOCRATIC CHARTER (PARTIAL TEXT)

ARTICLE 1: The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it. Democracy is essential for the social, political, and economic development of the peoples of the Americas.

ARTICLE 17: When the government of a member state considers that its democratic political institutional process or its legitimate exercise of power is at risk, it may request assistance from the Secretary General or the Permanent Council for the strengthening and preservation of its democratic system.

ARTICLE 18: When situations arise in a member state that may affect the development of its democratic political institutional process or the legitimate exercise of power, the Secretary General or the Permanent Council may, with prior consent of the government concerned, arrange for visits or other actions in order to analyze the situation. The Secretary General will submit a report to the Permanent Council, which will undertake a collective assessment of the situation and, where necessary, may adopt decisions for the preservation of the democratic system and its strengthening.

ARTICLE 19: Based on the principles of the Charter of the OAS and subject to its norms, and in accordance with the democracy clause contained in the Declaration of Quebec City, 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.

ARTICLE 20: In the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. The Permanent Council, depending on the situation, may undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy.

If such diplomatic initiatives prove unsuccessful, or if the urgency of the situation so warrants, the Permanent Council shall immediately convene a special session of the General Assembly. The General Assembly will adopt the decisions it deems appropriate, including the undertaking of diplomatic initiatives, in accordance with the Charter of the Organization, international law, and the provisions of this Democratic Charter. The necessary diplomatic initiatives, including good offices, to foster the restoration of democracy, will continue during the process.



for comprehending debates over implementation procedure in the context of efforts to hold member states to account. Separate from the substantive matter of what norms need to be upheld is the procedural matter of how violations are brought to the attention of the OAS Permanent Council.

Article 17 is known as the “self-help” provision since it allows a member state to “request assistance from the Secretary General or the Permanent Council to strengthen and preserve the democratic system” if it considers its “democratic political institutional processes or its legitimate exercise of power” to be at risk. Article 18 is known as the “community watch” provision since it allows for the “Secretary General or the Permanent Council, with prior consent of the government concerned, to arrange for visits” to a country where there is a situation that is affecting the development of “democratic political institutional processes or the legitimate exercise of power.” If there is neither member state initiative nor a consensus, then the Secretary General does have an option. Article 20 of the IADC states that “in the event of an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate.” Beyond the convocation of the Permanent Council, Article 20 calls for pursuing diplomacy via the good offices of the OAS and, if conditions warrant, holding a Special Assembly of the General Assembly.⁵⁹

Two highly significant questions arise. To what extent is the Secretary General, as opposed to a member state, able to assert his authority and invoke the Charter himself? And, what are the steps through which the Charter is formally invoked—that is, through a formal written petition or hearing—and then applied and enforced via a vote on a resolution that is either punitive in nature or calls for diplomacy through the OAS Secretary General’s offices?

Limited Implementation

Both member states and the Secretary General have “invoked” the Charter on previous occasions, though the reasons and the decision-making processes varied. César Gaviria, the then-Secretary General of the OAS, invoked the Charter in the aftermath of the failed coup against Hugo Chávez in April 2002. There is some controversy surrounding the fact that Venezuela was not suspended from the OAS during the interim government headed by coup leader Pedro Carmona. When the coup took place, most member states of the OAS also happened to be gathered at a meeting of the Rio Group—an alternative body to the OAS, which excluded Canada and the United States. The Rio Group, which for this specific meeting convened heads of state, issued a declaration condemning the coup. The Group did not call for Chávez to be restored to power, though at the time information suggested he had resigned the presidency. Meanwhile, Gaviria convened a marathon session at the OAS.

Ultimately, Gaviria waited for the presidents' meeting under the auspices of the Rio Group to issue a declaration before calling for a resolution. In that timespan, the Carmona government fell apart and Chávez returned to power, arguably rendering the application of the Charter, at least for punitive purposes, unnecessary.

For its part, the OAS Permanent Council passed a resolution on the matter. Curiously, the resolution called for Gaviria to follow mechanisms in Article 20, which refer to unconstitutional alterations, not interruptions.⁶⁰ The resolution called for Gaviria to undertake a fact-finding mission, which resulted in the OAS playing a two-year long role in facilitating national dialogue.

Member states Nicaragua (2004, 2005), Ecuador (2005, 2010), and Bolivia (2005, 2008) invoked the Charter under Article 17 to request diplomatic assistance from the OAS during moments of institutional turmoil. After the successful coup against Manuel Zelaya in Honduras in 2009, the OAS applied the Charter punitively, voting to suspend the interim Honduran government of Roberto Micheletti.

It is telling that Honduras is the sole example of the Charter's punitive application through the suspension of a member state. Despite the Charter evaluating exercise of power and access to power norms as of equal significance, it has been much easier to generate hemisphere-wide consensus about the facts of the case when events resemble a classic coup. Frustration with this state of affairs is understandable. But we should not be completely surprised that moving from parchment to practice has proved highly challenging. One of the Charter's intellectual authors suspected that promoting democracy would be akin to "trying to build a house from the roof down."⁶¹

Implementation: Challenges and Opportunities for Reform

Reworking Charter language is a good starting place for addressing shortcomings and reenergizing the effort to use the document as an instrument for tracking backsliding and holding governments to account for their behavior.

Shortly after the IADC came into being, political scientist Maxwell Cameron identified two areas of the Charter that could benefit from greater clarity: the standards used for determining what developments constitute an "unconstitutional alteration that seriously impairs the democratic order" and the decision-making process involved in invoking the Charter.⁶² The Charter does not detail empirical standards for reaching a determination on either point.⁶³ It is unrealistic to expect a natural consensus to arise about such a complex standard. Keeping in mind that such determinations cannot be made *a priori* and, thus, that

Reworking Charter language is a good starting place for addressing shortcomings and reenergizing the effort to use the document as an instrument for tracking backsliding and holding governments to account for their behavior.

a hard look at the facts in light of the local political context will always be essential, it may be productive to more precisely define what an alteration of this magnitude entails.

Below—and drawing on Cameron’s summary—are five examples of violations of norms for the democratic exercise of power that fit the category of extraordinary violation. Moreover, they meet the specified standards of constituting an “alteration of the constitutional order” and having impact on the scale of “impairing the democratic order.”

1. **Elections:** “Failure to hold elections that meet generally accepted international standards of freedom and fairness.”
2. **Judicial Independence:** “Arbitrary or illegal appointment, removal, or interference in the appointment or deliberations of members of the judiciary or electoral bodies.”
3. **De Facto Powers:** “Interference by non-elected officials, such as military officers, in the jurisdiction of elected officials.”
4. **Franchise and Popular Sovereignty:** “Arbitrary or illegal termination of the tenure in office of any democratically elected official by any other elected or non-elected official.”
5. **Human Rights:** “Use of public office to silence, harass, or disrupt the normal and legal activities of members of the political opposition, the press, or civil society.”

From Maxwell A. Cameron, “Strengthening Checks and Balances: Democracy Defense and Promotion in the Americas,” Canadian Foreign Policy Journal 10:3, 2003, pp. 101–16.

All these violations break the basic covenant of democracy. They are about much more than electoral competitiveness. They imply or result in not only tilting the playing field in favor of the government but in a dramatic alteration of the core conditions for pluralistic contestation, competition, and accountability—principles upon which democracy depends. This is why they must be understood as extraordinary violations of norms for the democratic exercise of power.

Differentiating and Weighing Extraordinary Violations

Building on these insights, it may also be useful to elaborate clearer indicators of these different violations. For example, it may be difficult to generate agreement about Point 3, that is, what *de facto* powers acting within the jurisdiction of an elected official precisely means and directly entails; and Point 5, or whether human rights violations amount to a “serious

impairment of the democratic order.” More precise descriptions of these violations would advance the quality of debate over whether the violation has taken place. Moreover, it makes sense to consider whether one of these five violations pose a greater threat than the other. In this respect, an important step forward would entail developing a rubric that would a) specify weighted scores for different violations, b) establish whether the accumulation of violations has significance, and c) delineate thresholds for establishing that serious impairment of the democratic order has taken place.

Consider an example of how even among these extraordinary violations one infraction might carry more weight. Arbitrary or illegal termination of an elected leader’s tenure in office or the curtailing of their office’s scope of power is an example of selective disenfranchisement. The nullifying of election results, even when it makes a change only to the kind of majority won by one party, is an example of indiscriminate disenfranchisement. Beyond the rights of the elected official, voters are being directly disenfranchised. From the perspective of the Charter, such disenfranchisement is a more serious violation than both *de facto* powers’ interference in elected officials’ jurisdictions or state human rights abuses. Nullification of an election disregards electoral outcomes, likely indicates a lack of judicial independence, and unjustifiably restricts the political rights of voters and politicians. As such, this norm violation warrants a higher penalty. Moreover, if the election being nullified is national in scope, then it becomes valid to argue a presidential self-coup has taken place.

4. LESSONS LEARNED AND REFORMING THE CHARTER

OAS officials recognize the Charter could be clarified in these two areas: the standards for determining an alteration that results in the serious impairment of the democratic order and the Secretary General’s authority to invoke the Charter. Indeed, the designers of the Charter chose to write a political, not a legal, document. This reflected a widely-held view in the diplomatic community: a flexible framework often provides a better basis for collective action. However, between the poles there may well exist a middle ground.

Efforts to make reforms and find this middle ground are under discussion but have not made much headway. The 2011 OAS Permanent Council Final Report on the Effectiveness of the Charter and expert analysts have noted the practical necessity of further clarifying the empirical standards for determining when “an unconstitutional alteration” constitutes a “serious impairment of the democratic order” and the decision-making process regarding the Secretary General’s authorities.⁶⁴ It would help sharpen the IADC as an instrument that can be used to track how government actions contribute to democratic backsliding and hold member states accountable to their word as adopters of the Charter.

Settling these conceptual matters in a practical fashion might begin with an effort to benchmark violations of democratic norms on a cumulative basis and thereby develop different thresholds for a member-state’s violation of standards. For example, this report

proposes weighing extraordinary violations by differences of degree—e.g., differentiating between disenfranchisement and human rights violations. This could go hand in hand with developing an instrument for evaluating how different violations of the IADC norms have varying impacts on democracy. Similarly, establishing what significance the accumulation of a set of violations has can be illustrated by using the following thresholds: negative impact, serious impairment, and permanent impairment of the democratic order. To monitor erosion and impact it makes sense to issue monitoring reports and warning mechanisms, suggestions also made in the literature on strengthening the effectiveness of the Charter.⁶⁵

Overall, undertaking this iterative analysis has a basic goal. It holds the potential to help better address the puzzle of generating consensus about when an “unconstitutional alteration of the constitutional regime” results in an impairment of the “democratic order.” The key will be housing these efforts in an agency that has widespread legitimacy. Provisionally, analysis could be led by the OAS Secretariat for Legal Affairs, which houses the Inter-American Juridical Committee. Since judgments will have to be made in light of interpretations of facts in complex political contests, such efforts might be complemented by consultations with external experts on democracy and democracy promotion.

A New Balance: Secretary General Authority and Member-State Prerogative

The steps for invoking the Charter could be clearer. For example, it is not crystal clear whether the Secretary General can invoke Article 20, and make the determination that there exists a situation that “may affect the development” of a country’s “democratic institutional processes,” without making an official country visit and issuing a trip report, as suggested in Article 18. The Secretary General has the benefit of multiple sources of verifiable information, including the annual reports from the OAS Inter-American Commission on Human Rights, to make this determination. Nevertheless, following the letter of the law, an argument can be made that a formal mission is necessary prior to invoking Article 20. Such a diplomatic visit requires member country consent.⁶⁶ An official OAS delegation—either from the Secretary General or the Inter-American Commission on Human Rights—last visited Venezuela in 2006 when an electoral observation mission was formally invited by the National Electoral Council to monitor the presidential elections held that year.⁶⁷

Some analysts call for a gradual increase in authority for the Secretary General. This could involve, for example, reforming the IADC to license the Secretary General to visit member states without invitation from host states, invite heads of legislatures to address the Permanent Council at the OAS headquarters, and authorize electoral observation missions without the member-state requesting such a mission.⁶⁸ These proposals aim to strengthen the Secretary General’s powers as part and parcel of a broader commitment to democracy in the region. At the same time, there are inherent limits to international democracy promotion,

which, even as its proponents argue, is a highly imperfect tool.⁶⁹

Arguably, member-states' assertions of sovereignty through demands for non-interference is the principal limitation. Recent historical events shape today's pro-sovereignty positions. Sixteen years ago, presidents Cardoso, Zedillo, and Chávez effectively defended Peru's 2000 vote outcome favoring then-President's Fujimori instead of moving for the invocation of OAS Resolution 1080. That resolution called for a collective response from OAS member states when democratic institutional processes had been violated, as was the case with the Fujimori government's conduct during the campaign.⁷⁰ During that important episode, sovereignty's policy correlate, non-interference, triumphed. However, democracy promotion was not a complete failure.

The inter-American community remained a highly relevant source of reform solutions and diplomatic support for re-democratizing Peru. Subsequent to the non-use of Resolution 1080, international efforts pushed ahead. Dialogue tables that brought together Peruvian reformers and diplomats emerged as part of an effort to re-democratize Peru. The solutions formulated at these dialogue tables helped policymakers and international community members rebuild democratic institutions after Fujimori abandoned office.⁷¹ On balance, then, sovereignty had been defended while democracy promotion had been reinforced as well.

International pressure ran into a number of roadblocks, but these obstacles did not signify a dead end. A generalizable lesson can be drawn from the Peru case. Democracy promotion can have delayed, but real, positive effects. Even if hemispheric consensus cannot be reached about censuring an authoritarian government through the OAS, doubling down on efforts to hold governments to account has intrinsic value. This is especially the case when they are complemented by initiatives that lay the groundwork for the construction of a consensus among local stakeholders about re-democratization.

Even if hemispheric consensus cannot be reached about censuring an authoritarian government through the OAS, doubling down on efforts to hold governments to account has intrinsic value.

Policy Options

The chavista model is severely discredited. There is a risk of broad-based regional instability from civil strife, and the country's outlook is highly uncertain. Consequently, the Venezuela crisis is a regional problem. Up until now, diplomacy has involved efforts to prevent the complete dissolution of democracy and the disastrous breakdown of order. Ongoing initiatives to invoke the IADC and to promote a national dialogue represent important, but insufficient, initial efforts. Notwithstanding incremental progress in placing democracy and stability front and center, these efforts have not restored faith in the hemisphere's capacity to defend and promote democracy or to propose actionable fixes for the country's crisis.

It is time to recognize that the Venezuelan crisis needs more than vigilance. It needs forward-looking action. Identifying the centrality of resolving the crisis to Latin America's future can help lay out the framework for such a plan of action.

The United States, Latin America, and the Caribbean share common interests in promoting democracy and stability in Venezuela. The Trump administration has a great opportunity to build on the United States 2015 pledge to “stand by the citizens of countries where the full exercise of democracy is at risk, such as Venezuela” and “work with all governments that are interested in cooperating with us in practical ways to reinforce the principles enumerated in the Inter-American Democratic Charter.” It can take the next step by identifying the Venezuelan crisis as not only a source of great disruptions but as the top priority in South America and the main impediment to hemispheric progress. As long as Venezuela is on an authoritarian track, the hemisphere will be viewed as falling backwards in efforts to democratize and grow more stable. Meanwhile, both the United States and regional governments will be judged negatively for failing to solve this most complex problem.

A proactive agenda can best proceed via efforts to marshal a multilateral coalition on behalf of a peaceful, democratic resolution, an outcome that would restore belief in the hemisphere's ability to resolve its own problems.

Three policy options for the Trump administration and hemispheric governments follow. It bears mentioning that these policy options are not alternatives. Rather, they are complementary.

1) Multilateral Democracy Promotion: Applying the Inter-American Democratic Charter

- Multilateral efforts are crucial to enhancing the prospects for a peaceful, democratic outcome. The United States has utilized both bilateral efforts that call attention to human rights problems and multilateral efforts, such as supporting OAS Secretary General Almagro's invocation of the IADC. A stepped-up multilateral effort to support the IADC could involve the United States working more closely with regional governments, starting with the Argentine and Peruvian governments of Mauricio Macri and Pedro Pablo Kuczynski, respectively. These governments, as well as Panama, have all raised the Venezuela crisis in initial Presidential-level communication with the Trump administration. They may be willing to reach out to other Latin American governments that have expressed less clarity about the Maduro government's undemocratic credentials.
- Despite the values and principles articulated in the IADC, it represents untapped potential of the inter-American community with respect to the defense and promotion of democracy. The limited application of the IADC, and the hesitation of some member states to apply it in the Venezuelan case, captures this missed opportunity. If the

Charter is not applied for Venezuela's violation of Article 19, "an unconstitutional alteration of the constitutional regime that seriously impairs the democratic order," then this would raise major doubts. The example is a key test of the willingness of governments in the hemisphere to tolerate such patently anti-democratic behavior. Inaction on this front would present a moral hazard, implicitly granting a green light to future autocratic behavior so long as the formal trappings of democracy are present. Likewise, inaction significantly raises the bar for future efforts to apply the Charter. For these reasons, it is crucial that leading regional democracies immediately step up efforts to promote the value of the Charter. Likewise, a campaign to persuade unconvinced regional partners that this is a defining moment for defending democracy is urgently needed.

- Supposing that two-thirds of OAS member states (23) voted to apply the Charter regarding the Maduro government's violation of democratic principles, one significant effect of application is assured: holding Venezuela to account for its commitments as a signatory of the IADC. The second is less clear. Initiating urgently needed inter-American discussions about rebuilding the country's democratic institutions will likely require an intermediate step of formal communication between the OAS Secretary General's offices and the government of Venezuela. There is virtually a zero probability of this happening. Presently, there is no line of communication between the two parties.
- One of the IADC's great strengths is that it embodies the duality of censure leading to reform. In the case of Venezuela, IADC implementation would likely not result in collective censure followed by a dialogue for re-democratization. This raises an important consideration. If the IADC is applied regarding Venezuela's authoritarianism but then the country shows no interest in reforming or leaves the OAS before suspension formally takes place, then the Charter will lose some of its dual value as a tool for censure and reform. At the same time, a successful vote to suspend would be useful for strengthening regional consensus about the nature of the Maduro government's behavior.

2) Strategic Diplomacy and the Pros and Cons of Sanction Action

- After supporting Almagro's efforts at the OAS, the Trump administration needs to carefully weigh the strategic value of imposing sanctions on Maduro government officials accused of human rights violations and involvement in narcotrafficking. Sanctions are a tool in the policy toolbox. However, their effectiveness ultimately depends on their ability to advance a policy. Developing a policy requires more than speaking out on Venezuela's authoritarian turn and holding actors accountable for criminal actions, though these are central to upholding the rule of law. It is true that non-action can carry costs for the moral credibility of the United States (i.e., as a

country does not back up rhetoric with action). More significant are the pros and cons of sanction actions in terms of their impact on Venezuelan government actors and their potential costs for strengthening multilateral approaches. As discussed in greater detail below, international response to the United States decision to designate Venezuelan Vice-President Tareck El-Aissami a narco-trafficker under the Kingpin Act has been relatively muted. But general sanctions against an economic sector of Venezuela may not receive a similar response.

- The Obama administration signed into law the 2014 Venezuela Defense of Human Rights and Civil Society Act and subsequently imposed sanctions on seven Maduro government officials for their involvement in human rights abuses.⁷² Latin American governments voiced disapproval of the highly inflammatory language used in invoking the legal authority to enact the sanctions—designating the Venezuelan situation an “unusual and extraordinary threat” to United States national security. The European Union indicated it was not comfortable supporting such sanctions. The Obama administration renewed⁷³ the sanctioning authority, for three years, before leaving office.
- In early February 2017, a bipartisan group of members of the U.S. Congress wrote the Trump administration calling on it to sanction Maduro government officials’ “profiting from the humanitarian situation” by using “schemes to defraud companies providing food through the nationalized chain,” as well as those violating human rights in Venezuela.” The letter further called for clarification from the Treasury Department’s Office of Foreign Assets Control to determine whether “U.S. business inadvertently engage in business directly with any corrupt regime entity” and noted reports that Maduro’s new vice president, Tareck El-Aissami, is at the nexus of corruption, drug trafficking, and terrorist organizations in Venezuela.”⁷⁴
- On February 13, 2017, the Treasury Department designated El-Aissami as a “Specially Designated Narcotics Trafficker.” The action was authorized under the 2000 Kingpin Act, which targets international narco-traffickers. The action also placed this designation on El-Aissami’s “primary front man,” Samark José López Bello.⁷⁵ The latter owned a range of U.S.-based businesses, all of which have been blocked, along with any assets held by these two individuals in U.S. jurisdiction. The Trump administration described the sanctions as a dual signal: that the U.S. government would continue to take firm action to “fight the scourge of drugs” in the Americas and that it stands with the Venezuelan people.⁷⁶
- The sanctioning of El-Aissami and López Bello represented what the United States described as the culmination of a multi-year investigation. Separate from this investigation, in November 2016 two nephews of Venezuela First Lady Cilia Flores were found guilty of conspiracy to traffic cocaine in the U.S. Southern District of New

York Court.⁷⁷ Some U.S. investigations into state-linked drug trafficking in Venezuela have been completed while others are reportedly ongoing.⁷⁸

- International law enforcement efforts that include sanctions on foreign actors constitute multifaceted measures; they are domestic in origin but have international implications. Allies and diplomatic partners of the United States comprehend the dual dimension. When international law enforcement targets a country's vice president, they take on added political meaning, even if the official in question is appointed, as is the case with El-Aissami. The United States can continue to make explicit that international law enforcement investigations are ongoing institutional processes that aim to uphold the rule of law with regards to criminal activity taking place under U.S. jurisdiction.
- Going forward, there is one interesting new option for the Trump administration to consider on the sanctions front. If the Trump administration deems it appropriate to sanction human rights abusers in the Venezuelan government, then it might consider use of the Global Magnitsky Act.⁷⁹ This new human rights advocacy tool was passed as part of the Defense Authorization Act by Congress in December 2016.⁸⁰ It specifically allows the U.S. government to sanction human rights abusers without also invoking the National Emergency Act—the clause that requires the administration to determine that the “situation” in the country in question represents an “unusual and extraordinary national security threat” to the United States.⁸¹ Targeted sanctioning that avoids the public designation of Venezuela as a national security threat, as first happened in 2015, is an attractive option.⁸² It would create greater clarity about the intention behind such actions. Reporting on the impact of sanctions would be a highly useful next step to informing international community stakeholders about the effects measures have had up until now.

3) International Mediation: Double Down on Mediation by Reframing Dialogue Efforts

- The United States can advance efforts to marshal a multilateral coalition by taking a hard look at the shortcomings of joint Vatican- and UNASUR-led international efforts to promote national dialogue between the Venezuelan government and the organized opposition in the Mesa de la Unidad Democrática (MUD). The central goal of dialogue efforts should be to change the status quo of the government's authoritarian treatment of opposition groups, both opposition actors in the National Assembly and those contesting the government through legitimate means. For the Vatican-facilitated national dialogue to serve the purposes of both changing the status quo of authoritarian rule and helping prevent conflict, talks must yield an electoral solution—i.e., dates for regional and presidential elections established in the Constitution.
- Current international mediation efforts need streamlining to improve their potential

impact. The United States can immediately explore options for rearranging the team of mediators that are working with the Vatican to support dialogue efforts. The Vatican is the third party accepted by both the Government and the opposition. UNASUR, the South American organization which is in the process of appointing a new Secretary General and that supported dialogue efforts before the Vatican stepped up its formal engagement in 2016, has been the Government's more trusted international third party. The inclusion of a United Nations- or OAS-appointed statesman without an electoral politics background would be useful for creating a better balance of perspectives and giving the team of mediators added authority.



ENDNOTES

- 1 The policy options are targeted at influencing the inter-American community. Within that context, the top priority is addressing the U.S. Government. A full range of options for addressing the Venezuelan crisis would also include discussion of what assistance the European Union can provide and what leverage it has to bring productive pressure to bear on the problem. Likewise, in such an analysis it would also be necessary to include proposals for how to frame the Venezuelan crisis on a global level, that is, in relation to other foreign policy priorities, and how to productively engage Venezuela's strategic allies: China, Cuba, Iran, and Russia.
- 2 Hugo Chávez, "Intervención del Señor Presidente de la República Bolivariana de Venezuela," *Comunidad Andina*, June 10, 2000. <http://www.comunidadandina.org/Prensa.aspx?id=1267&accion=detalle&cat=DI&title=intervencion-del-senor-presidente-de-la-republica-bolivariana-de-venezuela-hugo-Chavez>.
- 3 Human Rights Watch, "Venezuela: Chávez Allies Pack the Supreme Court," December 13, 2004. <https://www.hrw.org/news/2004/12/13/venezuela-Chavez-allies-pack-supreme-court>.

Chávez's argument about the need for reform centered on a 2002 ruling by the Supreme Court that insufficient evidence existed to initiate a criminal investigation into four Generals for their involvement in the April 2002 coup. For a summary see, Human Rights Watch, *Venezuela: A Decade under Chávez: Political Intolerance and A Lost Opportunity for Advancing Human Rights in Venezuela*, Human Rights Watch, 2008, pp. 42–44.
- 4 Michael McCarthy and David Smilde, "Venezuela Elections Briefing: Arbiters and Overseers," *Washington Office on Latin America Venezuela Politics and Human Rights Blog*, November 18, 2015. <https://www.wola.org/analysis/venezuelan-elections-briefing-arbiters-and-overseers/>.
- 5 Jaime L. Garcia, "Chávez califica de 'victoria de mierda' el triunfo de la oposición," *El Mundo*, December 6, 2007. <http://www.elmundo.es/elmundo/2007/12/06/internacional/1196897757.html>.
- 6 Mark Sullivan, "Venezuela: Issues in the 111 Congress," Congressional Research Services, p. 4. <https://books.google.com/books/about/Venezuela.html?id=IVAF78qOcRwC>.
- 7 Embassy of the Bolivarian Republic of Venezuela, "Fact Sheet: Myths and Realities on the Disqualifications from Holding Public Office," August 11, 2008. <http://www.embavenez-us.org/factsheet/holdingpublicoffice.pdf>.
- 8 Inter-American Commission on Human Rights, *Annual Report 2009*, Organization of American States, Articles 473 and 483. <http://www.cidh.org/annualrep/2009eng/Chap.IV.f.eng.htm>.
- 11 Inter-American Commission on Human Rights, *Annual Report 2009*, Article 474.
- 10 Steven Levitsky and Lucan Way, *Competitive Authoritarianism: Hybrid Regimes After the Cold War*, Cambridge: Cambridge University Press, 2010.
- 11 A prominent example of intimidation is the case of Manuel Rosales, a former Presidential candidate who won the mayoral election in Maracaibo in 2008 but soon took refuge in Peru to avoid trial on corruption charges. The Rosales example fit within a context of deteriorating conditions for freedom of expression, as captured by the Inter-American Commission's Annual Report: "the Commission notes a trend toward the use of criminal charges to punish people exercising their right to demonstrate or protest against government policies." See Inter-American Commission on Human Rights, *Annual Report 2009*, Article 476.
- 12 A third party, Patria Para Todos, received three percent of the vote. For a detailed analysis, see Francisco J. Monaldi, et al., "Las elecciones legislativas de 2010 en Venezuela: cuando dos más dos no son cuatro," *Temas de Coyuntura* 62, December 2010, pp. 37–77. <http://revistasenlinea.saber.ucab.edu.ve/temas/index.php/temasdecoyuntura/article/viewFile/1182/1060>.

- 13 Genaro Arriagada and José Woldenberg, "The Elections in Venezuela, October 7, 2012," The Wilson Center and IDEA, September 2012. https://www.wilsoncenter.org/sites/default/files/Venezuela_Elections_Summary.pdf.
- 14 The Carter Center, "Study Mission to the 2012 Presidential Election in Venezuela," October 2012. https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/venezuela-2012-election-study-mission-final-rpt.pdf.
- 15 Agence-France Press, "Insulza pidió a Venezuela la liberación de Guillermo Zuluaga," March 25, 2010. <http://www.noticias24.com/actualidad/noticia/149301/insulza-pidio-a-venezuela-la-liberacion-de-guillermo-zuloaga/>.

Associated Press, "OEA revisará poderes especiales de Chávez," January 7, 2011. <http://archivo.eluniversal.com.mx/notas/735681.html>.

Moreover, Insulza proposed to visit Venezuela after students who began hunger strikes called on him to visit Caracas in 2011, though the government rejected this outright. See Antonio María Delgado, "Insulza ve señales 'preocupantes' en Venezuela," *El Nuevo Herald*, February 17, 2011. <http://www.elnuevoherald.com/noticias/mundo/america-latina/venezuela-es/article2012944.html>.
- 16 "Venezuela Elections Loosen Hugo Chávez's Grip on Venezuela," *The Guardian*, September 27, 2010. <https://www.theguardian.com/world/2010/sep/27/hugo-chavez-congressional-election-venezuela>.
- 17 Capriles, acting via the Mesa de la Unidad coalition, also filed lawsuits to back his claims of fraud. The suits, filed before the Electoral Chamber of the Supreme Court, were not granted standing. In fact, the Court dismissed them on procedural grounds, a highly unusual practice.
- 18 Ángel Alayón, "A un año del Dakazo," *Prodavinci*, November 6, 2014. <http://prodavinci.com/blogs/a-un-ano-de-el-dakazo-por-angel-alayon/>.
- 19 The totals amounted to 48.7 percent for the government and 40.8 percent for the opposition. See Eugenio Martínez, "Chavismo ganó el voto nacional el 8D," *El Universal*, December 15, 2013. <http://www.eluniversal.com/nacional-y-politica/elecciones-2013/131215/chavismo-gano-el-voto-nacional-el-8d>.
- 20 The relationship between military officials and the chavista ruling coalition grew more interwoven over time. The military was always chavismo's core coalition, its strategic fulcrum for action. But the prevalence of military officials grew over time. For example, in the December 2012 elections for governors, 10 out of the 20 victorious pro-government candidates were former members of the armed forces. In the crop of 2008-elected chavista governors, five came from military backgrounds.
- 21 Reports indicated that the three who died were pro-government actors. Apparently, these actors were with caught in friendly fire. See Infobae, "Uno por uno, estos son los 43 muertos en las protestas contra el régimen de Maduro en Venezuela," February 12, 2015. <http://www.infobae.com/2015/02/12/1626403-uno-uno-estos-son-los-43-muertos-las-protestas-contra-el-regimen-maduro-venezuela/>. See also The Inter-American Commission on Human Rights, *Annual Report 2014*, Sections 370–72. <http://www.oas.org/en/iachr/docs/annual/2014/docs/en/Annual2014-chap4Venezuela.pdf>.

For a personal account of the events deteriorating from peaceful demonstration into violence, see Daniel Pardo, "Venezuela dentro de las protestas del #12F en Caracas," *BBC Mundo*, Caracas, Venezuela, February 13, 2014. http://www.bbc.com/mundo/noticias/2014/02/140213_venezuela_caracas_violencia_protesta_12f_dp.
- 22 Foro Penal, "Tortura y cárceles sin cesar, balance 2014," January 9, 2015. <https://foropenal.com/noticias/tortura-y-carceles-sin-cesar-balance-2014>.
- 23 Both Ceballos and Scarano subsequently received bans, prohibiting them from holding public office. Reuters, "Venezuela Bans Another Opposition Politician from Holding Office," July 18, 2015. <http://www.reuters.com/article/us-venezuela-politics-idUSKCN0PS0P020150718>.

- 24 Girish Gupta, "Mayor's Arrest on Sedition Charges Deepens Sense of Crisis in Venezuela," *The New York Times*, February 15, 2015. http://www.nytimes.com/2015/02/21/world/americas/caracas-mayor-antonio-ledezma-arrested.html?_r=0.

Venezuelan human rights NGO Foro Penal estimated that there were over 100 political prisoners in Venezuela in 2015–2016. See Foro Penal, "Reporte sobre la represión del Estado Venezolano," September 30, 2016. <https://foropenal.com/content/reporte-sobre-la-represion-del-estado-venezolano-septiembre-2016-resumen-ejecutivo>.
- 25 The term "smart sanction" covers a range of actions, but it is usually used to contrast action against targeted individuals or groups from action against either economic sectors or generalized sanctions against a country. The idea, then, is to use the penalties to apply selective pressures against individuals and groups and thereby avoid the unintended effects of generalized embargoes. For an overview of the effectiveness of sanctions, see Richard N. Haas, "Economic Sanctions: Too Much of a Bad Thing," Brookings, June 1, 1998. <https://www.brookings.edu/research/economic-sanctions-too-much-of-a-bad-thing/>.
- 26 White House Office of the Press Secretary, "Fact Sheet: Venezuela Executive Order," March 9, 2015. <https://www.whitehouse.gov/the-press-office/2015/03/09/fact-sheet-venezuela-executive-order>.

Notably, the executive order allows the Administration to sanction senior officials involved in public corruption.
- 27 CELAC, which is composed of 33 countries, issued a press release after Obama signed the law but before he executed the action on March 9. See CELAC, "CELAC Reiterates Its Condemnation of Unilateral US Sanctions against Venezuela," February 12, 2015. http://eeuu.embajada.gob.ve/index.php?option=com_content&view=article&id=336:celac-rechaza-aplicacion-de-medidas-coercitivas-unilaterales-de-eeuu-contra-venezuela-&catid=2:noticias-de-venezuela-en-eeuu&Itemid=18&lang=en.

UNASUR, which is composed of 12 nations in South America, condemned the sanctions five days after Obama took the action. See Patrick Duddy, "Venezuela's Crisis, U.S. Sanctions and the UNASUR Reaction," *American Diplomacy*, April 2015. http://www.unc.edu/depts/diplomat/item/2015/0106/op/op04duddy_venezuela.html
- 28 In 1962 Cuba was suspended from the Organization of American States.
- 29 EFE, "Parlamento venezolano sancionó 17 leyes en 2016 y solo una fue oficializado," December 15, 2016. http://www.elnuevoherald.com/noticias/mundo/americ-latina/venezuela-es/article121137063.html#emlnl=Bolet%C3%ADn_de_Venezuela.
- 30 Jim Wyss, "Amid Venezuelan Crisis, Poll Shows Groundswell of Support to Oust President," *Miami Herald*, July 18, 2016. <http://www.miamiherald.com/news/nation-world/world/americas/venezuela/article90369327.html>.

The Economist, "Chávez's Little Blue Book," May 28, 2016. <http://www.economist.com/news/americas/21699492-outsiders-should-push-nicol-s-maduro-hold-recall-referendum-year-ch-vezs-little-blue>.
- 31 Alfredo Meza, "La oposición venezolana logró 1,5 millones de firmas para echar a Maduro," *El País*, April 29, 2016. http://internacional.elpais.com/internacional/2016/04/29/americas/1461963939_133308.html.
- 32 Michael McCarthy, "Threading the Needle: From Vigilance to Action in U.S. Policy Toward Venezuela," Wilson Center Latin American Program, October 26, 2016. <https://www.wilsoncenter.org/article/threading-the-needle-vigilance-to-action-us-policy-toward-venezuela>.
- 33 BBC, "Mercosur Suspends Venezuela over Trade and Human Rights," December 2, 2016. <http://www.bbc.com/news/world-latin-america-38181198>.
- 34 The Office of Legal Affairs issued a statement regarding the context for Charter Application May 5. See Organization of American States, "Considerations for the Application of the Inter-American Charter," May 5, 2016. http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-009/16.

Secretary General Almagro also grounded his actions in OAS Resolution 1080. Almagro's invocation of the Charter, submitted May 31, and the 133-page letter providing the underlying justifying this decision, can be found at: http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=C-068/16.

- 35 "En este sentido se pronunció en el año 2009 el Comité Jurídico Interamericano al afirmar que 'la alteración del orden constitucional que afecte gravemente el orden democrático' (art. 19 y 20 de la CDI) son situaciones que deben apreciarse a la luz de la vigencia de los elementos esenciales de la democracia representativa y de los componentes fundamentales del ejercicio de la misma" (CJI/RES. 159 (LXXV-O/09).
 - 36 See Organization of American States, "Considerations for the Application of the Inter-American Charter."
 - 37 Ambassador Álvarez recently passed away (1956–2016). See OAS, "OAS Permanent Council of the OAS Pays Tribute to the Representative of Venezuela, Ambassador Bernardo Álvarez," December 1, 2016. http://www.oas.org/en/media_center/photonews.asp?sCodigo=FNE-20782.
 - 38 Bernardo Álvarez Herrera, "Que se esconde tras el interés de invocar la Carta Democrática Interamericana contra Venezuela?" *Correo del Orinoco* 2.353, April 19, 2016, p. 3.
 - 39 Juliett Pineda Sleinan, "Con 20 votos a favor, inició proceso de la evaluación de la crisis venezolano en la OEA," *Efecto Cocuyo*, June 23, 2016. <http://efectococuyo.com/politica/con-20-votos-a-favor-inicio-proceso-de-evaluacion-de-la-crisis-venezolana-en-la-oea>.
 - 40 For background on Petrocaribe and the state of play with regards to the alliance today, see David Goldmyr and Corey Gill, *Uncertain Energy: The Caribbean's Gamble with Venezuela*, The Atlantic Council, July 16, 2014. <http://www.atlanticcouncil.org/publications/reports/uncertain-energy-the-caribbean-s-gamble-with-venezuela>.
 - 41 For a brief overview of the stakes involved in this debate, see María Carrasquillo, "Almagro's First Year: Bold Actions or Unnecessary Risk?" June 16, 2016, <https://aulablog.net/2016/06/16/almagros-freshman-year-bold-actions-or-unnecessary-risk/>.
 - 42 Organization of American States, "OAS Secretary General: 'To Deny the Recall Referendum in Venezuela in 2016 Is an Inflection Point,'" October 22, 2016. http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-116/16.
 - 43 The Ortega government is a strong ally of the Maduro government and Nicaragua is itself a possible case for IADC application. Organization of American States, "Venezuela: OAS General Secretariat Urges Respect for National Assembly's Rules and Regulations," December 27, 2017. http://www.oas.org/en/media_center/press_release.asp?sCodigo=E-232/16.
 - 44 Organization of American States, "Informe sobre la mesa de conversación e intercambio constructivo entre el Gobierno de Nicaragua y la Secretaría General de la OEA," January 20, 2017. http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?sCodigo=D-002/17.
 - 45 Organization of American States, AG/RES. 1080 (XXI-O/91) "Representative Democracy," June 5, 1991. <http://www.oas.org/juridico/english/agres1080.htm>.
- Arguably, this modification also altered the meaning of the "collective solidarity" principle enshrined in the OAS founding 1948 Charter. The inclusion of Canada as a member state in 1990 helped contribute to democracy promotion efforts gaining broader backing, especially with the creation of the OAS Unit for the Promotion of Democracy, the precursor to the Secretariat for Political Affairs.
- 46 Organization of American States, "Protocol of Amendments to the Charter of the Organization of American States (A-56) 'Protocol of Washington.'" http://www.oas.org/dil/treaties_A-56_Protocol_of_Washington.htm.

- 47 O'Donnell primarily defined horizontal accountability in terms of state-based checks on power—"state agencies that are authorized and willing to oversee, control, redress, and if need be sanction unlawful actions by other state agencies." See Guillermo O'Donnell, "Horizontal Accountability in New Democracies," *Journal of Democracy* 9:3, 1998, p. 110.
- 48 This list is drawn from analysis by Maxwell A. Cameron, "Strengthening Checks and Balances: Democracy Defense and Promotion in the Americas," *Canadian Foreign Policy Journal* 10:3, 2003, pp. 101–16.
- 49 For a comparative review of presidential self-coups, see Maxwell A. Cameron, "Self-Coups: Peru, Guatemala, and Russia," *Journal of Democracy* 9:1, 1998, pp. 125–39.
- 50 McClintock reports that "the U.S. government, the Inter-American Development Bank, and the World Bank suspended loans and other assistance." Financing programs, and Peru's broader reinsertion into the international community, resumed after elections were held for a constituent assembly in October 1992.

For a comprehensive overview of the U.S.-Peru relationship during this period, see Cynthia McClintock, "The United States and Peru in the 1990s: Cooperation with a Critical Caveat on Democratic Standards," June 2000. https://www2.gwu.edu/~clai/working_papers/McClintock_Cynthia_06-00.pdf.
- 51 Cameron, "Strengthening Checks and Balances," p. 106.
- 52 The arbitrary decision had only to do with Fujimori's frustration at a Congress that would not enact his reforms. For accounts of this period in Peruvian politics, see, among others, Maxwell A. Cameron and Phillip Mauceri, eds., *The Peruvian Labyrinth: Polity, Society, Economy*, University Park: The Pennsylvania State University Press, 1997.
- 53 Andrew F. Cooper and Thomas Legler, *Intervention without Intervening? The OAS Defense and Promotion of Democracy in the Americas*, New York, Palgrave Macmillan, 2006, p. 65.
- 54 Cooper and Legler provide an excellent overview of the reaction to the 2000 elections in Cooper and Legler, *Intervention without Intervening?*, pp. 62–83.

For a critique of the OAS's role in Peru during the Fujimori government, see Cynthia McClintock, "Room for Improvement: The OAS in Peru," *Journal of Democracy* 12:4, 2001, pp. 137–40.
- 55 For detailed analysis of the Charter's birth, see authoritative texts from Cooper and Legler, *Intervention without Intervening?*, pp. 84–103; and Jorge Heine and Brigitte Weiffen, *21st Century Democracy Promotion in the Americas: Standing Up for the Polity*, New York: Routledge, 2015.
- 56 For the OAS backgrounder fact sheet on the Charter, see Organization of American States, "The Inter-American Democratic Charter Press Release." http://www.oas.org/en/media_center/press_release.asp?sCodigo=S-014/16.
- 57 John W. Graham, "A Magna Carta for the Americas The Inter-American Democratic Charter: Genesis, Challenges and Canadian Connections," *FOCAL*, FPP-02-09.
- 58 Organization of American States, *Inter-American Democratic Charter*, Lima, Peru: September 11, 2001, Articles 1, 19. http://www.oas.org/charter/docs/resolution1_en_p4.htm.
- 59 Organization of American States, *Inter-American Democratic Charter*, Articles 17, 18, 20.
- 60 Cooper and Legler, *Intervention without Intervening?*, p. 114. Cooper and Legler also note that the exclusion of Chávez's Venezuelan Ambassador to the OAS from the marathon deliberation during the coup, along with reports of Secretary General Gaviria's direct communication with interim President Pedro Carmona, fueled perception that the OAS had wavered about condemning the events as an outright coup.

- 61 John W. Graham, "A Magna Carta for the Americas The Inter-American Democratic Charter: Genesis, Challenges and Canadian Connections," *FOCAL*, FPP-02-09, p. 9.

This realism had its roots in one of the main findings of research on the 1980s transitions from authoritarian rule. In a classic essay reflecting on these transitions, Schmitter observed that "one of the firmest conclusions that emerged.... was that transitions from authoritarian rule and immediate prospects for political democracy were largely to be explained in terms of national forces and calculations. External actors tended to play an indirect and usually marginal role." See Phillippe C. Schmitter, "An Introduction to Southern European Transitions from Authoritarian Rule: Italy, Greece, Portugal, Spain, and Turkey," in *Transitions from Authoritarian Rule: Southern Europe*, Guillermo O'Donnell, Phillippe Schmitter, and Laurence Whitehead, eds., Baltimore: Johns Hopkins University Press, 1986, p. 5.

- 62 Cameron, "Strengthening Checks and Balances."

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