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## Popular Sovereignty in Authoritarian Regimes: Philosophical and Legal Foundations and the Limits of International Intervention - An Analysis of the US-Venezuela Case from the Perspective of International Precedents

*Popular Sovereignty in Authoritarian Regimes: Philosophical and Legal Foundations and the Limits of International Intervention - An Analysis of the US-Venezuela Case from the Perspective of International Precedents*

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### Summary

This article examines state sovereignty from a philosophical perspective, within the framework of state theory and public international law, emphasizing the popular ownership of sovereignty even in the context of authoritarian regimes. A systematic analysis is developed that articulates the contributions of Rousseau, Sieyès, Kelsen, and Bodin with contemporary international normativity, demonstrating that popular sovereignty is not extinguished by the form of the political regime, but remains as an ontological foundation of the state. The central thesis argues that imperialist interventions under the pretext of democratic deficit lack legal basis in positive international law and violate structuring principles such as the self-determination of peoples, non-intervention, and sovereign equality.

Using a legal-dogmatic and philosophical-analytical methodology, this study critically examines the purported legitimacy of unilateral interference, demonstrating its incompatibility with the normative architecture of the Charter of the United Nations and with the theoretical foundations of sovereignty as a legal-political institution. Although sovereignty, in classical international law, continues to be defined as the supreme legal power of the State to self-determine and govern itself freely, internally and externally, on an equal footing with other States, without submission to any superior authority, in contemporary international law the classical concept has been relativized. Indeed, the notion of sovereignty, originally conceived in international law as the independence of States, has gained new substantive uses within countries, especially since the second half of the 20th century, when it began to be associated with the self-determination of peoples, active citizenship, and the effectiveness of fundamental rights and human rights. In light of the emergencies of the new times, the study concludes that it is necessary to distinguish between the ownership of sovereignty (always popular) and the exercise of governmental power (contingent), arguing that internal political transformations are the exclusive prerogative of peoples through their own mechanisms of self-determination.

**Keywords:** popular sovereignty, philosophy of law, UN, imperialism, international law.

### Abstract

This article examines state sovereignty from the philosophical perspective, the theory of the State, and public international law, with an emphasis on popular ownership of sovereignty even in the context of authoritarian regimes. A systematic analysis is developed that articulates the contributions of Rousseau, Sieyès, Kelsen, and Bodin with contemporary international normativity, demonstrating that popular sovereignty is not extinguished by the form of the political regime, but remains as the ontological foundation of the State. The central thesis argues that imperialist interventions under the pretext of a democratic deficit lack legal foundation in positive international law and violate structuring principles such as self-determination of peoples, non-intervention, and sovereign equality.



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Thru a legal-dogmatic and philosophical-analytical methodology, the purported legitimacy of unilateral interventions is critically examined, demonstrating their incompatibility with the normative architecture of the United Nations Charter and the theoretical foundations of sovereignty as a legal-political institution. Although Sovereignty, in classical International Law, continues to be conceived as the supreme legal power of the State to self-determine and govern itself freely, both internally and externally, on equal footing with other States, without submission to any higher authority, in contemporary International Law the classical concept has been relativized. Indeed, the notion of sovereignty, conceived in International Law as the independence of States, has gained new substantive uses at the domestic level of countries, especially from the second half of the 20th century onwards, when it began to be associated with the self-determination of peoples, active citizenship, and the effectiveness of fundamental rights and human rights. In light of the emergencies of modern times, the study concludes with the necessity of distinguishing between the ownership of sovereignty (always popular) and the exercise of governmental power (contingent), arguing that internal political transformations constitute an exclusive prerogative of the peoples thru their own mechanisms of self-determination.

**Keywords:** popular sovereignty. philosophy of law. UN. imperialism. international law.

## 1. Introduction

Sovereignty constitutes one of the foundational concepts of constitutional law, of the theory of State and public international law. Its theoretical and practical complexity stems from the necessary articulation between philosophical, legal and political dimensions that permeate both the internal organization of States in relation to their external relations. Since the seminal formulations of Jean Bodin in the 16th century. From the 16th century to contemporary debates on responsibility to protect and humanitarian interventions, sovereignty remains a core concept whose proper understanding requires conceptual rigor and solid theoretical foundation.

This study addresses a problem of both theoretical and practical relevance: can the The sovereignty of a State can be legitimately relativized or suspended due to its authoritarian nature. of its internal political regime, thus authorizing unilateral interventions by other States or Coalitions? Underlying this question lies a fundamental tension between two principles. Structural elements of international law: on the one hand, state sovereignty and the principle of non-intervention; On the other hand, there is the international protection of human rights and the promotion of democracy.

The central hypothesis guiding this investigation maintains that, notwithstanding the form of the regime In domestic politics, the ownership of sovereignty remains unchanged with the people as a political body. original, and what purported justifications for external interventions based on democratic deficit. They lack a foundation in positive international law, constituting, in truth, manifestations contemporary imperialist practices incompatible with the current international legal order. This thesis is linked to the fundamental distinction between the ownership of sovereignty (dimension ontological) and contingent exercise of governmental power (phenomenological dimension).

Methodologically, a multidisciplinary approach is adopted that integrates: philosophical analysis of Foundations of popular sovereignty in contractualist and constitutionalist traditions; dogmatic examination



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of the norms of public international law relevant to sovereignty, non-intervention and self-determination; and theoretical research on the structure of the State and the nature of political power. Emphasis is placed on the use of primary sources from political philosophy and legal theory, as well as... international normative instruments of indisputable validity, avoiding interpretations that lack verifiable support in specialized literature and accessible official documentation.

## **2 Philosophical Foundations of Popular Sovereignty: From Classical Contractualism to Theory Contemporary Constitutional Law**

### **2.1 Popular Sovereignty in the Rousseauian Tradition and the Concept of General Will**

Jean-Jacques Rousseau, in *Du Contrat Social* (1762), establishes a philosophical foundation crucial for understanding popular sovereignty, as it affirms that it is inalienable, indivisible, and infallible when it expresses the general will, let infallible be understood as that which does not err as to its purpose. even though the people may err in the means. For Rousseau, sovereignty resides essentially in A political body formed by the union of individuals through a social contract, which cannot be transferred. or usurped without destroying the very foundation of the political community. The Genevan philosopher It makes a strict distinction between the sovereign, identifiable here as the assembled people, and the government, which It will be established as an administrative body responsible for the execution of the laws, stipulating that the latter He is merely an agent of that person, lacking his own power; in other words, he must be a delegate or commissioner of the sovereign and can be dismissed by him.

This conceptual distinction proves to be of paramount importance for the present analysis: even though the Even though the government degenerates into despotism, sovereignty remains ontologically with the people, although its Effective exercise may be temporarily obstructed. Rousseau explains that sovereign power, Even when it does not actively manifest itself due to governmental oppression, it does not become extinct or disappear. It is transferred to the usurper. Usurpation only constitutes the de facto exercise of power, never legitimizing the legal ownership of sovereignty. This concept theoretically grounds the thesis of that authoritarian regimes do not alter the popular ownership of sovereignty, but only prevent it from to be fully exercised.

Furthermore, it should be noted that Rousseau establishes a principle of non-intervention by arguing that... Every people has the right to determine its own form of government according to its circumstances. particulars, provided that popular sovereignty is preserved as a fundamental principle. The external imposition of Political forms, even if theoretically superior, violate the constitutive autonomy of the body. This is political and contradicts the very principle of self-determination that underpins state legitimacy.



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## **2.2 Emmanuel-Joseph Sieyès, Ayres Britto and the Theory of Constituent Power: Distinction between Ownership and Exercise**

In addition, Emmanuel-Joseph Sieyès, in *Qu'est-ce que le tiers état?* (1789), develops the theory of constituent power, deepening the understanding of popular sovereignty by establishing fundamental distinction between constituent power, of an original and unlimited nature, and prerogative exclusive to the nation, and the constituted powers, of a derivative nature, legally limited by Constitution and exercised by governmental bodies. For Sieyès, the nation precedes and supersedes the any positive constitutional form, constituting itself as the primary source of all legality, reason whereby its constituent power is not subject to pre-existing forms and remains latent even when it does not manifest itself institutionally.

This concept is linked to the perspective of humanism as a constitutional category, according to which modern political law enshrines the prevalence of the nation over the government, stating that the Constitution represents the highest expression of the national normative will, that the State and its organs exist to serve society and that society's ultimate purpose is achieving the individual happiness of its members, as well as its permanence, balance and historical evolution is exactly as Ayres Britto teaches, when he affirms the "prevalence of the kingdom over the king", enshrining the primacy of the nation and the Constitution over any personal form of government (BRITTO, 2003, p. 21)

Sieyès' theory provides fundamental theoretical tools for understanding that... Popular sovereignty persists independently of the prevailing political regime. Even in contexts authoritarian regimes where the established powers have strayed from their democratic origins or where they never have. While they have fully established representative institutions, constituent power remains latent in social body. The nation, as the original holder of political power, virtually retains the capacity to reshape state structures, even if factual circumstances temporarily prevent it. exercise of this prerogative.

Sieyès also establishes that no power external to the nation can legitimately intervene in it. manifestation of its constituent power, therefore constitutional self-determination constitutes The ultimate expression of sovereignty, and its violation by exogenous forces represents a radical negation of it. The very political existence of the nation-state. This concept philosophically grounds the principle of non-intervention in international law, by demonstrating that each nation possesses an inalienable right. to establish their own political structures.

Although notably formulated in distinct historical contexts, Sieyès' conceptions Ayres Britto and others agree in affirming the structural distinction between the ownership of political power, rooted in the nation as a permanent spiritual entity, and its institutional exercise, attributed to state bodies of transitional legitimation, reaffirming the centrality of the constituent will as



### 2.3 Sovereignty in Jean Bodin: Perpetuity, Absoluteness, and Natural Limits

In Jean Bodin's work, *Les Six Livres de la République* (1576), we find the first theorization.

A systematic analysis of modern sovereignty, defining it as the absolute and perpetual power of the republic. For According to Bodin, sovereignty is characterized by five essential attributes: perpetuity, indivisibility, Absoluteness, inalienability, and supremacy over all other forms of power. These characteristics They establish that sovereign power does not admit subordination to a superior authority nor limitation. temporal, being the very essence of state political organization.

However, Bodin also acknowledges limits to sovereignty, notably divine laws, the laws natural laws and the fundamental laws of the kingdom. Although formulated in a monarchical context, this conception anticipates further developments regarding the existence of legal limits to the exercise of sovereignty. In contemporary international law, these limits manifest themselves, on the one hand, in Peremptory norms of general international law (*jus cogens*) that bind States. regardless of individual consent, and, on the other hand, in commitments made voluntarily. assumed through treaties. Crucially, however, such limits do not legitimize unilateral impositions. by isolated States, operating within the framework of a structured international legal order and institutionally mediated.

It is worth mentioning, briefly, that in the context of international law, *jus cogens* norms, incorporated by Article 53 of the Vienna Convention on the Law of Treaties, constitute precepts imperatives of the international community that cannot be derogated by treaties or acts. unilateral measures, aimed at protecting fundamental values, such as the prohibition of torture, genocide, slavery, wars of aggression, and the guarantee of self-determination of peoples, what Two main theoretical constructs were observed: the subjective one, based on the acceptance of the norm by most states, and the objective one, which attributes intrinsic characteristics to the norm that guarantee its imperativeness (Baptista, 1997, p.269).

Non-compliance with these rules does not depend on the will of the state, but on their enforcement. This encounters practical limitations, since there is no world police force, nor can any state do so. unilaterally acting as the universal enforcer of these rules. In this context, mechanisms such as the The International Criminal Court (ICC) has an accountability function, and can investigate and prosecuting individuals for war crimes, crimes against humanity, and genocide, by means of complaints from States, the UN Security Council or independent prosecutors, functioning as an instrument for the judicial application of *jus cogens* at the international level.

The perpetuity of sovereignty in Bodin implies that it subsists independently of...



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Governmental vicissitudes. Even when a specific regime ends or transitions to another.

In this way, state sovereignty remains, transferring or reconstituting itself according to the internal mechanisms of the political body, as this is an inherent characteristic of this power. It is precisely this

The ontological continuity of sovereignty that underlies the principle that States maintain their international legal personality through regime change, and that transitional governments do not

They do not extinguish the sovereignty of the State nor authorize its appropriation by foreign powers, however much however dramatic the situations may be.

### **3 Sovereignty in State Theory: Kelsenian and Jellinek Perspectives**

#### **3.1 Hans Kelsen and Sovereignty as a Formal Legal Concept: Legal Order and Validity**

The normativist conception of sovereignty, developed by Hans Kelsen, departs from sociological or political foundations, situating sovereignty strictly on the plane of validity.

In this legal perspective, the sovereignty of a State is manifested when its legal order...

It constitutes a supreme normative system, not derived from any superior legal order, and whose Validity is independent of external recognition (Kelsen, 1920)

Crucially, the theory distinguishes between internal sovereignty and external sovereignty. The former refers to... whether to uphold the supremacy of the state legal order over any existing partial normative orders. within its territory. The second concerns the independence of the state legal order from other orders. legal systems of other States and, subsequently, in light of international law. This distinction It clarifies that sovereignty, even in the Kelsenian conception that relativizes it through the primacy of... International law remains an essential attribute of the State as a legal order. territorially delimited.

With regard to international law, Kelsen argues that state sovereignty finds The foundation and limit lie in international law itself, which recognizes and defines competences. state-owned enterprises. This perspective leads to the conclusion that limitations on sovereignty must derive from norms. valid international agreements, not unilateral impositions. Interventions that lack a basis in international norms, whether consensual or authorized by a competent multilateral body, violate their own... The normative structure that confers validity to the system of sovereign states.

Although every state is, in principle, sovereign, this sovereignty is not an authorization. unrestricted: imperative norms of the international community, such as the prohibition of genocide or torture, They define clear limits for state action. The existence of these norms demonstrates the validity of A state's legal order also depends on respect for fundamental international principles. When these rules are violated, the international community has control mechanisms at its disposal. to hold individuals accountable and protect values that transcend borders, showing that



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Sovereignty and jus cogens are not opposing concepts, but rather dimensions that balance each other within the...  
global legal systems as two sides of the same coin.

### **3.2 Georg Jellinek and the Theory of the Elements of the State: People, Territory, and Power**

In his *Allgemeine Staatslehre* (1900), Georg Jellinek systematizes the theory of elements.  
constitutive elements of the State that remain a benchmark in public international law, and this is very important to us.  
Useful. For Jellinek, the State consists of three essential elements: the people (the personal element),  
Territory (spatial element) and sovereign power (formal or political element). Sovereignty  
It is characterized as a power of domination not subordinated to any other earthly power.  
manifesting itself both internally (supremacy over individuals and groups in the territory) and  
externally (independence from other states).

From Jellinek's perspective, state sovereignty is not simply a political phenomenon, but  
It has a strictly legal dimension, reflected in the State's exclusive competence to create  
Standards and define their own limits. In international law, this means that a State is only...  
bound by external obligations when expressly or tacitly consenting, reflecting a  
The voluntarist foundation of international order. Thus, sovereignty is not merely a  
internal prerogative, but also a criterion of external validity: the recognition and respect of  
other States depend on compliance with consensually accepted norms, and not on  
unilateral impositions.

This approach highlights that sovereignty is not synonymous with the prevailing regime of government.  
Internal political changes, whether democratic or authoritarian, do not affect the existence of the State.  
as a subject of international law, nor its capacity to act sovereignly on the external plane.  
Consequently, any attempt at external intervention must be grounded in norms.  
valid international agreements; otherwise, it would violate the very logic of the international system, which  
recognizes sovereignty as a structuring principle of coexistence between States.

Regarding the present analysis, Jellinek's theory clarifies that the permanence of  
The elements of people and territory ensure the continuity of the State even through transformations in  
Exercise of sovereign power. Changes in political regime, including transitions between forms.  
Democratic and authoritarian systems do not affect the existence of the State, much less the Nation, in perspective.  
Sieyès' theory, as such, does not alter its international legal personality.  
Consequently, the State maintains its sovereignty regardless of the nature of the regime that  
temporarily exercises governmental power.





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#### 4. Sovereignty in Public International Law: Positive Norms and Structuring Principles

The contemporary discussion on sovereignty in Public International Law has been marked by a reinterpretation of its classic elements in light of positive norms and principles. Structural elements of the international order. Sovereignty remains an essential foundation of the system. Interstate, but it is undergoing an adaptation process in the face of increasing regulatory density. international. Principles such as sovereign equality, non-intervention and self-determination continue to to structure International Law, while simultaneously coexisting with international obligations. increasingly broad, especially in matters of human rights, collective security and global cooperation.

##### 4.1 The Charter of the United Nations and the Principles of Sovereign Equality and Non-Intervention

Now that a philosophical framework has been given to us, let's see what the Charter of the United Nations says. United States, adopted in San Francisco in 1945, which constitutes the central normative foundation of the order. contemporary international law. Its article 2, §1, establishes that the Organization is based on The principle of sovereign equality of all its members. This principle, in an intelligible way, self- In its enunciative sense, it implies that States, regardless of their size, economic power, or regime... Political or international influence have equivalent legal status under international law. Sovereign equality prohibits legal hierarchies between states and forbids certain states from creating hierarchy. They arrogate to themselves the authority to judge or intervene in others based on unilateral criteria. established.

Article 2, §4, in turn, establishes that all members shall abstain, in their relations international, the threat or use of force against territorial integrity or independence The policy of any state, which above all promotes a culture of peace. This norm constitutes a pillar. fundamental to the collective security system established by the Charter, prohibiting not only actions direct military coercion, but also economic, political or diplomatic coercion aimed at subjugating the the will of another State. In a sense complementary to the jurisprudence of the International Court of Justice, especially in the case of *Nicaragua v. United States* (1986), it confirmed that the prohibition of the use of Force against another State has a mandatory character under general international law, being binding. for all States regardless of specific consent, which is the doctrine It is frequently recognized as a *jus cogens* norm.

Article 2, §7, complements the regulatory framework by stipulating that no provision of The Charter will authorize the United Nations to intervene in matters that essentially fall under its jurisdiction. internal affairs of states. This reserved domain clause establishes that certain matters, including the choice of political regime and economic system, constitute the exclusive prerogative of





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each State. Only in cases of threat to the peace, breach of the peace or act of aggression, the Council of Security forces may authorize coercive measures, always through a multilateral procedure. established in Chapter VII of the Charter. Unilateral interventions, even when justified by Humanitarian or democratic concerns lack foundation in this normative architecture.

#### **4.2 The Principle of Self-Determination of Peoples: Foundation and Limits**

The principle of self-determination of peoples emerges as a fundamental norm of law. international relations in the period following the Second World War, consolidating themselves through various normative instruments. Article 1, §2, of the Charter of the United Nations establishes as the purpose of Organization to develop friendly relations between nations based on respect for the principle of Equality of rights and self-determination of peoples. This provision was subsequently developed by General Assembly Resolution 1514 (XV) (1960), which proclaims the Declaration concerning the Granting of Independence to Colonial Countries and Peoples, and by Resolution 2625 (XXV) (1970), which sets forth the Declaration on Principles of International Law Relating to Relations Friendly relations and cooperation between states.

The same is vividly stated in the International Covenants on Civil and Political Rights and of Economic, Social and Cultural Rights, both from 1966, enshrine in their common article 1 that All peoples have the right to self-determination and, by virtue of that right, freely determine their own destiny. their political status and freely ensure their economic, social, and cultural development. This The formulation establishes that self-determination is not limited to colonial contexts, but constitutes a permanent prerogative of all peoples, including those in already independent states. Crucially, the same article stipulates that all States Parties must promote the achievement the right to self-determination and to respect that right.

The correct interpretation of the principle of self-determination in the context of this study. It demands attention to its normative core: the right of peoples to autonomously determine their future. political without external interference. While self-determination in the colonial context justified the The emergence of new independent states, and its application to existing states, implies the right... the people's right to freely choose their political system through internal processes, not through external imposition. Resolution 2625 (XXV) makes it clear that self-determination should not be interpreted as authorizing action that dismembers or harms the territorial integrity of States sovereigns. Therefore, the principle of self-determination underlies the prohibition of interventions. external forces aimed at imposing regime change, even when these are presented as promoting democracy.



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#### **4.3 Imperative Norms and Limits to Sovereignty: Distinction between International Obligations and Justification for Interventions**

As previously stated, Vienna Convention on the Law of Treaties (1969), Article 53 establishes the concept of peremptory norms of general international law, defined as norms accepted and recognized by the international community of States as a whole, of which no derogation is permitted and which can only be modified by a subsequent rule of law. general international norms of the same nature. Recognized examples of jus cogens norms include the Prohibition of genocide, slavery, torture, apartheid, and wars of aggression.

The existence of mandatory rules effectively establishes legal limits to sovereignty. state-level: no state can legitimately practice genocide, maintain a regime of slavery or to wage a war of aggression, even while invoking sovereignty. However, a crucial distinction must be made. established between the existence of international obligations that limit the exercise of sovereignty and the authorization for individual states or coalitions to intervene unilaterally to stop violations. The normative framework of the United Nations Charter assigns to the Security Council, through a specific procedure in Chapter VII, the authority to determine the existence of A threat to peace and to authorize coercive measures, including the use of force.

The normative structure of the United Nations Charter confers upon the Security Council, through the specific procedure outlined in Chapter VII, the authority to determine the The existence of a threat to peace and authorizing coercive measures, including the use of force. The allegation of that violations of human rights or the absence of democracy could justify interventions Unilateral actions encounter an insurmountable obstacle in the very normative architecture of Law. International. Although the consolidation of international norms aimed at protection is recognized. Regarding human rights and the promotion of democratic governance, such developments do not They established no exception to the fundamental principle of non-intervention. The International Court of In the case of Nicaragua v. United States, the court explicitly rejected the argument that the promotion The absence of democracy would justify the use of force or other forms of intervention, stating that, although the Adherence to a particular political system constitutes an essential element of the right of States to self-determination, this fact does not authorize third-party states to impose their conceptions through coercion.

#### **5. Interventionism and the Instrumentalization of Democracy: A Critique of Practices Contemporary Interference**

The rhetoric of promoting democracy has been, in recent decades, mobilized as justification for external interventions that exceed the normative limits of the law. International. Under the guise of defending universal values, practices of political and military interference.



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They came to be presented as legitimate instruments for the internal transformation of states. sovereigns, often without the backing of the competent multilateral bodies. This phenomenon reveals a worrying shift: democracy, instead of being a guiding principle of The self-determination of peoples becomes a strategic argument for unilateral actions that They weaken the international legal order. Examining contemporary interventionism implies, therefore, to critically analyze how democratic language has been instrumentalized for to legitimize practices that, in essence, contradict the structuring principles of sovereignty and equality. between States and non-intervention.

### **5.1 Unilateral Sanctions and Economic Coercion as a Violation of Sovereignty**

Unilateral economic sanctions, imposed by states or blocs of states without authorization from the United Nations Security Council constitutes a serious violation of the principle. of non-intervention and state sovereignty. The UN General Assembly has repeatedly condemned such practices through various resolutions, including resolutions on the Need for to end the economic, commercial, and financial blockade imposed by the United States against Cuba, Approved annually with broad international support since 1992, these resolutions state that... Unilateral sanctions violate the Charter of the United Nations, international law, and norms of free trade. business.

Economic coercion through unilateral sanctions produces devastating effects on civilian populations, affecting fundamental human rights such as food, health and development. Paradoxically, powers that invoke humanitarian concerns to justify Interferences utilize precisely the instruments that cause massive humanitarian suffering. This The contradiction reveals the instrumental, not genuinely humanitarian, nature of such policies. Furthermore, extraterritorial sanctions that penalize third-party states and private entities that maintain Trade relations with sanctioned states violate the sovereignty not only of the target state, but also... also of all other States whose freedom of trade and international relations is restricted.

International law recognizes that only the UN Security Council, acting under Chapter VII of the Charter grants the power to impose binding sanctions on member states. Unilateral sanctions, therefore, lack international legal basis, representing an exercise... Arbitrary use of power by stronger states against weaker states. The contemporary doctrine of International law, including authors such as Alain Pellet and Sarah Cleveland, argues that sanctions Unilateral actions aimed at coercing regime change or domestic policy changes violate the principle of non-violation. intervention established in customary international law and codified in Resolution 2625 (XXV) of the General Assembly.



## **5.2 Military Interventions and Regime Changes: A Critical Analysis of Precedents**

Recent international law history records multiple military interventions. undertaken by Western powers under various justifications, including the promotion of democracy, protection of human rights and combating terrorism. The intervention in Iraq (2003), conducted by a coalition led by the United States without authorization from the Security Council, constitutes A paradigmatic example of a violation of international law. The initial justification based on The existence of weapons of mass destruction proved false, and subsequent justifications invoked The promotion of democracy finds no support in the UN Charter or in international law. customary.

The intervention in Libya in 2011 presented a different dynamic, but was equally problematic. Initially authorized by the Security Council through Resolution 1973 for the protection of As civilians expanded the operation to include regime change objectives, it went beyond its original mandate. ...and generating serious regional instability, with widespread human rights violations. The case This highlights the risks of expansive interpretations of Council resolutions and reinforces the need Strict adherence to the normative limits set forth in the UN Charter. Member powers Permanent powers, notably Russia and China, have expressed concern about the misuse of the mandate. Protection of civilians, hindering consensus on future humanitarian interventions.

These interventions share a common pattern: they are undertaken selectively against States that challenge the geopolitical interests of Western powers, while regimes with deficits Comparable or superior democratic powers, but aligned with such powers, remain immune to similar interferences. This selectivity highlights that geopolitical and economic considerations do not Genuine concerns about human rights or democracy motivate such interventions. The instrumentalization of universal values for particularistic ends constitutes a form of imperialism. ideological, which undermines the credibility of the very discourse of human rights and weakens the order. international law based on rules.

## **6. The United States Military Operation in Venezuela (2026): A Case Study on the Violation of Sovereignty and the Instrumentalization of Law**

### **6.1 Factual Context and Development of Events**

On January 3, 2026, U.S. armed forces conducted a military operation in Venezuelan territory that resulted in the capture of President Nicolás Maduro and his wife Cilia. Flowers. The operation involved bombing strategic installations and disrupting supplies. Energy surge in Caracas and mobilization of special forces. Both were transported to the United States. United and brought before a federal court in Manhattan on charges of narcoterrorism.



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In 2020, they declared themselves innocent and contested the legality of their capture by invoking...  
Immunity of a head of state.

Meanwhile, President Trump announced an agreement under which Venezuela would hand over 30 to 50 millions of barrels of oil to the United States, declaring that he would personally control the resources from marketing and determining that Venezuela should exclusively purchase products Americans with such resources. The UN Security Council convened a meeting of emergency, with Secretary-General António Guterres expressing concern about the precedent established. Brazil, China, Russia, France and other countries have expressed criticism of the violation of Venezuelan sovereignty.

The 2026 operation reveals a broader pattern of selective instrumentalization of the law. internationally, the United States is using legal narratives to confer giving an appearance of legitimacy to actions that, in essence, subvert the international normative order. invoking arguments such as protecting democracy, combating transnational crime, or In this context, the defense of human rights operates as a justifying rhetoric intended to mask... geopolitical and economic objectives, diverting attention from the absence of any valid legal basis. for the use of force.

Such practices undermine the authority of multilateral institutions and weaken the collective system. It undermines security and creates dangerous precedents that, if normalized, would authorize other states to act. unilaterally based on equally broad and subjective justifications. The Venezuelan case, therefore, does not It not only represents a concrete violation of state sovereignty, but also reveals how... Discursive manipulation of international principles can erode the stability of the legal system. global and compromise the credibility of the norms that structure coexistence between States.

## **6.2 Legal Analysis: Multiple and Systematic Violations of International Law**

The military operation carried out by the United States in Venezuelan territory in January of 2026 constitutes a clear and serious violation of fundamental principles of international law. contemporary. The action, which resulted in the capture of President Nicolás Maduro without authorization from United Nations Security Council or consent from the Venezuelan government, contradicts the The prohibition against the threat or use of force, enshrined in Article 2, paragraph 4, of the UN Charter, is a standard. which requires members of the organization to refrain from resorting to force against integrity. territorial or political independence from another State.

This operation blatantly violates the principle of sovereign equality of States as set forth in Article 2, paragraph 1, of the UN Charter, according to which no State may exercise authority jurisdictional or coercive measures in the territory of another State based on its own internal legal order. The US claim to impose extraterritorial measures under the argument



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The application of domestic law contradicts the legal recognition of sovereignty and equivalence between States, shifting the legitimate exercise of criminal prosecution towards an unauthorized use of force. international law, especially when bringing the captured individual under US jurisdiction, which is illegitimate. This is because it does not possess international police powers nor does it function as an International Court.

At the same time, the operation aligns with a broad interpretation of jurisdiction that, If accepted, it would severely restrict the principle of non-intervention enshrined in Article 2, paragraph 1. Article 7 of the Charter, which prohibits interference by States or the UN in essentially internal matters. from other States, except in situations clearly foreseen and authorized by the Charter itself. — determination of who holds the position of head of state, even in contexts of contention. of democratic legitimacy, it is part of the internal sphere of state jurisdiction and must be resolved by constitutional mechanisms and the process of self-determination of the respective people, not by external imposition of force.

Additionally, subsequent requirements relating to the control of strategic resources, including Venezuelan oil, and economic or commercial impositions linked to the presence or US influence reflects forms of economic coercion that clash with the principle of The free economic self-determination of peoples, enshrined in Article 1 common to the International Covenants. of 1966 and reaffirmed by instruments such as Resolution 2625 (XXV) of the General Assembly of United Nations. Declaration on Principles of International Law concerning Relations Friendly treaties between States expressly prohibit any State from employing economic measures. or of another nature to coerce another State into subordinating its sovereign rights.

Regarding the operational defenses presented, the characterization of the action as a mere application The law enforcement mechanism intended to execute domestic court orders does not remove the requirement. Legal authorization for the international use of force in foreign territory. Experts. Renowned experts in international law point out that such justification is inconsistent with the Charter of UN and that the absence of a legitimate legal basis, such as consent or authorization from the Council or legitimate self-defense against an armed attack, makes the operation a violation. unequivocal of the basic principles governing international relations.

### **6.3 Ethical-Political Dimension: Popular Sovereignty, Authoritarian Regimes, and Responsibility International**

Analyzing the Venezuelan case requires confronting a complex ethical and legal tension: how to reconcile the unwavering defense of sovereignty and non-intervention with the recognition that the Nicolás Maduro's regime had serious democratic shortcomings and violated human rights. as widely documented by international organizations, including the UN? This tension It cannot be resolved through simplifications that ignore the seriousness of internal violations, nor by...



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relativization of the fundamental principles of the international legal order.

According to the theoretical foundation of this study, the ownership of sovereignty remains with... Venezuelan people, regardless of the nature of the current government. Although contested regarding Regarding democratic legitimacy, the Maduro government did not extinguish the sovereignty of the State nor confer to third parties the prerogative to decide on their political future. The Rousseauian distinction between The sovereign (the people) and the government (transitory leader) prove crucial: governmental despotism. This does not justify the external usurpation of sovereignty; on the contrary, it reinforces the people's right to... to promote endogenous political transformations.

Contemporary international law offers legitimate mechanisms to respond to serious human rights violations and threats to peace, such as the accountability system. international relations between States, international tribunals, including the International Criminal Court and the system of collective security centered on the UN Security Council. Despite its limitations, in Especially due to the veto power of the permanent members of the Council, these mechanisms They demonstrate that the international community has recognized the need to institutionalize responses. to address serious abuses without resorting to unilateral actions that would compromise the international legal order.

The selective application of humanitarian and democratic concerns reveals the character Instrumental, not normative, justifications for intervention. States with deficits. comparable or superior democratic countries, but geopolitically aligned with the United States, They remain immune to similar interventions. Concrete examples, such as the pardon granted by President Trump to former Honduran President Juan Orlando Hernández, convicted in the U.S. for Crimes analogous to those imputed to Maduro demonstrate the contradiction between the discourse of applying the law. Law and political practice guided by geopolitical interests.

Criticism of US intervention in Venezuela does not imply legitimizing authoritarianism. Maduroist. On the contrary, it is based on the premise that the consolidation of political systems Democratic and respectful of human rights can only occur through internal processes. led by the people themselves. Historical experience shows that imperialist interventions, even when justified rhetorically by the promotion of democracy, they often result in in prolonged instability, massive violence, and neocolonial subordination, as evidenced in Cases in Iraq, Libya, and Afghanistan.

#### **6.4 Systemic Implications: The Dangerous Precedent and the Erosion of International Legal Order**

The military operation in Venezuela sets an extremely dangerous precedent for order. international law. If it agrees that States can unilaterally undertake operations military personnel in foreign territories to execute domestic judicial warrants or to promote regime change, the very possibility of peaceful coexistence between states based on





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Consensual legal norms are collapsing, giving way to figurative norms. The international system  
This would revert to the Hobbesian logic of the state of nature where force, not law, determines relations.  
between political units.

The Venezuelan ambassador to the UN, Samuel Moncada, clearly articulated this.  
concern when stating that if the kidnapping of a head of state, the bombing of a sovereign country and  
If the open threat of new armed actions is tolerated or minimized, the message sent to  
The world is devastating: that the law is optional and that force is the true arbiter of relations.  
international. This observation is not mere diplomatic rhetoric, but correctly identifies  
the existential threat that actions of this nature represent to any legal order.  
International.

The precedent is particularly worrying considering the president's statements.  
Trump on the possible extension of similar actions to other countries, including Cuba, Colombia and  
Mexico. The logic underlying the Venezuelan intervention, if universalized, would authorize multiple  
States undertaking cross-border military operations based on their own assessments.  
Unilateral decisions regarding the legitimacy of foreign governments or violations of their domestic laws. States  
More militarily powerful states could systematically violate the sovereignty of weaker states.  
reinstating imperial relations of domination incompatible with the purposes and principles of the Charter.  
of the UN.

The Security Council's paralysis in the face of the violation, due to the veto power of the States.  
United as a permanent member, it exposes the structural limitations of the collective security system.  
established in 1945. This limitation, however, does not authorize individual States to  
To substitute oneself for the Council and act unilaterally would be monstrous. For this reason, the opposite is said.  
This reinforces the need for reforms in the international governance system to make it more effective.  
The application of international law without destroying its foundations through the legitimization of actions.  
unilateral.

Brazil's permanent representative to the UN, Sérgio Danese, expressed his position.  
This is particularly relevant when stating that the solution to political crises does not lie in the creation of  
protectorates, but through respect for the self-determination of peoples within the constitutional limits of  
each country. This perspective aligns perfectly with the theoretical foundations developed  
In this study: popular sovereignty implies that political transformations, even in contexts  
authoritarian regimes constitute the exclusive prerogative of peoples through their own processes of  
self-determination, which cannot be imposed by exogenous forces through military coercion or  
economic.



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## 7. Sovereignty and the Drift of International Law in the Face of the Emergencies of the New Times

In his doctoral thesis, *"The US Strategy Against the 'Novelty' of Hybrid Threats"*

*From the Sino-Russian Axis: The Illegal Use of Lawfare in War and as its Substitute*, presented to

Postgraduate course in Law, Department of Legal Sciences, Federal University of Paraná,

Curitiba, in 2025, Lucas Silva de Souza, in demonstrating the serious ethical and democratic dilemmas, resulting from the transformation of law into a weapon, it subverts its original function of limiting the violence, indicating that what should serve to protect individuals and peoples against abuse becomes- if it is a mechanism of oppression and manipulation.

Domestically, considering sovereignty and using the kidnapping of the President as a benchmark, Maduro's decision to conduct a unilateral criminal trial reflects the weakening of institutions. democratic systems, incapable of resisting selective judicial processes or criminalization campaigns. Politics. On the international stage, it generates distrust in the impartiality of international law, fueling the perception that global justice is nothing more than an instrument of power.

On the international stage, just like President Lula, in an article he published in major newspapers. from 10 countries – Le Monde (France), El País (Spain), The Guardian (United Kingdom), Der Spiegel (Germany), Corriere della Sera (Italy), Yomiuri Shimbun (Japan), China Daily (China), Clarín (Argentina), La Jornada (Mexico) – it is given, according to the relevant points that he highlighted, to contribute with the need to build a new world order, in the face of the exhaustion of the prevailing model. since the end of the Second World War. In the text, he gives examples of the decline of the old model, It criticizes the application of the law of the strongest among nations and points to multilateralism as the only way out. In the article, in effect, the President warns about the imminent collapse of the established international order. after 1945, threatened by the unilateral use of force (conflicts in Iraq, Libya, Ukraine, Gaza), by Economic protectionism, which fragments global supply chains and generates inflation and stagnation, by Institutional weakening, with the World Trade Organization being weakened.

He draws attention to persistent global inequality, exacerbated by bailouts. billionaires during financial crises and the negligence of rich countries regarding financing. promised for the climate (COP30). Although these institutions have preserved biodiversity, While diseases have been eradicated and labor rights have been expanded, they are outdated in light of new developments. global challenges.

And, as he has been insisting and which seems to be a necessary and rational position, he indicates that the Multilateral organizations must be reformed on fairer, more inclusive, and modern foundations. In light of the limits of unilateralism, the *"law of the strongest"*—that is, military interventions— Unilateral sanctions and tariffs—they destroy global trading systems, trust, and predictability. and cooperation between peoples.

Ultimately, in light of the events of the new times, they express themselves in an imperial manner.



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which assumes the condition of a neo-imperial colonialist exploitation, in the face of which it is still

Saint Augustine's warning, as it appears in *The City of God*, regarding the similarity between

A kingdom without justice and piracy:

*"With justice banished, what is every kingdom but great piracy? And what is piracy but a small kingdom? It too is a handful of men, governed by the power of a prince, bound together by a pact of partnership, dividing the spoils according to certain conventions. If this evil grows, it is because lost men are added to it, who seize places, establish hideouts, occupy cities, subjugate peoples, and take on the more authentic name of kingdom."*

*This name openly reveals not lost greed, but added impunity. In a joking, yet serious tone, a certain captured pirate replied to Alexander the Great, who asked him what he thought of the turmoil he was causing at sea. With arrogant freedom, he answered: 'The same as you think of keeping the whole Earth disturbed, with the only difference being that I, for doing it with a small ship, am called a thief, and you, who do it with a huge fleet, are called an emperor.'"*

Thus, outside the context of international mediation (UN), unilateral forms of

Interventions end up accentuating the drift of international law, which is fraying in the division that binds it.

It provokes neo-imperialist options, if not outright piracy, as Santo described it.

Augustine.

The same statement, offered in a different context, occurred during the International Colloquium.

Algiers – Meeting of Independent Personalities, on the theme *"Gulf Crisis: The Drift of*

*"Droit"* (February 1991, still at the height of the First Gulf War, on the eve of the ceasefire). With

In effect, in Algiers, among personalities of the stature of Roger Garaudy, Bernard Langlois, Edmond Jouve,

René Dumont, Monique Weyl, Father Jean Cardonnel, Régis Debret, the American ex-Secretary

In a decision made in the annals by State Justice Ramsey Clark, an attempt was made to rescue the

relevance of preventing the drift of law, on the grounds that

*"Peace and laws are not enough to contain the drift, and it is necessary to determine a new civilizational path in which progress is subordinated to ethics, the economy to the needs of society, and law to the ends of humanity."*

Of course, taking advantage of the possible connotations in Portuguese of the use of the term "deriva" (derivative).

to develop a hermeneutical approach to analyzing the role of Law in the context of the crisis of

Gulf, in order to establish an intentional overlap between the notions of deviation and loss of

The direction the term implies, starting with the question of: *Which Law is adrift?*

Care was taken to verify a double lack of communication between the Iraqi position and the

historical colonial impositions in light of the United Nations' attitude given the composition of the Council

Security, from a hegemonic representation mobilized to convert political reasons into

decisions of a legal nature.

In a way, this is a critique of Norberto Bobbio, who, in an interview given after the

occupation of Kuwait (Coveite) but before the war began, he deduced the legal possibility



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authorized to intervene in the conflict, classifying it as a just war, based on the right to

to restore the violated legality. Of course, under certain conditions, but eliminating the option – through war – made possible by the interpretation since the UN Resolution, without realizing it (or despite realizing it).

(account), that the deliberation accommodated self-established multinational (not international) interests. For

the terms of the Algiers Colloquium convocation, based on counter-colonial positions, which

It was happening then, it was the transit

*“de la force d'un droit affirmé”, à “un droit de la force inavoué”, without guarantees of escaping the “la temptation de l'hégémonisme”.*

The fact is, says Ambassador Alessandro Candeas,

*"World conflicts in recent years threaten the achievements of the international community in the second half of the 20th century in the areas of collective security, international humanitarian law, and global governance."*

*The world order inherited from the post-World War II and post-Cold War eras tends to be superseded. A new arrangement emerges in the 20th century, more chaotic and fragmented, in which the values of multilateralism, liberal democracy, human rights, interdependence, cooperation, self-determination, sovereignty, territorial stability, and environmental awareness give way to unilateralism, brutal realism in power politics, authoritarianism, ethnic-religious-nationalist extremism, subversion of borders and rights, unregulated competition, and environmental denialism. All this is driven by revisionism and destabilizing technological advances that empower disruptive agents.*

In his newly released book, with the authenticity of a living presence in the territory of

conflict, this brilliant diplomat who was Brazil's Ambassador to Palestine from 2020 to 2024, having

coordinated the airlift for the repatriation of Brazilians at the beginning of the bombings, which is what we are doing.

watching is the action of

*"Redrawing maps and borders in Europe, the Middle East, Asia, and the American Hemisphere: Ukraine, Gaza and the West Bank, Syria, the South China Sea, the Gulf of Mexico, Greenland, Guyana, among others. A geotechnopolitics emerges, determined by advances in artificial intelligence and electromagnetic and cybernetic fields."*

And that's why, more than ever,

*"Diplomacy must be valued to reverse these disruptive trends, restoring a climate of trust and strategic stability based on the rule of law and global governance, modernizing the positive legacy and lessons learned from the 20th century, achieved at the cost of human tragedies, and rebuilding a less unstable, uncertain, violent, and insecure world."*

But not only diplomacy as a means of mediating crisis governance, but also from the perspective of

Sovereignty as a non-negotiable issue - "our democracy and our sovereignty are non-negotiable,"

The President's statement is linked to the idea that the country will be an "*independent nation*" and a "people free from any type of guardianship", especially when they arm themselves to confront it with unilateral sanctions and

External interventions: "*arbitrary and unilateral sanctions*," which thus become instruments that

They undermine the sovereignty of states, and the very redefinition of International Law, in light of



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emergencies of the new times.

Therefore, both externally and internally, the key to understanding Sovereignty must be...

being that of "Multilateralism vs. international disorder," a condition for sovereignty to be possible.

fully defended in a pluralistic world where international rules and law are

Respected. For President Lula, in his speech of September 23, 2025, at the opening of the Debate.

General Assembly of the 80th United Nations General Assembly, in New York, there

*"International disorder, characterized by concessions to the politics of power, attacks on sovereignty, arbitrary sanctions, and unilateral interventions."*

It can be deduced from the President's statement that there is a necessary link between sovereignty,

democracy and social justice, so that sovereignty is not merely the political autonomy of the State,

but the ability to guarantee basic rights (health, education, housing, etc.), reduce inequalities,

Protecting democracy, gender, childhood, migrants — all as integral parts of sovereignty.

Dignified. Hunger, social inequality, and poverty are concrete threats to democracy and, therefore, to...

fullness of national sovereignty.

Although sovereignty, in classical international law, continues to be defined as the power

the supreme legal right of the State to self-determine and govern itself freely, both domestically and internationally.

on an equal footing with other States, without being subject to any superior authority, under the Law

In contemporary international relations, the classical concept has been relativized. Indeed, the notion of sovereignty,

Originally conceived in International Law as a matter of state independence, it has gained new uses.

nouns within countries, especially from the second half of the 20th century onwards,

when it began to be associated with the self-determination of peoples, active citizenship, and the effectiveness of fundamental rights and human rights.

In a concise interpretation of President Lula's speech, what stands out is that he...

It shifts sovereignty from its classic dimension (territorial and state) to a social and popular dimension.

Sovereignty as the power of a people to decide their own destiny with freedom, justice, and dignity.

within and outside its territory. The result is a "democratic sovereignty" that rejects external tutelage;

It protects domestic rights; it seeks international partnerships based on equality, not subordination.

My tribute to the beloved Ambassador Alessandro Candéas who organized in the West Bank, the

Repatriation of Brazilians stranded in Gaza at the start of the bombings.

A sovereignty that is not stifled by the "peace of the cemeteries" (According to Dom Carlos,

The Spanish Infante by Friedrich Schiller, written in 1787, dramatizes the conflict between King Carlos I and King Charles I.

son of King Philip II of Spain, and the Marquis of Posa, centered around freedom, tyranny, and peace.

imposed by royal power: *"Sire, this is the peace of the cemeteries."*). That is why the firm reprimand of

President Lula: *"International Humanitarian Law and the*

*"The myth of the ethical superiority of the West."*



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In short, a Sovereignty that moves us in philosophical, sociological, and political consciousness.

theological, legal, but radically ethical – as President Lula said, *"The only war that*

*"Everyone can emerge victorious; that's the fight we're waging against hunger and poverty."*

## 8. Conclusion

The investigation demonstrated that popular sovereignty constitutes the foundation of the State and persists. regardless of the prevailing political regime. The classic distinctions between the ownership of Sovereignty, which belongs to the people, and the contingent exercise of governmental power demonstrate that Changes in government do not transfer to third parties the prerogative to decide on the political fate of the country. The State. Particularly the contributions of Rousseau and Sieyès, establish a fundamental distinction. Between the ownership of sovereignty, the Kelsenian and Jellinekian perspectives, it clarifies that sovereignty constitutes an essential attribute of the State as a territorially delimited legal order and politically independent

In the realm of international law, the Charter of the United Nations is structured upon the principles of sovereign equality, the prohibition of the use of force, and non-intervention in matters of jurisdiction. internal. The principle of self-determination of peoples reinforces the prerogative of each population to To freely define their political system through internal means, without external coercion. The rules Imperative principles of general international law establish legal limits on the actions of States, but They do not authorize unilateral actions that violate sovereignty.

The case of the US military operation in Venezuela in January 2026 exemplifies this. Systematic violation of these principles. The capture of the head of state, the bombing of facilities. Strategic actions and the imposition of control over natural resources and trade relations shaped a direct affront to articles 2, paragraphs 1, 4 and 7, of the Charter of the United Nations, as well as to norms fundamental principles of international law. The episode highlights the selective instrumentalization of Concepts such as democracy and human rights are being distorted for geopolitical and economic purposes. Legal principles to legitimize practices of force.

Lasting political transformations can only result from endogenous processes of Self-determination. The acceptance of unilateral interventions weakens the foundations of order. international law and reintroduces relations of domination between states. The defense of sovereignty and of The self-determination of peoples does not represent indifference to human rights violations, but The assertion that a norm-based international order requires respect for sovereign equality. The consolidation of legitimate political systems depends on the recognition that the right International law should regulate relations between states, not arbitrary power, preserving the autonomy of peoples and limiting the use of force to what is strictly authorized by the global legal order.





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