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Popular Sovereignty in Authoritarian Regimes: Philosophical and Legal Foundations and Limits 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

José Geraldo de Sousa Junior, PhD in Law, State and Constitution from UnB (University of Brasília), Professor Emeritus and former Rector of UnB. Email: jgsousa@terra.com.br

Laura Lucia da Silva Amorim, PhD in Law from UFBA, Professor of International Law at UNIPIO - Centro Universitário Pio Décimo. Email: llsamorim@hotmail.com

Pedro Henrique Vila Nova Figueredo, Postgraduate in Constitutional Law from the Pontifical Catholic University of Rio de Janeiro - PUC/RJ. Postgraduate in Public Law from São Judas Tadeu University. Email: pedrovilanova.jus@gmail.com

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 foundation in positive international law and violate structuring principles such as the self-determination of peoples, non-intervention, and sovereign equality. Through a legal-dogmatic and philosophical-analytical methodology, the purported legitimacy of unilateral interference is critically examined, 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 conceptualized 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 constitute 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. 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,

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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 noun uses at the

domestic level of countries, especially from the second half of the 20th century onward, 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 is one of the foundational concepts of constitutional law and the theory of the 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 19th 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 of 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 the basis
A decisive philosophical point for understanding popular sovereignty, as it asserts that it is inalienable.
indivisible and infallible when expressing the general will, meaning infallible as that which does not err.
As for the end, even though the people may err in the means. For Rousseau, sovereignty resides
essentially in the political body formed by the union of individuals through the social contract, not
It can be transferred or usurped without destroying the very foundation of the community.
politics. The Genevan philosopher rigorously distinguishes between the sovereign, identifiable here as the
The people gathered together and the government, which will become the administrative body responsible for enforcing the laws,
establishing that the latter is merely an agent of the former, lacking any power of his own,
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: although
Even if the government degenerates into despotism, sovereignty remains ontologically with the people, although
its effective exercise may be temporarily obstructed. Rousseau explains that power
sovereign, even when not actively manifesting itself due to governmental oppression, does not...
It is neither extinguished nor transferred to the usurper. Usurpation only constitutes the de facto exercise of power.
power, never legitimizing the legal ownership of sovereignty. This concept is fundamental
Theoretically, the thesis that authoritarian regimes do not alter the popular ownership of sovereignty, but
They only prevent it from being fully exercised.

Furthermore, it should be noted that Rousseau establishes a principle of non-intervention by arguing that...
Each people has the right to determine its own form of government according to its own...
particular circumstances, provided that popular sovereignty is preserved as a fundamental principle. A
The external imposition of political forms, even if theoretically superior, violates autonomy.
constitutive of the political body and contradicts the very principle of self-determination that underlies it.
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 to establish a fundamental distinction between constituent power, which is original and unlimited in nature, exclusive prerogative of the nation, and the constituted powers, of a derived nature, legally limited by the Constitution and exercised by governmental bodies. For Sieyès, the nation precedes and it overrides any positive constitutional form, constituting itself as the primary source of all legality, which is why its constituent power is not subject to pre-existing forms and It 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 normative will national, that the State and its bodies exist to serve society and that this has as its purpose Ultimately, the goal is to achieve the individual happiness of its members, as well as their continued existence. Balance and historical evolution is exactly as Ayres Britto teaches when he states that "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. Although representative institutions have been fully established, constituent power remains latent. within the social body. The nation, as the original holder of political power, virtually retains the capacity to reshape state structures, even if factual circumstances prevent it. temporarily suspending the exercise of this prerogative.

Sieyès also establishes that no power external to the nation can legitimately intervene. in the manifestation of its constituent power, therefore constitutional self-determination It constitutes the ultimate expression of sovereignty, and its violation by external forces represents a denial. radical aspect of the very political existence of the nation-state. This conception is fundamental Philosophically, the principle of non-intervention in international law demonstrates that each A nation possesses an inalienable right to establish its own political structures.

Although notably formulated in distinct historical contexts, Sieyès' conceptions Ayres Britto and [the author] converge in affirming the structural distinction between the ownership of political power, rooted in the nation as a permanent spiritual instance, and its institutional exercise, attributed to state organs of transitory legitimation, reaffirming the centrality of the constituent will as the ultimate foundation of the constitutional order.

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

In Jean Bodin's work, Les Six Livres de la République (1576), we have the first systematic theorization of modern sovereignty, defining it as the absolute and perpetual power of republic. For Bodin, sovereignty is characterized by five essential attributes: perpetuity, indivisibility, absoluteness, inalienability, and supremacy over all other forms of power. These characteristics establish that sovereign power does not admit subordination to authority. superiority without temporal limitation, 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 the peremptory norms of general international law *(jus cogens),* which bind the States independently of individual consent, and, on the other hand, in commitments voluntarily assumed through treaties. Crucially, however, such limits do not legitimize unilateral impositions by isolated States, operating within the framework of a legal system internationally structured 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 unilateral acts, intended to protect fundamental values, such as the prohibition of torture, genocide, slavery, wars of aggression, and the guarantee of self-determination of Peoples, which observed two main theoretical constructions: the subjective one, based on acceptance The norm is defined by the majority of states, and the objective norm attributes intrinsic characteristics to the norm. which guarantee its imperative nature (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 any single state. can unilaterally act as the universal enforcer of these rules. In this context, mechanisms how the International Criminal Court (ICC) performs an accountability function, and can to investigate and prosecute individuals for war crimes, crimes against humanity and genocide, based on denunciations from States, the UN Security Council or independent prosecutors, functioning as an instrument for the judicial application of jus cogens in 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 that power. It is
It is precisely this ontological continuity of sovereignty that underlies the principle that
States maintain their international legal personality through regime changes, and that
Transitional governments do not extinguish the sovereignty of the State nor authorize its appropriation by others.
foreign powers, 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.
legal. From this perspective, the sovereignty of a State is manifested when its order
The legal system constitutes a supreme normative system, not derived from any legal order.
superior and whose validity is independent of external recognition (Kelsen, 1920)

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

With regard to international law, Kelsen argues that state sovereignty
Its foundation and limit are found in international law itself, which recognizes and defines the...
state powers. This perspective leads to the conclusion that limitations on sovereignty should
to derive from valid international norms, not from unilateral impositions. Interventions that lack
based on a consensual international norm or authorization from a multilateral body.
competent authorities violate the very normative structure that confers validity to the system of States.
sovereigns.

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, define clear limits for state action. The existence of these norms demonstrates that the validity of a state's legal order also depends on respect for fundamental international precepts. When these rules are violated, the international community has recourse.
Control mechanisms, to hold individuals accountable and protect values that transcend borders, showing that sovereignty and jus cogens are not opposing concepts, but rather dimensions.

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which balance each other within the global legal system like 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 reference point in public international law, and this is what we...
very useful. For Jellinek, the State consists of three essential elements: the people (element
personal), territory (spatial element) and sovereign power (formal or political element). A
Sovereignty is characterized as the power of domination not subordinated to any other power.
earthly power, manifesting itself both internally (supremacy over individuals and groups in
both territorially 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 voluntarist foundation of international order. Thus, sovereignty is not only
an internal prerogative, but also a criterion of external validity: recognition and
Respect for other states depends on compliance with consensually accepted norms.
and not unilateral impositions.

This approach highlights that sovereignty is not the same as the system of government.
Current situation: 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 in
An external plan. Consequently, any attempt at external intervention must find...
based on valid international standards, otherwise it would violate the very logic of
international system, which recognizes sovereignty as a structuring principle of coexistence between
States.

Regarding the present analysis, Jellinek's theory clarifies that permanence
The elements of people and territory ensure the continuity of the State even through
Transformations in the exercise of sovereign power. Changes in political regime, including
Transitions between democratic and authoritarian forms do not affect the existence of the State, much less
of the Nation, in perspective, Sieyès' theory, as such, does not alter its
international legal personality. Consequently, the State retains 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 has been marked by a reinterpretation of its classic elements in light of positive law and the Structural principles of the international order. Sovereignty remains an essential foundation. of the interstate system, but is undergoing an adaptation process in the face of increasing density. International norms. Principles such as sovereign equality, non-intervention, and self-determination. They continue to structure International Law, while also coexisting with obligations. increasingly broad international discussions, especially regarding 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 based on the principle of sovereign equality of all its members. This principle, in an intelligible way, Self-enunciating implies that States, regardless of their size, economic power, political regime or international influence have equivalent legal status in law. international. Sovereign equality prohibits legal hierarchies between States and forbids that some States claim the authority to judge or intervene in others based on unilaterally established criteria.

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 The political independence of any state, which above all promotes a culture of peace. This This norm constitutes a fundamental pillar of the collective security system established by the Charter, prohibiting not only direct military actions, but also economic, political, or diplomatic coercion aimed at subjugating the will of another State. This is complementary to the jurisprudence of the International Court of Justice, especially in the case of *Nicaragua v. United States.* *The United States* (1986) confirmed that the prohibition on the use of force against another State is mandatory under general international law, binding on all States regardless of specific consent, which doctrine often recognizes as a jus cogens norm.

Article 2, §7, complements the normative framework by stipulating that no provision of the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of States. This reserved domain clause establishes that certain matters, including the choice of political regime and economic system, constitute the exclusive prerogative of each State.

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Only in cases of threats to the peace, breaches of the peace, or acts of aggression, does the Security Council... It 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 framework. regulations.

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 equal rights and self-determination of peoples. This provision was subsequently developed by General Assembly Resolution 1514 (XV) (1960), which proclaims the Declaration on the Granting of Independence to Colonial Countries and Peoples, and by Resolution 2625 (XXV) (1970), which sets forth the Declaration on Principles of Law International Matters Concerning Friendly Relations and Cooperation between States.

The same is vividly stated in the International Covenants on Civil and Political Rights and The Convention on Economic, Social and Cultural Rights, both from 1966, enshrines in its common article 1... that all peoples have the right to self-determination and that, by virtue of this right, they determine freely establish their political status and freely ensure their economic, social and cultural. This formulation establishes that self-determination is not limited to colonial contexts, but it constitutes a permanent prerogative of all peoples, including those in States already independent. Crucially, the same article stipulates that all States Parties must To promote the realization of 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 emergence of new independent states, its application to already existing states implies the The right of the people to freely choose their political system through internal processes, not through external imposition. Resolution 2625 (XXV) makes it clear that self-determination does not It should be interpreted as authorizing action that dismembers or harms territorial integrity. of sovereign states. Therefore, the principle of self-determination underlies the prohibition of external interventions aimed at imposing regime change, even when these are presented as a promotion of democracy.

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4.3 Imperative Norms and Limits to Sovereignty: Distinction between International Obligations Justification of 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 all of which no derogation is permitted and which can only be modified by a subsequent rule. of general international law of the same nature. Recognized examples of jus cogens norms. They include prohibitions against genocide, slavery, torture, apartheid, and wars of aggression.

The existence of mandatory rules effectively establishes legal limits to... State sovereignty: no state can legitimately commit genocide, maintain a regime of slavery, or wage a war of aggression, even while invoking its sovereignty. However, a crucial distinction must be made 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 structure of the Charter of the United Nations assigns to the Security Council, through a specific procedure in Chapter VII, the competence 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 existence of a threat to peace and the authorization of coercive measures, including the use of force. The allegation that human rights violations or the absence of democracy could justify Unilateral interventions encounter an insurmountable obstacle in the normative architecture itself. of International Law. Even though the consolidation of international norms is recognized. aimed at protecting human rights and promoting democratic governance, such These developments have not created any exception to the fundamental principle of non-intervention. The International Court of Justice, in the case of Nicaragua v. United States, explicitly rejected the argument that promoting democracy would justify the use of force or other forms of intervention, stating that, although adherence to a particular political system constitutes An essential element of the right of States to self-determination, this fact does not authorize third parties. States imposing their views through coercion.

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

The rhetoric of promoting democracy has, in recent decades, been used to justify external interventions that exceed the normative limits of International Law. Under the guise of defending universal values, practices of political and military interference have come to be presented as legitimate instruments for internal transformation of

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Sovereign states, often without the backing of competent multilateral bodies. This phenomenon reveals a worrying shift: democracy, instead of being a guiding principle for the self-determination of peoples, becomes a strategic argument for unilateral actions that weaken the international legal order. Examining contemporary interventionism therefore implies critically analyzing how democratic language has been instrumentalized to legitimize practices that, in essence, contradict the structuring principles of sovereignty, equality among 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.
Acts without authorization from the United Nations Security Council constitute 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 to end the economic, commercial and financial blockade imposed by the States. United Against Cuba, approved annually with broad international support since 1992. These Resolutions state that unilateral sanctions violate the Charter of the United Nations, the right international and free trade rules.

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 for To justify interference, they use precisely the instruments that cause humanitarian suffering. massive. This contradiction reveals the instrumental, not genuinely humanitarian, nature of such Policies. Furthermore, extraterritorial sanctions that penalize third-party states and entities. Private companies that maintain commercial relations with sanctioned states violate sovereignty. not only of the target State, but also of all other States whose freedom of trade and International relations are restricted.

International law recognizes that only the UN Security Council, acting Under Chapter VII of the Charter, it has the power to impose binding sanctions on States. members.

Unilateral sanctions, therefore, lack international legal basis, representing The arbitrary exercise of power by stronger states against weaker states. The doctrine contemporary international law, including authors such as Alain Pellet and Sarah Cleveland, It argues that unilateral sanctions aimed at coercing regime change or domestic policy changes are unacceptable. They violate the principle of non-intervention established in customary international law and codified in General Assembly Resolution 2625 (XXV).

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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 the fight against terrorism. The intervention in Iraq. (2003), conducted by a US-led coalition without authorization from the Council of Security constitutes a paradigmatic example of a violation of international law. The initial justification based on the existence of weapons of mass destruction proved to be false, and Subsequent justifications invoking the promotion of democracy find no support in the Charter. Neither the UN nor customary international law.

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 civilians, the operation expanded to include regime change objectives, exceeding the mandate. original and generating serious regional instability, with widespread violations of rights. humans. The case highlights the risks of expansive interpretations of Council resolutions and reinforces the need for strict adherence to the regulatory limits set forth in the Charter of UN. Permanent member powers, notably Russia and China, have expressed concern. with the abusive use of the civilian protection mandate, hindering consensus on future issues. 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 Comparable or greater democratic deficits, but aligned with such powers, remain. immune to similar interference. This selectivity highlights that geopolitical considerations and Economic concerns, not genuine concerns for human rights or democracy, motivate such interventions. The instrumentalization of universal values for particularistic ends constitutes a form of ideological imperialism that undermines the credibility of the very discourse of human rights and It weakens the rules-based international legal order.

6. The United States Military Operation in Venezuela (2026): A Case Study on Violation On 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 Flores. The operation involved the bombing of strategic installations, the disruption of power supplies in Caracas, and the mobilization of special forces. Both were transported to the United States and brought before a federal court in Manhattan on narcoterrorism charges filed in 2020, declaring their innocence and contesting the legality of the operation.

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Capture by invoking head of state immunity.

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

The 2026 operation reveals a broader pattern of selective instrumentalization of international law on the part of the United States, which mobilizes legal narratives to to give the appearance of legitimacy to actions that, in essence, subvert the normative order. international. The invocation of arguments such as protecting democracy and combating crime. In this context, transnationalism or the defense of human rights operates as justifying rhetoric. designed 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, It not only represents a concrete violation of state sovereignty, but also reveals How the discursive manipulation of international principles can erode the stability of the system. global legal framework and compromise the credibility of the norms that structure coexistence among the 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. The deadline of 2026 constitutes a clear and serious violation of fundamental principles of law. contemporary international. The action, which resulted in the capture of President Nicolás Maduro without authorization from the United Nations Security Council or consent from the government Venezuelan, contradicts the prohibition against the threat or use of force enshrined in Article 2, paragraph 4, of the UN Charter, a rule that requires members of the organization to refrain from resorting to force against the territorial integrity or political independence of 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 states that no State may exercise jurisdictional authority or enforce coercive measures in the territory of another State based on its own domestic law. The US claim to impose extraterritorial measures under the argument of applying domestic law contradicts the legal recognition of sovereignty and

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equivalence between States, shifting the legitimate exercise of criminal prosecution towards a use of force not authorized by international law, especially when bringing the captured individual to US jurisdiction, which is illegitimate for this purpose, as it does not possess international police power nor function as an International Court.

At the same time, the operation aligns with a broad interpretation of jurisdiction. which, if accepted, would severely restrict the principle of non-intervention enshrined in Article 2, Paragraph 7 of the Charter, which prohibits interference by States or the UN in matters... essentially internal to other States, except in clearly defined situations. authorized by the Charter itself. The determination of who holds the office of head of state, Even in contexts of challenging democratic legitimacy, it is part of the internal sphere of state jurisdiction and must be resolved through constitutional mechanisms and due process. self-determination of the respective people, not through 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 use of force by law to execute domestic judicial warrants does not remove the legal requirement for international authorization for the use of force in foreign territory.
Renowned experts in international law emphasize that such justification is inconsistent with the UN Charter and that the absence of a legitimate legal basis, such as consent, authorization from the Council, or self-defense against an armed attack, makes the operation an unequivocal violation 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 Nicolás Maduro's regime presented serious democratic deficits and violated rights.
Humans, as widely documented by international organizations, including the UN?
This tension cannot be resolved by simplifications that ignore the seriousness of internal violations, nor by relativizing the fundamental principles of the international legal order.

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According to the theoretical framework of this study, the ownership of sovereignty remains in the Venezuelan people, regardless of the nature of the current government. Even if contested. Regarding democratic legitimacy, the Maduro government did not extinguish the sovereignty of the State nor It gave third parties the prerogative to decide on his political future. The distinction The Rousseauian distinction between sovereign (the people) and government (transitory representative) proves crucial: the Governmental despotism does not justify the external usurpation of sovereignty, reinforcing, by On the contrary, the right of the people 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 system of international responsibility of States, international tribunals, including the Criminal Court International relations and the collective security system centered on the UN Security Council. Despite its limitations, especially due to the veto power of the permanent members From the Council, these mechanisms demonstrate that the international community has recognized the the need to institutionalize responses to serious abuses without resorting to unilateral actions that They 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 the...
relations between political units.

The Venezuelan ambassador to the UN, Samuel Moncada, articulated it clearly.
This concern arises when stating that if a head of state is kidnapped, or a country is bombed...
If sovereignty and the open threat of further armed action are tolerated or minimized, the message
The message sent to the world is devastating: that law is optional and that force is the true arbiter.
of international relations. This observation is not mere diplomatic rhetoric, but identifies
correctly identifies the existential threat that actions of this nature represent for anyone.
international legal order.

The precedent is particularly worrying considering the president's statements.
Trump on the possible extension of similar actions to other countries, including Cuba and Colombia.
and Mexico. The logic underlying the Venezuelan intervention, if universalized, would authorize
multiple states undertaking cross-border military operations based on their own
unilateral assessments of the legitimacy of foreign governments or violations of their laws
internally. 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 UN Charter.

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
For them to be able to replace the Council and act unilaterally would be monstrous. For this reason, it is said that...
On the contrary, this reinforces the need for reforms in the international governance system that make
more effectively applying international law without destroying its foundations through
Legitimizing unilateral actions.

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 creating...
of protectorates, but for respect for the self-determination of peoples within 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 authoritarian contexts, they constitute the exclusive prerogative of the people through their own means.
processes of self-determination, which cannot be imposed by exogenous forces through
military or economic coercion.

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7. Sovereignty and the Drift of International Law in the Face of Emergences of 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 Warfare and as its Substitute,"* presented to the Postgraduate Program in Law, Department of Legal Sciences, Federal University of Paraná, Curitiba, in 2025, Lucas Silva de Souza demonstrates the serious dilemmas...

Ethical and democratic issues arising from the transformation of law into a weapon subvert its original function of limiting violence, indicating that what should serve to protect individuals and peoples against abuse becomes a mechanism of oppression and manipulation.

Domestically, considering sovereignty and using the kidnapping of President Maduro for a unilateral criminal trial as a benchmark, this is reflected in the weakening of democratic institutions, which are unable to resist selective judicial processes or campaigns of political criminalization. Internationally, it generates distrust in the impartiality of international law, fueling the perception that global justice is nothing more than an instrument of power.

Internationally, just like President Lula, in an article he published in major newspapers in 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) – according to the relevant points he highlighted, it is necessary to contribute to the need to build a new world order, given the wear and tear of the model that has been in place since the end of the Second World War. In the text, he gives examples of the wear and tear of the old model, 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 of the imminent collapse of the international order built 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, and by institutional weakening, with the World Trade Organization weakened.

He draws attention to persistent global inequality, exacerbated by the bailout of billionaires during financial crises and the neglect of rich countries regarding promised climate funding (COP30). Although these institutions have preserved biodiversity, eradicated diseases, and expanded labor rights, they are outdated.

in the face of new 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 the face of the limitations of unilateralism. The *"law of the strongest"* —that is, unilateral military interventions, sanctions, and tariffs —destroys global trading systems, trust, predictability, and cooperation among nations.

Ultimately, in light of the events of the new times, they express themselves in an imperial manner, which takes on the condition of a neo-imperial colonialism of exploitation, in the face of which it is still
Saint Augustine's warning, as found in The City of God, about the similarity between a kingdom without justice and piracy, is valid:

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> *"With justice banished, what is the whole kingdom but great piracy? And the..."*
> *Piracy, what is it if not a small kingdom? It's also a handful of men,*
> *It is governed by the power of the prince, and is bound by a partnership pact.*
> *divide the spoils according to certain conventions. If this evil grows, why?*
> *If you add to that number lost men who take over places,*
> *They establish hideouts, occupy cities, subjugate peoples, and seize the*
> *The most authentic name for a kingdom. This name openly gives it, not the*
> *Lost greed, but increased impunity. In a tone of*
> *"Just kidding, but seriously," a certain imprisoned pirate replied to Alexander.*
> *Magno, who asked him what he thought of the suddenness in which*
> *He maintained the sea. With arrogant freedom, he replied: 'The same as it seems*
> *to you to keep the whole Earth disturbed, with the only difference being...'*
> *"They call me a thief for doing it with a small ship, and you, for doing it with a huge*
> *fleet, 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 *“Golf 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, Regis 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 the 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 of war.

– made possible by the interpretation since the UN Resolution, without realizing it (or despite being aware of it).

to account for), that the deliberation accommodated self-constituted multinational (not international) interests.

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

What was happening then was the transition “from the force of a droit affirmé”, to “un droit de la force

inavoué”, with no guarantee of escaping from “the temptation of l'hégémonisme”.

The fact is, says Ambassador Alessandro Candeas,

> *"World conflicts in recent years threaten the achievements of..."*
> *international community of 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.*
> *It 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, realism-brutalism of power politics, authoritarianism,*
> *ethnic-religious-nationalist extremism, subversion of borders and rights,*
> *Unregulated competition and environmental denialism. All of this driven by*
> *through 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

> *"Redesigning maps and borders in Europe, the Middle East, Asia, and the American*
> *Hemisphere: Ukraine, Gaza and the West Bank, Syria, the South China Sea,*
> *Golgo from Mexico, Greenland, Guyana, among others. A*
> *geotechnopolitics determined by advances in artificial intelligence and...*
> *"Electromagnetic and cybernetic fields."*

And that's why, more than ever,

> *Diplomacy must be valued in order to reverse these trends.*
> *disruptive forces, restoring a climate of trust and stability.*
> *A strategy 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 world*
> *"less unstable, uncertain, violent, and insecure."*

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, when marked by concessions to the politics of power, attacks on sovereignty, arbitrary sanctions and interventions unilateral.*

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 Candeas 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 It subsists independently of the prevailing political regime. The classic distinctions between the The ownership of sovereignty, which belongs to the people, and the contingent exercise of governmental power. evidence shows that changes in government do not transfer the prerogative to decide on the matter to third parties. The political destiny of the State. Particularly the contributions of Rousseau and Sieyès, establish... fundamental distinction between ownership of sovereignty, the Kelsenian and Jellinekian perspectives, It clarifies that sovereignty constitutes an essential attribute of the State as a legal order. territorially defined and politically independent.

In the realm of international law, the Charter of the United Nations is structured upon the following: principles of sovereign equality, the prohibition of the use of force, and non-intervention in matters of internal jurisdiction. The principle of self-determination of peoples reinforces the prerogative of each population to freely define its political system through internal means, without coercion. external. The peremptory norms of general international law establish legal limits to The actions of states are permitted, 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 and the imposition of control over natural resources and trade relations They constituted a direct affront to articles 2, paragraphs 1, 4 and 7, of the Charter of the United Nations, as well such as the fundamental norms of international law. The episode highlights that selective instrumentalization of concepts such as democracy and human beings for purposes geopolitical and economic factors distort 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 international legal order and reintroduces relations of domination between states. The defense of Sovereignty and self-determination of peoples does not imply indifference to human rights violations. humans, but the assertion that the norms-based international order requires respect for sovereign equality. The consolidation of legitimate political systems depends on recognition that international law should govern relations between States, and not arbitrary power, preserving the autonomy of peoples and limiting force to what is strictly necessary. authorized by the global legal order.

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