

Economic and Judicial War Tools to Subvert Democracy

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This is the edited version of a panel presentation by the same title that took place in Toronto, Canada on October 13, 2018. The Event was sponsored by a number of progressive organizations.

I think this is a very important and timely topic to cover in order to have a broad context and hopefully contribute some useful thinking to the topic.

We live in times of dramatic changes, as I see it.

I am sure many are noticing that we are moving from a unipolar to a multipolar geopolitical world where important new players have something to offer.

If we are noticing this, I am sure that the United States is also paying attention. The U.S. knows that it is losing its hegemony to other powers like China and Russia. Many other countries are taking notice. Venezuela is certainly one of them.

The U.S. is showing a reaction to that inevitable occurrence and what we are seeing are the struggling gasps of a dying empire that is imminent when measured in historical time.

This will not be a peaceful death, unfortunately. The dying empire will not die in peace.

I think this image might help us understand what is happening today.

Warfare tools

There was a time – say, last century – when we used to call conflictive relationships among nations by their direct descriptive name.

We had wars that countries declared to each other and sent soldiers to kill each other. They would even “announce” their wars. They had, and still do, what is called “rules of engagement”... but this was no engagement to be married... It was truly an “engagement to be destroyed”.

Then we had invasions where one nation would attack another nation to kill their people – a kind of war that was not announced.

We even had the so-called Cold War that was nothing else than a permanent threat of war.

Today we have quite a wide range of “conflictive relationships” among countries. But it’s

interesting to see the corresponding proliferation of terminology that we have come to use in describing those conflicts.

We have:

- Undeclared wars. And here we have to be careful how we use the term “war”. For example, there is no war in Syria. There is a war on Syria. Semantic is important here.
- New Cold War. I don’t know what’s new about it. It’s still a permanent threat of war.
- Infowar. The production of false news with media participation in order to undermine the legitimacy and credibility of a government.
- Economic war. This is the one that is caused through sanctions, and I’ll come back to that.
- Incitation to commit political crimes. For example, the life attempt against president Nicolas Maduro and other high officials last August 4.
- Incitation to mutiny. Repeated calls to the military to overthrow a government.
- Coups. We still have those...with a **soft touch** now.
- We have Soft Coups. These are the ones that have been at play in Latin America in the last few years. They oppress and kill people all the same.
- Terrorism. The ultimate destructive tool to be used against another nation. And it is being used by the U.S. widely, not only in the Middle East but also in Latin America and other regions.
- Finally, we have the most contradictory of all aggressions: Lawfare.

This is quite a repertoire of warfare tools that can be used in any combination with the single goal of imposing a regime change.

I recognize some of these tools were also used in the last century, but maybe not to the extent they are used today. Certainly, today they have become part of the new narrative about conflicts. They have achieved a level of recognition and acceptance that makes those actions extremely dangerous.

That is why it is important to be aware of them.

All of these actions are a form of warfare, and all have embedded an element of illegality. They are not used as legitimate self-defense. They are used to subvert democracy.

They extend the notion of weapons to situations where everything can be “weaponized” (notice the new terminology) with total disregard to legality, morality, humanity and ethical considerations.

As someone who is anti-war, I reject all implications of warfare especially when a war is carried out by a bully entity against smaller and weaker contenders.

Let’s take a closer look at lawfare and sanctions.

Lawfare

Wikipedia gives the following definition of the term:

“Lawfare is a form of war consisting of the use of the legal system against an enemy, such as by damaging or delegitimizing them.” [1]

It is believed that a U.S. General by the name of Charles Dunlap used the term for the first time in 2001. He defined “lawfare” as the “use of law as a weapon of war,” which he described as “the newest feature of 21st century combat.” [2]

Another similar definition of lawfare says that it is “the abuse of Western laws and judicial systems to achieve strategic military or political ends”.

A law expert said,

“lawfare is about more than just delegitimizing a state’s right to defend itself; it is about the abuse of the law and our judicial systems to undermine the very principles they stands for: the rule of law, the sanctity of innocent human life, and the right to free speech.”

All these definitions seem to have a consensus on the blatant contradiction: lawfare is not for the pursuit of justice; it is not the application of the law. It is just the opposite. It is the breaking down of the legal and constitutional order of another state for political gain.

Reportedly, the majority of U.S. laws that have come out after 9/11 constitute today the new tools used to repress any resistance in the name of national security, not only in the U.S., but also in other countries.



But we know that other countries are also misusing their own laws in a cruel copycat fashion to repress any internal resistance. We all think of the cases against Cristina Kirchner, Dilma Rousseff, Luiz Inácio Lula, Rafael Correa, and others.

Sanctions as economic war

Something we need to know about sanctions is that the United Nations can also impose and apply sanctions on countries. And it does.

At last count, 12 countries are sanctioned by the UN. More than half are African countries. Sanctions include asset freezes; travel bans, and arms embargoes.

No Latin American country is currently being sanctioned by the UN; certainly not Venezuela.

Imposing sanctions seems to be the assumed privilege of the U.S. based on its doctrine of exceptionalism. And the UN allows this to happen in spite of its own stated principles such as:

- The principle that States shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations. [*Remember, the purpose is to pursue peace*]
- The principle that States shall settle their international disputes by peaceful

means in such a manner that international peace and security and justice are not endangered. [*Remember, Venezuela has persistently asked to dialogue, even to meet with Donald Trump*]

- The principle concerning the duty not to intervene in matters within the domestic jurisdiction of any State.

I believe that the UN is a dysfunctional institution. We have seen many times the ineffective work of the UN. Despite the purpose of the United Nations to maintain international peace and security, we see a proliferation of wars, conflicts, and interventions every day.

Despite the intention, the United Nations is not a democratic institution by design from inception.

The UN is definitely not a democratic institution when we have a body like the Security Council – with such an important responsibility as to apply sanctions according to Article 41 of the Charter – which is ruled by a handful of self-appointed permanent members that have a veto power. Security Council permanent members are: China, France, Russia, the United Kingdom, and the United States.

In addition, Article 25 says: *The Members of the United Nations agree to accept and carry out the decisions of the Security Council...*

The misuse of the veto, the lack of accountability and the unfair representation at the UNSC – for example, not a single African or Latin American country is a permanent member – have all emasculated an organization that is meant, at least on paper, to uphold international law and achieve peace and global security.

If this was a country we lived in, we would have a Junta of five people – never elected; they or their successors are there in perpetuity – ruling our country, and we would have to agree to let that happen and would have to obey their decisions against the will of the majority.

This is the model of democracy that the United Nations gives to other nations.

Right now, in this kind of UN chaos, nothing prevents any country to impose sanctions unilaterally on another country if they so decide.

I have proposed an idea that all sanctioned States should start an international movement similar to the Non Aligned Movement founded in 1961. This could be called the Block of Sanctioned States Movement – the BoSS movement. I hope it catches on.

Are sanctions illegal?

Simply put, yes they are. They are against international law. Of course some disagree.

In spite of what I said about the United Nations, many States accept that only the UN has the legal right to impose sanctions. Mind you, it would have to be a drastically reformed UN.

At least there would be more eyes supervising the legal application of sanctions. And hopefully – emphasis on hopefully – there would be stronger accountability to provide evidence of any accusation against a legitimate government.

Currently there is no evidence that there is a humanitarian crisis in Venezuela!

The UN knows that, by the way, and does nothing. In the meantime, the U.S. is using infowar to create false evidence. Sanctions imposed by the U.S. are unilateral and are only based on domestic U.S. laws. The U.S. can legislate all they want within their jurisdiction but that does not make sanctions on another country legal when they break international law.

Sanctions are a form of intervention to pursue national goals.

Let me quote a paragraph from the Venezuela Report of last July:

“The policy of imposing unilateral coercive measures, known as “sanctions” ... violates the Charter of the United Nations, and conceals an aggressive model of intervention... Beyond the rhetoric that justifies it in the name of “democracy”, sanctions are an instrument of war, designed to make people suffer in order to bend sovereign States.” [3]

Notice that Venezuela is calling sanctions by its full name: “Unilateral coercive measures”. That’s what they are.

It is important to know that Venezuela has responded with the most advanced economic strategy to this economic war by sanctions and the parallel foreign-induced inflation.

Venezuela has targeted the essence of the damaging effect of sanctions: the U.S. financial system itself that imposes the U.S. dollar as the world reference currency. The latest Venezuelan monetary reconversion has set an economic recovery path by which the Venezuelan economic system is not measured in terms the U.S. dollar but by the value of its own oil resources linked to a crypto currency, the Petro.

I called this a monetary revolution within the Bolivarian Revolution. It minimizes the impact of the U.S. sanctions, but most importantly it has already set an example to other nations. [4] [5]

Legal Trojan horses

It is often the case in international agreements; legislation or charters that “exceptions” are introduced, which invalidate the main thrust of the agreement or charter. I have already referred to the UN that establishes a Security Council with powers over the whole assembly of nations as such an exception.

This is what I call a legal Trojan horse that facilitates the lawfare.

I want to give an example of a legal Trojan horse in international legislation that is closer to home in Latin America, in relation to the OAS.



Lima Group

Last February the illegitimate Lima Group, with no OAS authority, used Article 19 in Chapter 4 of the 2001 Inter-American Democratic Charter to prevent Venezuela from participating at the OAS Summit in Lima, Peru. They quoted the following bit from the article:

“...any unconstitutional alteration or interruption of the democratic order in a

state of the Hemisphere constitutes an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process."

But they conveniently omitted in that quote of Article 19 the very relevant beginning of the article that says,

"Based on the principles of the Charter of the OAS and subject to its norms..."

Therefore the 2001 Inter-American Democratic Charter does not supersede, does not invalidate or cancel out the 1948 OAS Charter. It recognizes it explicitly.

If we read the principles of the 1948 OAS Charter, the relevant article – Article 19 of Chapter 4 (not to be confused by the coincidence of the same article numbers in the two different pieces of documents) – says:

"No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements."

In my view the 2001 Inter-American Democratic Charter is the Trojan horse introduced to weaken the OAS Charter of 1948.

I do not believe that the team of international lawyers in 2001 would have made such a gross error to have missed the most relevant article of the OAS Charter that prevents precisely what's at the essence of all U.S. actions: Intervention!

I am inclined to believe that this was an intentional planting of confusion and attack. A true Trojan horse.

What to do?

I know what not to do. I don't think we should all become international lawyers or experts to fight back lawfare and illegal sanctions. But we must be sufficiently aware to have a working knowledge of the implications of those interventions in Latin America.

Today we cannot lose Venezuela. We need to maintain the Bolivarian Revolution alive. I don't say this because I am a Venezuelan and a Chavista. I say this for the sake of democracy and the rule of law in Latin America.

We have worked hard to keep the Cuban Revolution alive. We can do it. Tomorrow it might be Bolivia's turn needing our solidarity.

Once we understand that interventions in internal affairs of another country are illegal – by tribunal decision or by people's majority decision – we may use those arguments in our solidarity work wherever and whenever necessary.

I think that the "Canada-U.S. campaign to end sanctions against Venezuela" underway now

is a great action that can bring us all together. [6] Venezuela and Latin America need us.

We only have a decaying U.S. empire to take on. We can do it if we stick together.

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- *The Louis Riel Bolivarian Circle*
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Notes

[1] <https://en.wikipedia.org/wiki/Lawfare>

[2] <https://www.lawfareblog.com/about-lawfare-brief-history-term-and-site>

[3] http://mppre.gob.ve/wp-content/uploads/2018/07/Reporte_VZLA_2018-07-05_Inglés.pdf

[4]

<https://www.telesurtv.net/english/opinion/Foreign-Visible-Hand-of-Market-Exposed-Barred-in-Venezuela-20180926-0027.html>

[5]

<https://www.telesurtv.net/english/opinion/Venezuelas-Monetary-Revolution-Vis-a-Vis-Economic-Sanctions-20180808-0023.html>

[6]

<https://afgj.org/focus-areas/venezuela-solidarity-campaign/campaign-to-end-us-and-canada-sanctions-against-venezuela>

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