

Decisive moments towards an exit to the crisis in Venezuela

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The latest sanctions of the Office of Foreign Assets Control of the U.S. Department of the Treasury to the inner circle of Nicolas Maduro, which include the Minister of Defense, decreases the possibility of a negotiated solution -as has been the intention of the Bolivarian regime- to the governability and humanitarian crisis in Venezuela.

In this regard, the governments of Argentina, Colombia, Peru, Chile and Paraguay have sent a letter to the Prosecutor's Office of the International Criminal Court (ICC), asking him to investigate crimes against humanity committed by the Maduro regime.

Two reports were annexed to the request for an investigation by The Hague. One was prepared by the Office of the High Commissioner for Human Rights of the UN (OHCHR), which documents extrajudicial executions, among other human rights violations. The other one is a report written by a group of experts appointed by the Secretary-General of the Organization of American States (OAS), Luis Almagro. They concluded that there is a "reasonable basis" to consider an accusation for alleged human rights violations and crimes against humanity perpetrated by eleven individuals, including the Venezuelan president and members of the Armed Forces, and therefore could be reported to the ICC.

The OAS report was sent to the Chief Prosecutor of the ICC, Fatou Bensouda, last May with the petition to open the investigation.

Given the OAS request for an investigation, the ICC has no obligation to finish it or to communicate the conclusions. However, when a country requests it, the Court has the duty to present its results, because the petition of one of the member countries of the Rome Statute (the founding charter of the court) activates Article 14 that allows member states to report crimes against humanity perpetrated in a third country.

On the other hand, member states have a "Responsibility to Protect" (R2P) their population against genocide, war crimes, crimes against humanity and ethnic cleansing, which was discussed at the UN General Assembly.

Under this doctrine, "the international community has the responsibility to encourage States and help them fulfill the aforementioned task. If States manifestly do not protect their citizens from the aforementioned crimes, and peaceful measures to contain them have failed, the international community has the responsibility to act through collective and coercive measures such as economic sanctions or diplomatic sanctions and including, only as a last resort, through the use of armed force in accordance with the Charter of the United Nations".

Therefore, the action of these five Latin American governments before the ICC and the application of the UN doctrine of R2P would allow the foundation for humanitarian intervention in Venezuela.

Peruvian deputy foreign minister, Hugo de Zela, said that "the impunity [of the Maduro regime] has reached an extreme that is already unsustainable, and at this moment, in a rational way, no one can deny that in Venezuela there is a daily abuse of power and that people are suffering, and it is a humanitarian obligation of the countries to put in place all the legal mechanisms at our disposal to try to prevent this from continuing".

For this reason, the Venezuelan regime used the former Spanish president, José Luís Rodríguez Zapatero, to evade his R2P, blaming the United States for the Venezuelan exodus.

Zapatero, in an interview with EFE last week, said "as always happens with economic sanctions that produce a financial blockade, who, in short, and ultimately, pay is not the Government, but the citizens, the people. This should lead to some reflection and consideration". Zapatero exempted Maduro and its inner circle of all responsibility for the humanitarian crisis in Venezuela.

However, the September reports of Codevida and the International Organization for Migration show the opposite. "Venezuela is immersed in a complex, large-scale humanitarian emergency due to its extensive and multiple regressive effects on the institutional and legal level, and on civil, political, social and economic rights. The main cause of this emergency has been a context of long political instability and State authoritarianism that between 2016 and 2017 led to the definitive breakdown of the rule of law and democratic institutions".

In conclusion, the action of the Trump administration, the request before the ICC by a group of Latin American countries, and the doctrine of Responsibility to Protect put Venezuela in a decisive moment towards an exit from the humanitarian and governance crisis.