Monopoly on the use of force in Latin America and the Caribbean: nexus of regional and global institutions

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The FES Reflection Group »Monopoly on the Use of Force 2.0?« has posed two important questions for further debate on this issue. The first is: Security for whom? The traditional approach has been state-centered whereas new approaches deal with the security of individuals and communities. The second is that current debates on the MoUF need to take into account that the use of force is fragmented, due to the fact that not only states are exercising force but also other legal and illegal actors. Therefore, the state-centered paradigm on the monopoly on the use of force is largely questioned. 2

Within this framework, it has been suggested that the concept of hybridity could be useful for analyzing the complexities of security governance. Hybridity is generally defined as »… complex and shifting interrelations and interactions amongst formal and informal institutions« with the participation of state and non-state providers of security. 3

In the second place, this leads to the debate over the legitimate monopoly on the use of force. Therefore, MoUF needs to be examined within the framework of democratic governance and its institutions. This is especially true for Latin America and the Caribbean security arrangements which are accountable, human-rights based, legitimate and under civilian control first have to be built. 5

There is a long-standing tradition in the region of military dictatorships, violation of human rights and an absence of civilian control over the military. Several Latin American countries, though formally speaking democracies, have governments that are currently considered to be

1 https://www.fes.de/de/reflection-group-monopoly-on-the-use-of-force-20/ (last accessed on 15.07.2016).
4 Ibid., p. 7.
5 Report on Mexico Conference, op. cit.
Authoritarian regimes.

In Latin America and the Caribbean, the monopoly on the use of force has less to do with inter-state conflicts than with the threats posed by both internal and external non-military actors. As a result, the military has been looking for a new “legitimizing narrative” and the region has witnessed a trend towards the “securitization” of other issues ranging from the environment, natural disasters, natural resources and public security to national development. In many cases, challenges in these areas have come under military control and are therefore being treated from a military perspective, creating a blurring of responsibilities between civilian and military authorities.

There is widespread belief that within the region states have lost their monopoly on the use of force in many sub-regions. They are incapable of providing public security within the framework of the expansion of transnational organized crime and the privatization of security. Likewise, they lack control over parts of their territories. These two deficits have led to an increase in authoritarian governments.

As to the specific issue of the nexus of regional and global institutions, it has been argued that there is a trend towards developing new approaches for addressing intra-state conflicts that link local, national, regional and global initiatives. Preventive diplomacy has been debated and the UNDP created the Bureau for Crisis Prevention and Recovery. With this initiative, the UN seeks to strengthen capacities for mediation and dialogue for preventing violent conflict by building stronger relations with both regional organizations and civil society organizations (CSOs).

The main objective of this paper is to trace this argument and discuss the nexus between global institutions, primarily the United Nations, and the currently most active regional and sub-regional institutions as this bears on states’ monopoly on the use of force. The first section will discuss how these arrangements have dealt with the issue over the past five years (2010-15) and whether they have contributed to building institutions for regional governance. The second part will examine the most important UN-sponsored mission in the region, the United Nations Stabilization Mission in Haiti (MINUSTAH), and the interface between regional and sub-regional organizations. Other more specific cases of involvement by the UN, the Organization of American States (OAS) and sub-regional organization will also be briefly considered.

### CHALLENGES FOR REGIONAL GOVERNANCE

David Mares argues that the use of force in relations between Latin American countries is based on the security architecture which the region has built both alone and in collaboration with the United States. That architecture created a fundamental “moral hazard” that both limits the severity of military conflict and makes its occurrence at low levels more likely. Although the region is still plagued by several border disputes, the last inter-state military conflict took place between Ecuador and Peru over 20 years ago (1995). More recently, Nicaragua mobilized forces in 2010 at the border to Costa Rica, a country which does not have an army.

In addition, the fact that governments are not able to control their border regions has led to growing tensions, for instance between Colombia and Venezuela in 2015. As stated above, another problem in this region has to do with “militarized cultures, deep distrust of the state … and, weakened institutions that appear unable to administer the rule of law.”

Further complications stem from disagreements among states over perceptions of regional governance. Regional or sub-regional responses to common problems are very limited due to the failure to reach consensus on joint actions. As a result, there is an absence of political will to develop regional cooperation for security in Latin America and the Caribbean, though several institutional settings exist which could facilitate effective cooperation.

Over the past 15 years, there has been a trend towards establishing political platforms vis-à-vis the traditional economic integration and cooperation schemes between states. The most important new...
organizations that have been created in the past 15 years (Union of South American Nations [UNASUR], Bolivarian Alliance for the Peoples of Our America [ALBA], Community of Latin American and Caribbean States [CELAC]) have the main objective of defending sub-regional perspectives vis-à-vis a more globalized and transnational approach.

Yet, national sovereignty is cited as a reason for restricting the potential power of these new organizations. Another important deficit is that countries seem to be more concerned to maintain the personal leadership positions of various presidents than to build strong institutions with medium- and long-term goals for peace, democratic governance and the legitimate use of force.

David Mares considers that if the Latin American »regional security architecture could articulate a vision of a regional identity that transcends national identity (it does not have to replace it), establish a norm of no first use of force, and raise the cost to nations that engage in first use, Latin America could be well on its way to real peace and security.« 13 He states that contemporary security institutions are centered on »two goals: the defense of national sovereignty and protection of democracy.« 14 But the problem is that the legitimate use of force is mainly a domestic problem facing weakened states that are losing control over parts of their territory. The sovereignty issue results in the absence of monitoring or intervention when member states failed to comply with their commitments. Likewise, within the framework of domestic politics, there is an absence of criticism of predominant views based on national sovereignty.

These new sub-regional organizations have developed in the context of a growing crisis of the main regional body, the Organization of American States. Over the past 16 years, the OAS has been weakened by the political-ideological divide in Latin America and the Caribbean. This divide has been mainly between »Socialism of the XXIst. Century« led by the late Venezuelan Hugo Chavez and governments that have continued to seek economic and social reforms within the framework of progressive programs or others with liberal programs. This divide has been mistakenly simplified into a conflict between left and right. However, the OAS is currently undergoing a reform process in which cooperation in combating drug trafficking and citizen security occupy a prominent place on the agenda. For more than ten years, these issues have not played an important role in either violent conflict prevention or resolution.

However, the newly created sub-regional organizations lack formal, institutionalized mechanisms and programs. They have responded to political crisis within countries on a case-by-case basis with ad hoc mechanisms. UNASUR acted in the cases of Bolivia in 2008, Ecuador in 2010, Paraguay in 2012 and Venezuela at various critical moments between 2014 and 2016.

Individual actions by UNASUR as a sub-regional body have been the rule. One exception is its South American Defense Council (CDS) which established the need for coordination with the OAS in its work regarding confidence and security building measures. The CDS also included methodologies which have been developed by both the OAS and UN in this area.

An important regional challenge is that, although public security is regarded as one of the main problems and threats in most countries, the programs of these sub-regional organizations for promoting the legitimate use of force in their member countries are perceived as being state-centered. There are just two exceptions. In March 2012, the OAS created the Center for Cooperation in Combating Transnational Organized Crime. In November 2012, UNASUR established the South American Council on Safety, Justice and Coordination of Action Against Transnational Organized Crime (DOT), though it has not received the same resources and support as the CDS. However, there is no evidence that they have been able to develop cooperation within the region or at the sub-regional level. Although their institutional structures could be considered to be role models, there are important questions as to their effectiveness when it comes to implementation strategies.

Regional governance remains very weak. When it comes to the MoUF, the nexus between global and regional/ sub-regional institutions is weak. Though considered to be a peaceful region, Latin America is also one of the most violent regions of the world. When assessing previous peace agreements during the 90s in Central America, the conclusion is that criminal violence has undone relatively successful peace processes. 15 The 2014 report by the Mexican NGO Consejo Ciudadano para la Seguridad Publica y la Justica 16 reported that nine of the ten most violent cities in the world are in Latin America (Brazil, Colombia, Honduras, Mexico

13 Mares, op. cit., p. 161.
14 Ibid, p. 163.
AD HOC VS. INSTITUTIONAL STRATEGIES

Over the past fifteen years within the framework of new multilateral organizations in the region, the issues of prevention and resolution of violent conflicts have been dealt with mainly through ad hoc strategies. Of the nineteen current peace missions deployed by the UN, one is in the Caribbean. All other Latin American and Caribbean initiatives are confined to specific countries, such as Colombia, Guatemala, and Venezuela. A preliminary assessment suggests that there are few institutional coordinating mechanisms between the UN, the OAS, UNASUR and CELAC.

United Nations Stabilization Mission in Haiti (MINUSTAH)

MINUSTAH is a current example of the absence of the nexus between global institutions and regional/sub-regional ones. For example, it is unlike the participation of the African Union which has deployed peacekeeping forces; for instance in Somalia. It is a continuation of UN involvement which began in 1990, with different missions deployed between 1994 and 2000. Brazil became a lead nation in 2004.

It was established on June 1, 2004 through Security Council Resolution 1542. Six years later, after the January 12, 2010 earthquake, Resolution 1908 increased the number of forces in order to support recovery, reconstruction and stability efforts. The 2004 mandate was to “restore a secure and stable environment, to promote the political process to strengthen Haiti’s Government institutions and rule-of-law-structures, as well as to promote and to protect human rights.”

In a first step towards a nexus between the UN and sub-regional organizations, before MINUSTAH was established in June 2004, the Security Council was convened at the request of the CARICOM on February 26, 2004 to address the interlinking of political and armed gang violence. As in the case of some countries in Africa, the state did not have the capacity to deliver security to its citizens and non-state actors, mainly gangs, became important security providers, especially in urban slums and rural areas. However, these gangs also led to increased violence.

Under MINUSTAH, the military component was predominantly Latin American, with Argentina, Brazil, Chile and Uruguay as the main participants, under the leadership of the Brazilian and Chilean military. However, though violence diminished and elections were held in Haiti with the assistance of the OAS, in the past two years both domestic and international criticism has increased and there is growing pressure for its withdrawal.

Nationalism has played an important role in spurring both national and international opposition. A number of local political actors and some Latin American governments consider MINUSTAH to be a mechanism of intervention and neo-colonialism. ALBA summits, which include a number of Caribbean countries, are critical and have called for its immediate withdrawal. Apart from these political-ideological stands, there have also been a number of controversial actions by deployed personnel which have resulted in accusations of human rights violations, cases of sexual assault, the outbreak of a cholera epidemic in 2010 and repression of demonstrations.

In more general terms, it has also been stated that the UN mission has had the main aim of promoting and institutionalizing police presence and has neglected the main socioeconomic problems that make Haiti the poorest country in the Western Hemisphere and one of the poorest and most unequal ones in the world. In his 2016 analysis, Bruno Binetti pointed out that practically all international donations for Haiti have been assigned to international organizations, foreign governments and NGOs because of widespread corruption in the Haitian state. As he points out, this has contributed towards weakening state institutions.

Twelve years after its inception, the pending question is: When will MINUSTAH leave? Since it seemed to have controlled the threats of military coups, having abolished the Armed Force, it was thought that it could start withdrawing after the 2015 presidential elections. Yet, it is widely considered that the economic, political and social crisis is continuing. In view of this, the International Crisis Group suggested that there

17www.cicig.org (last accessed on 15.07.2016).
20Bagayoko, Hutchful and Luckham, op. cit.; and Mulugeta, op. cit.
21Antigua & Barbuda, Cuba, Dominica, St. Kitts-Nevis, St. Lucia and St. Vincent & the Grenadines. Haiti currently has observer status.
was a need for changes in the mission that «would move from a military dominated Chapter VII force to a Security Council sponsored political mission» by the end of 2016.

In October 2015 a Security Council decision renewed the mandate of MINUSTAH for another year. Brazil and the majority of the other Latin American countries announced that they would leave by the end of 2016. It seems probable that Canada will take over command from Brazil and will become the majority contingent.

However, the political crisis has deepened following the October 2015 Presidential election. The opposition candidate who was due to participate in the second round with the official winner, a candidate promoted by ex-President Michel Martelly who left office in February 2016, accused the government and the Provisional Electoral Council of electoral fraud. Though Martelly left when his term was up and a provisional government was organized, the opposition candidate refused to participate in the second round which was postponed several times. The Interim President announced on April 21 that a new election calendar was being drawn-up and would be announced between 15 and 31 May.24

On May 30, 2016 the five-member panel of the Independent Commission for Electoral Evaluation and Verification delivered their report to the Interim President. Their main conclusion was that there was strong evidence of fraud during the October 25, 2015 presidential election. Their main recommendation was that a new election should take place. This report was to be studied by the new Provisional Electoral Council in order to decide whether to accept this recommendation.

On June 4 the Interim President and the Provisional Electoral Council announced that there would be a re-run of the 2015 disputed first round presidential elections on October 9, 2016. Former President Martelly and his PHTK party rejected this decision.

The OAS has been active in promoting an agreement and insisting on the need for elections. Local political actors have expressed their mistrust because they feel that the regional body is more interested in holding elections than in promoting transparent and fair elections.25

Within this framework, a complete withdrawal of MINUSTAH does not seem probable. There is general agreement that there has to be a gradual withdrawal plan that must be accompanied by a strategic assessment by the UN with a future newly elected government which needs to include work on a joint Transition Plan.

What role can Latin American and Caribbean sub-regional organizations play in this process? Binetti26 has suggested that regional cooperation is needed. Up to now, a coordinated strategy has been non-existent and has been mainly bilateral. Although it has not been an important issue on its agenda, he suggests that the CELAC could play an important role. If not, the United States and Canada will continue to be predominant figures in Haiti.

It has been suggested27 that there are different areas in which Latin American and Caribbean countries could contribute with their experience and knowledge, such as assistance in building a Permanent Electoral Council, improvements in agriculture and dealing with the crisis with its neighbor, the Dominican Republic. Due to their experience in MINUSTAH, Argentina, Brazil, and Chile could play a leading role. Yet, an important question is whether these and other countries in the region will be able to offer Haiti cooperation while they are themselves in the midst of economic, social and political crises.

Colombia, Guatemala and Venezuela

Both the UN and regional/sub-regional organizations have undertaken different strategies in these three Latin American countries in order to assist with good governance and prevention and resolution of violent conflicts.

The peace talks between the administration of president Juan Manuel Santos and the FARC guerrilla are the most important issues of conflict resolution in the region. The UN Secretary-General played a role in 1998-2002 with good offices during peace talks that subsequently failed. Neither the UN nor the OAS has had direct involvement with the current peace process between the Santos administration and the FARC. As of 2016, there seems to be an agreement with the Colombian government that the UN will play a role in monitoring the peace agreement if and when it is reached. On January 25, 2016, the Security Council approved Resolution 2261, which states that a political mission would coordinate a mechanism that will accompany the peace agreement. It would include28 un-armed observers whose mandate will be to verify and monitor the FARC’s disarmament and a general

25Binetti, op. cit.
26 Ibid.
27 Ibid.
28Rojas Aravena, op. cit.
cease-fire. It is likely that Latin American and Caribbean countries will have a special role. The CELAC’s IV Summit, in January 2016, confirmed its support for these peace talks.

In the case of the peace talks between the government of Colombia and the FARC being held in Cuba, neither the new (CELAC and UNASUR) nor traditional (OAS, Andean Community) integration organizations in the region have played a role in the peace talks, which have been underway in Havana for the past two years. They have been accompanied bilaterally by the governments of different countries.29

In the case of Guatemala, the International Commission Against Impunity (CICIG) was approved by the UN in 2006 and began work in 2007. Its main objective30 was to reinforce government institutions, especially in the legal and security areas. One of its main activities was to investigate state related criminal structures. In 2015, its work led to the removal of both the vice-president, and later the president, of Guatemala, following active demonstrations by citizens. Both are currently in prison awaiting trial, accused of leading a network for enforcing bribes and corruption.

From the outset, it was an interlinked initiative between the UN and the government of Guatemala, and it remains active in 2016. Its work has been focused on strengthening the legal system as well as promoting legislation to eliminate the deep-rooted power of criminal groups. These groups had gained control over not only the legal system but also over other institutions related to the rule of law.

Venezuela poses one of the most important challenges when discussing the legitimate monopoly on the use of force in Latin America and the Caribbean. After violent events and a coup that ousted then President Chavez from power for two days in April 2002, the OAS, UNDP and the Carter Center sponsored a roundtable for negotiation and agreements between the government and the opposition. Two years later, in August 2004, then President Chavez succeeded in winning a Recall Referendum.

Yet, political and social polarization continued and in 2012, economic, political and social crises led to the re-emergence of violent confrontation and repression by security forces. Both NGOs and political actors have stated that there have been violations of human rights and freedom of expression. What has been criticized as the state’s illegitimate use of force has led to an estimated minimum of 70 political prisoners.

It is also important to note that the country is not only subject to political and social conflict, but also to violence related to transnational organized crime and local gangs. Venezuela has one of the highest homicide rates in the world (90 per 100,000).

New organizations such as the UNASUR and CELAC, have not addressed these issues. Their agreements are centered on supporting the Venezuelan president. However, considering that democracy in Venezuela faces serious problems, especially in dealing with the separation of powers, there have been calls both nationally and internationally for the OAS to apply the Inter-American Democratic Charter, which authorizes the organization to act when there has been an »unconstitutional alteration of the constitutional regime that seriously impairs the democratic order in a member state«.31 This Charter has been applied in the cases of Honduras (2009) and Paraguay (2012). On May 30, 2016, the Secretary General of the OAS called for its application in the case of Venezuela.

As economic, political and social conditions deteriorate, Venezuela has become an example of the absence of cooperation between a regional organization (OAS) and a sub-regional one (UNASUR). By the end of July 2016, both were undertaking independent strategies. Though a OAS Permanent Council meeting held on June 23, endorsed the UNASUR’s ex-presidents mediation,32 the OAS proposal of including its representatives -“group of friends”- has not been taken into account by Unasur.

CONCLUSION

In general, when assessing UN peace operations33 one of the main conclusions is that the main world-wide deficits have to do with prevention and mediation. The absence of both has led to the escalation of existing crises or the appearance of new ones. The use of military responses tend to lead to a vicious circle of new crises. Therefore, one of the main recommendations is the importance of political responses as opposed to military ones.

29Cuba, Chile, Norway, and Venezuela.
32Ex presidents Jose Rodriguez Zapatero (Spain), Leonel Fernandez (Dominican Republic) and Martin Torrijos (Panama).
33Rojas Araveno, op. cit.
Within the global context, attention is concentrated on other conflict areas, especially the Middle East, parts of Africa, Afghanistan and Pakistan. This has increased especially since 2015 with the flow of refugees to Europe. As a result, Latin America and the Caribbean are not a priority for global institutions. Though it is one of the most violent regions of the world, little attention is being paid to public security and crime prevention. Therefore, one recommendation is that future debates and policies take into account the 2030 Agenda for Sustainable Development and its seventeen goals; the sixteenth objective explicitly deals with peace, security and governance.

When reviewing the nexus between international organizations and regional/sub-regional ones, both traditional and new, two important challenges emerge. The first is that there is no important interface between global institutions, such as the UN, on the one hand, and regional organizations such as the OAS or sub-regional ones, on the other, to facilitate cooperation and coordinate programs leading to the legitimate use of force in the region. The prevalence of nationalism does not allow for effective cooperation and in many countries illegitimate actors are exercising force in ways that threaten democratic governance. In addition, early warning systems and preventive diplomacy are not part of the agendas which are being undertaken by new sub-regional organizations such as CELAC and UNASUR.

Secondly, regional/sub-regional organizations face challenges when it comes to conflict prevention. They seem to have considerable capacity to resolve conflicts, as is shown by ad hoc strategies that have been developed and applied successfully in specific cases. The ideal situation, however, would be if they developed modes of collaboration in different areas according to their expertise in a division of labor. Such an approach would not have to be confined to international organizations such as the UN. There is a learning process which can be undertaken especially between regional and sub-regional organization, such as the case of the OAS and UNASUR.

Debate in Latin America and the Caribbean regarding the legitimate use of force is related directly to the question of democratic governance. In many countries in the region, violence and the activities of transnational organized crime have increased noticeably. They are threatening democracies, especially in the midst of economic, political and social crisis. Therefore, the main question is »Security for whom?« The prevailing approach by the new sub-regional organizations is to guarantee regime security, not citizen security. This needs to change.
REFLECTION GROUP MONOPOLY ON THE USE OF FORCE
The Reflection Group »Monopoly on the use of force 2.0« is a global dialogue initiative to raise awareness and discuss policy options for the concept of the monopoly for the use of force. Far from being a merely academic concern, this concept, at least theoretically and legally remains at the heart of the current international security order. However it is faced with a variety of grave challenges and hardly seems to reflect realities on the ground in various regions around the globe anymore. For more information about the work of the reflection group and its members please visit: http://www.fes.de/GPol/en/security_policy.htm

THINK PIECES OF THE »REFLECTION GROUP MONOPOLY ON THE USE OF FORCE 2.0«
The Think Pieces serve a dual purpose: On the one hand they provide points of reference for the deliberations of the reflection group and feed into the final report of the group in 2016. On the other hand they are made available publicly to provide interested scholars, politicians and practitioners with an insight into the different positions and debates of the group and provide food for thought for related discussions and initiatives worldwide. In this sense, they reflect how the group and selected additional experts »think« about the topic and hopefully stimulate further engagement with it.

The Think Pieces are not required to fulfill strict academic requirements and are not thematically peer-reviewed by FES. To the contrary they shall provide an unfiltered insight into the respective author’s arguments and thoughts. Accordingly, the authors are free to further develop their arguments and publish academic articles based on these arguments or containing elements of them in academic journals, edited volumes or other formats.

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