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## 1. Introduction

### From Active Non-Alignment to the Right to Non-Alignment

The proposal of Active Non-Alignment as a Latin American doctrine for the new century arose in the context of the conflict between the United States and China, when, during the administration of Donald Trump, the U.S. government launched a diplomatic offensive to induce countries in the region to cut or reduce their ties with the Asian giant.

Active Non-Alignment was put forward as a guide for Latin American foreign policies in the face of a global competition among great powers. Its key tenet is the refusal to side with any of these powers as a matter of policy. It stands for deciding, in each case, the course of action most favorable to the national interest, including the freedom to propose its own initiatives in international relations and global governance.

The proposal was initially set forth in an article by Carlos Fortín, Jorge Heine, and Carlos Ominami published in *Foreign Affairs Latinoamérica* (2020), and it gained traction in academic and political circles both within the region and beyond. A key factor in this was the perception that the concept of non-alignment is not tied to temporary situations or specific geographical contexts but rather responds to more permanent elements of the international system. Rising powers will tend to challenge declining hegemons, which will respond accordingly.

These are recurring, dangerous moments. As Graham Allison has argued in his analysis of what he calls the “Thucydides trap” (Allison, 2017), these conflicts have a high probability of ending in war. The doctrine of Active Non-Alignment applies whenever such situations arise, including currently the conflict between the United States and Russia, which, unlike the US-China case, is taking place largely on the geopolitical and security spheres, even though it has obvious economic implications. It therefore naturally lends itself to generalisation and to the consideration of non-alignment as a possible new right of States, particularly as it relates closely to several existing concepts and institutions in international law.

In this article we make the case for the concept of “Active Non-Alignment” and argue for formalizing a “right to Non-Alignment.” By this, we refer to the need to make part of international law the right of countries to choose their own path in foreign policy and in their development model, without being subjected to undue pressure from the Great Powers to follow their preferences in these matters. In doing so, we look to embed the term and its application within the schools of thought surrounding great power competition and the Latin American Autonomy School of International Relations by learning from the experiences of states in the Global South, particularly from Latin America. We begin by discussing Non-Alignment, sovereignty and political autonomy, with particular emphasis on the historical and diplomatic dimensions of Latin America. Next, we focus on autonomy and Non-Alignment in Latin American international relations. We then present a theoretical basis for a right to non-alignment based in international law, human rights, and the right to neutrality, before characterizing the content of such a right and its external and

internal dimensions. We conclude by offering proposals for a way forward towards these ends.

## 2. Non-Alignment, Sovereignty and Political Autonomy

The concept of non-alignment is closely linked to that of political autonomy, which in turn, is grounded in the principle of sovereignty. One of the main expressions of sovereignty is the autonomy to define foreign policy. In this context, Non-Alignment refers to the exercise of the country's autonomy in the sense of not being forced to take sides in conflicts between powers.

The issue of autonomy –and its corollary, non-alignment– has come to the fore in the current debate about the dynamics of the international system that is shifting from unipolarity to multipolarity. The issues, however, have long been present in the historical experience of Latin America and the Caribbean in that these principles have often been violated. The political and social struggles of these countries attest to this.

## 3. Latin America and political autonomy: the historical and diplomatic dimensions

At the political and diplomatic level, the question of autonomy in Latin America emerged mainly in the context of the relationship with the United States. Paradoxically, the starting point was the U.S. government's own affirmation of the independence and autonomy of the countries of the region with respect to Europe: the so-called Monroe Doctrine, according to which any intervention by European powers in the American countries would be considered as an attack on the U.S. interests. These were the words of the President in his 1823 annual message to Congress:

The American continents, by the free and independent condition that they have assumed and maintain, are henceforth not to be considered as subjects of future colonization by any European power [...] we must consider any attempt [on the part of those powers] to extend their system to any portion of this hemisphere as dangerous to our peace and safety [and] any interposition for the purpose of oppressing them, or controlling in any other manner their destiny, [...] as the manifestation of an unfriendly disposition toward the United States (Monroe, 1823).

The Monroe Doctrine was initially favorably received in Latin America: Simón Bolívar in Bolivia, Francisco de Paula Santander in Colombia, Bernardino Rivadavia in Argentina, and Guadalupe Victoria in Mexico expressed gratitude to the U.S. government (Crow, 1980, p. 676). Others, though, feared that it might result in the imposition of a U.S. tutelage, among them Diego Portales, who wrote to a friend in 1822:

The President of the North American Federation, Mr. Monroe, said:

It is recognized that America is for Americans. Beware of leaving one domination to fall into another! I believe that all this responds to a plan: to conquer America, not through arms, but through influence in every sphere. Maybe not today, but tomorrow. (Portales, 1822, quoted by Monge, 2022).

Yet this favorable attitude changed in the course of the 19th century, largely because there were a number of European interventions to which the United States did not object. Great Britain occupied the Malvinas Islands in 1833 and seized part of the territory of Honduras in 1835; France bombed Veracruz in 1838, and Great Britain, France, Germany, and Spain intervened in Haiti between 1869 and 1877. In all, there were ten major interventions and several minor interventions without protest from the United States (Crow, 1980).

The Monroe Doctrine seemed not to be working. This was particularly evident in the case of the joint action of Great Britain, Germany, and Italy against Venezuela following the latter's decision to suspend the payment of debts to national creditors of these three countries. The blockade, and subsequent bombardment of Venezuelan ports, was received with some caution by most Latin American countries, concerned about not antagonizing their neighbor to the North. Mexico even participated as a creditor in the customs revenue-sharing agreement that Venezuela was forced to enter to repay the debt and bring the blockade to an end (Boston, 1989).

The exception was Argentina, where there was much indignation. The influential Buenos Aires newspaper *La Nación* editorialized that the attack was “a latent aggression against any of the nations that have emerged from the same cradle. Today it's you, tomorrow me,” and *La Prensa* referred to Argentina's “great mission of defending the principle of sovereignty for all of Latin America” (Friedman & Long, 2015, pp. 140-141). There was also a vigorous diplomatic reaction from the government based on the so-called Calvo Doctrine, which bars the intervention of one State in the internal affairs of another and affirms the exclusive jurisdiction of national courts in pecuniary disputes between nationals and foreigners.

The doctrine was proposed in 1896 by the Argentine jurist Carlos Calvo. The two cardinal principles of the doctrine have been summarized by the leading scholar on the subject, Professor Donald R. Shea (1955), as follows:

First, that sovereign states, being free and independent, enjoy the right, on the basis of equality, to freedom from “interference of any sort” (“*ingerence d'aucune sorte*”) by other states, whether it be by force or diplomacy; and second, that aliens are not entitled to rights and privileges not accorded to nationals, and that therefore they may seek redress for grievances only before the local authorities (p. 19).<sup>1</sup>

In Calvo's vision, the two principles are firmly based on the concept of national autonomy. It is about prohibiting the intervention of one state in the affairs of another in pursuit of objectives such as debt repayment or the settlement of private claims,

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1 See also Tamburini (2002).

the intervention being the use [...] of moral or material force, or both, to compel a people or a government to change its political conduct, to change its institutions, to renounce a revolution, etc., being, ultimately, an attack on the national autonomy of a State (Calvo, 1896, pp. 351-352).

Argentina had a history of differences with the United States on this issue and, through sustained diplomatic work it was determined to convince other governments to join it in a more assertive position *vis-à-vis* Washington. At the first Pan-American Conference in 1889, when U.S. Secretary of State James Blaine proposed creating a customs union and an arbitration system in Latin America—both run by the United States—the Argentine delegation led by Roque Sáenz Peña mobilized the Latin American delegations to reject the proposal and instead put forward two draft resolutions prohibiting territorial conquests and reaffirming the legal equality of States, which were approved despite U.S. objections. At the second Pan-American Conference in 1902-03, Argentina presented a version of the Calvo Doctrine, prohibiting extraterritorial intervention (diplomatic or military) to resolve pecuniary disputes, and stating that natives and foreigners were equal before the law. According to Friedman and Long (2015), “by persuasively lobbying the other delegations, the Argentines were successful in isolating the United States: every delegation present signed the resolution except the United States and Haiti” (pp. 139-140).

Translating the Calvo Doctrine into an official foreign policy fell to Argentine Foreign Affairs Minister Luis María Drago, who reformulated it in more limited and precise terms. As a result of the blockade of Venezuela and the reluctance of the U.S. government to intervene on the basis of the Monroe Doctrine, Drago sent a note to the Roosevelt administration in December 1902 stating that, as a corollary to the Monroe Doctrine, a principle should be established that the public debt of American countries cannot give rise to an armed intervention (Hershey, 1907).

Roosevelt responded by formally accepting the Drago Doctrine. Yet, at the same time, he proposed an elaboration of the Monroe Doctrine, the Roosevelt Corollary, which went much further in the direction of threatening the political autonomy of Latin American countries *vis-à-vis* the United States. The Corollary asserted the U.S. right to intervene in any Latin American country in case of misconduct or serious weakening of the governmental authority.

The Corollary was described by President Roosevelt (1904) as follows:

All that this country desires is to see the neighboring countries stable, orderly, and prosperous. Any country whose people conduct themselves well can count upon our hearty friendship. [...] Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power.

The Corollary was the expression of Roosevelt's policy based on the dictum, "Speak softly and carry a big stick." It upheld the possibility of military intervention in Latin America whenever U.S. interest so advised.<sup>2</sup>

In response to the Roosevelt Corollary, Argentina insisted on proposing the adoption of the Drago Doctrine as a norm of international law at the Second Peace Conference in The Hague in 1907. This secured the support of several countries, though not a majority. Instead, the United States proposed as a compromise solution, the so-called Porter Doctrine that established mandatory arbitration that, if not respected, allowed armed intervention. The proposal was approved at the Conference but rejected through reservations by Argentina, Bolivia, Brazil, Chile, Cuba, El Salvador, Guatemala, Haiti, Peru, the Dominican Republic, and Uruguay. Several Latin American countries that rejected the Porter Doctrine later introduced a version of the Calvo Doctrine in their constitutions: Argentina, Bolivia, Colombia, Ecuador, Mexico, Peru, and Venezuela (Friedman & Long, 2015, p. 143).

The Roosevelt Corollary was used to justify U.S. military interventions in Cuba, the Dominican Republic, Haiti, and Nicaragua in the first three decades of the 20th century. These were preceded in 1903 by an active U.S. support for groups in Colombia that successfully promoted the secession of Panama. Such brazen interventions generated pushback in Latin America, led by Argentina but with a growing role for Mexico, which joined Argentina in the Sixth Pan American Conference of 1928 demanding an end to armed interventions on the continent. Two years later, Mexico extended the objective of non-intervention to non-interference by promulgating the Estrada Doctrine. According to the latter, in the event of a change of government in another country, Mexico would not consider the way said change took place for the purpose of maintaining or withdrawing its diplomatic agents in the respective country. This, in effect, eliminated the figure of "recognition" from its diplomatic practice.<sup>3</sup>

The United States initially rejected these demands and insisted on the Porter Doctrine. Yet, pressure from Latin America, felt personally by President-elect Herbert Hoover on a tour of the continent in late 1928, led to a change and to the adoption of the Good Neighbor policy, usually associated with the name of Franklin D. Roosevelt, who became its main exponent in his Inaugural Address, Roosevelt (1933) stated:

In the field of world policy, I would dedicate this Nation to the policy of the good neighbor—the neighbor who resolutely respects himself and, because he does so, respects the rights of others—the neighbor who respects his obligations and respects the sanctity of his agreements in and with a world of neighbors.

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2 The term comes from a phrase in a letter from Roosevelt (1900): "I have always been fond of the West African proverb: 'Speak softly and carry a big stick; you will go far'".

3 The Doctrine is named after Genaro Estrada, Minister of Foreign Affairs of the government of President Pascual Ortiz Rubio. See *The Estrada Doctrine*, where "recognition" is described as 'a demeaning practice that, on top of hurting the sovereignty of other nations, places them in the case that their internal affairs can be qualified in any sense by other governments.'

In effect, however, the policy was announced by Hoover in April 1929 and applied by his government when withdrawing the Marines from the Nicaraguan occupation. F.D. Roosevelt in 1934 withdrew U.S. troops from Haiti and repealed the Platt Amendment, which had authorized U.S. intervention in Cuba. In 1940, his administration also ended U.S. control of customs in the Dominican Republic. The U.S. government subsequently adopted the Estrada principle of eliminating recognition of foreign governments. In April 1946, Secretary of State James Byrnes announced that from that moment the United States would grant recognition to all *de facto* governments, although such recognition should not be interpreted as implying approval of the policies of those governments (Dozer, 1966, p. 327).

The Good Neighbor doctrine and the abandonment of direct intervention continued as official U.S. policy in subsequent administrations.<sup>4</sup> This, however, did not preclude the United States' support of armed actions against governments of the continent. Iconic examples are the overthrow of the democratically elected government of Jacobo Arbenz in Guatemala in 1954, with the support of the Eisenhower administration; the attempted Bay of Pigs invasion in Cuba in 1961 under John Kennedy's presidency; and the landing of Marines in the Dominican Republic in 1965 under President Lyndon Johnson, as well as covert activities to destabilize governments considered hostile (Brazil, Chile, and Uruguay in the 1960s and 1970s, and Nicaragua in the 1980s).

By the 1960s the Latin American concern regarding autonomy had moved from the military field to the political and economic one. An expression of this was the Latin American Consensus of Viña del Mar, a declaration of principles agreed in 1969 by the countries of the region, which since 1964 had been elaborating common parameters for their international action through the Special Commission for Latin American Coordination (CECLA). The text of the Consensus was formally delivered to President Nixon by the Minister of Foreign Affairs of Chile, Gabriel Valdés, who chaired the meeting in which it was adopted. The opening paragraph attests to the centrality of the autonomy issue for the countries of the continent:

The member countries of CECLA affirm the personality of Latin America. The development process of the region and the transformations that are taking place in each of its countries, together with the changes that are taking place in the world, impose important changes in the modalities of the relations of Latin America with the other members of the international community. It is unavoidable, therefore, for Latin American countries to search for solutions based on their own criteria, and reflecting their national identity (Comisión Especial de Coordinación Latinoamericana, 1969, pp. 404-405).

The issue of autonomy was also taken up in this period by the Latin American *intelligentsia*, leading to powerful theoretical contributions with policy implications. These included the so-called Autonomy School, Dependency Theory, and further elaboration on the Centre-Periphery notion associated with Raúl Prebisch and the

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<sup>4</sup> An attempt to reinvigorate this approach was the Alliance for Progress, started in 1961 by President Kennedy but gradually abandoned after his death in 1963.

United Nations Economic Commission for Latin America and the Caribbean (ECLAC). We will turn to these below.

Yet, Latin American autonomy came under renewed threat in the 2010s by rising tensions between the United States and China. These are not simply the result of a conventional trade/technological war, but rather the product of a dispute for hegemony in a globalized world. At stake are, on the one hand, world economic dominance, competition in the commercial, investment, technological and financial spheres with geopolitical implications; and, on the other hand, and closely linked to the above – the definition of the rules of the globalized world economy and of international economic governance, with implications for the development models adopted by different nation states.

Thus, President Obama declared in 2016, referring to the Trans-Pacific Agreement for Economic Cooperation (Trans-Pacific Partnership, TPP), that the issue was: who should write the rules of the global economy? In his view, the Agreement would allow “the United States, not China, to lead the way on global trade,” adding:

America should write the rules. America should call the shots. Other countries should play by the rules that America and our partners set, and not the other way around. The world has changed. The rules are changing with it. The United States, not countries like China, should write them.

President Biden reaffirmed this view in much the same terms in 2020 (Biden, 2020).

#### **4. Autonomy and Non-Alignment in Latin American International Relations**

It is in this context that the issue of non-alignment resurfaces in Latin America. Its trigger was the diplomatic offensive by the Trump Administration to induce countries on the continent to cut—or at least reduce—their ties with China.

The offensive began in February 2018, when Secretary of State Rex Tillerson, on the eve of his departure on a tour of Latin America, gave a speech at the University of Texas in Austin in which he stated:

China [...] offers the appearance of an attractive path to development. But in reality, this often involves trading short-term gains for long-term dependency.

[...]

The China model extracts precious resources to feed its own economy, often with disregard for the laws of the land or human rights.

[...]

China is now the largest trading partner of Chile, Argentina, Brazil, and Peru. [...] the unfair trade practices used by many Chinese have also harmed these countries’ manufacturing sectors, generating unemployment and lowering wages for workers.

Latin America —Latin America does not need new imperial powers that seek only to benefit their own people (Tillerson, 2018).

The message was reiterated by his successor as Secretary of State, Michael Pompeo, on a visit to Chile in April 2019:

When China does business in places like Latin America, it often injects corrosive capital into the economic bloodstream, giving life to corruption and eroding good governance [...] does not seem like a reliable partner to me. [...] The strategy of China is clear. They take economic control of countries (Pompeo, 2019).

In January 2020, Mauricio Claver-Carone, NSC director for Latin America in the Trump White House, declared:

Ecuador, Bolivia and Peru have had “unnatural” trade relations with China, and it would be good to strengthen their relations with the United States, because after all, what is seen from China is the worst habits of the past. Dependency, debt, and corruption, that is what has brought to the Western Hemisphere, things of the twentieth century that was a lost century for Latin America (Claver-Carone, 2020).

In October 2020, the Trump Administration succeeded in having Claver Carone appointed President of the Inter-American Development Bank with the mission, among others, of using the Bank’s resources to counter China’s influence on the continent (Financial Times, 2021).

The conceptual and political roots of Latin American concerns with non-alignment are located in three currents of Latin American thought on autonomy: the analysis of the international system based on the concept of Center-Periphery developed by Raúl Prebisch at ECLAC in the 1950s; the Dependency Theory proposed in the 1960s and 1970s by a group of intellectuals from the region, the most prominent being Fernando Henrique Cardoso, Enzo Faletto, Celso Furtado, Osvaldo Sunkel, Theotonio dos Santos, and Ruy Mauro Marini; and the contributions of the so-called Autonomy School associated with Helio Jaguaribe and Juan Carlos Puig at the end of the 1970s (Jaguaribe, 1979; Puig, 1980), and taken up again in the 2000s, among others, by Tokatlian and Russell (2002), Briceño Ruiz (2014, 2015), and Simonoff (2014).

The notion of Center-Periphery describes international dependence in the economic and commercial dimensions of national development. Latin American countries are part of a system in which the fruits of technical progress are captured by the developed capitalist countries—the “Centre”—generators of technology and exporters of high value-added manufactured goods. Meanwhile, Latin American countries, as producers and exporters of low value-added raw materials, are left out of the circuit of innovation, productivity and, ultimately, development.

Prebisch (1983) summarizes this as follows:

I placed special emphasis on the fact that the countries of Latin America form part of a system of international economic relations that I called “center-pe-

riphery" [...] it reflected the active role of the industrial centers and the passivity of the periphery, where the economic fluctuations of the centers intensified their consequences. There was in effect an "economic constellation" whose center was made up of the industrialized countries favored by this position —supported by their previous advance in terms of technical progress—, which organized the system as a whole to serve their own interests (pp. 1078-1079).

Accordingly, the strategy proposed to escape this situation of unequal exchange and move towards economic autonomy and development would be industrialization.

The concept of Center-Periphery is the starting point for Dependency theorists, but they add to it the notion of the presence of the Center in the Periphery. It is embodied in the incidence of foreign investment as well as in the links between international capital and local capital and the emergence of national elites integrated into transnational political and social circuits. On the one hand, this tends to consolidate dependency, but on the other, it opens spaces for limited economic autonomy, in the form of "associated-dependent development."

The term was proposed by Fernando Henrique Cardoso (1973), who argues that dependence can coexist with development and a dynamic economic autonomy:

Associated-dependent development: the phrase was deliberately chosen to combine two notions that have traditionally appeared separately and in contradiction with each other: development and dependency. In my opinion, the changes in the international capitalist organization have produced a new international division of labor. The driving force behind these changes is the multinational corporation. The new international division of labour sets in motion a dynamic element in the internal market. Thus, to a certain extent, the interests of foreign corporations are compatible with the internal prosperity of dependent countries, and in this sense, they help promote development.

In turn, the Autonomy School focuses on politics. For one of the main exponents of this School, Helio Jaguaribe (1979), autonomy implies having: a wide margin of self-determination in the conduct of internal business and an appreciable capacity for independent international action (p. 93).

Access to autonomy depends on two basic conditions: national viability and international permissibility.

[...]

The national viability of a country depends, for a given historical moment, on the extent to which it has a critical minimum of human and natural resources, including the capacity for international exchange.

[...]

The category of international permissibility [...] refers fundamentally to the extent to which, given the geopolitical situation of a country and its international relations, this country has the conditions to neutralize the risk coming from

third countries endowed with sufficient capacity to exert on it effective forms of coercion (Jaguaribe, 1979, p. 96-97).

Another important author of this School, Juan Carlos Puig (1984), defines autonomy as: “the maximum capacity for self-decision that can be achieved, taking into account the objective constraints of the real world” (p. 74). More specifically, Puig proposes the concept of heterodox autonomy, which:

does not accept that the dogmatic imposition of [...] political and strategic views that only take account of the self-interest of hegemonic power; interest that, in the vast majority of cases, actually reflects the wishes of certain pressure groups or internal power factions (p. 78).

Puig defines the scope of heterodox autonomy in terms of three dimensions located: a) in the internal development model, which may not coincide with the expectations and preferences of the hegemonic power; b) in international links that are not globally strategic; and c) in the demarcation between the national interest of the dominant power, and the strategic interest of the bloc.

## 5. The Right to Non-Alignment

In this context, the proposal of the Right to Non-Alignment refers to the exercise of the right that every country has not to be forced to align itself in the conflict between great powers. As shown above, the proposal of the right to non-alignment has powerful Latin American roots. It is also related to the concept of non-alignment dating back to the period of the Cold War, the 1955 Bandung Conference and the creation of the Non-Aligned Movement in 1961. The central purpose at that time – independence from the two blocs into which the world was divided, including the military dimension – is not applicable to today's context, but there are elements in the original objectives that remain relevant.<sup>5</sup>

## 6. Non-Alignment and International Law

The right to self-determination as enshrined in binding international instruments is expressed in identical terms in Article 1 of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both of 16 December 1966: “All peoples have the right of self-determination.

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5 “The primary objectives of the non-aligned countries focused on the support of self-determination, national independence and sovereignty and territorial integrity of States; opposition to apartheid; non-adherence to multilateral military pacts and the independence of non-aligned countries from great power or block influences and rivalries; the struggle against imperialism in all its forms and manifestations; the struggle against colonialism, neocolonialism, racism, foreign occupation and domination; disarmament; non-interference into the internal affairs of States and peaceful coexistence among all nations; rejection of the use or threat of use of force in international relations; the strengthening of the United Nations; the democratization of international relations; socio-economic development and restructuring of the international economic system; as well as international cooperation on an equal footing” (Centre for Science and Technology of the Non-aligned and Other Developing Countries, n.d.).

By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”

The right is reiterated in various resolutions of the United Nations General Assembly. The Declaration on the Right to Development of 4 December 1986 states that “the human right to development also implies the full realization of the right of peoples to self-determination.”

Self-determination is linked to the prohibition of intervention in the internal affairs of States, also enshrined in binding international instruments. Thus, the Charter of the United Nations prescribes:

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter (Art. 2.7).

The aforementioned General Assembly Resolution 2625 (XXV) confirms the principle that “every State has an inalienable right to choose its political, economic, social and cultural systems, without interference in any form by another State” (p. 123).

The Charter of the Organization of American States reaffirms this principle in even more explicit terms:

### Article 3

[...]

e) Every State has the right to choose, without external interference, its political, economic, and social system and to organize itself in the way best suited to it, and has the duty to abstain from intervening in the affairs of another State. Subject to the foregoing, the American States shall cooperate fully among themselves, independently of the nature of their political, economic, and social systems;

[...]

### Article 19

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.

### Article 20

No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from its advantages of any kind.

The prohibition of the use of force is enshrined in the Charter of the United Nations in the following terms:

## Article 2

3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

4. All Members 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.

The principle is reiterated by the OAS Charter: “The American States bind themselves in their international relations not to have recourse to the use of force, except in the case of self-defense in accordance with existing treaties or in fulfillment thereof” (Art. 22).

## 7. Non-Alignment and Human Rights

The proposal of a right to non-alignment is also linked to two developments in the theory and practice of human rights in the post-war period.

The first is the emergence of the concept of collective human rights, in which the holder of the right is not the individual but a social entity. The notion is already present in the aforementioned Article 1 of the International Covenants, but is developed in the Declaration on the Right to Development of 4 December 1986. The right to development is defined as

an inalienable human right by virtue of which every human person *and all peoples* [our italics] are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized (Art. 1).

There are also international human rights treaties in which the rights holders are specific groups: women, children, migrant workers, and persons with disabilities.

Furthermore, several international legal instruments, including human rights treaties, have specifically recognized States as holders of international rights. The Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations contained in General Assembly resolution 2625 (XXV) of 24 October 1970 affirmed the principle that “every State has an inalienable right to choose its political, economic, social and cultural systems without interference in any form by any other State”. And reiterated the notion in the section on sovereign equality of States declaring that “each State has the right freely to choose and carry out its political, social, economic and cultural systems.”

The Declaration on the Right to Development equally refers to the right of States to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individ-

uals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom (Art. 2.3).

## 8. Right to Non-Alignment and Right to Neutrality

The proposal of a right to non-alignment is also linked to the concept of the right to neutrality. The latter is well established in international law, having been enshrined in The Hague Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land of 18 October 1907. Although the specific context of the Convention is the state of war, its essential legal implication is the right of States to refuse to be involved in conflicts between other powers, and the guarantees that the status of neutrality grants them. Thus, Article 1 of the Convention declares that “the territory of neutral Powers is inviolable.” And Article 10, that “the fact of a neutral Power resisting, even by force, attempts to violate its neutrality cannot be regarded as a hostile act.”

There are, however, fundamental differences between the Right to Non-Alignment and the Right to Neutrality. Non-alignment does not mean equidistance, neutrality or avoidance. It is about respecting the autonomy of States to freely choose the relationship with each power on each issue based on national interest and the international situation. In the specific case of the US-China conflict, there are undoubtedly differences in the historical relationship between Latin America and both countries, with specific convergences and divergences that evolve over time. What is essential is that contrary to the right to neutrality, which implies a duty to refrain from any activity in favor of any of the belligerents (Arts. 2-5 of the Convention), the right to non-alignment does not prevent the States from taking part in all the international processes in which the conflict between powers may arise. On the contrary, it allows them to do so in pursuit of their national interests, which may, at times coincide with those of one or another of the States in conflict. It is not a principle of action or an international strategy. It is a right exercised with the necessary flexibility according to changing international circumstances.

## 9. The Right to Non-Alignment: The Content

Regarding the content of the right to non-alignment, it can be defined at two levels: externally, in terms of the position and behavior of the country within the international system; and, internally, in terms of its implications for domestic policies conduct and choices.

### 9.1. The external dimension

This involves primarily the right of States and national societies to define their international relations in all spheres without being subject to diplomatic, political or economic pressure or coercion from other States, and especially from hegemonic powers. It applies to all modes of external relations: political, diplomatic, security and defense, economic, social, and cultural. It includes the ability to devise discrimi-

inating and differentiated responses to complex situations and conflicts. A case in point is the current war in Ukraine, where the firm repudiation of the Russian invasion as a flagrant violation of international law can be combined with a refusal to get directly involved in the conflict by providing armaments or troops, and certainly accompanied with efforts at stopping the armed hostilities and restoring peace.

It involves also the right of States and national societies to contribute to the establishment and proper functioning of the structures of world governance based on essential values such as democracy, human rights, multilateralism, concern for the environment and gender equality and, again, without being subjected to pressure or coercion of any kind by other States. In the economic field, it puts forward the need to make compatible the reinforcement of multilateral governance structures and disciplines for the management and safeguarding of global public goods with due deference to the prerogatives of national democratic authorities.

## 9.2. The internal dimension

The last point links up with the internal dimension of the right to non-alignment. The latter is in effect an affirmation of the right of States and national societies to define their own models of development and political, economic, and social functioning, independently of any other models proposed at the international level. This dimension becomes particularly relevant as the rapid progress of globalization tends to lead to a kind of uniformity around the forms of organization of production and patterns of consumption associated with the Western liberal capitalist model. A non-aligned approach to globalization involves an effort to both accede to the benefits of integration into the global economy and preserve the ability to implement alternative models of integration that are consistent with the values and preferences of national societies.

## Conclusion

How can this right become part of international law? This is by no means an easy process, but one starting point could be the adoption of a United Nations General Assembly resolution. Such Resolutions do not have the binding character of international treaties, conventions or agreements, but their influence as *soft law* is increasingly recognized and has the potential to lead to the subsequent adoption of a binding instrument.

Concomitantly, or alternatively, this right could be incorporated into national constitutional instruments as an international right of the respective State. This, in turn, might open a path to its insertion in international public law as an extension of the principle of the political autonomy of nation states. Mere formulation of the law is not enough, but it creates space for coherent and self-respecting State conduct over time. International recognition of a right to non-alignment would represent an important step in the direction of realizing the goal of national autonomy.

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