

Citation: SOBRINO HEREDIA, J. M: “The Loss of Institutionalality in International Organizations, and their Decline in the Contemporary International Society”, *Peace & Security – Paix et Sécurité Internationales*, No 9, 2021.

Received: 10 May 2021.

Accepted: 15 May 2021.

THE LOSS OF INSTITUTIONALITY IN INTERNATIONAL ORGANIZATIONS, AND THEIR DECLINE IN THE CONTEMPORARY INTERNATIONAL SOCIETY

Jose Manuel SOBRINO HEREDIA¹

Never before have international organisations (IOs) been as numerous or as questioned as they are today. One reason for this, I believe, is the shift away from institutionalisation, which renders them inoperative and, thus, irrelevant. This decline in the institutional component of IOs has caused – and continues to cause – many of them to become empty shells with acronyms. Their bodies are purely testimonial and are supplanted in decision-making by their member states, which prefer informal agreement mechanisms that can be pursued outside or in parallel to the institutional procedures provided for in the IO’s constitutive treaty.

This preference of states to act in parallel to – or instead of – IOs’ bodies when dealing with issues falling under their jurisdiction erodes their institutional component. As a result, the organisations cease to be – as set out in their constitutive treaties – true centres of decision-making and action based on a specific, independent, and permanent institutional structure consisting of bodies responsible for managing collective interests and capable of expressing a will that is legally different from that of their member states. They thus become mere institutional skeletons.

¹ Full Professor (Catedrático) of Public International Law. ‘Salvador de Madariaga’ University Institute of European Studies. University of A Coruña (Spain). E-mail: j.sobrino@udc.es

This trend can be seen, first, in the weak institutional framework with which the most recent IOs have been endowed (e.g. the Pacific Alliance, the Union of South American Nations (UNASUR), the Forum for the Progress and Development of South America (PROSUR), the Shanghai Cooperation Organisation (SCO)). It is likewise evident in the search by the member states of many other IOs for less demanding and more flexible formulas than those provided for in the organisations' founding treaties with a view to deviating from the established procedures and bodies responsible for them in order to reach agreements on the most sensitive matters (e.g. the Andean Community (CAN), the Southern Common Market (Mercosur), the Association of Southeast Asian Nations (ASEAN), the European Union (EU)). Finally, it is clear in the preference for non-institutionalised multilateral cooperation frameworks endowed with scant decision-making power in which the participating states seek consensus-based decisions (G5, G8, G13, G20, BRIC, BRICS, BRICS Plus, etc.).

This phenomenon of institutional erosion affects the very essence of IOs. It is worth recalling that IOs emerged as subjects of international law precisely from the confluence of multilateral treaties and the permanent institutional structures that give continuity to international conferences. The institutional element was present at the inception of IOs and has remained a fixture of their developed over time. Specifically, this institutional framework first appeared in the mid-19th century in the form of the first River Commissions established in Europe. It was then reaffirmed and universalised in the first half of the 20th century as a result of the numerous international administrative unions that were created, and it became a hallmark feature of modern IOs when, well into the 20th century, the UN was created and IOs proliferated in international society.

Those IOs – again, an expression of institutionalised multilateral cooperation – have since evolved and today promote and oversee cooperation and even integration processes in a wide variety of fields at both the regional and universal level. However, this evolution, which has witnessed the emergence of hundreds of IOs in the international legal and political landscape, has not always been homogeneous or even similar. The reasons are twofold. First, each IO is created for its own specific reasons, making them quite different from each other. Second, not all have advanced at the same pace, with some petering

out shortly after their founding, whilst others have become firmly established in international life.

Indeed, not all IOs have managed or are managing to achieve the goals that their founding states set for them when they were created. This has generated a disregard for them that often turns them into hollow husks devoid of content. That, coupled with the growing unilateralism promoted by various global powers, has led to an increasing lack of interest in IOs as facilitators of better and more effective international cooperation and, as noted, the emergence of informal, scarcely institutionalised international forums as preferable alternatives.

Thus, whilst IOs were a significant innovation in the organisation of international relations in the last century, today their role has been called into question and they face increasingly intense competition. This competition comes both from other IOs and, especially, from new forms of barely institutionalised multilateral cooperation that seem better adapted to today's realities and that welcome other increasingly influential international actors, such as transnational corporations or NGOs, which are rarely able to participate fully in IOs. This significantly reduces interest in IOs as forums for political negotiations and conflict mitigation, ultimately leading to a deterioration in their institutional structure, which, as we will see, stagnates due to disuse.

This deterioration of the institutional dimension of IOs conceals a dual reality. The first is the fact that many IOs were founded with very ambitious goals, but lacking the necessary organic structures to achieve them. As a result, their member states ultimately turned away from them to seek, in parallel, more agile formulas for intergovernmental cooperation that could be more easily bent to their wills, as reflected, for instance, in the rocky history of UNASUR. The second is the exact opposite situation, namely, IOs that were given sophisticated and complex institutional structures, but not the necessary financial, human, and material resources. As a result, they soon became mere institutional facades lacking actual powers, considerably compromising their effectiveness, with some lapsing into a sort of institutional coma from which they will be hard-pressed to awaken, as is the case of several African regional organisations.

This phenomenon does not change the fact that there are also other IOs – albeit substantially fewer, I believe – that have succeeded in adapting their institutional structures to the needs arising from changes in international

society and, also, in the society covered by the IO itself. This institutional adaptation has allowed them to achieve their pursued objectives and carry out very fruitful work in international life, as exemplified, with varying degrees of success, by the EU, the Council of Europe, the Organization of American States (OAS), ASEAN, the CAN, or the Central American Integration System (SICA), amongst others.

In any case, regardless of which ones are or are not the site of multilateral cooperation, the truth is that they all belie an obvious fact, namely, the fundamental role of the will of the member states in the future of IOs. This circumstance is present even in the most advanced integration organisations, which are also exposed to the specific interests of their states. This means that not even the most developed and evolved institutional and regulatory framework can be effective without the political will to apply it. So, whilst it is true that, as we will see, institutions are an essential element of IOs, it is no less true that ultimately this institutional framework is conditioned by the will of the member states, who continue to hold the keys for its effective operation. Thus, all IOs will have an institutional structure, but its scope will differ from one to the next because it is conditioned by the use that the member states make of it. One need only look at the imprint of Latin American political leaders on that region's IOs, which completely conditions their operation and the activity of their institutions.

Even if IOs are not a univocal reality, but rather vary according to their composition, purpose, structure, and powers, all are experiencing a loss of institutional density, albeit to different degrees. This article will examine this phenomenon. To this end, first, it will explain why institutions are an essential and defining feature of IOs. It will then show how this institutional framework is subject to internal and external pressures that weaken it, threatening the effective operation of many IOs and encouraging states to seek less formal alternatives to cooperate with each other.

With regard to the first aspect, an institutional framework is obviously an essential component of an IO. As such, it was the combination of this framework with the legal basis provided by multilateral treaties that led to the emergence of the first IOs. Of course, at the start, this institutional framework was elementary, as the nascent IOs needed few bodies to enable and ensure their operation. However, over time and with the emergence of new IOs with much

broader powers, this institutional structure became richer and more complex, as exemplified by the United Nations (UN). This universal organisation is endowed with an advanced institutional framework that, moreover, has been formally reinforced over the years with a network of institutions, bodies, organisations, and agencies that serve as the institutional scaffolding for its wide-ranging activity.

The UN's institutional structure has clearly been the mirror in which the numerous IOs to emerge in international life since World War II have measured themselves. Two circumstances drove the creation and proliferation of these IOs: first, the revitalisation of international administrative unions and universal technical bodies; second, the institutionalisation of international regionalism through the creation of numerous regional IOs. The result is the presence of some 350 IOs on the international stage today, most of which have a regional scope, although a minority are universal. A comparative examination reveals a large variety of institutional structures. Some are quite complex, as in the cases of the CAN, the SICA, the Economic Community of West African States (ECOWAS), and the EU, whilst others are quite simple, as with the Community of Latin American and Caribbean States (CELAC) or the Collective Security Treaty Organisation (CSTO). However, all have bodies that give permanence and continuity to the IO, regardless of whether this permanence is real or fictitious, effective or irrelevant.

The importance of an institutional structure is clear in the very definition that should be given to IOs, which does not stray far from that proposed by the International Law Commission (ILC) in its *Draft articles on the responsibility of international organisations*, i.e. voluntary associations of states established by international agreement, endowed with their own permanent, independent bodies, responsible for managing collective interests and capable of expressing a will that is legally distinct from that of their members. The existence of these bodies is, thus, essential to be considered an IO.

However, this institutional structure is further conditioned by the fact that IOs are made up almost exclusively of sovereign states, which do not lose their sovereignty simply by acceding to the IO. At most – and only in the most advanced integration IOs – they may attribute the exercise of that sovereignty to institutions of the organisation. Consequently, in reality, it is their will that, in essence, determines whether or not the IO can advance. And what kind of

institutional structures are created – how dense or insubstantial they are, how many powers they have – will likewise depend on that will. So will whether these institutions are given the human and material resources needed to carry out these powers in order to fulfil the common objectives established in their founding treaties.

However, although the presence of states is crucial to the existence of an IO, in creating an IO, the states endow it with international legal personality. This makes it a distinct subject of international law from its member states, capable of developing and expressing its own autonomous legal will. The scope of this autonomy is closely linked to its institutional structure and the use the member states make of it, as that is where this will is developed.

The uncompromising individuality that characterises IOs explains why there is no institutional structure common to them all, for no two IOs are alike. Moreover, an IO's institutional organisational chart is not static, but rather subject to the dynamism of the phenomenon in which it is applied; hence, the institutional structure is often modified to adapt it to new international circumstances or changes in the internal order of the organisation itself. Therefore, although an institutional framework is an inherent feature of all IOs, this does not mean that this feature is the same in all IOs, as I have said.

This is largely because the organic structure on which the IO's institutional framework is based depends on the functions assigned to it by its member states and the objectives they pursue. Nevertheless, most IOs have bodies responsible for developing the general lines of their policy, namely, the deliberative bodies. There are also usually bodies responsible for making its regulatory or operational decisions: these are the decision-making bodies. Finally, there are bodies responsible for implementing these decisions and running the organisation: these are the administrative bodies. In addition to these three categories of bodies, present in most IOs, there are two new types of institutions resulting from the deepening of cooperation and integration in certain organisations: bodies for the legal control (courts) or political control (parliamentary assemblies) of the organisation's activity, and advisory bodies that report to it in the sectors in which it conducts its activity.

However, not all IOs' institutional structures include all these bodies. Thus, intergovernmental bodies, made up of representatives of the member states, can be found in most IOs, but bodies made up of independent individuals

from the member states acting on behalf of the organisation itself are found only in the most advanced IOs. Likewise, whilst administrative bodies are a common feature of all IOs, they differ in terms of their powers and make-up. And although the vast majority of IOs do have deliberative, decision-making, and administrative bodies, few have institutional structures including bodies to exercise legal or political control, i.e. courts or parliamentary assemblies. Bodies for exercising legal control may be the best proof of the strength of the institutional framework an IO has achieved.

Furthermore, although most IOs have a minimum institutional density, in some IOs, some or all of the institutional functions are carried out not by their bodies (which they may lack), but by the national authorities of their member states on a pro tempore and rotating basis. This is exemplified by one of the most highly regarded Latin American regional IOs, often held up as a benchmark for new models of IOs, namely, the Pacific Alliance. Therefore, whilst an institutional framework is an essential feature of IOs, it does not have the same scope in all of them.

As a general rule, an IO's bodies are created directly by its founding treaty. These constitutive instruments usually contain provisions establishing, in varying detail, what their bodies are and what functions they perform. This is typically developed in protocols annexed to the founding treaty, establishing the statute of the institution in question, which, in turn, usually draws up internal regulations for its operation.

However, this initial institutional structure may not be enough to meet the demands arising from the organisation's operation in practice, making it necessary to create new bodies, as clearly occurred with the UN, Mercosur, the CAN, or ASEAN. The decision to create new bodies may be made by pre-existing bodies of the IO through an act of secondary law or adopted by its member states through an international agreement supplementing the IO's constitutive treaty. In the former case, the new body will be a subsidiary body of the one that creates it (the main body), which will confer on it some of the powers that it has in accordance with the IO's rules. However, in order to fulfil new functions or further develop existing ones, the member states may also create a specific institution to link to the IO by means of an international agreement. They can likewise make changes to the IO's bodies through a subsequent treaty.

As an IO's institutional structure becomes denser and more sophisticated, the decision-making techniques within it become more complex and advanced, as do the resolutions resulting from that process. In this regard, those IOs with the power to create legal rules of a general scope, all of whose elements are mandatory and endowed with a direct effect (the EU, CAN or Mercosur), will do so through institutional structures in which bodies representing the interests of the states, of the organisation itself, and of the states' nationals participate to a greater or lesser extent.

Furthermore, in these types of organisations, it is fairly common for these resolutions to be adopted by majority – as opposed to unanimously or by consensus – which is possible because of the powers assigned to them by the member states. These IOs have very strong institutions, which is quite rare and more likely to occur in the framework of regional IOs (so-called organisations in the process of integration) than universal ones (where it happens in certain technical organisations or in the UN itself with regard to the decisions of the Security Council). Additionally, this strong institutional framework is usually real and not merely formal, unlike with many IOs in Africa, which are endowed with extensive organic structures, but whose institutions lack real powers, or, if they can adopt resolutions, can do so only in relation to resolutions of a very limited legal scope. On the other hand, in these IOs with more advanced integration or cooperation processes, when the leaders of the member states are not politically aligned, it can and does lead to a decline in the number of resolutions and a weakening of the actions of their institutions, as seen in the SICA, CAN or Mercosur.

In contrast, in those IOs that have opted for a weaker institutional framework, resolutions are usually adopted by consensus or unanimously (as in the cases of the Pacific Alliance, UNASUR or CELAC). In times of political and ideological affinity between the heads of government of the member states, this is not a problem; however, in the absence of such affinity, it can plunge the IO into a deep lethargy, as has often happened in the Americas. Indeed, the Americas are the best stage to see this pendular movement of such IOs play out. Controlled by the heads of the member states' governments, they move at the pace determined by the common ground or disagreements between them. This impacts their institutional dimension, as the governments sometimes show a clear disregard for the institutions of the IO to which they

belong, as exemplified several times over the years by UNASUR, through the complexity of designating its Secretary-General, a position that today is vacant.

The existence of an institutional structure is closely linked to the likelihood of an IO developing a legal will that is truly autonomous from that of its member states. So, although it is not always true that the greater an IO's formal institutional framework (i.e. the denser its bodies), the greater its regulatory powers will be (suffice it to look at the IOs in Africa and the Pacific), broad and effective regulatory power does seem to require the IO to have strong institutions. In order to be real, this effectiveness must be accompanied by bodies that previously carry out a political control of the rule (parliamentary assemblies) and bodies that see to its legal control, both previously and subsequently (courts). The conjunction of all these factors occurs in very few IOs. Furthermore, political or temporary reasons may prompt the leaders of the member states to sidestep institutional obstacles and instead pursue agreements outside the bodies, whether via informal meetings, as in the EU, or formal ones, as in the CAN.

The variety and heterogeneity of the institutional structures is thus an undeniable reality in the world of IOs. Each IO is a legal entity in itself, with its own organic structure that is ultimately the result of each specific IO's freedom of self-organisation, which, in most cases, actually means the result of the will of the states that make it up.

It could thus be concluded that having a specific, permanent, independent structure is an inherent feature of an IO. However, the characteristics thereof, its composition, and the scope of its regulatory powers are quite diverse and variable. Diverse because, as noted, no two IOs are the same in this sphere, and variable because IOs are extremely dynamic subjects of international law and, in general, their institutional structures undergo changes over the course of their lives. Nevertheless, IOs are always manifestations of institutionalised multilateral cooperation, albeit of variable geometry.

Let us now turn to the second part of this article and see how the development of this institutionalised multilateral cooperation depends closely on the will of the states conducting it. They may be inclined to make this cooperation both effectively multilateral and institutionalised or, in contrast, prefer unilateral informal mechanisms to cooperate amongst themselves. And the truth is that the advance of international society points towards a rampant unilateralism that

either supplants IOs as forums for international negotiation or strips them of all or part of their substance by neglecting their institutions, which are blamed for the IOs' scant agility and excessive bureaucracy. This feeling often leads the member states to look for alternative cooperation mechanisms outside the institutional framework intrinsic to the IO to which they belong. In many IOs, this is accompanied by a worrying loss of institutionalisation, as I will try to show below.

If an IO is the product of a consensus of state wills, formalised in an international agreement, the absence of that will – which is an attribute of sovereignty – or the loss of enthusiasm by a member state for the institutionalised multilateral cooperation process will interfere with the IO's development. Such disaffection can manifest in many ways, from an 'empty chair' policy (e.g. the USSR in the UN Security Council or France in the Council of the then EEC) to outright withdrawal from the organisation. Cases of the latter have proliferated in recent years: the United States from universal IOs, the United Kingdom from the EU, Venezuela from the OAS, Brazil from CELAC, Ecuador from the Bolivarian Alliance of the Americas (ALBA), or numerous countries from UNASUR. In many of these cases, the radical stances of the member states were due to their disapproval of the institutional structure of the IO to which they belonged, of the powers of its bodies, or of a decision these bodies had adopted that, in their view, was harmful to their national interests.

In addition to withdrawal from IOs, international practice also offers many examples of cases in which, without resorting to such a drastic measure, member states have used formulas foreign or parallel to the IO's institutional structure to resolve conflicts or further their cooperation. In this regard, it is worth recalling the mini summits held between some heads of state and of government within the framework of European integration to advance on specific aspects of integration or resolve conflicts arising in relation to it, bypassing the EU's own institutions. Nor is this exclusive to the EU. It can also be seen in many other regional IOs, such as the CAN, Mercosur, or ASEAN, amongst others.

This flight from institutionalised multilateral cooperation mechanisms has many other manifestations too. These include the search for less formal means of cooperation than those provided by IOs, the preference for more informal alternatives for interstate cooperation, such as the G5, G8, G13, G20, or BRIC,

BRICS, and BRICS Plus groupings, i.e. forums to which states that share certain concerns or characteristics can turn, even if they are not homogeneous groups. Some bring together emerging powers, others the world's most developed industrial economies, and still others both. However, all have rather lightweight structures, more akin to an international conference than an international organisation.

In these forums or groups for dialogue, it falls to the host country to organise the corresponding summits, to which end it must task its own civil service with achieving that objective, since the forum itself has no institutional structure. This lack of an institutional framework, i.e. the essentially diplomatic nature of the meetings, means that the resolutions adopted at such summits are not legally binding. Instead, they are mere political declarations of varying importance, the purpose of which is to analyse the state of international policy and economies and to try to agree to common positions on the decisions taken with regard to the global political and economic system.

They are also informal associations of states, not based on international treaties. This does not prevent the participants from subsequently formalising specific instances of cooperation through bilateral agreements or memoranda of understanding, nor does it mean that they cannot lead to the creation of an international organisation. The BRIC countries were key to the emergence of the Shanghai Cooperation Organisation, but the two should not be confused.

Considerable diplomatic activity often plays out in the shadow of these groups, as illustrated by the BRICS, which hold two summits each year, one basic and the other within the scope of the G20 meeting, as well as around a hundred official activities, including about 20 at the ministerial level. This does not mean that there is real cohesion between the participating states, but rather a disparity of interests that hinders the group's operation.

This disillusionment with IOs, and the proliferation of international interest groups, is largely determined by the personalities of the current political leaders of the governments of the United States (until recently), Russia, India, Brazil, China, and the United Kingdom, the behaviour of whose countries casts doubt on institutionalised multilateral cooperation. They do this not only by using informal unilateral, bilateral, or multilateral channels to pursue the international relations of interest to them, but also by engaging in behaviours that interfere with the functioning of various important IOs to which they

belong and with which they should cooperate loyally. This behaviour can take the form of criticism of the IO, the freezing of the country's contributions to it, or obstruction of its operation (see the Trump Administration's behaviour towards several IOs, such as the WTO) or, on the contrary, of a suffocating presence in them, as some have said is the case of China in the WHO, the immediate effect of which is to call the organisation's impartiality into question.

This blow to the institutional framework of IOs and to multilateral cooperation in general was on blatant display with the previous US administration, which ostentatiously denounced and withdrew from several multilateral agreements, eventually targeting the UN itself, the ultimate symbol of multilateralism. This happened recently, and we do not yet know whether the new US administration is in a position to repair the damage done, for example, to the Trans-Pacific Partnership (2017), the Paris Agreement – the withdrawal from which was first announced in 2017 and formally notified in 2019 – or the UN Global Compact for Migration (2017). Along similar lines, in 2019, the United States also denounced the Intermediate-Range Nuclear Forces Treaty, a key agreement that helped end the Cold War.

This policy of abandoning multilateralism and great global consensus in favour of a firm commitment to unilateralism or bilateralism was also evident in the US withdrawal from several international bodies and organisations. One of the most notorious took place in 2018, when it quit the UN Human Rights Council. However, it was not the first. In October 2017, the US had announced its withdrawal from Unesco. In August 2018, it eliminated its funding for the UN Agency for Palestinian Refugees (UNRWA). And, in October 2017, it announced it would withdraw from one of the world's oldest IOs, the Universal Postal Union. It remains to be seen how quickly the Biden Administration will try to remedy these situations and whether it will decide to address them all or leave them at a political and diplomatic impasse.

The fact of the matter is that, brazenly or subtly, global powers seek to mould IOs to their own interests and, when they do not like their institutions, boycott or leave them. One need only recall the Trump Administration's behaviour and the statements of the former US president himself, criticising the treatment the country allegedly received from the WTO, blocking its dispute settlement system, and bringing the appointment of new members to the organisation's Appellate Body to a halt. But these behaviours have not only played out in

relation to universal IOs. They have also harmed IOs, such as the North American Free Trade Agreement (NAFTA), whose operation was not to the liking of one of its member states. The United States forced its replacement with a new more protectionist free trade agreement, more favourable to its interests, signing, together with Mexico and Canada, the United States-Mexico-Canada Agreement (USMCA) in November 2018. Again, it remains to be seen whether the new US administration will stay this course or change tack and return to the previous institutional mechanisms.

Actions such as those of the US, or of Brazil in the Southern Cone, or Venezuela in the CAN, that slam the door on IOs when the member state does not like their actions, exemplify the rejection of institutionalised multilateralism and hinder the IOs' work, their role as international actors, and the usefulness of their institutions. They encourage their replacement with less demanding intergovernmental negotiation forums, whilst simultaneously promoting a strategy based on bilateral agreements that, due to the potential differences in the various parties' influence, ultimately allow the interests of the strongest to prevail.

This is a landscape in which Russia, historically detached from IOs, seems to be comfortable. It has once again become decisive to many international events, and the solutions to the international problems that arise are likely to require the intervention of the Kremlin. The same is true of China, which is increasingly active – in its own way – in international life and, thus, involved in various conflicts, especially trade conflicts with different partners, in particular, the United States. The solution to these does not lie in any of the institutions of the numerous IOs in which both are members.

Indeed, both Russia and China are comfortable outside the framework of traditional IOs, either fostering very lightweight associations and weak institutional structures, such as the CSTO, the SCO, or the BRICS themselves, or through markedly bilateral relations.

The positioning of these two countries with regard to institutionalised multilateral cooperation has also negatively impacted the functioning of the UN and, especially, the Security Council. One need only look at how they are hampering the always complicated operation of this UN body, multiplying the vetoes of the resolutions the institution aims to adopt on situations of tension or international conflicts. Tensions and conflicts to which these two powers

are obviously not indifferent. Witness, for example, Russia's opposition in the Security Council, on 28 February 2019, in relation to the exceptional situation in Venezuela, for which it once again had China's support when it came time to vote.

In another geopolitical environment, the loss of prominence of IOs in resolving regional problems has led to the creation of new political negotiation forums to solve them outside the IOs. For instance, in Latin America, in relation to the ongoing crisis in Venezuela, the OAS's internal paralysis has led to the creation of two negotiating groups, the Lima Group (2017) and the alternative Puebla Group (2019). These groups, in turn, are subject to the political fortunes of the governments of their member states. Likewise, some of the most innovative American IOs have been stymied by disagreements between the region's political leaders, their institutions proving unable to prevent it or serve as a forum for negotiation, as in the case of CELAC or UNASUR. To a large extent, the (intentionally) weak institutional framework of these organisations made such an outcome a foregone conclusion.

It is also worth mentioning some events that I believe are examples of unilateralism, disregard, and a certain harassment of some IOs or specific bodies thereof. In this case, the examples expose the vulnerability of certain international courts and control bodies. This group would include the attacks on the Southern African Development Community Court (SADCC), where the hostility of one member state (Zimbabwe) has blocked the appointment of new judges and led to a reduction in its jurisdictional powers. It would likewise include those on the Inter-American Commission of Human Rights, which, due to pressure from some OAS member states, has been brought to the brink of a financial abyss; the Inter-American Court of Human Rights itself, which can only look on as states that disagree with its judgments abandon it; or, finally, the Central American Court of Justice, whose judgments frequently fall on deaf ears or are rejected by certain members of SICA. Another universal IO of a jurisdictional nature, the International Criminal Court, is in a similarly delicate situation. In recent years, some of its members, in particular African countries, have denounced the Rome Statute.

This aversion to or lack of interest in a strong institutional framework for IOs is not only evidenced in these IOs. In my view, it is a universal phenomenon that today stands in contrast with the history of IOs itself. To illustrate this,

I will refer to the effects that the emergence of the European integration organisations in the 1950s had on the world of IOs. At the time, these organisations were a major catalyst for institutionalised multilateral cooperation processes insofar as they introduced profound changes in the types of bodies that IOs had had until then. These changes or advances in the institutional framework of IOs soon became a benchmark for the regional IOs beginning to emerge and proliferate on various continents at the time, which began to copy the European IOs' institutional system with varying degrees of success. However, merely copying this institutional structure, with many bodies but few powers, without endowing them with the human and material means to carry them out quickly led to disillusionment, which, in turn, led to the questioning of their usefulness and the search for alternatives outside them.

In short, other IOs have copied the institutional system built in the process of European integration: similar institutions, legal systems, goals, and purposes. However, they have done so with the added difficulty of the vast difference between the socio-economic conditions and political realities in Europe and in Latin America and the Caribbean and on other continents. IOs such as the CAN, SICA, the Caribbean Community (CARICOM), ECOWAS or Mercosur bear witness to this reality. In these cases, the institutional mimicry is quite pronounced, sometimes not only formally but, in a certain sense, in a real way. For example, the Andean Integration System, which encompasses the set of institutions and bodies within the CAN, has seen the emergence of institutions very similar to their European counterparts and typical of organisations in very advanced processes of integration, such as the Court of Justice, the Andean Parliament, etc. In other cases, the mimicry is more formal than real – judging by the bodies' achievements. For instance, CARICOM's Caribbean Court of Justice has very limited jurisdiction. In Mercosur, the Permanent Court of Arbitration, established in the absence of a Court of Justice, languishes for want of cases and disputes to settle and the Parliament plays a purely advisory role. And whilst the SICA also has a very highly developed institutional structure with bodies formally similar to those of the EU, the Court of Justice (the CCJ) and Parliament (PARLACEM) established within its sphere of action are often more testimonial than effective. The same is true in Africa, where numerous IOs have copied the European institutional framework, albeit trying to adapt it – without much luck – to very different realities. This can be seen in ECOWAS,

which also has a Court of Justice, a Parliament, and a Bank for Investment and Development, or the AU itself, some of whose institutions have had a complex existence.

This discouragement or disregard also arises from the fact that these IOs endowed with ambitious institutional structures at the same time suffer the consequences of the challenges inherent in managing them. Their maintenance (e.g. the Andean Parliament in Bogota), usefulness (the High Representative General of Mercosur), or the scope of the resolutions of some of their bodies (e.g. the judgments of the Central American Court of Justice or the resolutions of the ECOWAS Parliament) can sometimes be costly or they may engage in only minimal activity (the SICA Executive Committee). These obstacles have often prompted attempts to relaunch these structures (Mercosur) or even, due to the overwhelming complexity of the problem, the commissioning of a study from the Economic Commission for Latin America and the Caribbean (ECLAC) on their ‘institutional reengineering’, in the case of the CAN. But in all cases these processes depend heavily on the will of the regional political leaders. Consequently, changes in their ideological orientations immediately affect the institutions’ functioning, as can be seen, to cite a current case, in Mercosur. Whilst this may enable the institutions’ continued existence, it strips them of content, further weakening the material and human support that sustained them (e.g. through the drastic downsizing of the number of officials, as in the cases of the CAN or UNASUR). The result is an implicit deinstitutionalisation of the organisation.

Something similar is happening with some IOs that were quite important in the past but, due to the inoperability of their institutions and the eminently intergovernmental nature thereof, are today clearly in decline and haemorrhaging member states, as illustrated by the challenging situation the Organisation of the Petroleum Exporting Countries (OPEC) is currently going through. Created in 1960 with the aim of allowing the founding countries to control oil prices, today it is having trouble fulfilling its founding mission.

But in addition to this deinstitutionalisation resulting from the clash of regional realities with the ambitious institutional structures with which some IOs have been endowed, some IOs have, from the outset, chosen a weak or null institutional structure and, in any case, an exclusively intergovernmental one (Pacific Alliance, ALBA, ASEAN, CELAC, the SCO, the Association of

Caribbean States (ACS), UNASUR), straying – for technical or ideological reasons – from the European model of regional integration. In these cases, the EU would thus be the model to avoid, along with its institutional density, seeking instead increased freedom of action for the governments (re: the leaders) of the member states. These IOs are less formal from an institutional and regulatory point of view.

This commitment to a weaker, intergovernmental, and purely technical institutional framework can be found, for example, in ASEAN, the SCO, or the ACS. ASEAN, which already has a long history and is the most advanced IO in Asia, has seen how the incorporation of new member states and advances in cooperation (Charter, Singapore, 2007) has been voluntarily hindered by a markedly intergovernmental and technical institutional framework. The case of the Shanghai Cooperation Organisation similarly exemplifies the desire of two of the founding states, Russia and China, to endow it with only the minimal institutional framework. It has just two permanent bodies, the SCO Secretariat, headquartered in Beijing, and the Executive Committee of the Regional Anti-Terrorist Structure (SCO RATS), headquartered in Tashkent, Uzbekistan. They can thus control its operation.

The member states of several relatively recently founded IOs show a similar lack of interest in endowing them with a solid institutional structure. One such case is CELAC, which was launched with great fanfare in the 2010s as an alternative to the OAS, without the US or Canada. This organisation, steeped in ideology and the product of the confluence of a series of declarations by heads of state and government of countries from the region, was launched without a specific founding treaty, institutional structure, or budget. A certain ideological confluence enabled the implementation and first steps of this cooperation experiment on a nearly continental scale. However, the moment the first disagreements arose between the American leaders as a result of changes in governments in the region, the consensus evaporated and the meetings turned sour. Not only did it become impossible to convene new summits, but the one already scheduled to be held in El Salvador in 2017 was suspended. The fracture that took place in this American IO led to its current lethargy, and although Mexico is determined to revive it, to date it has met with little success.

Something similar has happened with ALBA (Bolivarian Alternative for the Americas), which emerged as a counterpoint to the Free Trade Area of the

Americas (FTAA). Disregarding the IO model, it sought to establish itself as a new formula for cooperation between ideologically aligned countries. To this end, a weak intergovernmental institutional structure was designed, to operate based on consensus and strict respect for the member states' sovereignty. Political changes in some of the most prominent countries in this association, such as Ecuador, Honduras, or, more recently, Bolivia (although there it has changed again), led, in practice, to the organisation's paralysis.

Other IOs, such as UNASUR, are experiencing very similar situations. Created under the Brasilia Treaty of 2008 as a display of a certain political consensus based on the ideological proximity of the then presidents of Argentina, Brazil, and Venezuela, it soon found itself enmeshed in complex political situations arising in various countries in the region. The commitment to an essentially intergovernmental structure led by regional leaders was intended to be offset by the figure of an independent Secretary General vested with powers. But the turbulent appointment process has made such a figure unviable, as witnessed by the fact that the position has remained unfilled since January 2017. The withdrawal of many of the member states (most recently, Bolivia, in November 2019) has dealt a lethal blow to this IO, leaving it – in fact if not yet in law – all but defunct.

Finally, other IOs have chosen very lightweight, intergovernmental institutional systems not for ideological reasons but to enhance their efficiency and agility. This would be the case of the Pacific Alliance, founded in 2012, as a regional bloc bringing together the main Latin American countries bordering that ocean with the aim of deepening the economic integration of its members. To this end, the members have not created any body specific to the organisation itself, which is instead sustained by the meetings held at various levels by the different member states, under the coordination of one of the members, which annually assumes the Alliance's rotating presidency on a pro tempore basis. This experiment in regional cooperation has undeniably achieved outstanding results, but its lack of an institutional framework makes it highly vulnerable to political changes in the region, such as that which has already taken place in Mexico, as well as to instability that spreads from one country to another, as in the case of Peru or Chile. Whilst this may not be leading to the IO's collapse, it is at the very least leading to a deep slowdown in its activities.

As we have seen in this article, the IO universe is vast and plural, as are the institutional structures that support these organisations. IOs emerged from the confluence of the phenomenon of international conferences, multilateral treaties, and the establishment of permanent institutional structures. The existence of permanent, independent structures specific to the organisation itself thus became one of the distinctive or inherent features of IOs. Institutions are thus a feature shared by IOs, but not so the scope thereof, which ultimately depends on the will of their member states, who design the component bodies of this framework, define their powers, and decide whether or not to use them.

The institutional density of some IOs is, in my opinion, a bulwark against critical action by some of their member states and makes it possible for shared interests to prevail over the individual interests of those states. Hence, the weaker the institutional framework, the more serious any contrary behaviours by one or more member states will be for the IO. Thus, whilst the withdrawal of Colombia, Ecuador, Brazil, Argentina, and others from UNASUR seems destined to result in the demise of that South American political forum, Venezuela's withdrawal from the CAN has not had the same effect on that organisation, but rather resulted in a change in its strategy. Likewise, the UK's withdrawal from the EU has become an antidote to the latter's paralysis, ultimately strengthening the European organisation, which has proven capable of giving a joint and institutional response to the British claims.

Obviously, however, as I have tried to show, the type of strong and effective institutional framework that allows an IO to achieve the purposes for which it was created is not the formula that many states are embracing today, beginning with the great powers, which prefer other mechanisms. They are thus turning away from those established in the IOs of which they are members, plunging them into a troubling impasse, in favour of more lenient, flexible, and mouldable formulas that do not compromise their international responsibility or that derived from membership in an IO. This behaviour is leading them to lose interest in the IOs to which they belong, not to use their institutions or, even, to obstruct their operation.