

UNASUR in Venezuela: Mediation, Bias and Legitimacy

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Abstract: In light of the ongoing debate about the effectiveness of partial and impartial mediators, we examine how the Venezuelan government's and the opposition's perceptions of UNASUR and its good offices influenced its role as facilitator of dialogue between the two parties. We do so on the basis of interviews with key actors linked to the process, as well as a review of the literature and documentary sources. We find that, although there was a perception of lack of neutrality on the part of the mediators involved in the UNASUR effort to facilitate a dialogue in Venezuela, the parties themselves accepted the role of these mediators because they perceived that, through their means, they could achieve beneficial outcomes. Hence, we agree with various authors that the parties' perception of a mediator is key. Nonetheless, we make a distinction between two types of perceptions that correspond to two types of legitimacy that a mediator can enjoy: ideological legitimacy and pragmatic legitimacy. We argue that the second type is essential and can explain the significant role that biased mediators play in various conflicts, such as that in Venezuela.

Keywords: mediation; legitimacy; Venezuela; UNASUR; conflict; impartiality; bias; pragmatism.

Introduction

In his article 'International mediation, selection effects, and the question of bias,' published in *Conflict Management and Peace Science* in 2012, Bernd Beber (2012) stated that biased mediators were more likely to offer their services as mediators, but less successful in their work. Authors such as Paul Wehr and John Paul Lederach (1996), who asserted that partial mediators (insider partial) had strengths and complemented the work of impartial mediators (external neutral), challenged this intuitive argument. Some authors also presented cases in which biased mediators facilitated an agreement between conflict parties. These cases include: (i) the US and British mediation between Italy and Yugoslavia in the conflict over the city of Trieste in 1954; (ii) the Algerian mediation between Iran

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and the United States during the hostage crisis of the US embassy in Tehran in 1979-1980; (iii) the Soviet mediation between India and Pakistan in 1966; and (iv) the US mediation between Egypt and Israel at Camp David in 1978 (see Beber 2012).

According to Peter Wallensteen and Isak Svensson (2014: 320), 'the question of bias is central in mediation research,' and the debate about it has not yet been settled. On the one hand, some authors argue that impartiality is an essential characteristic of mediators. On the other hand, others contend that partial mediators can be more effective because of their ability to influence one of the conflict parties (Wallensteen and Svensson 2014). We wonder which of these two positions better fits the case of the mediation of the Union of South American Nations (UNASUR) in Venezuela between 2014 and 2017. More specifically, what was the perception of UNASUR in the eyes of the conflict parties? How did this affect the role of the organisation as facilitator of dialogue between the parties?

We rely on interviews with key informants linked to the process, including people who participated directly in it, as well as public statements by the parties and UNASUR.¹ In addition, we reviewed the literature and used documentary sources to examine the role of UNASUR in facilitating a political dialogue between the Venezuelan government and the opposition. We argue that, although the mediators involved in the UNASUR effort to facilitate dialogue in Venezuela were not perceived as neutral, the parties accepted these mediators because they perceived that through their means they could achieve favourable outcomes. In this sense, we agree with Bernd Beber that the perception that the conflict parties have of a mediator is key. Yet, we contend that their perception of a mediator's potential effectiveness matters more than their perception of his/her bias. This perception of effectiveness is linked to one form of empirical legitimacy: pragmatic legitimacy.

Empirical legitimacy can be divided into ideological and pragmatic legitimacy. Ideological legitimacy refers to the identification of a person or group A with a person or group B and its objectives (for example, because of political or cultural affinity). Pragmatic legitimacy is the perception that a person or group A has of the results that can be achieved through a person or group B (see, e.g., Sabrow 2017). We find that, although the parties prefer a mediator with whom they share a certain identity or aspirations (i.e. a mediator who enjoys ideological legitimacy), in practice what matters most is the parties' perception that a mediator is capable of delivering beneficial outcomes (i.e. a mediator who enjoys pragmatic legitimacy). In other words, the perception of bias on the part of the mediator is less relevant than the parties' perception that they can achieve positive outcomes through this person's good offices. In this case, for example, the opposition's perception that UNASUR was close to Venezuelan President Maduro could be considered as an advantage to convince the government to make certain concessions at the negotiating table, which is consistent with Andrew Kydd's (2003) argument, according to which partial mediators can be more effective when they provide information to one of the conflict parties to obtain concessions. Since bias generates confidence in one of the parties, it is more likely that this party will give in and make significant concessions if a mediator in which s/he trusts advises him/her to do so and explains that it will not harm him/her (Kydd 2003).

We also take into account a key factor that enables third-party mediation: the escalation of violence. According to a study by Svensson and Lundgren (2018), mediation in nonviolent uprisings marked by radicalism or state repression is more likely when there is a risk that violence will increase. The stronger the intensity and the longer the duration of the conflict, the more likely conflict parties are to accept mediation. Frequently, the involvement of international mediators in these situations is greater when conflicts generate negative externalities for the outside world. This context propitiates the involvement of third countries or international organisations and the parties' acceptance of the terms of the negotiation (Svensson and Lundgren 2018). This reinforces the idea that the parties to a conflict tend to accept a mediator more easily when they perceive that s/he could help to improve a dramatic situation. In the Venezuelan case, it is when the situation worsened and violence escalated that the parties realised the need for dialogue with the assistance of third parties (Alfaro 2018a).

An additional argument put forward by Svensson and Lundgren (2018) is that mediation is more successful when the regime, the opposition and third parties have incentives to end the violence and reduce the intensity of the conflict. In general, governments are less likely to accept mediation owing to two factors. First, accepting the existence of a conflict within their territory and their incapacity to maintain public order represents a political cost. Second, mediation could give greater legitimacy to opposition groups. According to the authors, when regimes accept the need for dialogue they prefer to do so without intermediaries, unless the situation has become untenable (Svensson and Lundgren 2018). Our analysis suggests that, in addition to the uncontrollable situation, governments have greater incentives to accept mediation when they believe that the third party who facilitates dialogue can help the political regime. Meanwhile, opposition groups have incentives to participate in a mediated process when they are aware of their strength to challenge the power of the regime, and trust that their demands can be heard and addressed through such a process (Svensson and Lundgren 2018). If so, even if they perceive that the mediator is swayed in favour of the government, they might accept him/her. In the present case, the opposition groups' trust that their demands could be heard and addressed through a process facilitated by UNASUR stemmed, to a great extent, from their perception that President Maduro 'picked up the telephone' when former UNASUR Secretary-General Ernesto Samper called him (Alfaro 2018b).

We develop our argument in two parts. In the first, we analyse the selection of UNASUR as a mediator, arguing that it was one of the few external actors accepted by the conflict parties, even though the organisation was initially seen as pro-government, and the opposition therefore had doubts. In the second part, we study UNASUR's involvement and its results, and how this affected the perception of its role as mediator in this conflict situation and vice versa.

The selection of UNASUR as a mediator and the first steps

After the death of former President Hugo Chávez in 2013, the National Electoral Council of Venezuela called for presidential elections, narrowly won by Nicolás Maduro over the opposition candidate Henrique Capriles. Maduro assumed power with low political legitimacy, amid strong criticism from the opposition that alleged that the elections were fraudulent, and the denunciation by the Organization of American States (OAS) for lack of transparency. The economic crisis due to the fall in oil prices and the shortage of food, medicines and other supplies increased public discontent, and in February 2014 they yielded street demonstrations against a political and economic model against which almost half of the Venezuelan population had voted in the 2013 presidential elections (dos Santos 2015).

Other factors, such as weak governance, the escalation of violence, complaints of human rights violations and disrespect for democratic principles, alarmed the international community. Initially, the OAS offered its services as a mediator. However, the government accused it of being a puppet of the USA and rejected its intervention (dos Santos 2015; International Crisis Group 2016; Cooper 2018). In the words of President Maduro, 'if a delegation from the OAS were able to invite itself to come to Venezuela, it would have to come clandestinely to Venezuela because no OAS delegation will step into Venezuela' (Maduro, cited in Silva Querales 2014: 20).

In February 2014, at the request of the Venezuelan government, a meeting of UNASUR foreign ministers was held in Caracas. One of them stated that the situation in Venezuela prompted the 12 foreign ministers to offer their support and meet immediately, 'which normally does not occur and does not happen so easily' (U03, interview by authors, 16 March 2018). Thus, at the time, all the countries in South America were willing to seek a peaceful solution to the conflict. During this meeting, the foreign ministers agreed that UNASUR should support the Venezuelan government to find a solution (UNASUR 2014d). According to Venezuelan scholar Francisco Alfaro, when the government invited UNASUR initially, it did not think that the organisation would facilitate a dialogue with the opposition, only that it would act as a 'witness of good faith' (Alfaro 2018a: 46). Later, the Venezuelan president said that UNASUR could participate in the National Peace Conference, an initiative that he promoted to seek ideas for peaceful solutions to violent protests (Silva Querales 2014: 20). According to then Venezuelan Vice President Jorge Arreaza, in this conference, the foreign ministers of UNASUR suggested to the government the creation of a national human rights council to deal with complaints of human rights violations, which the government eventually did (Arreaza 2017).

In March 2014, at the request of the government, UNASUR began to assist the parties in seeking a negotiated solution to the crisis by sending a delegation of former ministers, with the accompaniment of the apostolic nuncio as a witness of good faith (Legler and Garelli-Ríos 2018). During its visit, the delegation, made up of the foreign ministers of Argentina, Brazil, Colombia, Ecuador, Guyana, Bolivia, Suriname and Uruguay, maintained a dialogue with representatives of various political factions. The foreign ministers met on the one hand with the political and economic commissions of the National Conference

for Peace and on the other hand with the representatives of the Democratic Unity Roundtable (MUD), an umbrella group of the main opposition political parties. Moreover, they listened to Church and student representatives (dos Santos 2015; *Telesur* 2014b; UNASUR 2014a). According to one interviewee, ‘the government accepted the role of UNASUR as facilitator because President Chávez was one of the founders of the Union and Venezuela was particularly sensitive to regional issues being resolved regionally’ (U02, interview by authors, 11 December 2017). Also, despite the initial doubts of the opposition, especially after UNASUR had endorsed the results of the presidential elections one year earlier (see EFE 2013), the participation of multiple relevant actors in meetings with the delegation legitimised UNASUR’s good offices efforts (Silva Querales 2014: 21–22; M03, interview by authors, February 2018).

A source from the opposition revealed that another reason why the MUD accepted the involvement of UNASUR was the influence of other international players, such as former presidents José Luis Rodríguez Zapatero and Jimmy Carter, who recommended UNASUR as the appropriate body to mediate. The MUD considered that the Maduro administration trusted UNASUR, which could permit a real dialogue between the parties. Further, UNASUR was a recognised international organisation. Therefore, in the words of the same source, ‘this g[ave] international dialogue a lot of legitimacy, which is what we seek’ (M01, interview by authors, 22 February 2018). Hence, the results would be recognised by both parties and by the international community, which would be useful. In other words, the opposition granted pragmatic legitimacy to UNASUR. In the same vein, another source close to the MUD said that accepting UNASUR’s mediation was a way to make public opinion understand that the MUD wanted to play a democratic role by exhausting all possible means of resolving the conflict (M02, interview by authors, 19 February 2018). In addition, according to an independent activist from Venezuela, the selection of UNASUR had to do with identity factors. The fact that South American countries shared common characteristics made UNASUR enjoy a certain ideological legitimacy. Furthermore, as neighbouring countries, other member states were interested in finding a solution to the Venezuelan crisis, since it affected not only this country but also the entire region (I01, interview by authors, 19 February 2018).

The visit of the delegation of foreign ministers was successful, since the parties accepted the regional organisation’s good offices and thanked it. Thus, at the end of the visit, Ramón Guillermo Avelo, executive secretary of the MUD, said that ‘the foreign ministers listened to us a lot [...] They did not come as judges, they did not come to resolve, they were very respectful about the prominent role that the Venezuelans should play’ (*El Universal* 2014). The following words of Avelo also reveal the opposition’s acquiescence to the efforts undertaken by the UNASUR delegation: ‘We do not trust the words of the government because we judge them by their deeds, not by their words, and, well, judging by what they say, they do not trust us either. Hence, it is convenient that there is a third party of good faith that we can mutually agree upon’ (*El Universal* 2014). One key factor in the acceptance of UNASUR by the opposition was the fact that the foreign ministers followed the MUD’s recommendation to meet with opposition members of parliament (*El Universal* 2014). According to a source close to the process, ‘on that occasion we [the

delegation of foreign ministers] had a very good dialogue with them. We listened to the demands of the opposition' (U03, interview by authors, 16 March 2018). Meanwhile, President Maduro criticised the MUD's request for a mediator to intervene in the dialogue with the government, but was willing to accept UNASUR in such a role (*La Jornada* 2014).

To follow up on the work of the delegation of foreign ministers, UNASUR appointed a troika made up of the foreign ministers of Brazil, Colombia and Ecuador, who travelled to Caracas in early April 2014 to meet with the conflict parties in order to try to reach some agreement. According to a source close to the process, the appointment of the three foreign ministers was a consensus decision between the government and the MUD, who agreed on the most appropriate countries to continue facilitating dialogue (U03, interview by authors, 16 March 2018). During the troika's visit, President Maduro summoned the MUD to a meeting at the presidential palace on 10 April. The main opposition leaders, the apostolic nuncio and the foreign ministers of Colombia, Brazil and Ecuador attended this meeting (*Telesur* 2016). The acceptance of UNASUR as a mediator by the MUD was reflected in a communiqué on 7 April 2014, in which the MUD stated that, through UNASUR, the government accepted the agenda items that it had put forward and the presence of a third party of good faith chosen by mutual agreement. This was why the opposition accepted the proposal of the foreign ministers to hold a preparatory meeting in order to agree on the conditions for a public round of negotiations (MUD 2014). Following the rounds of dialogue of 10 and 15 April 2014, the two sides rejected the use of violence and agreed, among other things, to establish a truth commission, as proposed by the government, to investigate the violent events that took place at the beginning of 2014. This truth commission would be established through a legislative committee, in which the opposition would participate (UNASUR 2014c).

Thus, UNASUR became involved as a mediator in this conflict situation because it was the only actor accepted by both the government and the opposition (International Crisis Group 2016). This acceptance stemmed from two main reasons. First, although the opposition initially perceived UNASUR to be supportive of President Maduro, the relatively neutral attitude of its then Secretary-General Ali Rodríguez Araque (former Venezuelan foreign minister) raised expectations that it could help facilitate a dialogue between the opposition and the government. In addition, UNASUR included member states that were in favour of the Venezuelan government and others that were against it, which 'made a counterweight' (M03, interview by authors, February 2018). Therefore, unlike the OAS, which was rejected categorically by the government, UNASUR did not generate a negative response by the conflict parties. Rather, both parties expected that UNASUR could contribute to untangle the conflict situation, even if the opposition had certain doubts (A01, interview by authors, 11 September 2017). According to one interviewee, the MUD accepted UNASUR's mediation because previous informal meetings made the opposition realise that the international organisation really sought to bring the parties together:

Members of the MUD spoke with some foreign ministers of UNASUR over the phone or visited them. This helped them to see that among the foreign ministers of UNASUR there was a willingness to

find appropriate negotiated solutions. If the parties, especially the MUD, did not trust that we could propitiate a dialogue, they would not have accepted it. When we were there and we talked, I felt that they realised that our position was not completely biased or that we were not against finding an appropriate solution that would enable them to partially fulfil their demands. When they understood that our attitude was much more conversational and that we were looking for points of agreement, it seems to me that they realised that they were happy about it (U03, interview by authors, 16 March 2018).

Secondly, UNASUR had already proved its worth as a mediator in other contexts since its creation in 2008. Shortly after its establishment in May 2008, UNASUR faced a crisis in Bolivia, which opposed the national government to the governors of the departments of the so-called 'Half-moon.' At the request of the government, UNASUR began to accompany the process of dialogue between the government and the opposition in September 2008. This successful accompaniment, including the participation of UNASUR in the establishment of a fact-finding mission to clarify the circumstances of the death of 20 farmers during a confrontation in Porvenir, Pando, set a precedent for the institutionalisation of this type of role. UNASUR's stance regarding the attempted coup d'état against Rafael Correa in Ecuador and its mediation between Colombia and Venezuela to prevent the deployment of US military bases on the border between the two countries further positioned the organisation as an appropriate mediator (U01, interview by authors, 12 May 2017; U02, interview by authors, 11 December 2017; International Crisis Group 2016; Leone 2017).

Thus, during the third UNASUR summit in 2009, Ecuador, which held the pro tempore presidency, proposed strengthening South America as a zone of peace by establishing confidence-building mechanisms in defence and security and refraining from resorting to the threat or use of force against the territorial integrity of another member state. A year later, in 2010, the member states signed the additional protocol to the UNASUR constitutive treaty on commitment to democracy. The protocol states that 'in case of actual or potential breakdown of democratic order, of a violation of the constitutional order or of any situation that puts at risk the legitimate exercise of power and the validity of democratic values and principles,' the Council of Heads of States or the Council of Foreign Ministers may use 'good offices and carry out diplomatic efforts to promote the restoration of democracy in the affected country' (UNASUR 2010). The protocol came into force in March 2014, just when UNASUR became involved in Venezuela, providing it with a more precise institutional framework in which to act.

The role of UNASUR was decisive in temporarily curtailing violence, which constituted a first beneficial result for the parties (M02, interview by authors, 19 February 2018; I01, interview by authors, 19 February 2018). In the words of one interviewee, '[t]he first results of the foreign ministers' involvement were to get the confrontation out of the street, that the two sides rejected violence as a way of doing politics and that they were willing to engage in dialogue [...] the parties built up trust between each other, which allowed them

to make mutual concessions' (U02, interview by authors, 11 December 2017). In particular, the intervention of the troika of foreign ministers enabled the appointment of some authorities that were pending and the discussion of solutions to the economic problems of Venezuela (U03, interview by authors, 16 March 2018; A01, interview by authors, 11 September 2017). Therefore, despite initial doubts about the role of UNASUR, especially from the opposition for considering it as biased (International Crisis Group 2016), both sides accepted UNASUR's good offices because they could already perceive some useful results. Below we analyse the mediation efforts of UNASUR from May 2014 onwards, and how the conflict parties perceived these efforts.

The mediation of UNASUR

Despite the achievements of the two rounds of dialogue in April 2014, new controversies arose shortly afterwards regarding the MUD's request to grant amnesty to so-called 'political prisoners' and the government's demand that those who participated in the coup d'état against Chávez in 2002 and in the street protests of early 2014 should be prosecuted. In this context, in a statement dated from 16 May 2014, UNASUR reaffirmed its interest in continuing to provide its good offices between the government and the opposition, with the advice and support of the delegation of foreign ministers and with the participation of the apostolic nuncio (*Telesur* 2014a).

In response to this statement, the government reiterated its willingness to continue with the dialogue and, according to Silva Querales (2014: 33), President Maduro 'described the statement as 'excellent.' Likewise, the MUD agreed to meet with UNASUR two days later, and its executive secretary entrusted the organisation with channelling their demands to the government (U01, interview by authors, 12 May 2017). Thus, the mediation of UNASUR in Venezuela was initially well received by the parties, despite the fact that the organisation was not seen as impartial. This is due notably to the parties' perception that the organisation was playing a useful role. On 19 May 2014, then Foreign Minister Elias Jaua, for example, mentioned that 'the presence of UNASUR, quickly, in two visits, achieved what President Maduro had not been able to achieve despite his insistency on convening a dialogue since December last year' (Silva Querales 2014: 37).

Despite UNASUR's statements in early May about its desire to continue offering its good offices between the government and the MUD, in practice the meeting with the delegation of foreign ministers that was scheduled for the third week of May was postponed indefinitely, after the foreign ministers of Brazil, Colombia and Ecuador cancelled their announced trip to Caracas. The trip was cancelled because, at the beginning of the week of their visit, the MUD announced the freezing of the dialogue due to an alleged breach of several of the commitments made by the government and in response to the arrest of students involved in the protests (BBC Mundo 2014), a move of the opposition strongly criticised by the Venezuelan government (Arreaza 2017). The UNASUR troika formally ceased to provide its good offices at the end of 2014, after a period of eight months during which the dialogue stalled owing to the parties' reluctance to move forward. According to a source close to the process, 'at one point the parties had already sorted out some issues

and were not willing to continue, as they did not find any common agreement. The difficulties in the relationship between them meant that we could not do anything else' (U03, interview by authors, 16 March 2018).

The most notable tensions between the MUD and UNASUR began the following year. In particular, the MUD perceived UNASUR's (2014b) condemnation of the sanctions imposed by the USA against Venezuelan government officials as an endorsement of the government. On 4 February 2015, the then Executive Secretary of the MUD Ramón Guillermo Aveledo criticised this decision since the sanctions were directed to government officials and not to all Venezuelans. He indicated that 'UNASUR should not be biased,' while expressing his hope that the new secretary-general of UNASUR, Ernesto Samper, appointed in August 2014, could 'discuss with all sides and understand the situation that really exists in the country' (MUD 2015b). In his words, 'if he comes and talks only to the government, he would be considered to have a biased view of the Venezuelan reality and give Venezuelans an impression of bias, which would not be convenient for UNASUR' (MUD 2015b). In the same way, the think tank International Crisis Group considered that the statements of UNASUR at the beginning of March 2015 'added fuel to the fire' by endorsing the government's allegations of conspiracy (International Crisis Group 2016). A few months later, in a communiqué dated from 18 May 2015, the MUD complained about the lack of notice regarding the deployment of the UNASUR electoral monitoring mission. In a letter to the secretary-general of UNASUR, the MUD stated that 'with surprise, on the eve of the event, we learnt that a UNASUR technical mission would observe our primary elections to select parliamentary candidates' and, later on, claimed that it was interested 'in a substantive, impartial, comprehensive international presence which could help build trust' (MUD 2015a). This letter shows the opposition's initial suspicion about the role that UNASUR could play in Venezuela.

However, at the end of 2015, the legislative elections took place in Venezuela, and the electoral observation mission of UNASUR, chaired by former President of the Dominican Republic Leonel Fernández, helped to recognise the victory of the opposition. The appointment, for the first time, of an extra-regional leader as head of mission revealed the interest of the organisation in demonstrating its impartiality in observing the electoral process. According to a source close to the process, 'that mission played an important role during its presence in Caracas because it helped to channel the concerns of the political parties of the MUD to the National Electoral Council and address such concerns' (U01, interview by authors, 12 May 2017). This role redeemed UNASUR in the eyes of the opposition (U01, interview by authors, 12 May 2017; A01, interview by authors, 11 September 2017). In effect, the almost immediate recognition of the results by the government was largely attributed to UNASUR's efforts.

The triumph of the opposition in the legislative elections generated a reconfiguration of political forces in Venezuela, even though the electoral tribunal did not recognise the election of some opposition candidates, which would have given a supermajority to the opposition. At the end of January 2016, UNASUR held a meeting of foreign ministers in Quito, Ecuador. Samper informed the foreign ministers that the electoral mission had been a success but had ended and that now the organisation should promote a dialogue

between the parties in order to facilitate democratic coexistence (U01, interview by authors, 12 May 2017). Before the newly elected members of parliament convened, the government stacked the Supreme Court with like-minded judges. Consequently, when the National Assembly approved an amnesty law to release so-called 'political prisoners,' the executive branch responded by establishing a truth commission in April 2016 to reveal the names of those responsible for the deaths of 43 people during the 2014 street protests and offer compensation to the victims (El Telégrafo 2016), and the Supreme Court declared the amnesty law unconstitutional, arguing that it would lead to impunity (Lozano and Vásquez 2016).

Although UNASUR negotiated with the government to have four seats for the opposition in the truth commission, the MUD refused to participate. The four people were selected, but they did not assume their functions in the end because they felt that everything was set and that they would not be able to have a say (U01, interview by authors, 12 May 2017). The truth commission was eventually set up, and the secretary-general of UNASUR attended its inauguration on 12 April 2016 (Arreaza 2017). According to a source close to the process, Samper publicly pressured the opposition to participate in the truth commission (U01, interview by authors, 12 May 2017). However, he received several criticisms from the opposition during his visit to Caracas (M03, interview by authors, February 2018). For example, the president of the Congress, Henry Ramos Allup, said that UNASUR's 'partiality adds fuel to the government's bonfire. I do not know how it is in Colombia, but here in Venezuela it is not as you say. We are not denying dialogue, we are not fools, dialogue yes, but not in a dark room' (Salas 2016). Likewise, the leader of the opposition, María Corina Machado, in statements to Radio Caracol, called Samper 'irresponsible' and claimed that not all the parties respected him or found him 'credible' (Salas 2016). Despite these criticisms, the opposition leader in the Congress expressed the need to meet with the secretary-general of UNASUR regarding the measures taken by the government, especially the annulment of the amnesty law approved by the National Assembly (Salas 2016).

In April 2016 another meeting of foreign ministers was held in Quito. On this occasion, Samper met with President Maduro, who suggested the intervention of the three former presidents José Luis Rodríguez Zapatero of Spain, Martín Torrijos of Panama and Leonel Fernández of the Dominican Republic under the auspices of UNASUR to facilitate dialogue with the opposition. According to Alfaro (2018a: 49), the government decided to involve the former presidents in a mediation effort because it perceived that Maduro was under an imminent 'threat of being revoked from office.' The suggestion to involve the three presidents also came from the MUD. Even before the 2015 elections, the MUD had indicated that it wanted the participation of the former presidents in the electoral process (U01, interview by authors, 12 May 2017). The former presidents had participated in the observation of the legislative elections, which is why they enjoyed the confidence of the opposition parties. This was confirmed by the then vice president of Venezuela, who said that the opposition strongly demanded the presence of former presidents Zapatero, Torrijos, and Lionel Fernández, as well as the Church and the secretary-general of UNASUR, to

resume the dialogue (Arreaza 2017). In addition, according to an opposition interviewee, some MUD parties felt an ideological affinity with Rodríguez Zapatero's social-democratic tendency (M03, interview by authors, February 2018). Further, according to Cooper (2018: 12), 'Zapatero maintained close contacts with opposition leaders, including the wife of Venezuelan opposition leader Leopoldo López, and was significantly involved in López's release in July 2017.'

The three former presidents accepted and came to Caracas on 16 May 2016 under the auspices of UNASUR and with the approval of the Vatican. Upon their arrival, the former presidents met with the National Assembly and the MUD (Associated Press 2016b; Associated Press 2016a). The presence of the former presidents brought greater national and international credibility to the dialogue, especially since Zapatero had connections with a large number of international actors, including the Holy See, the Government of Spain, the European Union and the USA (Cooper 2018; Legler and Garelli-Ríos 2018). According to a source close to the process, Zapatero's prestige and acceptance by governments, especially the USA, 'neutralised the international campaign promoted by the most radical sectors of the opposition against a negotiated settlement to the crisis and gave legitimacy to the efforts to facilitate a dialogue' (U02, interview by authors, 11 December 2017). That is, the participation of the former presidents in the dialogue initiative facilitated by UNASUR, with the participation of the Holy See, succeeded in convincing the opposition that the organisation was an appropriate intermediary.

A secret meeting was planned in the Dominican Republic from 26 to 28 May 2016, but the information was leaked. The three presidents, the secretary-general of UNASUR, the opposition and the government attended that meeting, aimed at starting to design the dialogue process. The mediators held separate meetings with the conflict parties and succeeded in having the parties agree on a four-point agenda, which remained valid until the time of writing (only specific topics changed): (i) normalisation of relations between the executive, legislative and judiciary branches, (ii) people detained because of violence, (iii) economic and social issues, and (iv) electoral issues (at that time focused on the recall referendum, then on early elections). A fifth point, i.e. international actors' respect for sovereignty, was added as a cross-cutting theme (U01, interview by authors, 12 May 2017). There was a second secret meeting on 6 June in the Dominican Republic, but the MUD did not attend it, despite having agreed to. Meanwhile, former President Leonel Fernández and UNASUR Secretary-General Ernesto Samper visited Caracas on 10 June in order to deliver President Maduro a proposal of stabilisation based on solidarity, designed by UNASUR, which included a plan to promote economic growth (UNASUR 2016).

UNASUR insisted and, on 12 July 2016, one of the former presidents, Rodríguez Zapatero, met with members of parliament from the four main political parties of the MUD.² In that meeting, the members of parliament put forward five conditions for dialogue, including a referendum to revoke Maduro from office. They also requested an extension of international mediation and the involvement of the Vatican, not only as a witness but also as a facilitator, the relocation of the venue for the talks to Venezuela, the end of 'illegitimate' detentions of opponents, and the recognition of the opposition majority in

Congress (U01, interview by authors, May 2017; EFE 2016). The Venezuelan government also held a working meeting with the former presidents to pave the way for the start of the dialogue process (EFE 2016). The opposition had two of its demands met, namely the appointment of a mediator from the Holy See and the change of venue of the negotiations. A source close to the MUD said that the presence of the Vatican was important for two main reasons. First, this actor was considered to be neutral and to bring more confidence to the conflict parties and, more generally, to the society, which was very polarised. Second, Venezuela is an overwhelmingly Catholic country, so the opposition thought that public opinion would be more supportive of the dialogue if the Catholic Church accompanied it (M01, interview by authors, 22 February 2018). Two interviewees agreed that the Church was a highly respected institution in the country and that the participation of the Holy See in the mediation effort was therefore important (I01, interview by authors, 19 February 2018; M03, interview by authors, February 2018). This confirmed the parties' willingness to remain engaged in a dialogue facilitated by the former presidents, the Vatican and the Secretariat of UNASUR.³

In October 2016, UNASUR prepared a methodological document which described the procedures for dialogue and specified who would be responsible for facilitating dialogue on each of the four topics. On 24 October, the conflict parties sat down to talk. The executive secretary of the MUD attended the meeting in an effort to prevent violence, but the MUD was not represented as a whole. The Holy See also participated. The parties accepted the methodological document prepared by UNASUR. The government and the MUD attended the first plenary meeting of the national dialogue on 30 October, albeit without the participation of the opposition party *Voluntad Popular*, which demanded the release of its leader Leopoldo López. As a result of this dialogue, progress was made on all four topics. Each 'accompanier' (José Luis Rodríguez Zapatero, the apostolic nuncio, Leonel Fernández and Martín Torrijos) was responsible for facilitating dialogue on one of the four themes (Alfaro 2018a; U01, interview by authors, May 2017). According to one interviewee, 'the proof of the usefulness of this dialogue is that even today with the new initiative, sponsored by the President of the Dominican Republic Danilo Medina, the methodological approach remains the same as that outlined by the secretary-general of UNASUR' (U02, interview by authors, 11 December 2017). A source close to the process explained that the lack of compliance with previous agreements began during the second plenary session of dialogue. The MUD pressed for the release of political prisoners and always demanded the release of someone else to sit down and talk (U01, interview by authors, 12 May 2017). In November 2016, the MUD began to criticise the secretary-general of UNASUR, accusing him of failing to fulfil an appropriate role in the facilitation of dialogue. In a letter dated 4 November 2016, the executive secretary of the MUD said that:

The role of outsiders who accompany this process in good faith is not to judge this or that expectation as 'true' or 'false', but to help Venezuelans create the conditions for the people to decide, through the ballot box, which 'expectation' is to be fulfilled. Achieving an electoral solution to the Venezuelan crisis is the real role, then, of

anyone who wants to ‘help’ or ‘accompany’ in this conflict. Any other conduct would lead such actors to take sides, thus undermining the ‘confidence in the neutrality of the task and proposals of those who accompany the process’ [...] Fortunately, the fundamental role now played by the Vatican in the process of ‘assistance’ and ‘accompaniment’ in the Venezuelan conflict allows us to maintain a cautious optimism about the possibilities of this incipient process of national dialogue. The statements of Monsignor Claudio Maria Celli, special envoy of Pope Francis to the national dialogue in Venezuela, which was published on 4 November in the Latin American press, are for us a stimulating example of how to accompany this complex process *impartially* and proactively. In this regard, we welcome the realistic and serious way in which UNASUR understood that the incorporation of the Holy See was positive and marked a turning point in the dynamics of assistance, accompaniment and mediation (MUD 2016, emphasis added).

As can be seen, in this letter addressed to the secretary-general of UNASUR, the MUD began to reject the involvement of the Secretariat of UNASUR in the mediation and attributed its faith in the possibility of achieving satisfactory outcomes through dialogue to the impartial efforts of the special envoy of the Holy See. The MUD’s frustration with the process and the pressure from some of its members to abandon the dialogue and engage in civil resistance began to be increasingly felt, and in December the MUD did not attend the third dialogue meeting owing to the government’s lack of compliance with previous agreements (International Crisis Group 2016; U01, interview by authors, May 2017). The mediation of the former presidents was also tainted by constant allegations of partiality. For example, Leonel Fernández was accused of being close to the Maduro regime, while Martín Torrijos was singled out for showing affinity with the MUD (Cooper 2018). However, according to an opposition source, the involvement of the Vatican in the process made the opposition maintain faith in the process facilitated by UNASUR with the support of the former presidents and the Holy See (M03, interview by authors, February 2018).

In January 2017, UNASUR made its last attempt to bring the parties to the conflict together through a proposal. After at least 20 meetings with the government and the opposition, the former presidents handed over to the parties a document called the ‘Democratic Coexistence Agreement,’ in which they made 21 suggestions to relaunch the negotiations. These suggestions included a dialogue without mutual preconditions, which would take into account lessons learnt and would involve a mechanism of monitoring, verification, and guarantees of compliance with previous agreements (*El Universal* 2017a). The MUD did not accept the document and stated that ‘the experience of “dialogue” that took place in Venezuela from 30 October to 6 December 2016 is a closed chapter that will not be reopened, owing to the government’s failure to comply’ (MUD 2017). Although the MUD had previously criticised UNASUR’s role, it attributed its decision to the government’s

failure to abide by previous agreements and kept open the option of resorting to UNASUR to facilitate a dialogue with the government. Proof of this was the MUD's submission of its own document to UNASUR on 9 February 2017 and the issuance of a statement on the following day in which the MUD expressed its willingness to debate the proposed document (MUD 2017; *El Universal* 2017b).

Shortly afterwards, the situation worsened with the decision of the Supreme Court of Justice to suspend the powers of the National Assembly, although it was reversed, and the announcement of the establishment of a constituent assembly. This situation gave rise to street demonstrations for almost nine weeks in a row. In addition, the end of Samper's tenure as secretary-general of UNASUR provoked a pause in the dialogue. According to a source close to the process, the facilitation of dialogue by UNASUR was also affected by the deterioration of bilateral relations between Venezuela and some member states such as Colombia, which 'weakened the internal consensus and, thereby, the dialogue promoted by UNASUR' (U02, interview by authors, 11 December 2017). A meeting of foreign ministers was scheduled in May 2017 to elect a new secretary-general and agree on a common position regarding Venezuela. However, the organisation failed to appoint a new secretary-general for lack of consensus, and, despite efforts to support dialogue in Venezuela under the auspices of UNASUR with the participation of the three former presidents and the Holy See, this process reached a stalemate. At the time of writing, UNASUR remained without secretary-general, and half of the member states had suspended their participation indefinitely as a result (e.g. CNN Español 2018). Further, there were talks of replacing the organisation by a new one.⁴

Interestingly, UNASUR Secretary-General Ernesto Samper was considered to be more biased than his predecessor, Ali Rodríguez Araque, although the latter had been Venezuela's foreign minister during the administration of Hugo Chávez. Samper took office on 22 August 2014 and ended his term at the end of January 2017. According to a Venezuelan scholar, this bias was not reflected in official UNASUR documents, but expressed through the words of its secretary-general, who aligned with the Venezuelan ruling party on several occasions (A01, interview by authors, 11 September 2017). Another interviewee stated that the failure to appoint a new secretary-general did not matter so much because the opposition viewed UNASUR as being biased towards the government (M01, interview by authors, 22 February 2018).

However, this bias did not have a strong impact on the mediation process, as opposed to Beber's (2012: 410) statement that 'bias impedes mediator credibility and effectiveness.' Indeed, despite this bias, the process remained steady because the parties perceived that they could achieve results through UNASUR's good offices. According to a source close to the process, UNASUR gradually won the trust of the MUD. It did so especially when it managed to have some of the MUD's concerns taken into account and succeeded in involving in the mediation an actor considered impartial, the Holy See, and also when it endorsed the results of the legislative elections won by the opposition at the end of 2015 (U01, interview by authors, 12 May 2017). This explains why none of the parties abandoned the dialogue process facilitated by UNASUR until December 2016.

According to a statement of the MUD and two interviewees, the MUD's decision to suspend its participation in the dialogue in late 2016 was motivated by the government's failure to comply with certain provisions agreed to by the parties, rather than the perceived bias of UNASUR (MUD 2017; U01, interview by authors, 12 May 2017; A01, interview by authors, 11 September 2017; M01, interview by authors, 22 February 2018; M02, interview by authors, 19 February 2018; I01, interview by authors, 19 February 2018). Although it could be argued that UNASUR's bias prevented it from putting pressure on the government to comply with previous agreements, this argument is hard to sustain, since the Holy See, recognised as an impartial mediator, also failed to get the government to comply with previous agreements. This lack of sufficient coercive power of the organisation, of the former presidents and of the Holy See to force the government to comply with the agreement, which allowed the government to gain time and not allow the recall referendum to take place, generated frustration in various sectors of the opposition, changing their perception of the exercise of dialogue promoted by UNASUR (A01, interview by authors, 11 September 2017; M03, interview by authors, February 2018).

Conclusion

In conclusion, the case of UNASUR's involvement in the facilitation of political dialogue in Venezuela shows that the perception that the parties have of a mediator is important. However, their perception that this mediator can help them address key problems matters more than their perception of his/her bias. Indeed, UNASUR's perceived bias did not prevent the Venezuelan government and the MUD from resorting to the organisation to try to find a way out of the conflict. We therefore argue that, in our case study, the pragmatic legitimacy of UNASUR as mediator was more important than its ideological legitimacy and can explain the significant role that it played in facilitating dialogue in Venezuela.

In the polarised context of Venezuela, all the actors involved in facilitating dialogue between the government and the opposition were accused of partiality because of their speeches or their ideological affinity with one of the conflict parties. This included the foreign ministers of UNASUR, the secretary-general of the organisation, the former presidents and even the Vatican. However, these actors continued to play an important mediating role and achieved tangible outcomes, such as the public rejection of the use of violence by both parties after the April 2014 rounds of dialogue or an agreement on the methodology of negotiations at the end of 2016. More generally, despite the lack of agreement that led to an indefinite 'pause' in the dialogue, the process facilitated by UNASUR, the three former presidents and the Vatican laid important bases for a possible agreement in the future. In particular, it served to identify negotiating points not only to 'resolve' the conflict in the short term but also to address its deeper causes (Alfaro 2018a), which is a fundamental step to transforming the conflict in a lasting manner.

Hence, it is difficult to attribute the stagnation of the dialogue to the partiality of the mediators or to state that they were not effective owing to their bias. On the contrary, the process showed the need for the participation of recognised international actors, and the

usefulness of mediators who have links with key actors and can therefore exert pressure on them to make concessions. For example, the acceptance of the results of the legislative elections by the Venezuelan government or its initial openness to include members of the opposition in the truth commission evidenced this usefulness. However, obtaining concessions from conflict parties sometimes requires greater efforts if they lack incentives to give in and/or perceive that giving in would seriously affect their interests.

This case study provides new evidence that biased mediators, such as UNASUR in Venezuela, can play a useful role in facilitating dialogue between parties in a situation of internal conflict. Furthermore, it suggests that the debate about the effectiveness of impartial mediators compared to biased mediators, which has occupied much of scholars' attention in the literature on mediation and has not been settled, may not be as relevant. In effect, this case study reveals that the pragmatic legitimacy of a mediator can be more important than bias. Therefore, we should perhaps rethink the debate in these terms and examine in the light of other cases whether the pragmatic legitimacy of a mediator counts more than his/her ideological legitimacy for him/her to be accepted by the parties and play an effective role.

Notes

- 1 We conducted seven semi-structured interviews of approximately 45 minutes each between May 2017 and March 2018. We conducted some interviews in Quito, Ecuador, and others by electronic means, such as Skype. All interviewees requested anonymity to participate in this research project, given the sensitivity of some of the information that they revealed. We therefore use codes to identify them. We interviewed people who had taken part in the process on behalf of UNASUR, including mediators, opposition politicians, experts/academics and independent activists. Unfortunately, despite multiple attempts to interview representatives of the Venezuelan government, we were unable to do so for various reasons, including bilateral tensions between Venezuela and other countries. We therefore relied mainly on secondary sources to analyse the government's view.
- 2 The members of parliament were Enrique Márquez and Timoteo Zambrano (Un Nuevo Tiempo), Julio Borges and Alfonso Marquina (Primero Justicia), Freddy Guevara (Voluntad Popular) and Luis Aquiles Moreno (Acción Democrática).
- 3 In a commentary published in mid-October 2016, International Crisis Group analyst Phil Gunson (2016) mentioned that, although the former presidents were unable to facilitate an agreement between the parties during the rounds of dialogue that took place in the Dominican Republic, the surveys showed that the vast majority of Venezuelans were in favour of the dialogue process and, in particular, the participation of international mediators.
- 4 Authors, such as Legler and Garelli-Ríos (2018), contend that the crisis faced by UNASUR also stems from the economic problems of the South American countries, owing to the falling prices of commodities, and the lack of strong leadership in UNASUR, owing to political problems in countries such as Brazil.

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UNASUL na Venezuela: Mediação, Parcialidade e Legitimidade

Resumo: À luz do debate em curso sobre a eficácia dos mediadores parciais e imparciais, examinamos como as percepções do governo venezuelano e da oposição da UNASUL e seus bons ofícios influenciaram seu papel como facilitador do diálogo entre as duas partes. Fazemos isso com base em entrevistas a atores-chave ligados ao processo, bem como uma revisão da literatura e fontes documentais. Descobrimos que, embora houvesse uma percepção de falta de neutralidade em nome dos mediadores envolvidos no esforço da UNASUL para facilitar um diálogo na Venezuela, as próprias partes aceitaram o papel desses mediadores porque perceberam que, através de seus meios, poderiam alcançar resultados benéficos. Por isso, concordamos com vários autores que a percepção das partes de um mediador é fundamental. Não obstante, fazemos uma distinção entre dois tipos de percepções que correspondem a dois tipos de legitimidade que um mediador pode desfrutar: legitimidade ideológica e legitimidade pragmática. Argumentamos que o segundo tipo é essencial e pode explicar o papel significativo que os mediadores tendenciosos desempenham em vários conflitos, como na Venezuela.

Palavras-chave: mediação; legitimidade; Venezuela; UNASUL; conflito; imparcialidade; preconceito; pragmatismo.

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