

THE UNITED STATES AGAINST RAÚL CASTRO: THE NEW LANDSCAPE OF INTERNATIONAL CRIMINAL LAW AND ITS IMPACT ON LATIN AMERICA

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The recent federal criminal indictment brought by the United States against Raúl Castro marks a legal and political turning point in the way major powers are beginning to use international criminal law and extraterritorial jurisdiction against former Latin American leaders.

For decades, most accusations against authoritarian regimes in the region appeared to remain limited to diplomatic reports, economic sanctions, or statements issued by international organizations without producing concrete criminal consequences for the structures of power involved. However, the decision by the U.S. Department of Justice to move forward criminally against Raúl Castro over the 1996 shootdown of civilian aircraft belonging to “Brothers to the Rescue” demonstrates that the international legal landscape is undergoing a profound transformation.

This is no longer merely about political condemnations or ideological disputes. What is beginning to emerge is something far more delicate: the direct use of federal criminal law, extraterritorial jurisdiction, and mechanisms of individual accountability against senior state officials.

The indictment brought by the United States does not merely challenge the Cuban State in the abstract. On the contrary, it seeks to individualize responsibility under severe criminal charges such as murder, conspiracy to kill U.S. citizens, and destruction of civilian aircraft. The legal message is extraordinarily strong: when American victims exist, when aircraft fall under U.S. jurisdiction, and when the acts occur outside Cuban sovereign territory—particularly over international waters—the U.S. federal system considers itself competent to criminally prosecute those it deems responsible, even if they are former members of foreign state power structures.

This is especially significant because, for many years, it seemed virtually impossible to imagine direct criminal charges against historical figures of the Cuban regime. Beyond the inevitable political debate generated by such decisions, the real point of interest lies elsewhere: the progressive consolidation of international legal mechanisms designed to pursue individual accountability for serious human rights violations, acts of repression, or attacks against civilians.

Strictly speaking, the United States is not applying pure universal jurisdiction. Instead, it is relying on a combination of extraterritorial jurisdiction, protection of U.S. nationals, jurisdiction arising from civilian aircraft under American authority, and theories of individual responsibility within organized state structures. The American strategy is also supported by an exceptionally powerful institutional framework that combines federal investigations, grand juries, extraterritorial criminal statutes, arrest warrants, international cooperation, and global diplomatic pressure.

That model cannot automatically be replicated in Latin America. Nevertheless, it inevitably produces both legal and political effects: it increasingly legitimizes the notion that high-ranking state officials may eventually be held individually accountable for grave acts committed under structures of power.

This phenomenon directly impacts the legal analysis of contemporary situations involving Venezuela, Cuba, Nicaragua, and other regional scenarios where repeated allegations exist concerning political persecution, arbitrary detention, torture, forced disappearances, and systematic repression.

For some time, I have been working legally on strategies related to international litigation, universal jurisdiction, state and individual responsibility, and international human rights protection mechanisms, particularly concerning the Venezuelan situation and the actions pursued against Nicolás Maduro. That work involves international jurisdiction analysis, procedural strategy development, case documentation, preservation of digital evidence, and evaluation of possible courses of action before international organizations and competent tribunals.

What has recently occurred with Raúl Castro confirms something that for many years appeared to be a distant hypothesis: international law is slowly beginning to move beyond the merely declaratory sphere and transform itself into a concrete instrument of legal pressure, transnational litigation, and individual accountability.

Argentina naturally presents a different legal framework from that of the United States. Our legal system is fundamentally based on the territorial principle of criminal law. Nevertheless, the constitutional incorporation of international human rights treaties, the principle of non-applicability of statutes of limitation, and Law 26.200 implementing the Rome Statute open important avenues for the development of legal strategies related to crimes against humanity, systematic political persecution, enforced disappearances, torture, and other serious human rights violations.

Naturally, these types of proceedings require extreme technical seriousness. This is not about political rhetoric or grandiose promises. International litigation requires solid evidence, serious documentary construction, international coordination, and legally sustainable strategies.

Particularly regarding Latin American victims of state persecution, the central challenge today lies in properly documenting the facts, preserving evidence, structuring consistent evidentiary frameworks, and developing legal mechanisms capable of internationalizing certain cases when sufficient legal grounds exist.

In the coming years, we will likely witness a growing expansion of transnational litigation involving human rights, individual accountability of public officials, and the strategic use of international jurisdictions.

The case brought by the United States against Raúl Castro represents far more than an isolated episode. It constitutes a global legal message: state structures no longer automatically guarantee absolute immunity against certain international accusations when civilian victims exist, when international political pressure intensifies, and when powerful nations possess the institutional capacity and willingness to enforce extraterritorial accountability.

And this new international landscape is only beginning to reveal its first consequences.