

Message from the Editor

A week after the 2007-2008 executive staff for the *Whitehead Journal* had been selected, our first task was to determine the theme for the next issue. As the executive staff soon learned, it would be a deceptively simple undertaking. While there were many issues worthy of discussion and many opinions from the academic forum to be heard, we found ourselves searching for something distinct and penetrating: we were searching for something more particular.

In this endeavor, we surveyed past issues and, to little surprise, found a wide range of topics within the study of international relations had been explored by past volumes of our publication. Despite the perennial importance of regional analyses, there had never been an issue of the *Whitehead Journal* focusing solely on a single geographic area and its social, political and economic challenges. Moreover, the executive staff desired this issue of the *Journal* to present a debate from distinctly forward-looking perspective. Rather than have the authors survey the outcomes of past policies, why not look to the future? After some research, the staff unanimously agreed that the majority of the questions rest in Latin America. Unable as a group to categorically define the region's current status or to forecast future developments, the staff decided an evaluation of the Latin American region would be the focus of the next issue.

While forming the parameters of the dialogue we wished to incite, there were only distant rumblings in the media and academia about the upcoming role of Latin America. Nevertheless, a plethora of literature had been published evaluating and explaining the region-wide shift in economic ideology in the 1970s and 1980s. Governments had abandoned import-substitution industrialization, instead to adopt the neo-liberal trade policies of the Washington Consensus, only to further impoverish the region. However, in the past six months, we have seen a serious rise in the necessity to be well informed about the Latin American region, whether concerning Fidel Castro's successor in Cuba or President Hugo Chavez's assistance in resolving Columbia's attempt to neutralize the FARC.

Our keynote authors, Peter Hakim, President of the Inter-American Dialogue and Jennifer McCoy, the Director of the Americas Program at the Carter Center, begin our discussion on the Latin American region. While Mr. Hakim addresses the future of the region's relationship with the United States, Dr. McCoy discusses the democratic transition that Latin America is once again experiencing.

I would like to conclude by thanking the faculty of the Whitehead School for their continued support and assistance in the production of this issue. I further thank Dr. Benjamin Goldfrank, for lending his expertise in the region and guiding our staff during the initial stages of conception, and our advisor, Dr. Phillip Moremen, for his dedication to the *Journal's* staff and unwavering support and guidance throughout the entire process of publishing this issue.

Adrienne Karatoprak

The US and Latin America: Repairing a Damaged Relationship

by Peter Hakim

Repairing the US relationship with Latin America will be a formidable challenge for the United States, regardless of who is elected president next year. Trust and credibility have to be restored among the region's leaders and ordinary citizens. The anti-Americanism that has taken hold in the region has to be reversed while the practice of political and economic cooperation has to be restored; however, the prospects for success do not depend only on Washington. The governments of Latin America and the Caribbean will also have to do their share to rebuild cooperation in the Americas, despite having lost confidence in the US as a reliable partner.

DISHARMONY IN THE AMERICAS

Not so long ago, the United States and other nations of the Americas were celebrating a newly found political harmony and working to integrate their economies. The US, Canada, and Mexico ratified the trilateral North American Free Trade Agreement (NAFTA) in 1993. The following year, the hemisphere's heads of state assembled in Miami, for the first time in a generation, and agreed to negotiate a free trade arrangement among all thirty-four countries of the Americas. But convergence had its limits.

The Clinton Administration failed to obtain the congressional authority needed to advance hemispheric trade talks, and Brazilian President Cardoso made clear that, without substantial changes in US farm and commercial policies, Brazil would oppose any new regional free trade arrangements. Prospects for cooperation were set back further when a post-9/11 Washington redirected the bulk of its foreign policy attention to the Middle East. The US invasion of Iraq in 2003, opposed virtually everywhere in Latin America, was an especially damaging blow. By then, Brazil-US disputes had brought free trade negotiations to a standstill, and Hugo Chavez had become an increasingly disruptive force in hemispheric affairs by aggressively promoting his anti-US message across Latin America. However, Chavez is not responsible for the waning of US influence and credibility in Latin America, rather the opposite is closer to the truth. Washington's diminished authority paved the way

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for the Venezuelan leader's expanding role in the region. The erosion of US influence in Latin America and the rapid upsurge of anti-American sentiment were mostly consequences of the Iraq invasion and the subsequent conduct of the war. The combination of brutality and failure has been disastrous for Washington's image in a region long anxious about US power. In addition, US actions at Abu Ghraib and Guantanamo made Washington look hypocritical. For years, the US government had lectured Latin America about human rights and the rule of law, even when countries were fighting their own terrorists. Regardless, Washington seemed to turn its back on these principles when US security was at risk.

Washington's policies in its own hemisphere have also been damaging to US-Latin America relations. With the US so totally absorbed by the Middle East, it is not surprising that the Bush Administration has been viewed as largely unresponsive, even indifferent, to Latin America. Even more so, when the US tried to engage, it often was either ineffectual, overbearing, or uncompromising.

LATIN AMERICA IS ALSO RESPONSIBLE

Latin American leadership and policies have also contributed to the deterioration of US relations with the region. Furthermore, many of Latin America's regional governments have resisted cooperation with the United States—and with each other as well. Besides Chavez, other Latin American leaders have, in varying degrees, turned to populist and anti-US rhetoric to win adherents and votes. Today, many Latin American nations are pursuing policies that make cooperation with the US more difficult and prevent the nations of the region from taking advantage of the enormous economic resources and political assets of the United States.

The collapse of negotiations for a hemisphere-wide free trade agreement was a mutual failure of both Latin America and the US. Brazil and the US together bear the blame for the derailing of hemispheric trade negotiations. In Argentina, at the fifth Summit of the Americas (Summit), the periodic gathering of the hemisphere's elected leaders, the assembled heads of state failed even to agree on a date to resume talks. Only five of the thirty-four assembled countries opposed the reopening of negotiations. Since one of the opposing countries was Brazil, that was enough to bring the talks to an end.

An array of regional institutions has been created by the US, Canada, and the nations of Latin America and the Caribbean, which prominently include: the regular Summit meetings, the Organization of American States, and the Inter-American Development Bank. Nevertheless, neither the United States nor Latin American members have constructively used these institutions; these institutions should be centers for resolving differences among countries and confronting shared problems. At times, they have served these purposes. But today, more often than not, conflicts and disagreements are played out rather than resolved in regional organizations.

Instead of using regional institutions to address disagreements over trade or other issues, governments often exclude these problematic topics from discussion or debate. At the last Summit meeting of hemispheric leaders in Argentina, the issue of

trade was omitted from the agenda. In addition, the Inter-American Democratic Charter, signed by every elected government in the hemisphere in 2001, has rarely been used to prevent or repair constitutional breaches.

It should be noted that Latin Americans have not stopped all cooperation with Washington. The US is either the first or second trading partner for almost every country in the region, and eleven of the region's eighteen countries have signed free trade agreements with the US (Although two of the countries—Colombia and Panama—still need US congressional ratifications). Recognizing the growing damage narcotics trafficking is taking on their own societies, Latin American governments have stepped up cooperation with the US in the battle against illicit drugs—even though most consider the US approach as rigid and often insensitive to domestic concerns. Following the ouster of President Aristide from power in 2004, Brazil and other countries of South America responded to US urging to assume responsibility for peacekeeping activities in Haiti. This was warmly welcomed in the US and has contributed to the current quality of US-Brazil relations—which have been further enhanced by cooperative initiatives on biofuels.

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Most Latin American countries pragmatically seek cooperation with the United States on an array of fronts, but they also have a mix of ideological and practical reasons for maintaining their independence from the US. In addition, the evolution of global affairs and recent developments in the region has facilitated an independent stance. There are few people anywhere who would argue for a return to US hegemony in the region. No one argues that Latin American nations should routinely accept US leadership and direction. Regardless of the various pressures for greater independence, the US is still a potentially critical asset for Latin America that can contribute in a variety of ways to the region's development. As such, Latin American countries can do more to pursue cooperation with the US and thereby help to build support in Washington for more sensible and mutually beneficial policies toward the region.

POLICY CHOICES

Regardless of Latin America's choices, it is unlikely that the region will become a foreign policy priority for the United States. First of all, it is not a central front in the war on terrorism and is neither a source nor an objective of terrorist activity. Aside from Colombia's long-running conflict, Latin America is a region at peace, largely free of armed combat within or between countries. Latin America also does not offer the oversized economic opportunities of the rapidly growing countries of

China and India. Illicit drugs and undocumented immigration are important issues, but they are old, contentious problems that have mostly divided the US from the region. The challenge for Washington is to find a way to conduct a constructive and cooperative policy toward Latin America while the region remains a relatively low priority.

Mending US relations with Latin America requires Washington, in the first instance, to demonstrate renewed respect for international rules and institutions—in both global and regional affairs. The United States cannot claim the right to invade other countries preemptively or take decisions unilaterally against a consensus of other nations. The US needs to play by the rules it wants others to follow. Furthermore, the US cannot be an influential voice on human rights when it condones torture and denies prisoners fair trials. The US cannot be a credible defender of democracy when it seeks to influence other nations' elections.

Second, the US needs to demonstrate continuing respect for Latin American nations and show a greater flexibility and responsiveness in its dealings with the region. At times, Washington still seems to consider the region its backyard and expects governments to follow the US lead. Latin Americans resent being treated as the hemisphere's second-class citizens. They expect the US government to consult on issues that affect them, and listen to their advice. Washington needs to make clear that it is ready to join with the nations of Latin America in common efforts; that it wants their help in dealing with hemispheric and international challenges; and that Latin America's economic and political success is important to US interests.

Third, Washington's policies, while serving US interests, must also be relevant to Latin America's own needs—such as faster and more stable growth, a sustained reduction in poverty and inequality, moderation of political and social tensions, and progress against a seemingly endless wave of crime and violence. Economic cooperation comes first, but there is a range of other US policy initiatives that would help Latin America advance on these goals, including a thorough-going reform of immigration policy and greater attention to social issues in all US programs in the region.

ECONOMIC COOPERATION

What Latin American nations mainly want from Washington is greater and more secure access to US markets, investment capital, and new technologies. Most of the Latin American countries have sought free trade agreements or trade preferences from the US. The bilateral free trade deals that the US has signed with eleven Latin American countries are economically significant for each of those nations; it is critical that the US ratify the two pacts that are still pending and pursue new agreements with countries that are interested. At the same time, Washington should be working with other governments to develop a new approach to regional economic integration. The Free Trade Area of the Americas (FTAA) is beyond repair; it most

likely cannot be revived. There is a need for a new strategy and new objectives in advancing economic cooperation in the hemisphere. The bilateral treaties, while valuable to the countries signing them, are an inadequate substitute for a comprehensive hemispheric trade initiative.

The White House's most difficult challenge will be to fashion a bipartisan approach at home to advance regional and international trade policy. For the US to shape a coherent economic strategy in the hemisphere, Democrats and Republicans in Congress will have to resolve their sharp differences over trade matters. Congressional Democrats and the White House were able to find common ground on the previously divisive issue of incorporating labor rights into trade pacts and they should be able to make progress on other sticking points. They will especially need to agree on measures to compensate US workers for the dislocations invariably produced by expanding trade and technological change. Also, they will have to renew the White House's expired authority to negotiate trade deals. None of this will be politically easy during a period when US voters are increasingly skeptical about the benefits of international engagement, globalization, and free trade.

BRAZIL

To successfully pursue greater hemispheric economic cooperation, Washington will have to systematically engage Brazil. No new hemispheric wide trade or economic wide proposals can prosper without the support of both nations.

Brazil is a crucial partner for the US on many other issues as well. Indeed, inter-American relations today largely pivot around Brazil and the US. When the two countries find grounds for cooperation, most others will join in. When they do not, the hemisphere usually remains divided or fragmented. Good relations with Brazil are vital to Washington's standing in the region, and expand opportunities for both countries to pursue their interests. As a welcome side effect, they help to offset the influence of Hugo Chavez.

However, Washington and Brazil are not always natural partners. They have clashing positions on many critical matters, although they often find ways to cooperate. Brazil responded to Washington's call to command UN peacekeeping operations in Haiti, which have succeeded in enhancing security across the country and opened the way for new economic initiatives. The US and Brazil have also agreed to an ambitious program of cooperation for the development and marketing of ethanol. This agreement, if it is vigorously implemented, could add a significant new and constructive dimension to the countries' bilateral relations. At the same time, the two nations clashed at the critical Doha round of global trade talks, with neither Brazil nor the US budging much from their initial negotiating positions. They also continue to disagree on how to respond to the challenge of Hugo Chavez, with Brazil consistently seeking accommodation and the US proposing more open opposition to the Venezuelan leader.

A constructive relationship with Brazil is crucial for the advancement of the US agenda in the region. Sustaining that relationship will require the US to accept Brazil's foreign policy independence and to accommodate the divergent outlooks of the two countries.

MEXICO AND IMMIGRATION

No country in the world has a more varied and extensive set of relations with the United States than Mexico. The routine, day-to-day elements of the relationship require persistent attention from both governments. Over the longer term, the core challenge will be how to manage the continuing, irrevocable integration of the US and Mexico, which is fiercely resisted by many in both countries.

Although many critical issues—including energy, trade, security, drug trafficking, and violent crime—affect US-Mexican relations, immigration is the most sensitive and difficult challenge. This, more than any other issue, will determine the quality of American bilateral ties with Mexico as well as the majority of Latin American and Caribbean nations.

The bitter and often abusive debates this year about immigration reform make it hard to foresee a constructive change in policy. The question is whether it is possible to craft a policy package that, on one hand, can gain US public support and congressional approval and, on the other, will be at least minimally acceptable in Latin America. Mexico and other countries will certainly be disappointed with legislation that does not include a significant program for temporary workers, including a path to legal status and citizenship for the twelve million immigrants who are in the US unlawfully. Thus, new US laws that are seen as unduly punitive to illegal immigrants will offend most of Latin America and make any US-Latin American cooperation on migration virtually impossible.

THE SOCIAL CHALLENGES

Latin America's most critical challenge is its long-neglected social agenda. The region needs to do more to alleviate widespread poverty, reduce the region's huge income inequalities, end pervasive racial and ethnic discrimination, and fix badly functioning public services. Helping the region's governments engage this agenda is Washington's best opportunity to demonstrate renewed US relevance to Latin America. Additional financial commitments will be required, but what Washington mostly has to do is to reconfigure current US programs and policies so they more directly address Latin America's social problems.

For instance, US-promoted free trade agreements are leading to expanded exports and investment, helping to accelerate growth and create new jobs. Although these developments are essential to fight poverty and inequality, complementary policies are needed to assure that the benefits of trade reach excluded groups and that losers from foreign trade are compensated. On another front, by shifting anti-drug funds away from crop eradication toward development and job creation in coca

growing regions, Washington could turn the war against drugs into a war against poverty as well—a long-sought goal of Latin American countries. By making sure that all of its programs and policies in the region have robust social dimensions, Washington can help improve the living standard of Latin America's poor and begin to rebuild its good will in the region.

OTHER INITIATIVES

There are other policy changes that would bring US policies more into line with the interests and objectives of Latin America, while also advancing Washington's own objectives. For example, it has been nearly a half-century since Fidel Castro took power in Cuba. Almost every Latin American nation would embrace a decision by Washington to dismantle its economic embargo and web of other restrictions it now imposes on the island—and to join with the other countries of the Americas to work toward a successful reintegration of Cuba into hemispheric affairs.

Similarly, it is also time for the US to work with Latin American partners to define a new multilateral strategy to combat drugs and associated criminal activity. The current US approach has been largely inflexible and unresponsive to specific national circumstances. Furthermore, US strategy is too narrowly focused on crop eradication and drug interdiction. Washington could also do more to respond to Latin American calls for the US to increase efforts to reduce its drug demand, to stem the flow of guns that fuel violence in the region, and to invest more in alternative development programs.

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The US also needs to carry out a consistent strategy toward Chavez, one aimed at minimizing his disruption of hemispheric affairs and supporting greater democracy in Venezuela. In the end, whatever problem Hugo Chavez poses for the US will be sharply diminished if the US is broadly engaged with the region and its policies are generally aligned with the interests of Latin America. Washington should do all it can to remain helpfully involved even with countries like Bolivia and Ecuador that have allied themselves with Venezuela. Efforts to isolate or punish these countries will be counterproductive, pushing them closer to Chavez and alienating other Latin American nations.

The United States does not have to advance on all policy fronts simultaneously, but it does have to set the right tone, direction, and make some headway on key issues of both style and substance. Washington needs to highlight the importance of rebuilding mutual trust and respect in inter-American relations and to emphasize how important Latin America's economic and political success is to US interests.

The next US president, within a few months of his or her inauguration, will have the opportunity to join the other Western Hemisphere's heads of state, who will be gathering in Trinidad and Tobago for their sixth summit since 1994. The other thirty-three leaders will be taking measure of the next president and listening carefully to what he or she says about Washington's plans for dealing with inter-American issues. With every country of the hemisphere (aside from Cuba) participating, the lead-up to the Summit will be the right place to start working to reenergize regional cooperation and rebuild confidence in the hemisphere's multilateral institutions.

Nevertheless, whoever is elected will find it difficult to advance on the two most critical challenges—reforming US immigration laws and developing new strategies for hemispheric trade and economic cooperation. Policy change on either of these issues will be resisted by potent domestic constituencies and run headlong into the apprehensions of the American public about expanding trade and migration. Still, even modest progress on these issues will help improve attitudes in Latin America, and set the stage for additional changes.

Washington should be able to advance further on other issues, like assisting Latin America in grappling with its social agenda and confronting its crime surge, or shifting the emphasis of US anti-drug strategies. American policy toward Cuba is certainly ripe for revision, but Latin America has to be willing to cooperate as well.

For example, although sensitive politically, Mexico and Central America could contribute to the prospect of a more constructive US approach to immigration issues if they demonstrated a greater willingness to work with the US to bring about a more orderly migration flow. Unfortunately, the Mexican government has not shown much interest in reducing the incentives for migration. Perhaps, if through a combination of employment-centered development, anti-poverty, and public education programs directed to areas of high out-migration, Mexico could demonstrate its own willingness to cooperate with the US.

Latin American governments can make it easier for the US to pursue cooperative programs and policies in the region. For instance, they can further open their economies to US trade and investment, join the US in efforts to prevent democratic breakdowns in neighboring countries, and constructively participate in inter-American institutions.

If policy changes cannot be made, Washington will have to lower its expectations in Latin America, and be satisfied with a more limited and less ambitious agenda for the hemisphere. In this case, US influence on political and economic developments in the region would become increasingly limited, while Latin American governments would become even less willing to accept Washington's leadership or support its policies. Latin America's own agenda would more and more diverge from that of Washington, and opportunities for building an economically integrated hemisphere, or for establishing broad political cooperation, would fade.

Most Latin Americans want relations with the US to improve, but they are also wary of Washington and want to maintain independent foreign policies. Latin America will look to a new US government to moderate US policy in the Middle East

and elsewhere. In the region, they will want to see changes in attitude and strategy that demonstrate Washington's readiness to resume a sustained and respectful partnership with Latin America—a partnership that it is willing to break out of old habits and patterns, listen carefully to advice from the region, and turn to multilateral and cooperative approaches.

Washington must keep in mind that it is the economic and political success of Latin America and the Caribbean that best serves US interests in the hemisphere. United States policy should be centrally aimed at a Latin America that is increasingly prosperous and secure, more socially just, better and more democratically governed, and beginning to meet the aspirations of its citizens. That is what will do most to create investment and commercial opportunities for the US, protect US security, and advance US values. Most importantly, it is what will do most to turn US neighbors into partners and allies.

Democratic Transformation in Latin America

by Jennifer L. McCoy

We are currently witnessing a demand to expand citizenship to civil and social realms in Latin America, the region of the world with the most unequal income distribution. This may be seen as a new stage of democratization within the Third Wave begun in 1978, one that inherently creates conflict over the redistribution of power and resources.

During the initial years of the Third Wave, Latin American societies adopted formal procedures of democracy and created a broad consensus on macroeconomic liberalization. In the second stage, citizens—particularly the urban poor and indigenous groups—are striving to move beyond the broadly established political rights of electoral competition in order to also enjoy civil rights (freedoms and access to justice) that are incompletely and inconsistently applied, and social rights (providing the basic capabilities to citizens to make free choices) that are woefully underprovided.¹ Middle class groups are insisting that their governments perform better, deliver promised services, and represent broader societal interests.

With existing political institutions failing to adequately include these groups in political and socioeconomic terms, they are finding their voice through street politics and the ballot box. Nearly a dozen presidents have been forced out of office prematurely in the last decade as a result, at least in part, of citizen mobilization and street protests. One interpretation sees this as a threatening sign of mob rule or even “civil society coups.” Another interpretation views the active participation of citizens voicing their demands as a welcome sign of more truly democratic societies. This article seeks to make sense of the current attempts at democratic transformation in Latin America.

HEIGHTENED FRUSTRATIONS

Latin America is once again in a moment of transition regarding both its democratization and the global context, creating opportunities for innovation and new models. Previously, the Great Depression and World War II interrupted trade relations between Latin America and the North. These events also ushered in

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economic, theoretical creativity led by the Economic Commission of Latin America (ECLA) school of thought and a period of state capitalism in the region. After a spate of military authoritarian regimes in the 1960s and 1970s, along with the debt crisis of the 1980s, Latin America was a leader in the Third Wave of democratization. This wave ushered in the most extensive period of democracy in the region's history, alongside the reopening of the economies to market capitalism and globalization.

However, after two and a half decades of democracy and market reform that promised an improvement in living standards, Latin American citizens are beginning to express growing frustration and demand a new level of inclusive democracy with expanded citizenship rights and improved quality of life. Simultaneously, the global context is in flux. The liberal democratic consensus that seemed so established in the 1990s is now questioned, with US hegemony and soft power challenged and damaged, and security concerns in the forefront. The new world order that we thought was being defined in the last decade now appears to be unraveling.²

With the US distracted by the Middle East during the last five years, coinciding with both an economic growth resurgence, and weakening of the controls formerly imposed by strong international financial institutions over Latin American economic policy, the moment could provide a grand opportunity for Latin America. Will Latin Americans devise new political and economic models to meet their citizens' dreams, without serious threat of outside intervention, in this period of relative autonomy? Or will they miss the opportunity?

A positive consequence of thirty years of electoral democracy is that it has awakened and empowered the voice and demands of common citizens. Recently, we have seen impatient electorates that have not only forced the early retirements of presidents, but also produced extremely close elections in polarized contexts. During the "year of elections" in Latin America, with eleven national elections between December 2005 and December 2006, two of them, Costa Rica and Mexico, were won with only a half percentage point difference between candidates presenting competing economic models. Four other elections (Peru, Ecuador, Chile, and Brazil) went to run-offs in more or less polarized atmospheres. Several countries (Mexico, Ecuador, Peru, and Bolivia) fractured into geographically-based voting blocs, with the poorer areas generally voting for the more nationalist, populist or radical change options. In the presidential elections, three countries chose social democratic market-oriented candidates, four countries chose anti-neoliberal and anti-imperialist candidates, and the remaining four countries chose center-right market candidates.

Why are expectations today still frustrated, despite five years of economic growth and the opportunities mentioned above?³ Answers vary by country, but contributing factors generally include the erosion of government services, popular perceptions that political parties and leaders are uncaring and unrepresentative of their constituents, and the failure to budge high rates of income inequality. Latin America has made some progress in reducing poverty in recent years (from 48 percent in 1990 to 40 percent in 2005). Yet, experiences vary widely. Six countries

account for much of the progress, having managed to reduce poverty rates at least 10 percentage points since 1990: Brazil (12 points), Chile (20 points), Colombia (10 points), Ecuador (17 points for urban), Mexico (12 points), and Panama (16 points for urban).⁴ The resurgence of economic growth in the last four years has helped. After a dismal rate of average annual per capita income growth of only 0.1 percent between 1980 and 2002, per capita income surged to almost 3 percent per annum from 2003-2006; concomitantly, poverty rates dropped by 5 percent in the same time period.⁵

The Economic Commission for Latin America and the Caribbean reports that despite the progress, absolute rates of poverty and indigence for the region are still unacceptably high at 38.5 percent and 14.5 percent, respectively.⁶ The World Bank is pessimistic even about Latin America's chances to reach the Millenium Development Goal of halving, between 1990 and 2015, the proportion of people with incomes less than \$1/day.⁷

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Income inequality (the highest regional average in the world) is more difficult to tackle. The GINI index measures income inequality in a country on a scale from 0 to 1, with 1 being the worst. Latin America's GINI index average is 0.535. Only six countries have managed to decrease their GINI rates by .02 percent since 1990: Colombia, Guatemala, and Honduras (though a worsening trend after 1999), Panama; Peru (starting at 1997), and Uruguay. In addition, Mexico improved after 2000 and Brazil improved after 1999, though it is still one of the highest. Five countries have actually increased in inequality from 1990 to the most recent data year provided: Argentina, Bolivia (tying with Brazil for the highest rate), Costa Rica, Ecuador, and Venezuela.⁸

In a recent report by the major international institutions working in the region on challenges facing Latin America and the Caribbean, income inequality and social exclusion were at the top of the list.⁹ The consequences of inequities in income and government services are many. The International Organization of Migration reports, for example, that the high levels of inequality led to 20 million nationals from Latin America and the Caribbean moving outside their homelands. Remittances from these migrants reached \$66 million in 2006, accounting for 40 percent of total world remittances and helping to bolster incomes in Latin America.¹⁰ More generally, "the high rates of poverty and inequity are undoubtedly a factor in social exclusion and

prevent the construction and consolidation of social cohesion, understood as a “sense of belonging” to a common and inclusive national enterprise.”¹¹ This lack of social cohesion, I argue below, underlies much of Latin America’s apparent inability to clearly define a shared societal vision to accomplish an inclusive democratic transformation.

THE GAP BETWEEN EXPECTATIONS AND STATE CAPACITY

Why has Latin America had such a hard time tackling the poverty and the inequities impeding social cohesion? A major part of the answer is the lack of state capacity to respond to the needs of its citizens. With the economic reforms and massive privatization of the 1990s, many states shrank in size. A culture of patron-client relations and weak accountability mechanisms has also contributed to inefficiency and corruption in the provision of government services. Improving state capacity requires resources, however, which depends on the basic tax agreement of a society, as well as the state’s ability to enforce that agreement. In Latin America, the tax burden as a percentage of GDP is well below OECD countries. From a high of 18 percent for the welfare state Uruguay to a low of 10 percent for the tax-starved Guatemalan state, these rates are well below the 25 percent rate of the U.S., Korea and Japan. These figures are even further below the 30 percent rate of Australia, the 33 percent rate of Canada, and the comparatively high rate of 44 percent in Finland.¹²

As the Economic Commission on Latin America and the Caribbean points out, “despite numerous far-reaching tax reforms in the region, there are still issues with respect to distribution of the tax burden among the different socio-economic strata and low levels of tax collection that make it difficult to fund a social agenda that aggressively combats poverty.”¹³ Reducing tax evasion could be accomplished with a stronger state enforcement capacity, but building that capacity requires new resources. This, plus the even tougher challenge of redistributing the tax burden and prioritizing a social agenda to combat poverty, requires building a political coalition able to negotiate a new social pact that will redistribute resources. We thus have a vicious circle: poverty and inequality impede the social cohesion and sense of a shared national purpose that could produce a new social pact to fund a stronger state and social agenda that in turn could combat poverty and inequality.

Charles Tilly argues that state capacity and democratization interact with one another and that this interaction explains regime change. Tilly further argues that democratization itself involves state-citizen struggle.¹⁴ In Tilly’s framework, increases in both capacity and democratization reinforce each other. However, if capacity develops farther and faster than democratization, the path to democracy passes through authoritarianism. If democracy develops faster and the regime survives, the path passes through a “risky zone of capacity building.”¹⁵

In Latin America, state capacity has been historically weak (with the exception of occasional bouts of very efficient repressive capacity). Thus, historic popular demands to expand political rights put huge strains on the state and, at times during

the twentieth century, created backlashes of authoritarianism. What about today in the twenty-first century? How can we understand the relationship between state capacity and democratization as new demands for an expansion of democratic rights are surging?

Guillermo O'Donnell provides helpful insights as he contrasts the Northern states' experience with that of Latin America.¹⁶ In the North, the expansion of full rights to excluded classes and sectors increased the credibility of the state. In contrast, since independence, governments in Latin America have attempted to govern with scarcely any state apparatus; populations do not consider themselves belonging to the same state; constitutions have pitted individualist assumptions against communitarian concepts; capitalist social relations have been established in only parts of the territory; conflictive and uncertain territorial boundaries have abounded; and national centers have combined more or less constitutional patterns with patrimonial forms of authority in uneasy coexistence. The resulting structural heterogeneity is reflected not only in the economy and society, but also in state bureaucracies and legal systems. As a result, Latin American states are weak in four dimensions; they lack efficient bureaucracies, effective legal systems, credibility in achieving the common good, and a filter between citizens and the outside world.

Crucially, O'Donnell argues, Latin American states have failed to implement all the rights actually won by subordinate classes or sectors, or cancelled those rights soon after being won. This pattern has grave consequences not only for social and economic development, but also because it signifies that these states have scarce capacity to democratize societies affected by a long history of inequality and social heterogeneity.¹⁷

ADDRESSING CITIZEN DEMANDS FOR CHANGE

What are the implications of these deficits in state capacity for Latin American democracy today? Latin American societies have dealt with this basic gap between citizen demands and state capacity in different ways. These include a) rapid change with elite displacement, b) negotiated consensus for gradual reform, c) strongmen politics, and d) slow learning.

The rapid-change path toward addressing the gap generally includes elite displacement, a rejection of previously negotiated agreements across sectors, and a redistribution of power and resources, led by strong charismatic leaders and social movements. In Venezuela, Bolivia, and Ecuador these were the most dramatic and attention-grabbing processes. In these countries disaffected middle class voters, and previously excluded sectors voted in new political leaders and are effectively instituting a change in the balance of power. At the outset in each case, the new presidents enjoyed widespread support and high approval ratings across classes and sectors.

Each country has different historical grievances and dynamics. For example, Venezuela struggled over control and distribution of national oil revenues. Bolivia fought to recognize previously "invisible" indigenous citizens and Ecuador has

endeavored to forge a political system representative of national interests rather than private or local interests. Yet as they each strive to address the demand for expanded and equitable citizenship, the fundamental question changes: must new power groups displace the old ones in a confrontational path to accomplish the desired change? Or can a democratic framework facilitate the negotiation of a new social pact based on coexistence within a reformulated distribution of power?

In Venezuela, the country furthest into the process of change, a tripling of the poverty rate between the 1970s and the 1990s along with a widespread perception that political leaders represented only private interests, led to rejection of the traditional political class and a demand for radical change. In 1998, voters chose a former coup leader, Hugo Chávez, who viewed his mandate for change as requiring the elimination of establishment parties and institutions in Venezuela. He is carrying out a double-edged transformation of Venezuelan politics under the rubric of the Bolivarian Revolution. On the one hand, Venezuela has experimented over the last eight years with a number of citizen participatory models, from the early Bolivarian Circles to the most recent Communal Councils, attempting to mobilize citizens from below to provide new forms of citizen participation, empowerment, and decision-making. It is exciting to see these experiments. On the other hand, the democratic transformation has produced a dangerous level of conflict and polarization that first threatened to erupt into violence in 2002–2003. More recently, there has been an extraordinary concentration of power in the executive.

In a recent report by the major international institutions working in the region on challenges facing Latin America and the Caribbean, income inequality and social exclusion were at the top of the list.

Most of the Bolivarian participatory experiments have actually been imposed from the top—from the president—and depend on government revenues. These experiments raise important questions about how grass-roots movements striving to provide new citizen-based forms of government oversight or functions can preserve their autonomy from the state, while at the same time being dependent on the resources of that state. Further, can these measures be institutionalized to become sustainable? Can Bolivarian participatory experiments develop the needed capacity, expertise, and internal accountability, particularly in a petro-political culture where citizen groups have historically formed to make demands of the state?

Chavismo has attempted radical change in the balance of power and control over state resources in Venezuela through a confrontational route. It was believed that only through confrontation could the movement hope to overcome the resistance of established interests. This radical change has brought about the dangerous side of the concentration of power not only in the Bolivarian movement, but increasingly in the person of the president himself as he delegates less authority and takes more control of decision-making. Over recent years, the traditional checks

and balances of liberal democracy (independent institutions of accountability and oversight, as well as separation of powers of judiciary, legislature, and executive) have been severely weakened. New proposals instead favor increased presidential prerogatives and a new “Popular Power” that appears to provide for citizen assemblies in an organizational form paralleling, and potentially displacing, existing municipal and regional governments.

Venezuela has thus achieved one aspect of democratic transformation—it has given visibility and dignity to a previously marginalized class of citizens, redistributed resources and changed the balance of power. But, Venezuela has done so at the cost of destroying old institutions or subordinating them to the president. While the viability of new forms of citizen participation are still being tested and many marginalized citizens now feel included, a new form of intolerance, the creation of ‘the Other’, prevents the creation of a shared national purpose with all crucial social sectors having a stake in ensuring its success. Thus, the Venezuelan experiment raises the following questions: To what extent are the new organizational forms improving the quality of life? Can the society accomplish democratic transformation without hegemonic control? Is it possible to achieve national unity, tolerance, inclusion in this framework of change?

Since Ecuador initiated the Third Wave transition to democracy in 1978, the country has had difficulty establishing democratic governability. Since 1997, by congressional vote, three presidents have been removed from office on shaky legal grounds in the wake of mass mobilizations, complicated by the withdrawal of support for the president by top military officials. In two cases, Bucaram in 1997 and Mahuad in 2000, economic crises and unpopular policies preceded the ousters. In 2005 with the removal of President Gutierrez, a series of inter-branch conflicts between the executive, congress, courts, and electoral tribunal preceded the ouster. With Bucaram and Gutierrez mass protests against the president were led by middle class opposition, while in Mahuad’s case there was a strong indigenous leadership component with the cooperation of certain military factions. In each case, the questionable legality of the Congressional votes to remove the Presidents was overlooked in the context of mass mobilizations by a citizenry despondent with an apparently dysfunctional political system.

The electoral and party laws have provided incentives for political parties limited to regional and ethnic bases, whose support depends on benefits they can deliver to their supporters, rather than national parties with ideological programs. No president has had a majority in Congress, and constant deadlocks between Congress and Executive have made the country practically ungovernable much of the time. The political culture is characterized by “political cannibalism” in which, as soon as one president is elected, future potential candidates try to destroy him to enhance their own chances during the next election. The courts and other supervisory bodies (banking, electoral, comptroller, ombudsman) have been politicized and allegedly corrupted. All political institutions are thoroughly discredited in the eyes of the

people.

Rafael Correa ran for president in 2006 as a complete political outsider, refusing to run any candidates for the Congressional races because he argued Congress was corrupt and illegitimate. Correa claims a popular mandate to confront the established interests (traditional parties, banks, and media) who have held the reins of power in Ecuador, and has maintained high popular approval ratings his first year in office. As in other countries undergoing democratic transformation, Ecuadorians have turned to the idea of writing a new constitution in order to deal with severe political crisis.¹⁸ They elected a constituent assembly on September 30, 2007, with a majority from the President's political alliance. Tasked with completing a new constitution by June 2008, this process provides an opportunity for Ecuadorians to reach a broad consensus on new, inclusive representative institutions and a social pact to distribute resources more equitably within the society. Alternatively, Ecuadorians could impose a vision of a democratic transformation, following the Venezuelan model, risking the possibility of a backlash and greater polarization.

Chavismo has attempted radical change in the balance of power and control over state resources in Venezuela through a confrontational route. It was believed that only through confrontation could the movement hope to overcome the resistance of established interests.

Bolivia has been linked to Venezuela in popular commentary, but its history of demand for change is quite distinct. Evo Morales was the first indigenous leader elected in that country and the first to be elected with a clear majority in the first round since its democratic transition in 1980. Taking office in January 2006, Morales and his movement are seeking a transformation of the country to bring equality to those, particularly the majority indigenous groups, who had been subordinated in the past. As Vice President Alvaro Garcia Linera said in a recent speech in Canada, "When the indigenous entered politics in 2005, they wanted power, and thus began the most important revolution in Bolivia's history."¹⁹ The issues dividing the country include: autonomy for the departments (including control over oil and gas), autonomy for indigenous groups (including a parallel indigenous justice system), demands from a poverty-stricken population for fast results from their leaders, legalization of coca production, and restructuring of democratic institutions.

The Morales government itself emerged from a culture of protest. While not a violent nation, many Bolivians feel their country is one in which political disputes repeatedly lead them to the brink of conflict, while a timely negotiated agreement or compromise at the last minute brings them back from the brink. This political culture, combined with strong social movements and a low-capacity state, has resulted in a focus on day to day crisis-control, rather than long-term planning and

change.

Like Venezuela and Ecuador, Bolivia also chose a Constituent Assembly as the arena to debate the demands for expanded citizenship and structural change. Unlike the 1999 Venezuelan constituent assembly or the assembly recently elected in Ecuador, the Bolivian government's political allies do not enjoy the super-majority required for approval within the constituent assembly. It is not clear at this juncture whether a new social pact can be negotiated within the space provided by the constituent assembly or whether Bolivians will seek an alternate route to decide the pressing demands for a more inclusive democracy.

A second route to change is a gradual reformist route of compromise, agreements, and coexistence based in strong party systems and institutions. Brazil, Chile and Uruguay fit this pattern.²⁰ Each of these countries has relatively strong state capacity and a social democratic party option.²¹ In 2006 Brazil's president Lula da Silva was reelected for a second term. He had been the first union leader and leader of the Worker's Party to be elected as President. With high expectations from his supporters, Lula nevertheless took a pragmatic approach to the economy. Brazil was one of the very few countries able to substantially reduce both poverty and inequality; even though the issue of inequality has only been addressed since 1999. Despite lacking a majority in the legislature, Lula was able to build on previous government programs and initiate new cash-transfer programs to accomplish these goals.

Chile's Socialist Party, in alliance with the Christian Democrats, has been in office since 2000. The Concertación alliance between the two parties has governed Chile since the restoration of democracy in 1989, thus giving a tremendous amount of stability. Chile has made significant improvements in poverty while maintaining an open market economy. Yet, inequality has not budged, even under the Socialist government. As indicated above, there are signs of growing impatience in the populace. Uruguay, also with a stable two-party dominant system, elected for the first time in 2004 a third party—the leftist Broad Front. With a history of welfare state and egalitarianism, Uruguay has not faced the same level of demand for redistribution of resources. Along with Costa Rica and Chile, Uruguay has the lowest poverty rates in the region. Uruguay and Costa Rica also have the lowest inequality rate.

Other countries in the region do not appear to be undergoing significant democratic transformation and have responded to crises in different ways. Argentina responded to economic crises by electing two strong Peronist leaders—Menem in the 1990s and Kirchner in 2003. Peru supported Fujimori's self-coup in 1992 in the face of hyperinflation and a grave security threat from the Shining Path insurgency. Colombians reelected Uribe who ran on a platform of taking a firm hand against the guerrillas. Each of these leaders are charismatic leaders with varying degrees of autocratic tendencies who have addressed serious national crises.

A fourth pattern reflects a slow learning process and greater foreign influence. Central America and the Dominican Republic exhibit this pattern. Guatemala,

Honduras, and Nicaragua have among the highest poverty rates in the region, well above 50 percent. Furthermore, all of Central America, except Costa Rica and (recently) El Salvador, have GINI coefficients above 0.50. After suffering dictatorship, civil wars, and hardship in the 1970s and 1980s, Central America has returned to democratic politics but with great variation.

Costa Rica has long been the exception, with competitive politics and a welfare state providing relatively low inequality. Recently, Costa Rica has been plagued by corruption scandals and polarization over how far to go in opening the economy to market forces. Panama and the Dominican Republic, in particular, have modernized their economies and party systems, with Panama making significant progress in reducing poverty and inequality. After their 1990s peace accords, El Salvador and Guatemala have yet to transfer power from the political right. As such, it has yet to be seen whether established interests would accept a shift in both political power and resources to those who had been previously marginalized. Finally, Nicaragua recently voted the Sandinista party back into power; a party that had been out of power since 1990. Politics in the country seem to have reverted to the *caudillo* politics of the past.

CONCLUSION: EXPLAINING VARIATION IN RESPONSE TO DEMANDS FOR MORE INCLUSIVE DEMOCRACY

The path a particular country takes is determined by its own political dynamics and history. But some general patterns are emerging regarding the factors that appear to explain the paths chosen. These factors include:

a) The degree of perceived exclusion by social groups and their capacity to mobilize or be mobilized.²² High degrees of perceived exclusion combined with a capacity for social mobilization tend toward the path of rapid and radical change.

b) The existence, or nonexistence, of perceived political alternatives—particularly social democratic parties or, in the case of eroding confidence in political parties', political outsider leadership. Countries with a politically viable social democratic party tend to have a better chance at a negotiated path to change, in part due to such parties moderate reformist tendencies. In contrast, countries with either a failed social democratic alternative or a collapsing party system lack the institutional mechanisms for the gradual negotiated path. In these cases, a political outsider may be chosen by the electorate to bring about the desired change, since a political outsider is more likely to favor the radical change path or the strongman crisis-manager path.

c) The level of state capacity. The higher the level of state capacity to respond to the needs of its citizens, the more likely the negotiated path to change will occur and show results.

Notes

¹ For a full discussion of citizenship rights, see Guillermo O'Donnell, "Human Rights, Human Development and Democracy" in *The Quality of Democracy*, ed. Guillermo O'Donnell, Jorge Vargas Culler, and Osvaldo Iazetta (Notre Dame, IN: University of Notre Dame Press, 2004).

² For a discussion of the erosion of the global liberal democratic consensus after 2002, see Laurence Whitehead, "From Miami Summit to Mar del Plata: The Fading Regional Consensus on Democratic Convergence," (unpublished manuscript, 2007).

³ Latinobarometer reports that satisfaction with democracy increased some in 2006 (to 38 percent compared with the five-year average of 31.6 percent), this is still low, particularly given the positive economic conditions during that time period. In fact, in some cases positive economic trends may actually fuel dissatisfaction, as in Chile where expectations that two Socialist governments would have a more equitable distribution of the benefits of economic success led to protests and discontent in 2006-2007. (This point is made by Daniel Zovatto in "Rally Electoral," (unpublished manuscript, 2007).

⁴ Economic Commission of Latin America and the Caribbean, *2006 Annual Statistical Yearbook*, March 2007.

⁵ Organization of American States, *Towards the Fifth Summit of the Americas: Regional Summary*, Report of the Joint Summit Working Group, 2007. Available at: <http://www.summitamericas.org/IV%20Summit/Publicaciones/Eng/mainpage-eng.htm> (accessed October 12, 2007): 10.

⁶ Organization of American States, *Towards the Fifth Summit of the Americas*, 30.

⁷ Organization of American States, *Towards the Fifth Summit of the Americas*, 56.

⁸ Economic Commission of Latin America and the Caribbean, *2006 Annual Statistical Yearbook*.

⁹ The report was compiled by the Joint Summit Working Group and published by the OAS. It includes individual reports from the Economic Commission on Latin America and the Caribbean, International Organization of Migration, the Inter-American Development Bank, Pan-American Health Organization, and the World Bank, among others.

¹⁰ Organization of American States, "Towards the Fifth Summit of the Americas," 114.

¹¹ Statement by the Economic Commission for Latin America and the Caribbean in OAS (2007), 32.

¹² All figures are for 2003. Source for Latin American countries is the World Bank *WBI Online* and for the OECD countries is www.oecd.org/dataoecd/8/4/37504406.pdf. (Accessed on May 14, 2007)

¹³ Organization of American States, *Towards the Fifth Summit of the Americas*, 12.

¹⁴ Charles Tilly, *Democracy* (Cambridge, UK: Cambridge University Press, 2007), 14.

¹⁵ *Ibid.*, 77.

¹⁶ Guillermo O'Donnell, remarks at, "Where is Latin America Headed" (conference, Universidad Nacional de San Martín in Bariloche, Argentina, May 9-10, 2007).

¹⁷ *Ibid.*

¹⁸ Ecuadorans have historically turned to constituent assemblies to solve political crises, writing nineteen constitutions in the past, and demonstrating the fragility of democratic institutions. I appreciate Kelly McBride making this point to me.

¹⁹ Vice President Alvaro García Linera, (keynote address to the Congress of the Latin American Studies Association, Montreal, Canada, September 7, 2007).

²⁰ Brazil does not have a well-institutionalized party system, but has other strong institutions.

²¹ Utilizing the World Bank Institute's Governance Indicators—Government Effectiveness for 2004, on a scale of -2.0 to 2.0, Uruguay ranked 1.80, Chile 1.27 and Brazil 0.02, compared with Bolivia at -0.63, Ecuador at -0.85, and Venezuela at -0.96. Another measure is Bureaucratic Competence combining measures from the Bureaucratic Merit Index and Functionality Index produced by Stein, et al, in 2006. On these measures, Brazil and Chile rank high, Venezuela and Uruguay medium, and Bolivia and Ecuador low. Author's calculations from indices found in Ernesto Stein, Mariano Tommasi et al., *The Politics of Policies: Economic and Social Progress in Latin America 2006 Report* (Washington DC: Inter American Development Bank, 2006).

²² Social exclusion may be measured by discrepancies in access to various services for vulnerable groups, including indigenous or women. For example, access to electricity in Bolivia showed indigenous groups consistently 20 points lower than non-indigenous, and with only a 5 point improvement between 1997 and 2002. Ecuador showed a similar 20 point gap between indigenous and non-indigenous access to electricity. In contrast, Brazil's pardo/white gap improved from a 13 point gap in 1992 to only a 3 point gap in 2004 and pardo access increased from 80 percent to 95 percent in the same time period. Chile's indigenous/non-indigenous gap showed a similar improvement and high rate of access by 2003. See Inter-American Development Bank, *Information System on Social Indicators and Equity*. SDS/POV, MECOVI. Available at: <http://www.iadb.org/xindicadors/> (accessed October 13, 2007).

Peace Without Security: Central America in the 21st Century

by Richard Millett and Thomas Shannon Stiles

During the last decades of the twentieth century, Central America became a battleground between the major ideologies of the bipolar system. Tens of thousands died; hundreds of thousands fled the region. With the end of the Cold War, these conflicts finally ended through negotiated peace agreements and relatively free elections, and many believed that security would inevitably follow. The hope was that the Washington Consensus and free market economies would guarantee economic recovery and stability. Instead, what emerged was an era of peace without security. Threats to the government and to the safety of the population were no longer from traditional guerilla movements or draconian state measures, but a rising tide of violent crime, both organized and disorganized, both transnational and domestic. Michael Shifter of the Inter-American Dialogue notes that while Central America civil wars have ended, “the problem of physical insecurity—aggravated by the availability of arms—persists, and may even be more acute than before.”¹ As a Salvadoran working in Washington, D.C. expressed it, “It is much more dangerous for me to go home now than it was during the war.”² Crime has become not only a major security concern, but a dominant domestic political issue. In Honduras, for example, one successful presidential candidacy resulted from the fact that the candidate’s son had been murdered, giving credibility to his pledge to crack down on crime. More recently, Guatemalan Vice President Eduardo Stein declared that,

Democratic governance is in jeopardy...because of drug money going into local elections....That is the gravest danger in the long run because of the kind of controls that derive from their money financing local campaigns.³

There are several causes for Central America’s epidemic of crime. The end of the civil conflicts left tens of thousands of former combatants without jobs or land, accustomed to a violent lifestyle. The region was awash with weapons and ammunition. Public confidence in the police and the administration of justice was very low. As former Honduran President Carlos Roberto Reina expressed it, “In our countries, the civil law is made for the rich and the poor have no access. The criminal

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law is applied to the poor, and the rich and powerful have immunity from it.”⁴ There was a global growth of both organized and common criminal activity following the end of the Cold War. Latin America was especially hard hit, becoming a region with some of the world’s highest rates of violent crime. Transitions to more democratic rule were almost inevitably accompanied by higher crime rates. Law enforcement authorities, pressured to respect citizen’s rights, often proved incompetent and/or corrupt and in several nations, conviction rates for those cases that actually came to trial fell below ten percent.

All of these factors made Central America a natural growth media for criminal enterprises. These fell largely into two groups: transnational criminal organizations, especially international narcotics cartels from Mexico and Colombia, which have recently included elements of the Russian Mafia and Chinese Triads; and local youth gangs—often with links to transnational crime.

Transnational crime was attracted to the region by several factors. First, as the United States’ efforts at interdicting narcotics shipments by air and sea became more effective, Central America offered an attractive transit route for drugs coming from Colombia to the United States. This proved especially convenient for Mexican criminal organizations who also promoted the growth of opium poppies in northern Guatemala and marijuana in Belize. People smuggling also proved lucrative, both for Central Americans and using the region as a pathway for immigrants from South America and even Asia. Scandals over the sale of visas to would-be immigrants from China, for example, hit several nations—most notably Panama where accusations even involved a former President.

Crime has become not only a major security concern, but a dominant domestic political issue.

Perhaps most dangerous was the growth in the international arms trade. One notable case involved shipments of arms from Nicaragua which were ostensibly destined for Panama’s police, but which were actually shipped to the Colombian paramilitaries.⁵ Most of the weapons in this and other cases came from Nicaragua, El Salvador, and Guatemala, but were frequently shipped through Costa Rica and Panama.

A special concern involved Nicaragua’s stockpile of surface to air missiles. US fears that these might fall into the hands of terrorist groups led to growing pressure on Nicaragua to destroy its stockpile. Partial compliance was obtained, but the issue has not been finally resolved.⁶

While transnational criminal activity in Central America was a growing concern for the United States and other nations, its impact on the average citizen was limited. It contributed to, but certainly did not create, the corruption of law enforcement and other government officials; it supplied the region’s growing drug problems; and it helped fuel domestic criminal activity. But for the bulk of Central America’s

population, especially in the northern tier of Guatemala, El Salvador, and Honduras, the greatest problem was home grown—the steady proliferation of violent youth gangs.

What initially had been a relatively minor concern for local law-enforcement has become one of the most important topics in Hemispheric Security. Names such as Mara Salvatrucha (MS-13), La 18, and Mara 18 are becoming common in discussions among regional law enforcement and security services. On their website, the Organization of American States (OAS) has listed youth gangs as one of their primary issues and has sponsored conferences and study groups to examine it. In Central America, conservative estimates identify nine hundred and twenty different gangs with nearly seventy thousand members.⁷ While these criminal elements in each state participate in various crimes, they all contribute to a common trend—the erosion of public faith in government. As public faith weakens, the legitimacy of the government is increasingly questioned, and authoritarian solutions become more tempting.

ESTIMATED GANG MEMBERSHIP BY COUNTRY

Guatemala	434 gangs	14,000 members
El Salvador	4 gangs	10,500 members
Honduras	112 gangs	36,000 members
Nicaragua	268 gangs	4,500 members
Costa Rica	6 gangs	2,660 members
Panama	94 gangs	1,400 members

GUATEMALA, EL SALVADOR, AND HONDURAS: THREE COUNTRIES FACING A COMMON THREAT

The vast majority of gang activity, particularly the gangs such as La 18 and Mara Salvatrucha (MS-13) is centered in three Central American states: Guatemala, El Salvador and Honduras. Of the estimated 70,000 gang members in Central America, it is generally accepted that there are approximately 14,000 members in Guatemala, 10,500 in El Salvador, and a shocking 36,000 in Honduras.⁸

The origins of the transnational gangs, which have become a criminal epidemic in these three countries, have roots in the United States. The conflicts which plagued Central America in the 1970s through the early 1990s forced large numbers of refugees to flee to the United States. The influx of Central American refugees into relatively impoverished areas with high rates of criminality became the precursors to the formation of street gangs. Nowhere was this more prominent than in Los Angeles and other parts of southern California.⁹

Once in the *barrios* of Los Angeles, the refugees found themselves with few options. Criminality was rampant in many of these areas, and with little to no social services afforded to the families, in many instances, every member of the family was forced to aid in providing for the family unit as a whole. The children were surrounded by the urban gang culture and were forced to deal with the threats found in their neighborhood on a daily basis. These refugees began to form gangs for their own protection. From these origins, the ethnically mixed 18th Street Gang, or Mara 18, and what initially was a Salvadoran gang known as Mara Salvatrucha 13 began to emerge.¹⁰ Competing at first for simple survival and eventually competing for criminal resources allowed the gangs to increase their activity and fund expansion.

These gangs found their way into Central America through two means: voluntary return to their home countries and more importantly, the forced deportation of gang members convicted of crimes. According to the North American Congress on Latin America (NACLA), between 1996 and 2004, half a million immigrants were deported for committing crimes that would have carried a one year or greater sentence. Of this, half a million, 80 percent were Latin American.¹¹ Since 2004, gang activity has only increased in Central America. The number of criminal deportations to the region provides some interesting insight. During Fiscal Year 2006, the number of criminal deportees to El Salvador was 3,679; Guatemala was 3,589; and Honduras was a staggering 5,559. Each of these was nearly doubled from Fiscal Year 2005.¹² In essence, the United States became a criminal finishing school. Gang members learned from experience, from other gang members, and from spending short sentences in local and county correctional facilities. They began to network among themselves and incorporate new members and new nationalities. Strong cultural ties and long standing, working relationships, bonded these individuals. Once deported, these connections were maintained. In essence, they became a transnational street gang or a loose network of criminal enterprises working across state boundaries. This new form of criminal enterprise, with connections in the United States, Mexico, Canada, Guatemala, El Salvador, and Honduras, participates in criminal activities on both a transnational and local level.

The transnational elements include such crimes as people smuggling, dealing in stolen car parts, and drug trafficking. While Mexican cells of MS-13 and M-18 more frequently smuggle illegal aliens into the United States, evidence suggests that Guatemalan cells of MS-13 have been smuggling Guatemalans into southern Mexico. The illegal drug trade, which has arguably been called the prime source of income for the Maras, consists of two distinct, but connected, types of operations. There are trafficking operations where the international nature of the Maras has allowed them to become a conduit for drugs, while in the employment of the Mexican cartels. In addition, a domestic market is created and controlled by the Maras in their home countries. In part this is due to the increasing amount of cocaine left in the Central American transit areas. It has been estimated that 10 percent of the estimated 150 tons of cocaine coming through Guatemala is kept for domestic

use.¹³ In addition, it is estimated that 5 percent of the cocaine coming through El Salvador and 1 percent of the cocaine coming through Honduras actually stay in these countries and fuels domestic markets.¹⁴

On the local level, traditional crimes such as robbery, extortion and kidnapping have become the norm. Extortion of small and medium size businesses is common place. Guatemalan authorities estimate that over \$100,000 is extorted annually, while midsize Salvadoran companies estimate that 27 percent of the crimes against them were perpetrated as extortion rackets by Maras.¹⁵ Prostitutes and other people working in the underground economy have also been targeted by Maras. While these enterprises are not taken over by gangs in their entirety, a protection service or tax is often collected by the gangs in urban areas. In some cases, women are sent abroad as virtual sex slaves, while others remain in country to service both domestic clients and the growing international sex trade.¹⁶ Increasingly, children are the victims, with an estimated 2000 engaged in prostitution in Guatemala alone.¹⁷

There was a global growth of both organized and common criminal activity following the end of the Cold War. Latin America was especially hard hit, becoming a region with some of the world's highest rates of violent crime.

While violent crime continues to grow in the streets of Central America, law enforcement crack downs have had little effect. Public demands for harsher measures have led to the imprisonment of growing numbers of gang members, but with no apparent effect on crime rates. In 2003, El Salvador began a strong law enforcement policy known as *Mano Dura* (Firm Hand). Shortly after this, the plan matured into *Super Mano Dura* (Super Firm Hand), employing even strong tactics of gang control. Guatemala adopted its own *Plan Escoba* (Sweep Plan) and Honduras, its Zero Tolerance policies.¹⁸

As part of these various plans of action Honduras passed legislation that established a maximum twelve-year prison sentence for gang membership—a penalty which was then stiffened to up to thirty years in prison in December 2004.¹⁹ In El Salvador, authorities may now arrest youths simply for having gang-related tattoos or flashing signs. In Guatemala, four thousand reserve army troops were used to bolster a government presence in Guatemala City, where gangs have a large presence.²⁰ The more controversial and militarized efforts have been confronted by serious criticism among international human rights groups and unfortunately, did not stop the escalation in violence perpetrated by the targeted gangs. In addition, Central American prisons have been burgeoning centers of gang recruitment and training. In several Central American prisons, gang rivalries have become all out wars, with opposing sides armed using home made grenades, machetes, and assault rifles that had been smuggled into their cell blocks. In Guatemala, from August to September

of 2005, MS-13 and rival gang Mara 18 waged all out war with more than thirty people killed in coordinated riots in multiple prisons.²¹

Newer models have moved towards a mixture of prevention, rehabilitation, and strong law enforcement tactics. Recently, in a prepared statement, Roberto Flores Bermudez—Ambassador of Honduras to the US—discussed the three prong approach that Honduras is now undertaking.²² Prevention and technical investigations are becoming as important, if not more important, than the simple hard line round up of gang members; whether this approach will be any more successful remains to be seen.

NICARAGUA: AN EXCEPTION TO THE MODEL

One of the more perplexing cases in Central America is Nicaragua. While a large number of people fled Nicaragua during the 1970s and 1980s, the pattern of a transnational gang culture did not form. Incursions by various groups such as MS-13 and La 18 were extremely limited. Gang activity and violent crime in general is relatively low in comparison to other states in the region. How then has Nicaragua escaped the fate of its neighbor such as Guatemala, El Salvador, and Honduras?

Several factors can be used to explain this trend. While many Nicaraguans fled during the violence of the 1970s and 1980s, many fled to Costa Rica rather than to the United States. Of those that did flee to the United States, a small number of them have been deported to Nicaragua and even fewer of those deported have been criminals.²³ The Nicaraguan authorities have taken a more rehabilitative approach to dealing with convicted gang members. The prison system offers a variety of work opportunities and training rather than simply housing the gang problem.²⁴ Various programs have been enacted to deter at risk youth from joining gangs by providing alternatives to the gang lifestyle and reincorporating reformed gang members into civil society.²⁵

On the enforcement side, Nicaragua has developed a professionalized police force that has improved greatly over the last thirty years. Cross training with regional partners and developing new methods of crime fighting have led to an increase in law enforcements ability to respond to such crimes. Additionally, the community based organizations that are remnants of the Sandinista political structure of the 1980s have provided the Nicaraguan government with additional eyes and ears to deal with gang problems. As Central America's poorest nation, Nicaragua may simply offer less lucrative opportunities for gang-related activities. Finally, some Nicaraguans with criminal tendencies migrate to neighboring Costa Rica where they find more fertile fields for their endeavors.

COSTA RICA: AN EMERGING GANG TERRITORY?

Costa Rica, historically the most stable country in Central America, is increasingly concerned over street crime. During a series of 2007 interviews with some local hotel and business owners in San Jose and Alajuela, many expressed

concern over the growing amount of petty street crime against tourists.²⁶ In addition, tourists are beginning to share stories of their own encounters with Costa Rica's criminal element. One German family discussed the fact that, within a two week period, they had been robbed twice, in different areas of the country. Once, they had their hotel room burglarized at a Pacific coast resort, and they had been assaulted and robbed on Avenida Central in downtown San Jose in broad daylight.²⁷ While there is limited violent crime, the growing concern among the tourist industry is a serious issue due to the fact that a large part of Costa Rica's economy is dependent on it. Over the past three years, Puntarenas and Limón have both made national news as youth gangs have waged small turf wars and committed various petty crimes.²⁸

Historically, Costa Rica has not been influenced by the transnational gangs. However, recent reports have stated that there are active cells of MS-13 in Costa Rica.²⁹ The change in graffiti in downtown San Jose during the past six years has demonstrated, at the very least, the use of the name Mara Salvatrucha and Mara, by gangs in the capitol. This, in turn, has brought up an issue that law enforcement agencies in the United States, Canada, and Central America have frequently commented on—are these truly the transnational Maras or simply local youth using the names of these groups?

The possibility of a growing presence by northern Central American gangs has become an increasing concern in Costa Rica. The potential damage a reasonably organized, transnational gang could have on the economy could be devastating. The economy of Costa Rica is heavily dependent on tourism and its longstanding reputation for stability has been an important draw for foreign investors and development companies. The violent nature and extreme measures taken by true Maras would erode this confidence and threaten both the tourism trade and the growing flow of Americans retiring there. Although petty crime can usually be pushed away from public view, transnational gang activity threatens to make international news.

In dealing with the possibility of increased gang related crime, Costa Rica has emphasized both deterrence and prevention. According to Justice Minister Laura Chinchilla, programs like *Puentes de luz* (Bridges of Light), which offers scholastic and recreational alternatives to joining gangs, may be one of the better ways of halting efforts of gangs to recruit young members.³⁰

PANAMA: GANGS OF A DIFFERENT BREED

The emergence of street gangs in Panama is significantly different than gang activity associated with Guatemala, Honduras, and El Salvador. Panama, as a relatively prosperous country that has enjoyed more stability than other states in the region has never dealt with the mass exodus of people. Those that fled during the Noriega regime tended to be of the middle and upper economic classes; therefore, little contact with street gangs in the United States took place. This, however, does not mean that there is no problem with gang activity in Panama.

Most gang activity in Panama is centered on small neighborhood youth gangs, not unlike the original street gangs found in other states. These local gangs tend to participate in traditional criminal activities such as protection/extortion, small quantity drug deals, and robbery. There are, however, a growing number of small gangs working hand in hand with transnational narcotics traffickers.

As a natural transshipment point for all types of smuggled goods, Panama has had a long history of dealing with transnational criminal threats. Youth gangs seeing the opportunity for economic gain have aligned themselves with Mexican and Colombian traffickers. In small non-networked groups they have become muscle for hire, small time enforcers, and drug dealers.³¹

As is beginning to happen in other states in the region, Panama is taking the dual approach of beefing up law enforcements anti-gang activities and developing preventative programs. The Torrijos government began *Mano Amiga* (Friendly Hand)—a crime prevention program that provides positive alternatives to gang membership for youths in September of 2004. The program, which targets teenagers, provides access to theater and sports activities for nearly 10,000 participants.

REGIONAL COOPERATION: LAW ENFORCEMENT, CIVIL SOCIETY, AND THE MILITARIES

As the threat of gangs moves from Guatemala, Honduras, and El Salvador, and as the connections between the various gangs strengthens, regional cooperation has become increasingly prominent. The Organization of American States (OAS) and the Inter-American Development Bank (IDB) have become active players in confronting the spread of gang activity. One example has been in Honduras, where an IDB loan of \$32 million has provided support for infrastructure, as well as micro-entrepreneurship training for rehabilitated gang members.³² The OAS followed up on its 2005 meeting in Mexico on youth gangs by holding the first meeting of the Technical Group on Transnational Organized Crime of the OAS in July of 2007.

Security cooperation has also been moving ahead in the region. Joint military and police patrol along borders are becoming commonplace. Regional and global criminal intelligence sharing is developing. Each country has created rapid response forces to counter large scale gang activity, and the Armed Forces Conference of Central America has developed plans for joint operations to prevent and counteract narcotics trafficking and gang related crimes.³³

Last July, Central Americans met in Costa Rica to examine the impact of the growing trafficking of persons—especially those destined for the sex trade—and to seek means to combat this.³⁴ But all such efforts are hampered by lack of resources, issues of corruption and political will, and by the constant pressure to deal with critical economic and social issues.

External help in this area is slowly increasing, but it is hindered by a number of factors. Given the past history of Central America's security forces, some nations and

many NGOs are reluctant to get involved in issues of public security. Others, believing that Central America has managed its transition to democracy, are turning their attention to Africa and the Middle East. The United States drastically reduced its commitments to the region once it was no longer seen as a Cold War battleground. The overwhelming preoccupation with the conflict in Iraq and the War on Terror have left little time and resources for Central America issues. More recently, there have been some positive developments. In February 2007, U.S. Attorney general Alberto Gonzales met with El Salvador's President Tony Saca to discuss joint projects to deal with the gangs and other criminal elements.³⁵ The following August, the FBI announced plans to create a joint center to monitor gang activities and coordinate efforts to combat them.³⁶ Such limited efforts, however, hold little promise of effectively reversing the spiraling crime rate.

CONCLUSION: WHAT DOES THE FUTURE HOLD?

On September 17, 2007, the Secretary General of the OAS, Jose Miguel Insulza, noting that citizen insecurity had become "the principal menace to stability, democratic strengthening, and the prospects for development," called for an urgent meeting of the Hemisphere's Ministers of Public Security to deal with the "alarming increase in violence."³⁷ For Central Americans, this call has particular relevance. Besieged by international crime from without, and gang activity within, they risk seeing hopes for democracy and progress extinguished by spreading corruption and growing calls for a return to authoritarian solutions.

As Dr. Roberto Espindola of Bradford University has observed, "Just as war has been described as diplomacy by other means, today crime has become politics by other means."³⁸ Dealing with transnational crime has elements of conventional war, while the gangs, in many ways, have become a new type of insurgency.³⁹ Law enforcement alone cannot deal effectively with transnational crime or with highly organized domestic gangs. When gangs are heavily armed, fighting on their own "turf," and beginning to develop intelligence capabilities, it is necessary to see them as combatants not simply criminals.

The social factors which generate gang membership, such as high unemployment, the collapse of the family structure, and the general lack of economic opportunity, must be addressed. Development of a stable and growing economy is an obvious prerequisite. However, this is a vicious cycle; foreign investment is needed to spur development and few invest in a country that is considered unstable. Programs seeking to give alternatives to at risk youth can be an extremely potent tool, but only so long as there are opportunities for these youths when they reach adulthood. Promoting education and building marketable skill for both at risk youths and rehabilitated gang members is necessary. Competing demands for scarce resources, however, both limit the scope and threaten the sustainability of such programs.

Frustrated by their governments' inability to protect its citizens, Central Americans have increasingly turned to privatized security. The more affluent hire

private security firms, often staffed by those dismissed from the military and police for crimes and human right violations. These, in turn, often enjoy virtual immunity from prosecution for their actions. Off duty police and security company employees are hired by shopkeepers and others to eliminate actual and potential gang members—a situation especially prevalent in Guatemala and El Salvador. In El Salvador, the government recently began to take action against those involved in this activity, drawing public praise from San Salvador's Auxiliary Bishop.⁴⁰ For the poor, privatized security has meant a steady increase in lynchings, which is a trend most prominent in Guatemala. As noted recently by OAS Secretary General Insulza, together, these trends undermine government authority and contribute to the breakdown of the rule of law.⁴¹

As is often the case, every solution to a problem creates other problems. A call for tougher policies against crime and the involvement of armed forces in internal security, risk a return to the authoritarian rule of the past. Human rights violations, especially against the youth, increase. The vast wealth and power of these criminal enterprises corrupts government at all levels, with the worst impact often occurring among those charged with enforcing the law. Resources diverted to law enforcement and to prisons are not available for urgently needed social concerns such as health and education, and for developing the economic infrastructure necessary for sustained growth. Privatized security undermines the fundamental authority of the state and exacerbates class and caste differences. Finally, the continued demand for narcotics in developed nations and the increasingly desperate efforts of Central Americans to migrate north in search of jobs, create forces beyond any national government's control. Economic development, an effective rule of law, and strong, but just action against existing gangs all must proceed if the region is to break free from the growing threat of transnational and domestic gangs; short range prospects for success are slim at best.

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Published quarterly by The MIT Press
for the Belfer Center for Science and International Affairs,
Harvard University.
ISSN 0162-2889 / E-ISSN 1531-4804



Planning For Succession in Cuba: the Long ‘Anti-Transition’

by Antoni Kapcia

Even before Fidel Castro announced (July 31, 2006) a temporary handover of power to his First Vice-President and brother, Raúl, the discussion outside Cuba of the post-Fidel ‘succession’ was—and continues to be—underpinned by several assumptions.¹

The first is a familiar ‘Fidel-centric’ assumption that the Cuban system has always been constructed around, and depended on, Castro. Indeed, this viewpoint has probably underpinned all United States policy toward Cuba since 1960, explaining repeated misunderstandings between the two states.² It also explains why US policymakers seemed unprepared for the actualization of the handover and the ease with which it took place. The fact that Americans regarded the Cuban system as *fidélismo* and assumed that Castro would die in office, leaving an inevitable vacuum and popular unrest, they could not conceive of either a *fidélismo* without Fidel or a peaceful and generally accepted handover.

The second underlying assumption has long been the notion that planning for a succession to Castro is a recent and panicked response to impending crisis in Cuba. Accordingly no Cuban leaders seriously planned for succession, either because a supposedly megalomaniac Fidel refused to contemplate his own mortality, preferring to die in office, or because he knew identifying a successor would be to see his power ebb away. As such, the issue of succession is a fundamental one. Fidel has presumably held together an otherwise fragile system through personal charisma, loyalties and autocratic control; therefore any arrangement for a successor would inevitably be less popular and lead to instability, especially because the constitutional successor, Raúl, has long been seen as lacking Fidel’s charisma and appeal.

Certainly, a more accurate forecast about the future of Cuban leadership can be determined beyond these simple interpretations of the current system under Fidel. To begin with, the Cuban system should be viewed as a complex political structure and not simply an autocracy, while still acknowledging the critical role Fidel played in shaping the perceptions of popular legitimacy; the definition of the system’s ideology (he remained until recently the ultimate arbiter of what defines ‘the

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Revolution³); the process of decision-making; and policy concerning cultural and foreign affairs. However, it would be historically irresponsible to suggest that the survival of a besieged and crisis-prone system for fifty years can be attributed to one leader alone, and that those five decades and successive generations have not produced greater complexity within the system. .

Secondly, the Cuban leadership, in its entirety, has planned for the Revolution's long-term continuity (a more helpful way to consider the system's future than the personalist notion of 'succession'). This has been a goal underpinning many of the leadership's strategies from the late 1970s, although policy measures have varied throughout the decades accordingly to external political conditions. Furthermore, considering Fidel's personal involvement and influence in the Revolution throughout its history, it is important to understand that in his mind, jeopardizing the Revolution's historic achievements by remaining in power too long is inconceivable.³ Mr. Castro has a long-standing sense of history, and he is crucially aware of the significance of history, both in leading to revolution and in the Revolution's and his own legacy.

Fidel has presumably held together an otherwise fragile system through personal charisma, loyalties and autocratic control; therefore any arrangement for a successor would inevitably be less popular and lead to instability...

Therefore, what we now see in Cuba is not a sudden response to crisis but, rather, the emergence of a logically predictable outcome: Fidel's gradual concession of power and, Raúl's subsequent adoption of it, which were predictable for several reasons. First, Raúl's has been one of the Revolution's three main leaders since 1956 (Che Guevara being the third until his death in 1967), and since 1976 has been the formally constituted First Vice-President. Secondly, planning for a post-Fidel leadership has been occurring by trial and error since the late 1970s, when Fidel's partial withdrawal from his then extensive range of government roles became evident in part as a response to pressure from the Soviet Union and the Socialist Bloc's trading system, the Council for Mutual Economic Exchange (the CMEA); Cuba was supposed to follow more orthodox methods of ruling the state.⁴ Moreover, it also arose from the natural evolution of a system which, after two decades of massive social and political change, had become too complex and unwieldy to continue on haphazardly as it had during the early years of the Revolution.

However, this gradual withdrawal ended abruptly in the 1980s, when a succession of economic and political crises forced Fidel to the political forefront once more. Domestically, there was an accumulation of endogenous problems of production and inefficiency, exacerbated by the CMEA's (eventually fatal) stagnation,

while externally the threats were twofold: the Reagan Administration's active rhetoric about 'rolling back Communism' in the Americas, and Gorbachev's rise in the Soviet Union, whose reform efforts threatened to end the beneficial trading and aid relationship with Cuba.

Since a pattern seemed to exist whereby any internal or external threat would project Fidel back into full control again, and the scale and implications of the whole 1989–91 crisis (by far the worst crisis that the Revolution had ever faced); it was only reasonable to expect that this would again be the Cuban leadership's reaction, accompanied by a battering down of the political hatches in a more coercive and defensive approach.⁵

However, it was precisely then that the Cuban leadership began to publicly move towards political change, specifically bringing in a new generation of young politicians such as Carlos Aldana, the head of the powerful ideological department of the ruling Communist Party's Central Committee; the Foreign Minister, Ricardo Alarcón, given responsibility for a reformed National Assembly;⁶ Carlos Lage (in charge of the post-1993 program of unprecedented economic reforms and eventually given de facto prime ministerial status as secretary of the Council of Ministers); and Roberto Robaina, given Alarcón's former post as Foreign Minister. Finally, the Elián González campaign brought two even younger politicians to the fore, Hassan Pérez Casabona and Otto Rivero (respectively head of the FEU students' federation and the UJC, Young Communists), the latter eventually given overall direction of the Battle of Ideas. What had raised their profile nationally was their shared role in leading that particular campaign; as it evolved from January 2000, the entire mobilization took on an almost obsessive character, occupying the media daily, filling the streets repeatedly with demonstration after demonstration, but above all enlisting Cuba's several youth organizations as the spearhead of it all. Pérez and Rivero were especially prominent, appearing alongside Fidel Castro on national platforms; Rivero particularly displayed considerable oratory skills.

By 2000, a new political generation was evidently ready to govern Cuba, most of whom had valuable experience in leadership positions, making the 'succession' team (identified by Fidel on handing over power in mid-2006) completely predictable. It was a judicious mix of stalwarts of the guerrilla generation (Raúl, José Ramón Machado Ventura and José Ramón Balaguer, the latter Aldana's replacement in the Ideological Department) and new blood, notably Lage, Pérez Roque, Francisco Soberón (head of the National Bank and one of the architects of the post-1993 reforms), and the Havana Party leader, Esteban Lazo.

The peaceful transition was not only constitutionally and politically logical, but it was also consistent with some of the leadership's long-standing objectives. The first such objective has clearly been to preserve the 'essence' of the Revolution. In 1990, as the crisis of the early '90s grew in scope, the implications for the future of the Revolution widened and the public rhetoric on 'saving the Revolution' was not a simple matter given its troubled and often contested trajectory since 1959. Furthermore, the implications of the collapse of European socialism helped to usher

the need to redefine the objectives of the Revolution. Simply put, until there was a clear consensus about the ‘essence,’ a consensus could not be reached on what to save. The subsequent debate, occasionally explicit (in academic centers and in Party and leadership circles), but always implicit in every reform, decision and exhortation, was far-reaching and anguished, lasting some ten years.

The second objective has therefore been adaptive in nature; where it is imperative to enable both survival and agreement on ‘the essence’ when necessary. Although this objective became especially stark after 1991, it is worth recalling that *pace* appearances of apparent ‘utopianism’, idealism, or revolutionary zeal since 1959, after the Cuban Revolution, have always displayed a willingness to be pragmatic.⁷ For example, the sudden affinity in 1960 with the Soviet Union was partly driven by a search for sugar markets and oil; the post-1970 downgrading of the characteristic 1960s ‘insurrectionary’ strategy in Latin America responded both to stark failure (especially in Bolivia in 1967) and to a new Latin American willingness to end Cuba’s isolation.⁸

Equally, pragmatism also partly explains apparently idealistic policies, such as the post-1965 commitment to a ‘moral economy,’⁹ or the 1960s ‘guerrilla’ strategy, recognizing the impossibility of any Latin American government breaking the US-led isolation, saw that Cuba had little to lose from such a strategy.

What we now see in Cuba is not a sudden response to crisis but, rather, the emergence of a logically predictable outcome: Fidel’s gradual concession of power and, Raúl’s subsequent adoption of it.

Moreover, the post-1990 debate itself—about the ‘essence’—also meant a debate on the bearable costs of survival and adaptation, for it was clear to all that it was never a matter of saving the Revolution at all costs. Some costs have been considered unacceptable, like a Chinese-style economic liberalization, or the sale of state lands, while others are evidently still being debated, including the contested questions of both ‘dollarization’ (the 1993 decision to allow the US dollar to circulate freely, a decision reversed finally in 2004) and the expansion of tourism.¹⁰

Although it long predated the 1990s crisis and debate, the next objective was brought sharply into focus after 1989 and focuses on the determination to resist a *supposedly* inevitable transition, an objective that has indeed been a battle ‘at all costs’. The familiar systems of state protection weakened after 1991 and the usual response, mobilization, gave way to an individualistic instinct at the grassroots level to survive by any means. With a weaker state system, the need to build sufficient popular support for a more acceptable and adapted version of the ‘essential’ Revolution became imperative.

By 2001, it had become clear to all the Cuban leaders that not only had Fidel’s role been critical in 1994, but also that he had successfully recruited a new generation into ‘the Revolution’ through the Battle of Ideas. Therefore, Cuban leaders realized

that in a future without Fidel, the Cuban system needed to deliver something other than personal charisma or loyalty, and therefore began developing other mechanisms to command support.

This brings us back to Raúl, whose long-standing image outside Cuba has been as a hard-line 'ideologue' who lacks his brother's charisma. There are several reasons for this image. One was his brief pre-1953 membership of the youth wing (the Socialist Youth) of the Popular Socialist Party (the post-1944 Communist Party) which led US intelligence officers to identify him as a potential 'red under the bed'.¹¹ Another was the fact that he soon became Minister of Defense and head of the Armed Forces (FAR), thus associated with expectations of repression, more so when considering that he was strongly in favor of closer links with the Soviet Union. This image was reinforced later by the close organizational relationship with the Soviet military he established via the FAR and by his personal association with 'hard-line' decisions and attitudes.

Regardless of the validity of the prior observations about Raúl's image, through economic management reforms within the FAR, he has established himself as a pragmatic economic reformer.¹² Indeed, this has led to a common (and not always realistic) expectation among Cubans that he will advocate more such reforms. Furthermore, reformer or hardliner, the evidence seems equally clear that Raúl is essentially a *fidelista*, loyal to his brother (as a person, a leader and a source of ideas about the Revolution) and loyal to a Revolution which he helped shape more than anyone apart from Fidel and Guevara.

Nonetheless, it already seems likely that a Raúl-led Cuba will be somewhat different from a Fidel-led Revolution in two key respects: style and structure. Raúl is generally known to have a clear personal preference for organization and efficiency over ad-hoc responses, a preference for structure and system over mobilization, and an awareness of the 'limits of charisma'.¹³ Essentially, this means that Raúl has an instinctive preference for the institutionalization that characterized the 1972-89 period rather than the somewhat unstructured 1960s or 2000-7 period. It is worth remembering that he leads an extremely loyal, organized, effective, and still popular constituency—the FAR, a body whose legitimacy comes from its historic association with the insurrection and subsequent defense of the Revolution, and later with the victorious involvement in Angola after 1975.¹⁴

Indeed, the FAR is clearly one of the two institutional keys to the Revolution's future and stability, the other being, of course, the ruling Communist Party. As a general rule, when viewing contemporary Cuba, it is helpful to see the Party less as Fidel's personal instrument of rule (as often presented abroad) and more as an organization with its own dynamic and its own *raison d'être*, and with a capacity to act as a forum for debate (as clearly happened before the respective Party Congresses of 1986 and 1991). Organizationally speaking, the Communist Party serves as a mechanism for involving the population, developing solutions, and acting as a safety valve in the event of emergency. This much is evident from its history; while the new Party tended to be something of a vehicle for the Sierra guerrilla veterans in the

1960s (failing to meet in a national congress for its first decade), it gathered strength, meaning and independence after that first Congress in 1975, only to stagnate somewhat in the face of a growing bureaucratization.¹⁵ However, after 1986, with the onset of 'Rectification', it became more of a forum for the soul-searching debate that, preceding the 1990s crisis, addressed the 'threat' posed by Gorbachev's Soviet reforms, a role which increased in importance and scale after 1991.¹⁶

We are best advised to see the Cuban Communist Party as much more important in Cuban decision-making than 'Fidel-centric' interpretations would suggest, but conversely much less important than most Communist Parties were in pre-1989 Eastern Europe, where they mostly became power structures in their own right, under self-perpetuating and conservative bureaucracies. This caution is directly relevant here, since the evidence seems to indicate something of a decline of the Party since 2000; the supposedly five-yearly Congress of 2001 has not yet materialized, with reports that the Party's governing Central Committee (supposedly biannual) has met infrequently.

On balance, the evidence so far points more to a preference for style than any differences: in periods of Fidel's active rule, the Party has occasionally been seen as more dispensable and even a nuisance, while, under Raúl, it is more likely to be seen as the key to much-needed efficiency, as a necessary safety-valve and a sounding-board. Hence, expectations that the Party will experience a period of renewal are already being borne out, with the introduction into influential positions of a new generation, which, though schooled ideologically in the Soviet Union and thus seen as ideologically sound, has given ample recent evidence of imaginative thinking.¹⁷ If this is true, then this can only hasten the postponed Congress, to formalize the new direction, although only once that direction and any new leadership are decided, and certainly only once Fidel's personal health and possible constitutional role are clear. Regarding Fidel's health, rumors and a lack of clarity continue to characterize statements in the Cuban media, with the Cuban leader's expected return to active politics being continually postponed, even after his unexpected television interview in September 2007. Regarding Fidel's constitutional role, there are indications of proposed constitutional changes (perhaps to create a new role); furthermore, since the summer of 2007, a lively process of grass-roots debate has begun over Raúl's telling speech on July 26, 2007, which called for the end to unacceptable problems.

Whatever the future holds for Cuba after Fidel, it is still clear that it will be a Cuba run by a single Communist Party, with little intention of any post-Communist 'transition'. This latter fact should not surprise anyone, especially when we remember that, in 1989-91, when the world media consensus was that Cuba would be the next socialist domino to fall, those expectations proved inaccurate and the Cuban system did not collapse and follow the Soviet Bloc's rush towards capitalism. Hence, if those expectations were wrong in 1991, when the Cuban economy was in deep crisis and when Cuba stood alone, why should such expectations be any more accurate now, after a decade and a half of economic recovery—unless, of course, one argues that the system has survived beyond what should have been the end of its 'natural' life only by being held together by the strength of *fidelismo*?

For an answer, we should look in two directions: at the need to forget the Eastern European experience and at the role of participation in the Cuban system. The first question refers to the reality that, despite appearances and the attractiveness of applying Eastern European models to the Cuban case, it was never useful before 1989 to see Cuba in terms of the Socialist Bloc, even in the apparently 'Sovietized' 1970s or 1980s and even when Cuba enjoyed a close economic and political relationship with the Soviet Union. This is because the differences between Cuba and the Socialist Bloc were always more significant than the similarities. After 1975, Cuba may have followed Soviet economic models with a political structure modeled on Soviet lines. But even at its most orthodox, the Cuban system was characterized by factors that set it apart from that Bloc. These included the Revolution's roots in a home-grown rebellion, the implications of Cuban nationalism (traditionally seeing the United States as the problem), the fragmentation of any significant internal political dissidence, the lack of any major organization in Cuba capable of crystallizing mass opposition, and finally the many mechanisms of participation that have always characterized the Cuban system.

By 2000, a new political generation was evidently ready to govern Cuba, most of whom had valuable experience in leadership positions, making the 'succession' team completely predictable.

Indeed, one might argue that such participation is really the main explanation for the system's survival, the creation from 1960 of a clear sense of popular empowerment and consultation, of a political culture where every Cuban has been mobilized, involved and (at least formally) consulted at every stage.¹⁸ Certainly the evidence suggests that Cuban leaders proved more capable than their eastern European counterparts of reading the popular mood and making the necessary adjustments.

Furthermore, as the Revolution recovered from its brief crisis, popular mobilization was suddenly revived to great effect after a decade of relative neglect, during which the system and individual Cubans invested energies in survival rather than political rallying. The value of this mechanism was shown in August 1994: on 4 August, the always problematic and poor Havana area of Centro Habana suddenly erupted in protest and street violence, stimulated by the growing movement towards mass illegal emigration in the face of shortages, by anger at the authorities action in sinking a hijacked harbor ferry (with loss of life), by frustration at the shortages of water and electricity, and also by the pent-up frustrations of life in recent years. This was especially worrying because it was the first series of serious street disturbances since April 1980, and the worst since the battles of the early Revolution. However, on August 5, Fidel himself unexpectedly appeared on those same streets, walking among and remonstrating with the angry crowds. He then proceeded to lead a counter rally on the waterfront at Malecón, where a mass rally consisting of

thousands of loyal activists had made their way to the site despite serious transport shortages to gather in defense of ‘their’ Revolution. This moment clearly represented a turning point: not only did Fidel’s action defuse a genuinely dangerous moment (witnesses talked of protestors who, having rioted angrily one minute, calling explicitly for the overthrow of Fidel and the system, suddenly began to chant ‘Viva Fidel’), but the pro-government rally also steeled the political will of otherwise demoralized activists and turning what could have been the system’s worst political shock into a successful manifestation of public faith and support. The crisis was further defused by Fidel’s recourse to the same measure as he had applied in April 1980, when protests had provoked an angry announcement that any Cuban who wished to leave the country could be collected by US-based relatives from the port of Mariel, leading to an exodus of some 125,000 *marielitos*; now, with less anger, the same call was put out, after negotiating a special (and still extant) migration agreement with the United States, leading to the exodus of some 35,000 rafters (*balseros*).

Then, in January 1998, the political apparatus organized a successful national celebration to greet the Pope during a visit that, even just a few years earlier, might have seemed to risk the destabilization of a besieged system. It was, however, the six months of mobilization over the Elián González affair that really reminded Fidel that the traditional recourse to mobilization could still be an effective means of re-energizing the faithful through action.

Hence, there were—and still are—essentially two structural factors (Party organization and mobilization) that have always militated against a post-Communist transition, although these have rarely been used simultaneously, tending over the decades to be used alternately, the former in 1975–89, and the latter in 1959–75 and 2000–2006. The debates of the early 1960s about whether to institutionalize or prevent institutionalization by a form of ‘permanent revolution’, produced a ‘non-Party Party’.¹⁹ The following decade of both a much stronger Party and a simultaneous weakening of the constant and exhausting mobilizations, all point to a basic truth about the Cuban system: that there has always been something of a tension between the Party and mobilization.

The time period from 1997 to the present should evoke the Revolution’s political evolution of 1965-75. Then, while mobilization succeeded in sustaining energy and commitment of the grass-roots activists, it also showed a capacity to destabilize and exhaust those same people who were the pillars of the system. Similarly, after 2000, sustained mobilization succeeded in reviving the flagging morale of the committed and while it added a younger generation of the faithful—specifically in the youth movement that was the focus of the post-2000 Battle of Ideas and the ‘emergency schools’ of the new educational ‘revolution’. This however produced the fatigue suffered by the party faithful, who remained at a heightened level of mobilization over a lengthy period of time. A familiar pattern from 1968-75 seems now to be under way again; namely a period of sustained mobilization necessarily being followed by a much-needed period of respite, in the form of a more measured

institutionalization and a focus on delivering material benefits to the Cuban population. This all points to the observation that there is perhaps, after all, less that is new in this latest process than one might have expected.

It is clear that the Party, rather than disappearing from the political scene is currently being strengthened precisely in order to ensure some sort of continuity. Hence, the Party (as much as Fidel) is seen by the leaders and the faithful as a key part of the agreed 'essence' of the Revolution, and very likely to survive Fidel, particularly as it has always been an instrument for continuity.

The lack of key figures, within the leadership, ready to lead such a process indicates a structural opposition to any transition. The remarkable continuity and lack of schisms within the governing group mean greater cohesion and are indicative of the Cuban system as a whole since Fidel came to power. If we compare the key people in the 1960s (Fidel, Raúl, Che Guevara, the Foreign Minister Raúl Roa, second president Osvaldo Dorticós, Fidel's confidante Celia Sánchez, Education Minister Armando Hart, former Communists Carlos Rafael Rodríguez and Blas Roca, and Interior Minister Ramiro Valdés) with the governing team of the 'institutionalized' and supposedly 'Sovietized' 1970s, we actually find more or less the same people in positions of power, apart from the absences through death (most notably Guevara). Equally, if we repeat the exercise for the 1980s we find the same thing, that only those who had died were absent.

Reformer or hardliner, the evidence seems equally clear that Raúl is essentially a *fidelista*, loyal to his brother, and loyal to a Revolution which he helped shape more than anyone apart from Fidel and Guevara.

In the response to crisis after 1990, some veterans retired but others were noticeably still present (Balaguer, Machado Ventura, Interior Minister Colomé Ibarra) and one was even rehabilitated (Valdés). Yet even this new generation seemed not to contain any candidates supporting, leading, or otherwise speaking of transition. Aldana and Robaina, the two rising stars most associated with this idea of transition were summarily removed. Of the politicians identified as the 'team' to run Cuba during Fidel's absence in 2006, all are rightly seen as opposed to any transition and as individuals who are politically and ideologically reliable.

All the indications are that Lage remains the most probable medium-term successor to Raúl. Seen as ideologically sound, quietly efficient and unquestionably loyal to 'the Revolution', but also imaginative and flexible, Mr. Lage is already the de facto prime minister, replacing Fidel Castro in recent international summits. Ricardo Alarcón may well have been the outside media's favorite for succession in the early 1990s; but he was not part of the July 2006 'team', although he still enjoys two key roles as President of the National Assembly and a frequent negotiator in foreign affairs. As for the others, they either have no base for any potential transition role

(notably Soberón), or are firmly from the Revolution's traditional generation (Balaguer and Machado Ventura) or from the Fidel-loyal circle (Pérez Roque). Hence, there is simply no evidence of any leader contemplating fundamental change.

However, although the designing of the Revolution's future has long been carefully planned, the actual transfer of power in July 2006 came about much faster than many expected or than Fidel hoped. Over the previous six months, it had become clear to many observers that something significant was in the offing, with an unusual level of media attention being given to Raúl, with nostalgic coverage of the 1953-8 insurrection, and above all with the unusual preparations to celebrate Fidel's 80th birthday. The handover was smooth; preceded by the annual 'military preparations exercise' (this year being unusually highly publicized, presumably to warn off potential internal or external troublemakers) and a quiet but massive mobilization of troops on the eve of the announcement. This proved to be of no consequence, as there was no unrest and the affairs of the state continued without alteration.

It seems likely that the Cuban leadership will continue to act cautiously for a while, the length of this period shall be determined by the uncertainty about Fidel's survival and recovery, and Raúl's lifespan and willingness to continue in leadership. However, one can be certain that the Cuban leadership will continue to seek to preserve what has now been defined as the Revolution's 'essence': continued state control of key economic, social, and political sectors, and key roles for the existing 'mass organizations', and a clear commitment to the existing nationalist ideology.²⁰ The question of a post-Fidel 'succession' is actually not as relevant as it seems from the outside, and is not the crucial issue for judging the system's future. Instead, what should attract our attention is less the question of leadership than that of how long the Cuban population will continue to support a system without Fidel. Despite the difficulties of gauging popular support in Cuba, it seems that, alongside a genuine sadness at the possible loss of Fidel, a quiet mood of optimism prevails.

Hence, it is clear that a reservoir of loyalty runs deep, well beyond the committed proportion of the population to include large numbers of the majority 'middle' ground, those who, though tired of shortages, are still sufficiently fearful of alternatives and loyal to a benefactor state.²¹ However, as Cuba's leaders realize, even this support has a limited shelf-life and has never been able to be taken for granted, but has always had to be earned.

This indeed explains why the Revolution invested enormous energy, effort and money over the years in its people, to ensure a solid and deep base of loyalty to a system and against a transition. However, it also explains why Fidel invested so much energy in the 'Battle of Ideas' in order to attain a long-term support base. With that base content despite some of the variegated setbacks, it now seems logical that a period of stabilization and marginal economic reform will follow, further consolidating the base and retaining the loyalty of the 'middle' ground. What we are now seeing in Cuba is not a transition, or even the prologue to a transition so often compared to the democratization of post-Soviet Eastern Europe, but rather another

swing of the familiar pendulum of mobilization-stabilization. It just so happens that this coincides with, and in fact takes advantage of, the absence of Fidel. There may be succession, but it is a nominal one, and is overshadowed by the familiar and planned drive for the continuity of the Revolution.

Notes

¹ Because of potential confusion between the two Castro brothers, this article will henceforth refer to Fidel Castro and Raul Castro by their first names, Fidel and Raúl.

² After initial uncertainty, by 1960 US policy was set on the path of diplomatic rupture and invasion (in 1961), isolation and economic sanctions (from 1962).

³ It was this which led this author, in a 2004 lecture, to predict that Castro would begin to retire from 2009, coinciding with the end of the Bush presidency and of Castro's leadership of the Non-Aligned Movement, and with the Revolution's 50th anniversary.

⁴ Throughout the 1960s Cuba's unorthodox approaches to politics and economics led to serious differences with the Soviet leaders; in 1972 (as Cuba's leaders adjusted policies in a less radical direction), Cuba was allowed into the CMEA. See: Edward Gonzalez, *Cuba under Castro: the Limits of Charisma* (Boston: Houghton-Mifflin, 1974), 7.

⁵ The economic collapse was considerable: the economy shrank by 35% in three years, with a massive collapse of imports (especially oil), resulting in closures, unemployment, debilitating power cuts and the disappearance of much public transport.

⁶ In 1992 the National Assembly became a directly rather than indirectly elected body.

⁷ Camelo Mesa-Lago, *Cuba in the 1970s: Pragmatism and institutionalization* (Albuquerque, NM: University of New Mexico Press, 1978), 26-28.

⁸ Throughout the 1960s, Cuba actively supported many Latin American guerrilla campaigns, driven by anti-imperialist commitment; in 1967, this culminated in the death of Che Guevara in Bolivia.

⁹ With the US embargo reducing available goods, increased material incentives to generate greater productivity made little sense.

¹⁰ Although the decision on the dollar reacted to the Bush Administration's measures to restrict emigrant remittances and family visits, there were already concerns about the corrosive effects of both the dollar and tourism in bringing the threat of inequality, crime and corruption.

¹¹ Thomas Paterson, *Contesting Castro, The United States and the Triumph of the Cuban Revolution* (New York, Oxford: Oxford University Press, 1994), 121.

¹² Hal Klepak, *Cuba's military 1990-2005: Revolutionary Soldiers During Counter-Revolutionary Times* (London: Palgrave Macmillan, 2005), 75-102.

¹³ Edward Gonzalez, *Cuba under Castro: the Limits of Charisma* (Boston, Mass: Houghton Mifflin, 1974), 98-102.

¹⁴ In 1975, Cuba responded to the appeals of the newly independent Angolan government (with which Cuba had close links), to help against South African incursions in support of rebel groups, by sending 40,000 troops. That involvement grew with Soviet support, leading to the eventual defeat of South African forces in 1988. Please refer back to Klepak (2005), 75-102.

¹⁵ In 1961 the first party structure united the three revolutionary groups (Castro's July 26 Movement, the PSP and the small Revolutionary Student Directorate) into the Integrated Revolutionary Organizations. In 1962 (after internal differences) this became the United Party of the Socialist Revolution, which, in 1965, became the Cuban Communist Party; Jorge Domínguez, *Cuba, Order and Revolution* (Boston: Harvard University Press, 1978), 34.

¹⁶ The 1986 Party Congress launched 'Rectification' (of 'past errors and negative tendencies'), largely against pro-Soviet attitudes; the 1991 Congress launched a program of economic reform in the face of the new crisis.

¹⁷ These are people largely associated with three magazines characteristic of the newer thinking of the 1990s: *Debates Americanos*, *Temas* and *Contracorriente*.

¹⁸ Please see the following authors for further information: Domínguez 1978: 260-305 and Fagen 1969)

¹⁹ K.S. Karol, *Guerillas in Power: The Course of the Cuban Revolution* (New York: Hill and Wang, 1970), 156-186.

²⁰ Since the early 1960s, a number of 'mass organizations' have channeled participation for most Cubans; these especially include the CDRs (street-level bodies created in 1960 against the impending Bay of Pigs invasion but continuing subsequently as channels for social provision and involvement), the women's, trade unions and student federations. See Antoni Kapcia, *Cuba. Island of Dreams*, (London: Oxford, 2000), 230-268.

²¹ Antoni Kapcia, "Political change in Cuba: Before and After the Exodus," *London Institute of Latin American Studies*: Occasional Paper No. 9, (1995): 22.

Democratic Reform and Injustice in Latin America: The Citizenship Gap Between Law and Society

by Alison Brysk

Latin America is a paradoxical world leader. In the twentieth century, Latin America led the struggle for democracy—and now, Latin America leads in unjust societies that cannot fulfill the promise of universal human rights despite elections and theoretical rule of law. The “citizenship gap” between developed formal entitlements and distorted life conditions, including massive personal insecurity, is greater than in any other region.¹ While Latin America receives the highest scores on electoral democracy and political participation in the developing world, the region has the worst record on effective rule of law, crime, and corruption except for grossly impoverished Africa and South Asia.² Latin America’s experience demonstrates how the rule of law can be systematically undermined by private and transnational displacement of power, as well as incomplete democratization of state institutions. The persistence of injustice demonstrates the interdependence of democratic processes in the public sphere and democratization of social relations.³

The transition to electoral democracy does make a difference in the level, incidence, and amelioration of political repression. In a pale echo of the past generation’s right-wing military authoritarian regimes, it is now egalitarian but undemocratic Cuba that has more than 300 political prisoners, the death penalty, and the world’s second highest number of journalists in jail.⁴ Nevertheless, democracy is not enough—the region’s most violent countries are democratic but insecure: Colombia and desperately impoverished Haiti, which some consider a failed state despite a series of internationally supervised elections and reconstruction efforts. Below the level of these signal political pathologies, for most Latin American countries, such as Mexico and Brazil, injustice is a chronic condition metastasized through an ostensibly democratic political body, most visible at the extremities of social marginality.

This essay will argue that injustice in Latin America is a problem of democratic deficits in *function*—despite the democratic structure of elections and institutions—

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and that better and broader human rights are the bridge between equal laws and unequal societies. The citizenship gap is not an inherent insufficiency of democracy for addressing social problems, as some populists claim, but rather an insufficient application of democracy to functional arenas of power outside the formal legal system that distort the juridical equality of citizenship.⁵ While the Washington Consensus neo-liberal program adopts a truncated version of human rights, narrowed to a thin set of individual liberties functional for the operation of free markets, a full spectrum of universal, indivisible human rights provides a basis for social equity and sustainable justice.

MINDING THE GAP

The democratic deficit in Latin America can be understood as a failure in the indivisibility, universality, and accountability of human rights. Indivisibility indicates the relationship between civil and social rights, while universality demands the extension of these interconnected rights to all citizens regardless of class or status. Accountability is the duty of the state to provide rights, which corresponds to citizens' entitlement to claim rights.

The Universal Declaration of Human Rights lays the foundation for the interdependence of “first generation” civil and political rights with “second-generation” social and economic rights, by including civil and political freedoms alongside fundamental requisites of human dignity such as a food security. The Preamble incorporates this interdependence in its definition that all human beings are “free *and* equal in rights *and* dignity” [emphasis added]. The lack of social rights may be the predominant acute threat to human dignity in some of Latin America's most impoverished countries and sectors. In Nicaragua, 46 percent of citizens are poor,⁶ and across the region, almost one-quarter live on less than \$2 a day.⁷ Both absolute and relative poverty are intertwined with lack of access to social rights such as health care and education. Education, in turn, empowers political participation and is highly correlated with access to justice.⁸

It is important to mention that in the long-run, the achievement of civil and political rights *depends* on prior and contextual social rights.⁹ One illustration of this linkage is the prevalence of land disputes as a systematic source of civil rights violations in Latin America. In democratic Brazil, between 1985 and 2000 almost 1,200 landless people and their advocates were killed.¹⁰

Furthermore, universality is a standard that should be upheld; normatively, a society is not free until all its members are free. “Social marginality” and legal status of “second-class citizenship” correlate with multiple vectors of inequity—notably race, class, and gender. As Assies, Calderon and Salman argue, “The debate over citizenship should include the everyday power games among social actors.”¹¹ A rights-based approach to the “anthropology of citizenship” changes the focus of addressing social inequity from humanitarian amelioration or economic redistribution by state or international provision of goods, to a political remedy for *discrimination* in the exercise of universal rights. While civil and political liberties are

often mistakenly categorized as purely negative individual freedoms from state intervention, rule of law and effective citizenship are collective conditions requiring the positive provision of collective goods of security by state authorities.¹² This means that it is the mandate and responsibility of a democratic state to provide systematic personal security, widespread access to justice, and democratic accountability for all authoritative institutions.

This expanded understanding of human rights undergirds the extension of democratic transitions beyond elections to “second-generation reforms” of judicial and security institutions and practices. Rights are associated with responsibilities, and the enactment of rights requires an answerable agent.¹³ Effective citizenship requires universal access to justice and policing, along with institutional accountability for the exercise of coercion. An indication of the Latin American state’s failure to meet its responsibilities in this regard is the lack in personal security. Latin America has the highest homicide rates of any world region: 18.5 per 100,000, compared to 6.8 across the developing world, and 2 in the Organization for Economic Co-operation and Development (OECD).¹⁴ One of the linkages between insecurity and the lack of state accountability is how public lack of confidence in abusive and corrupt police leads to individuals not reporting crimes, in turn leading to a deficit in prosecutions. In Brazil in 1998, victimization surveys indicated that only 33 percent of crime was reported; across the region, an average of 28 percent of citizens expressed confidence in the police.¹⁵ Freedom from fear is an integral part of democracy.

The remainder of this essay will discuss the dimensions of the contemporary human rights gap in Latin America, and assess some measures taken at the national and international levels to address it. The discussion will concentrate on the narrow but politically telling segment of first-generation rights abuses and show how they are influenced by the lack of state accountability and the denial of second-generation rights.

DIAGNOSIS: IMPUNITY

Every year, tens of thousands of Latin Americans are denied fundamental rights to life, liberty, and personal integrity by direct government action, indirect state sponsorship, or systematic negligence. Impunity suggests that some social actors are not subject to the universal norms of the rule of law and that state authorities lack the capacity and/or political will to hold violators accountable for breaches of those norms. A fundamental attribute of democracy is equality before the law, which is the opposite of impunity. Thus, the persistence of political murders and disappearances, torture, police abuse and abusive detention, and widespread social violence are symptoms of an epidemic of impunity inconsistent with democracy.

Murder and disappearances are committed by state agents, state-sponsored paramilitaries, and state-tolerated vigilantes, and are often targeted at political activists, human rights advocates, and civil society leaders. Such assassinations are endemic in Colombia and Haiti, and sporadic but persistent in Mexico, Brazil, and most of Central America. In Colombia alone, in 2006 more than 70 trade unionists

were assassinated,¹⁶ while 69,298 persons were displaced by political violence in the first half of 2006.¹⁷ In both Colombia and Haiti, civilians are the primary victims of armed conflict, and sexual violence is frequent. Guatemala has experienced around 300 attacks each year against human rights defenders, resulting in dozens of deaths; four police killed two members of the Central American Parliament in 2006.¹⁸ According to the Organization of American States' (OAS) Special Rapporteur for Freedom of Expression, in 2006 Latin America nineteen journalists had been assassinated, nine in Mexico alone, along with hundreds of threats and attacks, and dozens of exiles.¹⁹ Explaining the political roots and consequences of attacks on the press, the report points to the cycle of impunity and self-censorship, and highlights the non-violent repressive use of defamation charges by defensive governments to persecute critical journalists, especially in Brazil, Peru, Cuba, and Venezuela.²⁰

Police abuse and killings, along with torture in detention facilities, are especially prevalent in Brazil and Mexico, but also present in the Andean countries and Central

Latin America's experience demonstrates how the rule of law can be systematically undermined by private and transnational displacement of power, as well as incomplete democratization of state institutions.

America. In Brazil, hundreds of criminal suspects, or mere residents of gang-controlled neighborhoods, die each year at the hands of police in muddled circumstances. In 2006, 138 civilians were killed in Sao Paulo clashes, while police in Rio killed 520 in the first half of 2006.²¹ In Mexico, "... arbitrary detention, torture, unfair trials and impunity are systematic at a state and federal level across the country."²² More specifically, in 2000, Jalisco reported 398 "injuries by state agents,"²³ the Human Rights Commission of Baja California recorded a 500 percent increase in torture, and the attorney general of Zacatecas admitted that judicial police use torture regularly.²⁴

Amidst this pattern, the legal and physical repression of social protest under elected governments merits special concern. Several countries have passed anti-terrorist legislation that has been turned against peaceful, domestic popular sector or anti-globalization protest, as in Chile and Paraguay.²⁵ In El Salvador, following a community protest against the privatization of water, thirteen citizens were arrested, charged with terrorism, and held without bail.²⁶ In Argentina, over sixty protesters have been killed in a decade of turmoil over privatization and economic crisis.²⁷

Throughout the region, illegitimate detention and abysmal prison conditions affect tens of thousands of the most vulnerable, and reflect the simultaneous breakdown and abuse of state authority. Prison riots and massacres in Brazil and Venezuela highlight more widespread problems. In Brazil's 1992 Carandiru riot, for example, 111 prisoners were killed by police.²⁸ Almost everywhere in Latin America, it is routine for suspects to spend years in pretrial detention, especially for rural, poor, and indigenous people—who often lack access to legal defense or capacity to

understand the charges against them. In Ecuador, over 70 percent of detainees have not been sentenced.²⁹ Prisoners are held in severely overcrowded facilities that do not meet basic standards of health, hygiene, or nutrition and experience chronic abuse by guards and fellow inmates. International reports identify particular problems with women's and juvenile facilities, which are judged to be sub-standard throughout the region.³⁰ This is particularly significant because, as a region, Latin America has unusually high rates of women in prison.³¹

In addition to commanding state violence in the public sphere, often colluding with private sector paramilitaries, gangs, landowners, and even multinationals, Latin American states foster private violence through neglect and differential protection of classes of social actors. Thus, half of Latin America's citizens suffer an additional epidemic of private abuse, facilitated by systematic state impunity for male violence against women. Given extremely high rates of rape, spousal abuse, and incest, some analysts of Latin America argue that "the family is the primary site of social violence" against women in the region.³² The Inter-American Development Bank estimates that "one to two in five" Latin American women are physically abused, while country-specific surveys show even higher rates.³³ Since large numbers of women who work outside the home in Latin America work in other peoples' homes, they also face widespread workplace/domestic violence and abuse. For example, in El Salvador, an estimated 21,500 girls aged 14 to 19 work as domestics; over 60 percent report mistreatment, including sexual harassment and assault.³⁴

The apogee of a "rape culture," generalized public insecurity, and the displacement of women into unsafe conditions where they are marginalized from state protection when they leave traditional roles is the unresolved mass murder of migrant women workers, labeled a "*femicidio*." In the Mexican border town of Juarez, over 400 women have been killed without any response from state authorities.³⁵ Similarly in Guatemala at least 580 women were killed in 2006; only 6 people were sentenced.³⁶ The jurisdiction of the law ceases at the threshold of the home, and an invisible private death penalty keeps women in their place as surely as any legislated purdah.

IS THIS "WHAT DEMOCRACY LOOKS LIKE"?

What patterns of social and political development can help explain this puzzling panoply of abuse and how do these patterns relate to democratic deficits? Human rights violations in contemporary Latin America are linked to a cross-cutting set of political and social conditions that reflect shortfalls in the interdependence, universality, and accountability dimensions of human rights. The prevalence, incidence, and levels of abuses can be mapped onto these factors.

The first factor that undermines accountability is incomplete state control of the monopoly of violence, due to partial democratization of "recovering authoritarian" states, exacerbated when protracted conflict leads to the privatization of state security.³⁷ Among the countries with the greatest numbers of assassinations, Brazil and Mexico demonstrate the first pattern of incomplete democratization, Colombia the second pattern of protracted conflict, and Guatemala both. The persistence of

unaccountable vigilantes, untamed militaries, and criminalized police is one consequence. An Inter-American Human Rights Commission study of the region concludes that most Latin American police are under-funded, corrupt, ill-trained, and overlap with criminals. On the other side of the equation, newly responsible judiciaries are also poorly trained, threatened by criminals (especially in Mexico and Colombia), and hampered by interference from the Executive (notably in Venezuela and Haiti).³⁸

State security is increasingly privatized. Private actors who wield deadly force include peasant patrols, official private security guards, and paramilitary vigilantes. Peasant patrols created during the civil wars in both Peru and Guatemala have been revived to fill the power vacuum in the countryside, dispensing rough justice that often is often abusive. In Paraguay, a government-mandated Citizens' Guard numbers 22,000—equivalent to the army and police combined. In Colombia, over 130,000 legal private security contractors patrol urban streets, rural areas, and multinational facilities, again exceeding the official armed forces of around 100,000.³⁹ Mexico, Brazil, and El Salvador also host tens of thousands of (largely unlicensed) private security guards and vigilantes.

The democratic deficit in Latin America can be understood as a failure in the indivisibility, universality, and accountability of human rights

An important structural corollary to these institutional deficits is a systematic distortion in the nature of law from the heritage of *states of exception*, introduced by military rule or post-revolutionary codes. For example, Mexico's law lacks the presumption of innocence. Despite criminalization of torture, other aspects of investigation, detention, and prosecution led Human Rights First (lawyers' commission) on Mexico to conclude that: "The rules and practice of criminal procedure have been—and remain—an open invitation to abuse."⁴⁰

The effect of the interdependence of social and political rights is seen in a correlation between systematic abuse and social inequality. Overall, the level of vigilantism and crime over time and across regions is linked to social inequality—Latin America's insecurity is a product of its inequity.⁴¹ Within Latin America, sub-regional trends in violations follow this pattern: for example, life-threatening human rights abuse is worse in more developed but unequal Brazil than in poorer but more egalitarian Bolivia. In Brazil, the poorest 40 percent of the population receives roughly 10 percent of national income, while the top 10 percent of the population commands over 47 percent of resources.⁴² Furthermore, in Brazil, which boasts electoral competition and political participation, Amnesty International reports an estimated 8,000 cases per year of "modern slavery," reflecting a paradigmatic, interdependent abuse of forced and indentured labor.⁴³ The most violent country in South America—democratic Colombia—is the second most unequal, and about one third of land holdings in the country derive from "doubtful origin."⁴⁴ Groups,

sectors, localities, and even neighborhoods deprived of social rights are most at risk for violation of civil rights. In Guatemala, street children are often beaten, frequently arrested, and occasionally murdered. These children are the result of a society in which 200,000 children were orphaned by a thirty-year civil war, in which almost an equal number were internally displaced. In 1995, over 83 percent of children were living in poverty in Guatemala.⁴⁵

When rights are not universal, in theory as well as in practice, second-class citizenship becomes a determinant of human rights abuse. Second-class citizenship is more than social marginality; it is the construction of inequality under the law socially-based requisites of access; and privatization of legal access. In many societies, for example, people who transgress assigned social roles are status criminals, typically, prostitutes, street children, and the homeless. In Latin America, indigenous peoples are often characterized as juridical minors, while historically conquered tribes are administered through delegation of state authority to less accountable local legal structures. For all of these groups, as well as most poor and many rural Latin Americans, language, illiteracy, and lack of economic resources systematically exclude them from access to the legal system and protection from its excesses. For example, in 2004 Mexico had 82 lawyers to represent 13 million indigenous people.⁴⁶ It is no coincidence that indigenous people are a disproportionate number of those detained without trial, tortured, and convicted under controversial circumstances in that country. In Brazil, blacks are imprisoned at almost double their representation in the population.⁴⁷

The systematic failure of Latin American states to protect half of their citizens from gender-based violence is a “perfect storm” of second-class citizenship, from discriminatory laws to selective enforcement, from skewed access to justice to status dependency that contravenes universalism. An extensive recent report by the OAS (“Access to Justice for Women Victims of Violence in the Americas,” 2007) profiles the extent of impunity, the lack of legal constructs for abuse, and the lack of accountability.⁴⁸ The report notes that:

The vast majority of these offenses are never punished. . . . [despite] the fact that the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women. . . has been ratified by more States than any other instrument of the Inter-American system. . . .” Speaking of legal structures and silences, it continues: “Outdated laws remain in force, as do discriminatory provisions based on stereotypes of the role of women in society. . . . Some countries still have laws that grant a rapist relief from punishment if he agrees to marry his victim. (xi)

Moreover, many countries do not criminalize marital rape, some set the age of consent as low as twelve, and others classify incest as consensual sex unless specific charges of rape are presented.⁴⁹

But even justiciable cases of domestic or sexual violence pressed by the minority of relatively empowered victims (or their survivors) are handicapped by delays,

mistreatment of victims and families, irregularities, shortage of resources, and lack of training. In addition,

. . . discriminatory socio-cultural patterns . . . influence the behavior of officials at all levels of the judicial branch of government. The latter do not regard such incidents of violence as priorities, do not take female victims seriously, disregard evidence critical to identifying the guilty parties, attach exclusive emphasis to physical evidence and testimony, give scant credence to the women victims' claims, and are disrespectful of the victims and their next of kin when they try to cooperate with the investigation. . . . Enforcement and supervision of restraining orders . . . are seriously flawed. . . . the institutions necessary for the administration of justice in rural, poor, and marginalized areas are often lacking; all too frequently no court-appointed attorneys or public defenders are available for victims of violence who are without economic means; and the public prosecutors' offices and police investigating the crimes often do not have the resources they require. . . (ix)

While some forms of human rights abuse can be predominantly traced to one aspect of the three democratic deficits, others reflect an intractable *overlap* of privatized violence, social inequity, and second-class citizenship. The physical and sexual abuse, illegitimate detention, and murder of street children illustrate complex socio-legal marginalization. As one Guatemalan youth explains: “The police will kill us, for being on the street, for not going home, for not having a family. . . Rights aren’t worth a lot to us.”⁵⁰

In these situations, rights advocates find still another contributor to impunity: the demobilization of affected groups, who do not avail themselves of the potential redress mechanisms of partial rule of law—in ironic contrast to the more socially empowered victims of a previous generation of military rule, who mobilized to secure those very mechanisms under conditions of heavier overt repression. Disempowerment is critical because, in general, human rights reform is most successful when it results from significant social mobilization rather than top-down liberalization, and when political mobilization includes local and affected actors as well as advocates.⁵¹

By contrast, a study of Guatemalan street children reminds us that rights struggles pass through stages of naming, blaming, and claiming—and that “highly marginalized individuals tend to drop out of the grievance transformation process at each step.”⁵² The social psychology of social marginality produces multiple sources of disempowerment: ignorance, normalization of violence, self-blame, fear of reprisals, and a sense of inefficacy. Indeed, in this study, the salient difference between those few victims who did use legal mechanisms to claim rights and the demobilized majority was their level of social marginalization, including ties to mainstream society and length of time on the streets.⁵³

The foregoing analysis of the sources of persisting patterns of human rights abuse in Latin America suggests that second-generation reforms must address the democratic deficits of institutional accountability, interdependent social rights, and second-class citizenship, as well as the confluence of all three. More specifically, reforms would need to promote access to justice, confront the social roots of crime,

provide appropriate legitimate policing, and assert leverage over international forces that diminish state capacity to provide both security and social rights. While democratizing Latin American states and the international community have begun to recognize the dysfunction of contemporary social conditions in the region, most reforms have been partial in conception and execution, and therefore limited in impact.

REFORMING INJUSTICE

In Latin America's generation of democracy, for at least a decade there have been efforts to reform justice in all of the major countries of the region. These efforts were generally focused on institutional rather than social features, potentially promoting accountability but not addressing social inequity or second-class citizenship. In many cases, reforms were requested or facilitated by international institutions, but those countries most subject to international pressure were also usually those at high risk for violations due to protracted conflict, severe indebtedness, or border-crossing social breakdown. Reforms of justice can generally be grouped as reform inspired by international law, constitutional and legal process reform, police reform, judicial infrastructure reform, and establishment of human rights institutions.

International human rights law has been promoted and internalized notably by the Southern Cone democracies and Costa Rica. For example, Argentina led the Inter-American Convention on the Forced Disappearance of Persons in 1997 and based the 2005 reopening of its retrospective human rights trials in part on an OAS ruling. In a more structural vein, in 2005 the Argentine Supreme Court declared that all prisons in that country must abide by UN standards. In Chile, the international attempt to extradite Augusto Pinochet energized numerous domestic trials for abuses committed under the dictatorship.⁵⁴ Moreover, international standards and activism led to the modification of the legal treatment of indigenous peoples' protests. Costa Rica has been a promoter of the United Nations High Commissioner, the ICC, global and inter-American treaties, and has readily incorporated international norms into domestic law, for example passing landmark gender equity legislation following ratification of CEDAW.⁵⁵ However, thus far in general, international law seems more useful for transitional justice than curbing chronic contemporary abuse, and more likely to be influential in countries that are already more democratic.

Constitutional reform has been common throughout Latin America, but has largely focused on prolonging executive tenure and/or economic liberalization. However, Bolivia, Venezuela, and Colombia have enacted Constitutional reforms to increase popular participation, specifically indigenous rights. In Bolivia, these reforms reinforced a system of local autonomy and parallel judicial systems for that country's indigenous majority. A promising human rights measure has occurred in

Colombia, bringing some improvement in access to justice despite relentless political violence:

“In Colombia, which has been undergoing a severe political and institutional crisis, a new mechanism known as the tutela—introduced in the country’s forward-looking 1991 Constitution—allows any citizen to go before any judge and demand the protection of his or her basic rights. Tutelas have been enormously efficient, and often result in rulings favorable to plaintiffs. To many analysts’ surprise, more than a hundred thousand tutelas have been filed in the last five years, mostly by poor Colombians. Observers agree that the tutela has been an effective instrument for combatting discrimination and improving equal rights.”⁵⁶

Similarly, more comprehensive attention to rights in Venezuela’s unfolding Constitutional reform has been cited by local citizen groups in securing police reform as well as attention to social rights.⁵⁷

Widespread reforms of criminal procedure, adopted in fourteen countries including the Andes, Southern Cone, and Central America, generally do increase the independence of investigations, defendants’ rights, and victim protection in theory. Initiated by Southern expert networks, procedural legal reforms have been supported by United States Agency for International Development (USAID). But such reforms have not been adopted by key states Brazil and Mexico at the federal level (with a partial exception in some Mexican states).⁵⁸ Criminal justice reforms have improved pre-trial detention rates and the speed of trials in selected countries, notably Chile, Guatemala, and Bolivia. Some direct measures, like Chile’s 1998 Law on the Rights of Arrested Persons, do seem to increase attention to rights. But overall, legal reforms have not produced consistent or widespread improvements in the administration of justice across the group of countries that have adopted them.⁵⁹

International actors have promulgated numerous judicial reform projects, mainly oriented towards capacity-building. Between 1993 and 2001, the Inter-American Development Bank dedicated 18 loans and 65 projects totaling \$461 million to justice sector reform in 21 member countries. Assessing the efficacy of these projects, their report concludes that “of 13 active justice loans, one (77 percent) is considered to be a “problem” project and six (46.2 percent) are considered to be “at risk.”⁶⁰ Meanwhile, in 1992, the World Bank invested \$30 million in a Judicial Infrastructure Project for Venezuela, with similar measures in Peru—both assessed as unsuccessful by the donor.⁶¹ While Chile’s comprehensive and energetic program is judged the region’s leading case, reforms stalled in Argentina, modestly improved the quality of legal defense in Colombia, and foundered on lack of political will in Guatemala and Venezuela.⁶² A sympathetic Latin American scholar concludes, “Despite the specific results of some projects and initiatives, the overall analysis is critical, in the sense that the general goals of judicial reform have not been consolidated.”⁶³

Complementary access to justice programs provides legal aid, legal information, alternative conflict resolution, and community support. Such projects seek to “level the playing field” when they train paralegals, grassroots advocates, and marginalized populations such as women and indigenous people. Prominent efforts in this domain

have been sponsored by UN agencies, the Soros Foundation, and European donors, notably in Guatemala and the Andean countries. These “demand-side” programs have been deemed somewhat more responsive to local conditions than top-down judicial reform. For example, Chile eliminated court costs to improve access for the poor, while Guatemala expanded public defenders’ programs and bilingual legal assistance.

Police reform has been an important concomitant of democratic transitions in some countries, and an internationally-mandated anti-corruption and crime control measure in others, with varying effects on human rights. In the wake of its 1983 democratic transition, Argentina attempted to regulate and retrain its police with limited success, then renewed its efforts during the mid-1990s. Inconclusive and inconsistent reforms may have reduced the incidence of torture by police, but did not prevent unexplained shootings in poor neighborhoods, police involvement in both political and extortion kidnappings, and massive corruption. As one Argentine scholar points out, police killings in Argentina rose every year from 1994 to 2000, even as police reform legislation was passed every year from 1991 to 1998. Without accountability, police were able to block reforms with threats, personnel shifts, and even manipulation of electoral campaigns.⁶⁴

An Inter-American Human Rights Commission study of the region concludes that most Latin American police are under-funded, corrupt, ill-trained, and overlap with criminals.

Similarly, both El Salvador and Haiti dismantled and restructured repressive police forces under international supervision, following internationally brokered resolution of civil wars. Yet prison conditions and police abuse are still reported to be abysmal in Haiti, and problematic in El Salvador. In El Salvador, the inadequacy of “community policing” to combat globalized gang wars and consequent creation of unaccountable “rapid reaction” forces illustrate the pitfalls of partial reform. Furthermore, militarization of police forces in Mexico and Brazil to fight crime and corruption has contributed to deterioration in human rights conditions. Police killings in Brazil did decline in the mid-1990s, following a series of investigations and the establishment of a police ombudsman, but such reforms were swamped as military forces and the military branch of the police were inserted into high-crime areas with little accountability.⁶⁵ More localized attempts at community policing in Brazil and Colombia have foundered on factors linked to social hierarchy, such as insufficient coverage of high-crime poor areas and insufficient training of poorly paid and educated street police, along with more generic shortfalls in public administration.⁶⁶ Most recently, the crisis in policing in Guatemala has led to a renewal of international involvement unprecedented in peacetime, the creation of a UN joint police reform Commission against Impunity, following a 2006 report by the UN Special Rapporteur for the High Commissioner for Human Rights.

Persisting human rights violations under democratic governments have been specifically addressed by the establishment of national human rights institutions, with varying mandates and resources. For example, the Mexican Human Rights Commission established in 1990, which has played a helpful role in monitoring and raising consciousness, is a passive body limited to the federal rather than state level, which appears to be the more significant venue of abuse. Human rights secretariats have also been established in Argentina, Brazil, and even Colombia, the former focused mostly on retrospective reparations, the second on international relations, and the third on monitoring. Ombudsmen, who may have some investigatory or persuasive power with legislatures and administrative offices, are found in a dozen countries. The key question for rights impact here is whether such offices have a specific mandate to serve as interlocutors for marginalized groups and second-class citizens, as Costa Rica's Ombudsman does for immigrants. The national human rights institutions of Argentina, Bolivia, Ecuador, Honduras, Mexico, and Peru participate in an international network of such bodies linked to the UN Office of the High Commissioner on Human Rights, which encourages capacity-building and directs attention to regional themes such as migration, indigenous peoples, and disability rights. In addition, special offices and programs for the protection of vulnerable populations, mainly indigenous peoples and women, are established throughout the Andean region. On the whole, these new institutions are promising gestures, but have overly generalized mandates, limited powers, and insufficient resources.

Another way to gauge policy response is to examine the set of measures taken on a high-risk country or issue basis. Brazil is clearly a hot-spot for numerous types of human rights violations, from indentured servitude to police abuse; thus, in 1996, Brazil launched a National Human Rights Plan. Several police officers were brought to trial and sentenced for their participation in the massacres of street children and prisoners. On the other hand, the same year 179 police from Rio were promoted as a result of incidents which killed 72 civilians.⁶⁷ The following year, Brazil passed a new torture law, but prosecutions have been extremely limited. With ongoing persecution of human rights advocates, Brazil then introduced a special Program for the Protection of Human Rights Defenders in 2004, but it has lacked sufficient funding and personnel. On the issue of violence against women, Brazil introduced a pioneering reform of women's police stations. While several hundred exist, they cover only 10 percent of Brazilian cities, are only open in the daytime, and have had a positive but disappointingly limited impact in reducing violence against women.⁶⁸

Similarly, it is instructive to see the range and limitations of reforms to deal with the abuse of trafficking individuals, most salient in Mexico and Central America. A defining feature of this class of abuse is that the vast majority of victims are women and children, usually poor. In conjunction with international agencies, NGOs, and the US government, Central American governments have introduced a wide variety of initiatives. For example, there have been police warnings for migrants and special

investigation units in Nicaragua and Costa Rica, special police training in Honduras, and shelters for victims in Nicaragua, Honduras, and Guatemala. But in a clear marker of second-class citizenship, the criminal penalties for trafficking are only one to three years in Guatemala, and three to six years even in gender-friendly Costa Rica. Even beyond the obvious imbalance of enforcement reform without attention to root social causes, the sheer legal inequity impedes effectiveness. In 1995, Guatemala amended its criminal code to provide the death penalty for kidnapping; compare the penalties for trafficking (mostly female victims) with the penalties for the parallel crimes of assault, kidnapping, and enslavement (of presumed male) citizens.

CLOSING THE GAP

What can be done to close the citizenship gap in Latin America and to allow democracy to foster freedom from fear? First of all, we must remind ourselves of the ways in which electoral democracy and rule of law do offer new resources for the defense of human rights. Transition to democracy implies the state's hegemony no longer intrinsically requires physical repression and armed conflict ceases. Even partial rule of law provides channels for institutional reform and opportunities for social mobilization; hence, the distorted version of citizenship in Latin America has historically offered an avenue for the struggles of dispossessed populations.⁶⁹

What institutional democracy without full-spectrum rights cannot provide is accountability for the relevant forms of power, such as private, transnational, and unelected coercive state agents. In an era of globalization, Latin American democracy looks like partially liberalized weak states struggling to cope with rising threats to social control. The mandated democratic institutions of legislatures and judiciaries lack traction over actors outside the state. They also cannot control unaccountable praetorians insulated by the Executive due to its dependency on their repressive services. Contemporary social conditions short-circuit the historic cycle of expansion of citizenship rights that accompanied the rise of modern capitalist democracy chronicled by T.H. Marshall, and the extension of liberal human rights to new groups and expansion to new domains.⁷⁰ As the political project of contemporary Latin American democracy narrows, elites lack electoral incentives and political will to promote the classic liberal social contract of protection in exchange for production. Both protection and production can be outsourced, and Latin American polities function as either "low-intensity democracies" or delegative populisms.⁷¹

In this scenario, the prospects for effective state-sponsored human rights reform along current lines are tenuous at best. Like the coalition that transformed Latin America's dictatorships to democracies, it will take a renewed effort from international and civil society to secure the new human rights agenda of social rights, accountability, and the deepening of democracy. State-sponsored reforms will be most effective to the extent they incorporate communities—of their own citizens, other democracies, and regional networks, and when they tackle the complex marginality of second-class citizenship. Injustice is a problem of power, and

speaking law to power is the unfinished business of real democracy in Latin America.

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Populism and Foreign Policy in Venezuela and Iran

by Michael Dodson and Manochehr Dorraj

The remarkable ascendance of Venezuela's president, Hugo Chávez, has generated new interest in Latin America's recurrent populism. Like the charismatic populists that preceded him, Chávez rose to power rapidly and became a symbol of deepening social polarization.¹ He is seen as a pivotal figure in promoting a sharp leftward shift in Latin American politics² and has been criticized for his authoritarian tendencies.³ In the words of Jorge Castañeda, "Chavismo" is the "wrong left" for Latin America.⁴ Hugo Chávez has become a much discussed leader for all these reasons, but he is perhaps most notorious for his aggressive foreign policy and for the strongly confrontational posture he has adopted toward the United States.⁵ Chávez has pursued high profile efforts to check US influence in Latin America, assert his own leadership in the region, and demonstrate that developing countries can act more independently of Washington's wishes.⁶

In a similar vein, Mahmoud Ahmadinejad was a virtual political unknown internationally prior to his election as president of Iran in 2005. Ever since then, Ahmadinejad's attempt to go back to the populist policies of the Islamic Revolution's early days as well as his confrontational political style, authoritarianism, and incendiary remarks against the United States and Israel have also rendered him a polarizing and controversial figure.⁷ His administration has been very assertive in promoting a pan-Islamic agenda and in trying to strengthen Iran's regional influence,⁸ much as Chávez has tried to exert his leadership in Latin America.⁹ As a result, Chávez and Ahmadinejad have dominated Western media coverage as emerging leaders of the developing world, who are willing to challenge an American-led regional and global order.

The populist rhetoric and ideals espoused by Chávez and Ahmadinejad are strongly shaped by the current international context of economic globalization. Countries like Venezuela and Iran cannot hope to pursue economic development by shielding their producers from international trade and competition. Nevertheless, leaders and the mass public in both countries share a strong perception that

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foreigners seek to exert control over their national economies. Hence, Chávez and Ahmadinejad seek to build trade alliances that bypass the hegemonic power of the US. At the same time, their public attacks on the US and its unfair economic strategies play well to a nationalist sentiment that is widespread and felt with special intensity by their respective political bases.

Clearly, Venezuela and Iran are located in different regions of the developing world and are led by regimes whose ideology stem from the Bolivar Revolution and the Islamic Revolution respectively. Notwithstanding such differences in geography and motivation, this article aims to identify and explore common features of the foreign policy strategies of Iran and Venezuela. We focus on recent developments that suggest that new challenges are emerging in the global south to the unipolar hegemonic world order led by the United States. Our discussion will highlight the anti-imperialist and regionalist foreign policy initiatives of these two countries, which draw their common inspiration from populism.

Populism has been a widely used concept for explaining dynamic mass movements that typically blend charismatic leadership with the mobilization of marginalized sectors of society. However, a recent review of attempts to define populism reveals that the concept has been used in such a wide variety of ways to capture such diverse examples of charismatic leadership coupled with popular mobilization that it proves to be “essentially a fractured concept.”¹⁰ Despite the absence of a consensus definition of populism, the term continues to be used, and remains a useful concept that merits further analysis. One indisputable pattern that emerges from the literature is that populism in the developing world is closely associated with economic crises that arise from late development¹¹ and a strong nationalist impulse to break away from all forms of colonial dependence.¹²

This essay seeks to show how the powerful impulses associated with populist movements are being employed in disparate regions of the developing world, namely Latin America and the Middle East. In the cases we examine, the populist leaders, Hugo Chávez and Mahmoud Ahmadinejad, who seek a redistribution of wealth and a moral regeneration of society not only by mobilizing the masses against the corrupt elite, but also by pursuing an aggressive foreign policy that seeks to diminish the hegemonic power historically exerted over their economies and politics by the United States. In order to achieve this goal, each leader has manifested strong ambitions to exert regional, if not international leadership, and each of them has skillfully used petroleum wealth to leverage that influence. To illustrate briefly, Hugo Chávez claims to be inspired by Simon Bolívar’s venerable plan to establish a unified Latin America that could effectively wield power internationally. Chávez credits Bolívar with having the original vision of a multipolar world¹³ and his current foreign policy is devoted to pursuing that Bolivarian goal. The aim of greater economic and political integration within Latin America under Venezuelan leadership, together with international trade agreements that compete against US hegemony, undergird President Chávez’s domestic political agenda (just as they do that of President Ahmadinejad) because they challenge the neoliberal model championed in

Washington, which many hold responsible for the neglect and hardship suffered by the world's poor. This foreign policy agenda affords many opportunities to attack neoliberalism on the grounds that it is elitist (the bane of populist movements) and predatory, thereby preventing a just distribution of wealth and opportunity both within and among countries.

But how can relatively weak states such as Venezuela or Iran hope to resist the strongly held foreign policy objectives of a superpower like the United States? One answer advanced in the literature on international security issues is "soft balancing," which is the notion that weaker countries turn to "international institutions, economic statecraft, and diplomatic arrangements" to resist US policies in a unipolar world.¹⁴ Although the concept of soft balancing was developed to analyze the way weak states might coordinate the use of nonmilitary tools to frustrate unilateral US military actions, it could also apply to contexts in which states want to pursue a domestic political agenda that the US strongly opposes, such as the 21st century socialism espoused in Venezuela or the Islamic Revolution in Iran. As Mark Eric Williams suggests, such a strategy reveals broader aims than resolving a specific policy dispute, and depends on the willingness of the state's leaders to accept a deteriorated relationship with the United States in order to achieve their domestic objectives.¹⁵ In Latin America, the US seeks to preserve its hegemony by encouraging friendly electoral democracies that embrace free market policies, a strategy that encourages efforts to isolate or discredit the emerging Venezuelan model. The Venezuelan foreign policy we discuss below seeks to counter US strategy with a variety of soft balancing measures. In the Middle East, the United States seeks to preserve its access to oil, protect the state of Israel, and bolster its own national security by isolating or overthrowing "rogue states" that sponsor terrorism and seek weapons of mass destruction. As a designated member of the "axis of evil" state, Iran has a strong incentive to counter US hostility with tools from the soft balancing arsenal.

VENEZUELA

Historically, Venezuela sought a close bilateral partnership with the United States. Considering Venezuela's importance as a supplier of oil to the US market, one might expect this desire to have been reciprocated. However, according to Carlos A. Romero, Venezuela was never accepted as a special partner by the United States. Throughout the Punto Fijo era (late 1940s to early 1990s) the two countries maintained strong trade ties; 50 percent of Venezuela's exports went to the US and 45 percent of its imports came from there. Even so, in its relations with the United States, Venezuela occupied a secondary status in a region that was, normally, of only tertiary concern to the United States.¹⁶ As a result, although Venezuela was basically a status quo nation during this period, its leaders did occasionally strike out in directions that ran counter to US policies. This certainly was true of Venezuelan activism in OPEC, which is one area where Chávez's policies reflect continuity with the past. Venezuela also deviated strongly from the US policy line by providing

leadership for the Contadora initiative, which sought to achieve a negotiated resolution of the US sponsored counterinsurgency wars in Central America during the 1980s. Of course, Hugo Chávez has put Venezuela on a much more strikingly independent and confrontational course vis-à-vis the United States. In this he seems to have been aided by the US preoccupation with fighting terrorism and waging wars in Afghanistan and Iraq. In that context, President Chávez has exerted vigorous leadership within OPEC to keep oil prices high by limiting production; he has pursued closer relations with US rivals such as China and Russia, and with US adversaries like Cuba and Iran; he has also worked to promote regional institutions and alliances that will increase Venezuela's influence in the Western Hemisphere while undermining US hegemony. Chávez has openly opposed the Bush Doctrine and advocates a multipolar world order that purports to protect weaker countries against the predatory effects of neoliberal trade and lending policies.

Populism in the developing world is closely associated with economic crises that arise from late development and a strong nationalist impulse to break away from all forms of colonial dependence.

The principal thrust of Chávez's foreign policy is twofold: anti-imperialism and pan-Americanism, both of which draw on the memory of Simón Bolívar's dream of Latin American unity. Chávez has worked tirelessly to promote trade agreements and closer economic integration with his Latin American neighbors. Oil finances this long-term effort to diversify the Latin American economies and lessen their dependence on what Chávez sees as disadvantageous trade relationships with the United States. US–Venezuelan relations became notably strained following the 2002 coup attempt when the US appeared eager to recognize the coup plotters' legitimacy after they deposed Chávez's elected government. In the period after the failed coup, when opponents of Chávez tried to remove him by means of a recall initiative, the president told Venezuelans that voting for his recall in the national referendum would be tantamount to allowing President Bush to govern their country. In the three years since the recall failed, he has been extremely vocal in his criticisms of the Bush administration and has frequently cited the dangers that US imperialism poses to Venezuelan sovereignty.

Fresh off his strong showing in the presidential election of December 2006, Hugo Chávez is in perhaps the strongest position a leader could expect to be in order to pursue an anti-imperialist policy using a soft balancing approach. In addition to the legitimacy Chávez enjoys from repeatedly winning elections, Venezuela currently has "the fastest growing economy in the Americas,"¹⁷ which has enabled Chávez to spend as much as \$25 billion abroad since taking office in 1999 and to ink trade pacts with or provide aid to as many as thirty countries.¹⁸ In the context of recent US neglect of Latin America due to the Iraq war, coupled with a growing reaction against neoliberal policies that many believe exacerbate Latin America's poverty and

inequality, Hugo Chávez has seized the initiative to enhance Venezuelan independence from Washington using an array of soft balancing measures.

At his most ambitious, Chávez has fostered a direct challenge to one of the Bush Administration's most ardent goals, a Free Trade Agreement of the Americas (FTAA). Outside security issues, the FTAA is probably the United States' highest policy priority in the region. Chávez's initiative, the Bolivarian Alternative for the Americas (Alternativa Bolivariana por las Américas, or ALBA), seeks to establish a more socially oriented trade bloc within the hemisphere that gives special attention to poverty reduction.¹⁹ Chávez claims that ALBA is modeled on the European Union (albeit tailored to the specific needs and conditions of developing countries). By encouraging poor countries to work together, he hopes to reduce the trade disadvantages that would plague them with membership in the FTAA.²⁰ Furthermore, trade deals would be accompanied by agreements to invest in education, health care and other social needs within each member state. Thus, ALBA would not only keep profits in Latin America, it would also channel capital into human development programs. It may be too soon to tell how many other countries will embrace ALBA. Some may be reluctant to confront the US so openly, while large countries such as Brazil and Mexico believe that they can realize their national economic objectives without doing so. Only the small nations of Cuba, Nicaragua, and Bolivia have shown active support for ALBA so far.

Despite the small number of commitments to ALBA, it is clear that Chávez's basic objective of promoting Latin American integration and reducing the region's reliance on the United States strikes a sympathetic chord. While Chávez has promoted ALBA as the best alternative to the FTAA, the countries of the southern and northern halves of South America have been working together to combine existing trade blocs. By merging the Southern Market (Mercado del Sur or MERCOSUR) and the Andean Community (Comunidad Andina or CAN), the member nations have created the Union of South American Nations (Unión de Naciones Sudamericanas, or UnaSur), a more comprehensively integrated entity. Like ALBA, UnaSur follows an EU model and envisions broad elimination of tariffs within Latin America, free movement of citizens regionally, and a common currency.²¹ As a new member of MERCOSUR, "Chávez has spun a web of supply lines that are already or soon will be essential: gas from the staunch US ally Colombia will be refined in Maracaibo from 2008, [and] a \$20 billion pipeline will send Venezuelan fuel through Brazil to Argentina."²²

Bilateral and multilateral trade agreements in the energy sector have been a mainstay of Venezuela's soft balancing strategy. When Chávez took office in 1999 the Venezuelan national oil company (Petróleos de Venezuela, Sociedad Anónima, or PDVSA) had become "a state within a state."²³ As Bernard Mommer points out, oil executives had undermined the nationalization of Venezuelan oil inasmuch as they had come to share the outlook of international oil companies. Indeed, the PDVSA had been transformed from a national to a global company, which aligned itself with the interests of international oil companies and capitalist countries. Unsurprisingly,

the state's share of oil revenues had declined severely by the time Chávez assumed the presidency. In order, then, to reharness this vital national asset in the service of the Bolivarian Revolution, Chávez had to confront the vexing challenge of restoring state regulation of the industry (including the fiscal discipline and oversight that would channel oil revenues into state coffers) without losing the technological and managerial expertise of PDVSA personnel who had little loyalty to the Bolivarian project. Indeed, Chávez survived a PDVSA lockout that began in December 2002 and lasted several months, sabotaging the economy and slowing the government's ambitious economic development plans.²⁴ In spite of this serious political obstacle, Chávez has found ways to use petroleum wealth diplomatically and commercially to promote his country's national interest as he sees it.

The principal thrust of Chávez's foreign policy is twofold: anti-imperialism and pan-Americanism...

Chávez has brokered an impressive array of oil alliances linking nations throughout Latin America through an initiative called PetroSur, and also in the Caribbean, through a similar initiative known as PetroCaribe. Through these alliances Venezuela seeks to assure a steady flow of petroleum within the region through discounted pricing, by offering cheap credit, or by accepting in kind transfers of oil for services. PetroCaribe, for example, allows heavily indebted countries "to trade agricultural goods for concessionary oil prices."²⁵ Chávez has assured Caribbean leaders that PetroCaribe will provide their countries with affordable oil for an indefinite period. Venezuelan oil agreements also seek to finance further gas and oil exploration and production, while reducing reliance on the giant oil firms of the private sector. Note, too, that Chávez has negotiated bilateral agreements with neighboring governments that run the ideological gamut from conservative Colombia, to progressive Argentina, to radicalized Bolivia. With respect to Colombia, a country with very strong ties to the US, he has signed an agreement to build a \$335 million gas pipeline that is scheduled to come on line in 2007. Venezuela has struck a deal with Brazil's national oil company to build a refinery in northeastern Brazil that is slated to refine 200,000 barrels per day. In a similar vein, Chávez has signed agreements with Bolivia to invest \$1.5 billion in oil and gas development and with Ecuador to refine up to 100,000 barrels of Ecuadoran crude per day at discount prices.²⁶

In the Southern Cone, not only is Venezuela helping to finance oil exploration in Argentina, but Chávez has also joined with the Argentine government to create an investment bank that will support infrastructure development. On top of purchasing \$3.5 billion in bonds that allowed Argentina to pay off its debt to the International Monetary Fund (IMF), this past summer Chávez went a step further. At an ALBA summit in Caracas in June 2007, he proposed to establish a Bank of the South (Banco del Sur) that would, if fully capitalized, replace the IMF as the banker to the countries of Latin America. While far from implementation, this proposal

demonstrates the scope of his vision for using regional commercial ties and solidarity to challenge the unipolar model of world order based on US hegemony. Complementing these commercial links, Venezuela has become a major provider of foreign aid to her Latin American neighbors. Indeed, it appears as though Venezuela's total foreign aid in Latin America is nearly equal to that being provided by the US certainly in the billions per year. However, Venezuelan aid may carry greater political benefit because it is widely distributed and is devoted to funding initiatives that help the poor rather than to fighting the drug wars and other security concerns that preoccupy the US. Finally, Chávez has found a way to compete ideologically with Washington over the airwaves. He has funded a CNN-like 24-hour news network—TV of the South or TeleSur—that may make an anti-US and populist message widely available to Latin American viewers.²⁷ Not coincidentally, TeleSur will also provide the Venezuelan public with an alternative to the views expressed by the country's privately owned media, which are generally hostile to the Bolivarian Revolution.

Beyond Latin America, Chávez has established a high profile internationally by deepening Venezuela's trade relationships in the Middle East, the Far East, and with Russia. This outreach includes forming stronger ties with governments that have an adversarial relationship with Washington. Venezuela is aggressively developing its trade ties with China. Its rapidly increasing oil exports to Far East have provided ample cash flow for investments in oil-related exploration, transportation, telecommunications, and agriculture. In the spring of 2007, a high level Chinese delegation to Caracas signed an agreement to establish the Petrozumano Company, which will store and transport oil and gas from the Zumano region, while also agreeing to facilitate further oil production in the Orinoco Belt. President Chávez concluded these meetings by declaring that Venezuela's goal was to provide China with half a million barrels of oil per day by the end of 2007.²⁸ Even more provocatively, Venezuela has struck agreements with Iran jointly to build refineries in Islamic countries such as Indonesia and Syria (the Syrian refinery is projected to have the capacity to produce 140,000 barrels a day). Also, like China, Iran is now investing in the development of Venezuela's Orinoco Belt oil fields. In fact, Chávez has been cultivating ties with Iran, well before Mahmoud Ahmadinejad became president, through state visits with Ahmadinejad's predecessor, President Mohamed Khatami. Commercial air traffic has also opened between Caracas and Tehran, with a stopover in Damascus.

Finally, Chávez has also forged closer ties with Russia even as Russia's relations with the US have become more strained. These ties include large arms purchases from Russia, including 100,000 Kalishnikov assault rifles and a \$120 million agreement to purchase Russian attack helicopters.²⁹ These arms purchases are complemented by trade deals that will have Russian firms building power plants in Venezuela, participating in oil exploration, and investing up to \$1 billion to mine bauxite and promote aluminum production. These deals, which followed a US decision not to provide arms and spare parts to the Venezuelan armed forces,

conform to the broader pattern of Venezuela's current foreign policy. They are designed to diminish US influence in Venezuela and in Latin America more generally, and to push forward the Chavista agenda of building a multipolar world in which smaller, poorer nations can take greater control of their own destinies by using soft balancing strategies to increase regional solidarity in opposition to US hegemony.

IRAN

If one were to see the world as a contentious battle between oppressor and oppressed nations, then Iran's sympathies in the early years of the Islamic Revolution clearly lay with the latter. Indeed, the followers of Ayatollah Khomeini bestowed upon him the title of "leader of the dispossessed masses of the world" because, under his leadership, Iran actively supported national liberation movements in developing countries.³⁰ Iran's trade with the developing world also increased considerably following the revolution.³¹ The practical problem with the postrevolution Iranian development strategy was that the developing countries with which it was trading could not easily supply the industrial goods needed. Due to this practical reality, a debate began among the postrevolution ruling elite regarding the advisability of seeking Western investment and loans for the reconstruction of the country. Irrespective of differences over development strategy, regionalism has served as an important pillar of Iranian foreign policy since the inception of the Islamic republic. The onset of the hostage crisis of 1980, and the accompanying deterioration of diplomatic and economic relations between Iran and the United States, gave further impetus to adopt a regionalist foreign and development strategy. Iran found that forging regional alliances was necessary to alleviate Washington's economic and political sanctions. Regionalism also complemented the pan-Islamic ideology of the new regime with its populist, anti-imperialist and developing world solidarity proclivities.

However, with the election of Ayatollah Rafsanjani as president in 1989, Iran took some initiatives to shed the policy of "neither East, nor West" and normalize relations with both camps, as manifested by improved relations with Western Europe, Russia and China. Rafsanjani's successor, President Mohammad Khatami, continued this policy by cultivating closer relations with moderate pro-Western Arab states such as Saudi Arabia, and took additional initiatives to improve relations with Western Europe and the United States. He introduced a policy of "dialogue of civilizations," designed to further improve Iran's global image and end its international isolation.³² Khatami's government cooperated closely with the Bush administration to inaugurate a stable government in post-Taliban Afghanistan, providing the largest financial aid of any developing nation for the reconstruction efforts of the Karzai government. This rapprochement was threatened when, in January of 2002, Israeli officials seized a ship in the Red Sea carrying weapons to the Palestinian Authority. Israel accused Iran of sending the shipment and Iran soon found itself on the "axis of evil" list, along with North Korea and Iraq. Soon after the US invasion of Iraq, Iranian officials sent a letter to the Bush administration

offering to negotiate all outstanding issues between the two nations.³³ Additionally, Iran briefly halted its uranium enrichment activities in 2004 after several European nations offered technological, economic, and political incentives. But the Bush administration, guided by neoconservative thinking, rebuffed Iran's conciliatory initiative,³⁴ thereby setting the stage for the election of populist presidential candidate Mahmoud Ahmadinejad in August 2005.

President Ahmadinejad took the view that President Khatami's moderate political course had only brought Iran humiliation and no tangible benefits. By ignoring Iran's cooperation in Afghanistan and rejecting Tehran's diplomatic initiatives for rapprochement, the US had rendered the Islamic Republic more insecure and vulnerable to a possible military attack. For Iran's clerical elite, the need for a nuclear deterrent to a potential US or Israeli attack increased. Iran was heartened by US military and political setbacks in the Iraq war, which led Ahmadinejad to choose a more assertive and confrontational foreign policy. He used the nuclear standoff with the international community to galvanize Iranian nationalism, mobilize his support base, and solidify the regime's survival. By reinvigorating Iranian nationalism and reasserting Iran's greater regional ambitions, Ahmadinejad effectively abandoned Khatami's more conciliatory tone. On August 8, 2005, three days after his election, President Ahmadinejad resumed the enrichment of uranium at the Isfahan processing plant, proclaiming that Iran's nuclear program was peaceful and intended solely as a source of domestic energy.³⁵

Regionalism has served as an important pillar of Iranian foreign policy since the inception of the Islamic republic.

Projection of Iran's regional power came in the form of intensified support for Islamic Jihad and Hamas in Palestine and Hizbollah in Lebanon. In 2007, Hamas was given a financial aid package worth \$150 million. In Lebanon, Iran has given financial aid and military training leading up to, and after the Israeli invasion in 2006. Iran has also supported the Badr Brigade militia associated with the moderate Ayatollah Hakim group, known as the Supreme Council for the Islamic Revolution in Iraq (recently renamed Supreme Islamic Iraqi Council). The Badr Brigade was originally trained in Iran while Saddam Hussein was in power and has recently been assimilated into the security apparatus in the Shi'a-dominated government of Nuri Al-Maliki. Ahmadinejad's administration has also supported the rival Shi'a faction of radical populist cleric Muqtada-Al Sadr and the Al-Mahdi army, which opposes the US occupation and has repeatedly clashed with American troops.

Like Venezuela, Iran has also been busy building "petro-alliances". In the last decade, economic ties between Iran and China have expanded considerably. Chinese exports to Iran are diverse and include electronics, arms, machinery, consumer goods, and textiles. Oil accounts for 80 percent of Chinese imports from Iran, and 15 percent of China's overall oil imports. In 2004, before Ahmadinejad's election, Iran and China signed a \$20 billion agreement committing Iran to sell China 2.5 million metric tons of liquefied natural gas annually over the next twenty-five years,

starting in 2008. Ahmadinejad's government has signed an additional contract that would allow China to buy 250 million tons of Iranian liquefied natural gas over the next thirty years, a deal estimated to be worth \$70 to \$100 billion.³⁶ This is the world's largest purchase of natural gas so far. China is actively involved in Iran's efforts to explore and develop its oil and gas reserves in southern Iran as well as in the Caspian Sea region, and has also supported Iran's attempts to bring Caspian Sea oil and gas reserves through pipelines to the Persian Gulf for shipping to Europe and Asia.³⁷ The US is opposed to this initiative, which would increase the Islamic Republic's economic and political clout in the region. These expanding economic ties between Iran and China explain why Iran enlisted as a member of the Shanghai Cooperation Council in 2007, and why China has opposed the imposition of harsh economic sanctions or the use of military force against Iran for its nuclear weapons program.

Russia has contributed greatly to the development of Iran's nuclear facilities, and has been a major provider of military supplies and armaments, thereby playing a significant role in the maintenance of Iran's national security. Russia is also said to be deeply involved in the construction and development of a projected Iran–Pakistan–India pipeline. However, the most significant development in the Iran–Russia energy partnership is an agreement in with Russia's state-owned oil company, Gazprom, which will facilitate and coordinate Iran's gas exports. This partnership would make Iran and Russia responsible for half of the world's gas production and export, and would give the two countries an OPEC like leverage on the global gas market.³⁸

Iran has also been expanding its bilateral relations with India. Partially driven by its increasing need for energy due to the simultaneous expansion of its population and economy, India now considers Iran a viable provider for its needs. In 2005 the two countries signed a \$22 billion agreement that would provide 5 million tons of Iranian liquefied natural gas to India, which is due to come into effect in 2009. India is also playing a more prominent role in exploration and development of Iran's oil and gas resources in recent years.³⁹ Equally important to Iranian-Indian relations is the previously mentioned Iran–Pakistan–India pipeline that would take Iranian natural gas to the Indian market. Again, Washington is opposed to these expanding trade ties, which harbors the possibility of forging a closer strategic alliance between the two countries in the future.

The formation of alliances, such as those described above, not only serves Iran's need to find buyers for its vast energy resources, but also serves to counter Washington's pressures on Tehran. As with Venezuela, Iran is attempting to use its petro-power to push back against Washington's hostile political posture. According to Mohsen Aminezadeh, the former deputy foreign minister, Ahmadinejad and his inner circle of populist ideologues would like to engage in a cold war with the United States, "whereby an Iranian alliance with Russia, India, and China, along with a number of other ideologically inclined states, would present a formidable front against American global aspirations."⁴⁰ This is clearly intended to serve the strategy

of “soft balancing” in order to diminish US pressures on Iran.

Since 2005, Iran has also forged closer alliances with Hugo Chávez and more recently with Nicaragua’s Daniel Ortega. In the last three years, Iran–Venezuela trade relations have expanded considerably. In 2006, Mr. Mohsen Shaterzadeh, Iranian deputy minister of industries and mines for economic and international affairs, while visiting Caracas, announced that Iran intends to invest \$9 billion in 125 development projects in Venezuela.⁴¹ The bilateral trade between the two nations is projected to increase to \$11 billion in 2008.⁴² Iran and Venezuela, respectively the world’s fourth- and fifth largest oil exporters are also engaged in a joint venture exploring for oil in Venezuela’s Orinoco region. They have declared plans for a joint oil trading company, hoping to price oil in Euros instead of dollars in order to diminish US influence in the global oil market.⁴³ In 2007, President Ahmadinejad attended the inauguration of Rafael Correa, the newly elect populist President of Ecuador. He also visited Daniel Ortega in Nicaragua after the two leaders met in Tehran that same year. In 2007, Ahmadinejad and Chávez also exchanged state visits. They announced the creation of a \$2 billion investment fund to finance projects in both countries. In addition, Iran and Venezuela in cooperation with Syria intend to build an oil refinery capable of processing 150,000 barrels of oil a day.⁴⁴ The two leaders also pledged their commitment to support national liberation movements in developing countries.

Despite ideological differences (Chávez espouses a secular socialist vision while Ahmadinejad is a Muslim nationalist) the two leaders seem to have developed strong personal ties. What they share in common is considerable: both are populist leaders of humble origins and both have military backgrounds; each enjoys support among the poor and has promised to distribute oil money among them; and both embrace anti-imperialism and support a non-aligned, developing world solidarity political agenda. This close partnership manifested itself in September of 2006 when Ahmadinejad visited Venezuela and was awarded the Collar of the Order of the Liberator, the highest honor bestowed upon visiting dignitaries. When Ahmadinejad’s decision to ration gasoline in June of 2007 led to wide public resentment and unrest, it was Chávez who came to the rescue, agreeing to sell Iran the gasoline it needed to boost supplies.⁴⁵ These trans-continental political developments have not gone unnoticed in Washington. In the words of one Pentagon official, “Venezuela’s Hugo Chávez and Nicaragua’s Daniel Ortega are the poster boys of everything this administration abominates. The picture of president Ahmadinejad exchanging toasts with them has set the White House on fire.”⁴⁶

In 2006, in an attempt to broaden his administration’s pan-Islamic appeal and to put to rest any anxiety among the masses in the Arab world about Iran’s nuclear ambitions, Ahmadinejad escalated his anti-Israeli rhetoric, questioning the authenticity of the Holocaust and convening a conference in Tehran in which most of the guests were Holocaust deniers. Given the strength of the Israeli lobby and the centrality of Israel’s security to the US foreign policy agenda in the Middle East, Ahmadinejad’s aggressive posture toward Israel widened the rift between Washington and Tehran. Although the reformed wing of the clergy led by former

President Khatami sharply criticized Ahmadinejad for his holocaust denial, the wide publicity that Ahmadinejad's comments received throughout the world did significant damage to Iran's image.⁴⁷

As with Venezuela, Iran is attempting to use its petro-power to push back against Washington's hostile political posture.

Populist policies and friendly relations with other populist leaders aside, the Iranian clerical establishment, which exerts almost complete control over the presidency, knows that its long-term survival, as well as its prosperity, is linked to a normalization of relations with the United States. It is in this context that we should read Ahmadinejad's 2006 letter to George W. Bush, a clumsy attempt at a dialogue that received a cold shoulder from the Bush administration. Iran's participation in bilateral negotiations with the United States over Iraqi security in 2007 is intended to serve the interests of both parties. Ideally, the US would like to use Iran's influence among Iraqi Shi'as for its "Iraqification" of the war and to facilitate its military exit. Iran, on the other hand, hopes to use its influence in Iraq to engage in a broader political bargain with the US that includes its nuclear program and other outstanding issues of conflict. However, as long as the Bush administration remains unresponsive to such Iranian initiatives, the clerical establishment will feel compelled to fall back on its populist foreign policy course. With his populist credentials, Ahmadinejad has proven to be the right person for the articulation of this "rejectionist" rhetoric because it plays well with the conservative, patronage-based political constituency of the regime at home and the larger Muslim world.

At the same time, Ahmadinejad's brash style and militant rhetoric is unpopular with much of the Iranian public and his populist appeal domestically remains fragile. Several recent surveys indicate that the overwhelming majority of Iranians favor improved relations with the United States and Western Europe. According to the Washington Institute for Near East Policy, a 2002 poll conducted by the Iranian parliament revealed that "three quarters of Iranians favored rapprochement with the United States."⁴⁸ A 2007 poll published by Terror Free Tomorrow, a nonprofit research group, concludes that "70 percent of Iranians thought that normal relations with the West should be a high priority, but only 29 percent thought nuclear energy should be, and an astonishing 61 percent disapproved of Ahmadinejad's government."⁴⁹ The results from the December 2006 local elections for City Council and the outcome of the Assembly of Experts elections in which the pro-Ahmadinejad candidates in both elections lost to reform candidates suggest that Iranian voters favor a more pragmatic and moderate political course. Nevertheless, Ahmadinejad has persisted in trying to return Iran to the pan-Islamic and developing world solidarity policies that marked the first decade of the revolution.

Ahmadinejad's administration uses the nuclear issue and the ongoing confrontation with United States and its allies to stoke nationalist fervor and shield

the regime against possible external military threats. The danger is that if the nuclear issue is mishandled, it could spell the end of the theocratic regime's monopoly of power. In fact, many within the conservative camp think that Ahmadinejad's anti-Israeli pronouncements and Holocaust denials have weakened Iran's position in negotiating the nuclear standoff leading to charges of "adventurism" against the president's foreign policy.⁵⁰ Cognizant of this reality, and unhappy with the bellicose rhetoric and brash style of Ahmadinejad's foreign policy posture, the Supreme Leader appointed a bipartisan foreign policy advisory council that included two former foreign ministers, a former defense minister and a former ambassador. The purpose of the council is to provide Ahmadinejad with guidance on the foreign relations of the Islamic Republic.⁵¹ By contrast, Venezuelan foreign policy does not entail any elements that are as politicized and toxic in the eyes of Washington and its close ally, Israel, as the Iranian nuclear issue and its support for Hizballah in Lebanon and Hamas in Palestine. Its lower profile in this sense allows Venezuela more latitude and maneuverability in its political dealings abroad.

In September 2007, the Bush administration signalled the heightened possibility of a military strike against Iran when it designated the Iranian Revolutionary Guard Corp. This was intended to give the Bush administration and its European allies the ability to increase the pressure on the Iranian government and squeeze the financial assets of one of the major pillars of security and support for the Islamic Republic.⁵² Arguably, this led former Iranian president Rafsanjani, head of the Expediency Council and the Assembly of Experts to summon Hassan Rowhani, the former chief nuclear negotiator in President Khatami's cabinet, to negotiate with the EU-3 (Germany, France, England). The appointment of Rowhani was designed to show Iran's willingness to cooperate further with IAEA in seeking a compromise solution to the nuclear standoff.⁵³ This measure was presumably undertaken with the blessings of the supreme leader, Ayatollah Khamenei, and can be characterized as a major blow to Ahmadinejad's foreign policy team. The change in personnel may also explain why the French foreign minister, Bernard Kouchner, who threatened war if Iran did not stop its uranium enrichment program, assumed a more conciliatory tone. Nevertheless, the United States is pushing for another round of sanctions against Iran at the United Nations Security Council (Russia and China are opposed to this initiative) and France are pushing for a separate set of sanctions in the European Union.

However, while the release of the US National Intelligence Estimate (NIE) in December of 2007, declaring that Iranian government has not pursued a nuclear weapons program since 2003, might have diminished the possibility of a US military strike against Iran; the continued antagonistic posture of the Bush administration toward the Islamic Republic reveals that US conflict with Iran is primarily over hegemony in the Middle East.⁵⁴ To frustrate Iran's regional ambitions and further isolate it, Washington has attempted to forge a coalition of pro-Western Arab moderate nations (Egypt, Saudi Arabia, Jordan, the Persian Gulf conservative Arab states) and Israel.⁵⁵ But with the diminishing political capital of the Bush

administration, having invaded Iraq in 2003 under what proved to be a false premises, and in the post NIE report on Iran which is another blow to the white house, US seems to have little success in rallying the conservative Arab regimes against the Islamic Republic. In fact, the opposite seems to be happening, as Saudi Arabia and The Persian Gulf Arab states are seeking to improve relations with Tehran. This was evident in the invitation and the warm reception that Ahmadinejad received in the Gulf Cooperation Council meeting in Doha, Qatar in December 3, 2007. All sides expressed their desire for expanded economic ties and cordial political relations. Iran's neighbor seems to be accommodating themselves to "the increasing political weight" of their neighbor.⁵⁶ It may well be that one of the impacts of the NIE report would be that now that the danger of the imminent US military threat has diminished, Ahmadinejad's defiant and confrontationist foreign policy stand may be regarded as a liability by the clerical elite and the supreme leader, Khamenie.

CONCLUSION

The populist, anti-imperialist foreign policies of Venezuela and Iran are designed in no small measure to galvanize nationalism and serve the domestic agenda of mass mobilization and power consolidation. Anti-imperialism helps populist leaders to protect themselves against foreign threats and pressures with a thick layer of mass support at home, a strategy that our research suggests has been more effective in Venezuela than in Iran. It also serves the purpose of pushing back against US influence in Latin America and the Middle East through efforts to expand the regional influence of these two populist regimes. The defiant nationalist postures of Hugo Chávez and Mahmoud Ahmadinejad seem to provide a remedy for the aggrieved nationalism of the masses; it addresses their psychological need for the restoration of national pride in the wake of lingering memories of the colonial era and painful US interventions of the past (Iran) and the realities of their subordinate position in the global power structure in the post-Communist era (Iran and Venezuela). No longer willing to play the role of an inferior client state, these populist regimes resist the global hegemonic power of the United States. Their attempts to develop national models that are more egalitarian and redistributive put them in open opposition to the neoliberal philosophy espoused by the United States and its allies.

To protect themselves as they seek this independent course, Venezuela and Iran have opted for a regional integration model and have utilized economic soft balancing measures extensively, as discussed in this paper. Their primary tool has been the "petro-alliance," briskly expanding energy and trade ties both regionally (especially Venezuela) and internationally to counter Washington's hegemonic agenda. Each regime has had some success with this strategy in the short run. If the petroleum-based alliances they have formed can be sustained, it could potentially signal the emergence of a new multipolarity in global politics.

The harder questions pertain to the long run. In the final analysis the ability, of these two countries to emerge as an alternative to Washington in their respective

regions, thereby making a success of their regionalist and soft balancing strategies, depends heavily on sustained high oil prices and on their ability to manage oil revenues wisely so that their domestic political agendas can also remain viable. Their success will also be contingent on the willingness of other regional powers, such as Brazil and Saudi Arabia, to embrace the enhanced roles that Venezuela and Iran wish to play.

At this juncture, the prospects for success seem better for Hugo Chávez, given the strength of his domestic political position and the recent leftist swing of the political pendulum in Latin America, together with Washington's apparent willingness to deal with Venezuela politically rather than militarily. Iran's prospects for success seem less promising. Washington's deeply antagonistic posture toward Iran over its nuclear and regional ambitions and its conflict with Israel, the political weakness of the presidency in the Islamic Republic, the unpopularity of Ahmadinejad's government among many Iranians, and the political and sectarian divisions in the Sunni-dominated Middle East are key factors that stand in the way of the regional ambitions of the Shi'a state of Iran.

Notes

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Twenty-Five Years of Latin American Judicial Reforms: Achievements, Disappointments, and Emerging Issues

by Linn Hammergren

In the democratic opening of the early 1980s, judicial reform appeared on the policy agenda throughout Latin America. Although such efforts were not new to the region, their virtually universal and nearly simultaneous adoption into policy was novel, extending even to the few countries (Colombia, Costa Rica, and Venezuela) without recent *de facto* regimes. The movement eventually incorporated the entire justice sector (“sector”) rather than the courts alone.

The reforms were locally inspired, though they received financial and political support from the donor community, and over time, other external inputs. Twenty-five years later, regional (and donor) interest has not waned despite a failure to deliver many promised improvements. Still, the sector’s organization, operations, and political influence were altered substantially, and most of these changes appear irreversible. Whether perceived as down payments on future progress or as a source of new challenges, the changes suggest the project will not be abandoned soon. The following explores these arguments in three parts: first a review of the movement’s early history and the way new actors and circumstances broadened its agenda; second, an examination of its accomplishments, failures, and the causes of each; and finally, an exploration of issues that have emerged in recent years.

A HISTORICAL OVERVIEW OF THE MOVEMENT’S DEVELOPMENT

Early Emergence, Actors, and Agendas

The early 1980s saw a region-wide concern for re-democratizing Latin America’s governance institutions. Somewhat surprisingly, given the many other candidates, judicial reform was among the few areas with sufficient consensus on a plan of action to allow immediate implementation.¹ The reasons are worth noting because of their lasting effects.

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Although hardly unique to the judicial arena, there was widespread agreement on the need to remove the vestiges of dictatorial control. For decades, judiciaries and other sector institutions (police, prosecutors where they existed) had been either circumvented or subject to abusive external interference. The widespread perception that the organizations had colluded in perpetrating abuses might have inspired new regimes to take the usual steps—replacing the incumbents and returning to business as usual. Frequently, the traditional purges did occur, but two additional factors ensured that the changes would not stop there.

The first was the presence of a region-wide network of independent jurists who, since at least the 1960s, had been advocating legislative and structural changes to bring sector operations in line with “international principles,” human rights doctrine, and recent continental European trends. In short, a plan for further reform existed. It appeared relatively simple, fit well with the new democratic ethos, and faced no credible alternative proposals.

Still, the advocates were few and not politically well-positioned. Their proposals might have languished were it not for the second factor. The donor community, and especially the U.S. Government (via USAID, the U.S. Agency for International Development), had concluded that strengthening the justice sector, especially the courts, was critical to advancing democratic governance in the war-torn Central American nations.² They thus offered support to the initial proposals because those proposals addressed their own concerns.

From these foundations, the movement grew, emphasizing criminal justice (because the worst abuses had occurred here and later, because rising crime rates created more demand), law revision or “legal change” (because the local advocates were almost exclusively lawyers), and the adoption of innovations already introduced in continental Europe. These innovations included far more than criminal justice reform, but it received the most attention.³ The first programs emerged among the less advanced Central American countries (El Salvador, Guatemala, Honduras). The explanation is simple—donors were active in these countries and provided funding to move the reforms ahead. In countries with peace accords (El Salvador, Guatemala, Nicaragua) judicial reform figured among the commitments made by the signatories. In the region’s more advanced countries, the absence of the first two elements, more complex political situations, and an active legal community with its own internal divisions produced delays, although in the end most succeeded in introducing their own variations on the common themes.

Criminal Justice Reform and Democratic Governance

Although criminal justice reform was also pursued for its own sake and the sector's contributions to democracy building do not end here, the two goals were closely joined. Proponents claimed that in contrast with accusatory criminal proceedings, Latin America's traditional inquisitorial systems were inherently less transparent, more prone to corruption, less protective of the defendant and victim's rights, and less likely to arrive at "true" verdicts because of their reliance on investigations prepared by a single judge. Drawing on European and Anglo-American models, they thus called for new procedural codes and related laws that:

Eliminated the instructional judges and their written reports, substituting evidence collected and presented by the prosecution and defense in an oral trial and preliminary oral hearings.

Had special judges (*jueces de garantías*) oversee police and prosecutorial investigations to protect the defendants' rights. These judges could not participate in the trial.

Substituted the "principle of opportunity" (prosecutorial discretion) for the "principle of legality" which required prosecutors to pursue even the most hopeless or trivial complaints.

Included abbreviated proceedings for defendants willing to acknowledge responsibility for all or part of the offense.

In some cases, introduced juries, mediation with the victim for minor crimes, alternative sentencing, decriminalization of some offenses, and the victim's participation in the trial.

As crime rates increased, some codes were revised to soften the due-process emphasis.

Despite the frequent contention that the movement was entirely donor-driven, the donors' early contributions were less intellectual than financial and political. Donors generally let their local, and occasionally regional, allies define the reforms' parameters. The earliest donor innovations tended not to prosper in any case (examples include an early U.S. effort to reform El Salvador's criminal justice system via judicial protection units, a forensics laboratory and an investigative police, and USAID's attempt to improve judicial budgeting and administration in Honduras). Donors became more intellectually involved at later stages when the law-driven strategy encountered implementation problems. Two themes were important here: "capacity building" (reorganizations, training, automation and administrative improvements) to ensure organizations could carry out their new functions, and support for new selection and career systems to improve the quality of judges, prosecutors, defense, and police. Aside from this, early donors adopted local initiatives uncritically.

In the early years, donor presence was limited to USAID and the United Nations, either through observer missions or the UN Development Program. USAID's decision to fund ILANUD (the United Nations Latin American Institute

for Crime Prevention and Treatment of the Delinquent) was instrumental in moving the programs beyond Central America. ILANUD was a small organization, operating out of Costa Rica but with ties to the regional code reformers. When USAID increased its budget ten-fold, ILANUD took its program on the road, locating allies in countries further to the South.⁴

Later Developments and New Themes:

Throughout the 1980s, the movement was focused on criminal justice and supported by the US Government, the UN, and a few private foundations and small bilaterals.⁵ By the early 1990s, new actors and themes emerged. The multi-lateral development banks (MDBs World Bank and Inter-American Development Bank) were especially important, seeing justice reform as an opportunity for new loans. However, initially they were stymied by an apparent prohibition on justice work.⁶ The emergence of “neo-institutional economics” with its emphasis on the role of institutions in shaping economic growth offered a way around the prohibitions and a new rationale for justice reform. As depicted in the writings of Douglass North (1990) and others, law and legal institutions provided the juridical security necessary to market growth. Where the US government portrayed the courts as the missing pillar of democratic governance, the neo-institutionalists saw them as critical to economic development.

From the early 1990s on, the MDBs introduced projects aimed at reforming non-criminal legal frameworks and general court strengthening. They worked in areas introduced, but given less attention by the earlier arrivals—court administration, automation, infrastructure, judicial selection and governance systems, and alternative dispute resolution (ADR). The MDBs were less directive in their program design, and channeled most funding to equipment and buildings, what the judges perceived as their most vital needs.

The MDBs are the largest but not the only new actors. The past fifteen years have seen a remarkable expansion in external organizations involved in sector reforms. Newcomers have tended to abandon the criminal justice focus because it was so thoroughly monopolized by the early entrants or because they identified new problems. Although they commonly forge alliances with local groups, local growth hardly matches that of the external allies. This remains one of the movement’s weaknesses—the limited local support base and its members’ tendency to privilege external over broader local alliances.

More recently, a third macro-goal appeared—the use of the justice system to better the situation of the poor. Here again external actors have played a major role, most recently through the creation of a UN Commission on Legal Empowerment of the Poor (CLEP). Yet international support has also strengthened new local allies, most notably public interest lawyers, a larger variety of NGOs, and an emerging group of socially oriented judges.⁷ This third strand also builds on activities introduced earlier—opening the courts to the traditionally marginalized, creating various kinds of ADR, legally educating the population, and promoting indigenous dispute resolution systems.

A Single Vision or a Field of Multiple Aims?

Judicial reform can be pursued for its own sake, but even then consensus on its objectives is notably lacking. Like rule of law, with which it is sometimes equated, the term has multiple interpretations (Tamanaha, 2004). The three macro-objectives, fortifying democratic governance largely through criminal justice reforms; promoting economic development; and reducing poverty by augmenting the poor's access to the courts or to "justice" writ large, enjoy a problematic co-existence. Twenty-five years into the project, this is becoming painfully visible, as when socially-responsible judges overrule legal contracts because they are harmful to the poor, or when expedited debt collection favors banks and other large lenders. One person's juridical security is another's entrenched elite privilege.

These contradictions have gone unnoticed for so long because judicial reforms have developed along several parallel paths even when encompassed in a single "holistic" project.⁸ Of course, there is common ground. No one endorses corrupt or under-qualified judges and police, and for the most part delay is not seen as a virtue. But there are differences in priorities and preferred methods, and as reforms have begun to make their impacts felt, the disparities among the ends sought are having an impact as well. The large umbrella sheltering all reform programs may now be too small for the task.

A STOCKTAKING ON PROGRESS TO DATE*Accomplishments*

Whatever doubts there are about the improvements, it would be foolish to contend that the reforms have had no impact. The sector has expanded dramatically. The absolute number of judges and other legal actors has increased several-fold in most countries; the ratio of judges per 100,000 inhabitants has reached a regional average of 8.1, as compared to the Western European 10. This often goes unnoticed because, with the exception of the police, sector institutions are small. Thus, even a quadrupling of staff has had little impact on public employment.

The judiciary's share of the public budget is correspondingly minor—it currently reaches 6 percent, at most, and more often falls in the 2–3 percent range. This is, however, quite respectable by international standards. In addition, some judiciaries (especially those in Brazil and Mexico) have special investment funds for construction and automation. Others have relied on donor financing. Despite well-founded concerns about how funds are used, the former picture of pervasive institutional poverty has decisively changed.⁹

Growth was accompanied and partly explained by structural changes—the addition of new organizations (prosecution and defense), specialized offices and actors as required by the new criminal procedures (for example, judges overseeing police and prosecutorial investigations); the introduction of other jurisdictions (e.g. family and juvenile matters, economic crimes, and constitutional issues); and the addition of intermediate courts and offices to oversee the territorially enlarged

system and other internal reorganizations designed to redistribute tasks. New services like ADR require public or private organizations to support them, and as access programs increase, new work units (mobile or small claims courts, one-stop justice centers, offices for orienting clients) have proliferated. Judicial councils, introduced in about half of the countries, require their own administrative services. In short, the justice sector has increased not only in size but in organizational complexity as a result of the reforms.

The sector workload has grown substantially, which was not anticipated by the reformers. Statistical records remain inadequate, but what does exist suggests an increase in filings and average workloads. In some instances (e.g. Brazil)¹⁰ judges are receiving and processing near-world record numbers of cases. Statistics for police, prosecutors, and public defenders are more dispersed and harder to interpret, but given rising crime rates, we can infer that they are busier than ever. New constitutional jurisdictions have increased their workloads dramatically. Brazil's constitutional court (the Supremo Tribunal Federal) now processes over 100,000 cases annually. Other supreme or constitutional courts routinely receive thousands of annual filings. Growth here may be most dramatic because prior to the constitutional changes of the 1980s (addition of guaranteed rights and means for accessing them), most high courts had a low constitutional workload, instead focusing on *casación* or a final review of ordinary complaints. Many new filings might fall in that category, but parties often find it easier (and faster) to request reviews alleging violations of due process rights.

A final change is a higher incidence of overrulings of laws and government actions via enhanced judicial review powers. While partly attributable to constitutional and other legal changes, there are clearly other factors at play: changes in the composition of the constitutional bench, greater citizen demand, more conflicted executive-legislative and inter-party relations (which leave more space for the courts to operate independently), and the emergence of lawyers specializing in public interest law. These trends have provoked increasing confrontations between courts and the executive, and occasionally, renewed efforts to control the bench.

Shortcomings:

This increased complexity, while intended to improve services, has created confusion among clients and staff. There are problems of coordination within and across organizations, failures to adjust to new mandates, and a reemergence of old vices within the presumably improved structural framework. Some countries have made the new mechanisms work as intended. Chile's experience with the new criminal procedures code, although initiated only recently and not without problems, is among the more successful. The Chileans have also taken the novel approach of tracking performance, identifying issues, and resolving them along the way. Unfortunately, most countries have not followed this example.

Brazil's ability to respond to, if not keep up with, a phenomenal demand for court services is another success story. Whether or not the automated batch-

processing of cases is the ideal solution, it has facilitated the handling of a growing number of repetitive demands. Two or twenty thousand requests for a similar readjustment to individual pensions can be answered with a template judgment, signed digitally by the presiding judge. Costa Rica has also used automation and novel reorganizations to keep abreast of its workload. It recently took another unprecedented step by having the legislature “de-judicialize” the traffic cases accounting for 60 percent of incoming filings.

On the other side, there are countries with less positive results. Throughout most of Central America and the less developed South American countries, judges still struggle with relatively small caseloads—an annual average of under 300, largely simple filings. As these countries were among the first to introduce new criminal procedures, it is particularly distressing that signs of improved performance are so few and that in some instances, the new rules have facilitated the reintroduction of old vices—offering more opportunities for bribes, stopping cases in their tracks. Available statistics suggest that police and prosecutorial closures of criminal investigations remain low, especially for the most serious crimes. Moreover, completed investigations of less serious crimes are often attributed to police rounding up the usual suspects, guilty or not.

The emergence of “neo-institutional economics” with its emphasis on the role of institutions in shaping economic growth offered a way around the prohibitions and a new rationale for justice reform.

Insufficient supervision of sector personnel perpetuates abuse of clients, corruption, and inefficiency. However, the fault is not always with the front-line workers, and there are still too many high-ranking leaders who perpetrate their own abuses or direct those of their subordinates. In nearly half of the region’s countries, observers have identified corruption networks centered in the supreme courts—not all have been disbanded. There are indications of similar networks among police and prosecutors. New hiring systems are criticized for focusing on the wrong criteria (e.g. an ability to recite laws from memory)¹¹ and for encouraging subjective assessments and patronage. Judges and prosecutors may take a written examination, but a personal interview often determines the final results. Although only a few countries (Haiti, Nicaragua, Paraguay) have not introduced a career system, others still rely on temporary appointments (Peru, which is slowly replacing Fujimori’s provisional judges, and Venezuela, where Chavez has imitated Fujimori’s practices). Some countries are criticized for making it nearly impossible to remove a judge or prosecutor “known” to be corrupt.¹² New disciplinary systems don’t work—they either provide excessive protection to poor performers or exert irregular pressures on staff. The same complaints apply whether discipline is handled by a high court or an external council.¹³

Except for countries like Brazil that have introduced pro se (self) representation for small claims courts or Colombia and Costa Rica where *tutelas* or *amparos* (individual constitutional writs) can be filed without a lawyer, and despite efforts to subsidize legal services, financial barriers continue to impede access for the poor. In some sense, the principal benefits of the reforms stop at the courthouse or lawyers' doors. Judges have better housing and salaries, and lawyers can now file by internet, but the ordinary client confronts a complex, unintelligible, and costly obstacle course. As for the promises of positive impacts on extra-system goals – democracy, growth, or poverty reduction—while perhaps a moot point because of the incomplete first-order improvements, there are doubts as to whether they would occur even in the best of circumstances.

The situation is dramatically illustrated by the ten years of opinion polls compiled by the *Centro de Estudios de Justicia de las Américas* (2003 and 2005). The polls show little change in public perceptions; some judiciaries demonstrate notable declines in already low public evaluations. As the polls only cover the last ten years, it is conceivable that ratings improved earlier. However, for a country like Peru where only 14 percent of the citizenry consider the courts trustworthy, any improvement would have been on a base of nearly zero.

Taken collectively, the polls indicate the same concerns the reforms promised to address—corruption, delays, and limited accessibility. More focused questionnaires might reveal some exceptions—citizens may approve such innovations as Brazil's mobile and small claims courts, certain constitutional bodies and mechanisms (most notably the handling of *amparos/tutelas* by Costa Rica's Constitutional Chamber and Colombia's Constitutional Court), or some more targeted innovations (but only by those to whom they were targeted). However, even in countries with positive examples, the sector's overall ranking contrasts starkly with the reformers' promises. What went wrong?

Some Explanations of the Expectations Gap:

The simplest explanation is that not enough has been done and not enough time has elapsed. While probably true, this contrasts with the reformers' predictions and the time frames they set. The maximum of five years allowed for major reforms (to criminal justice, to the quality of the bench, to expand access significantly) was at most sufficient to shake things up. After that came the hard work of making them work better. Hence, to the extent the gap originates in unrealistic expectations, the reformers deserve most of the blame. They oversold their product.

Yet, while reformers might endorse the first rationale (too little done in too little time), there are reasons for finding it insufficient. For one thing, some late-starters made real improvements. Chile did it not only with its criminal justice reforms, but also through increasing judicial independence, as demonstrated by judges' willingness to rule against the state. Some provinces/states in Argentina, Brazil, and Mexico also improved, although as late starters on the criminal justice side, more often in shortening delays or increasing access. However, even in unitary systems, there are

often specialized jurisdictions or districts that have shown progress. As this suggests, it may be less what the reformers aimed for than what they overlooked in achieving it that counts. If this is correct, more time to do more of the same is not the answer and will only lead to further frustrations.

Two problems affected the reforms from the start: poor information and over-reliance on legal change. The first is less often recognized, but it led the reforms down many wrong tracks. Twenty-five years ago, the justice sector was among the region's least studied and worst understood institutions. Organizational records were so bad that the numbers and location of employees, or workloads, were simply unknown. Lacking good data, the reformers instead relied on intuition, anecdotes, and conventional wisdom all notoriously inaccurate. For example, many problems were blamed on excessive workloads. With the benefit of better statistics, it now appears that most judges, prosecutors, and public defenders are not overburdened and that when push comes to shove, as it rarely does, they can dispatch their caseloads within reasonable time limits.

Poor information exacerbated a second problem - the excessive reliance on legal change. For some reason, lawyers, who should know better, typically offer a new law to resolve virtually any problem. The situation worsens when the problem is misdiagnosed. New laws are a useful means of announcing an intention to do things differently or removing legal obstacles, but they are notoriously insufficient on their own.

In some sense, the principal benefits of the reforms stop at the courthouse or lawyers' doors. Judges have better housing and salaries, and lawyers can now file by internet, but the ordinary client confronts a complex, unintelligible, and costly obstacle course.

There were frequent delays in drafting and enacting the new legislation, and in creating the structures it mandated. It took Bolivia, Argentina, Peru, and Paraguay several years to create their judicial councils, but that was not the end of their problems. The councils' performance (with the possible exception of Peru) is uniformly unsatisfactory to national and international observers.¹⁴ Most countries took less time to establish new criminal justice agencies (Colombia's 20,000-person prosecutorial agency is often described as emerging from one day to the next). However, when not wracked by corruption and general inefficiency,¹⁵ the agencies' members often continue to operate much as they did under the old rules. Prosecutors still compile written reports on evidence, and judges insist on seeing one, whatever the codes say about oral presentations. Constitutional courts have had a rocky trajectory, although some (Brazil, Colombia, Peru post-2001) have earned the respect of citizens (if not of the government) for the quality and quantity of their decisions. In explaining the few successes and the more numerous failures, several

additional factors merit mention.

First, the laws were sometimes poorly drafted, motivated more by a desire to incorporate important juridical principles than by an eye to what would work in practice. This derives from a tendency to leave the job to jurists who regarded laws as more symbolic (a statement of the ideal) than instrumental (a guide to action).¹⁶ However, when drafters did strive for results they often incorporated infelicitous details—things that could not be done, or that would create unnecessary hindrances or further complications. Many of them lacked practical experience. Their fertile imaginations and reliance on doctrine and models drawn from developed countries were not good substitutes; they were drafting in two dimensions for implementation in a four dimensional world.

Second, there was the question of how to get organizational actors to embrace the spirit of the new codes, especially if they had been working under the earlier systems. Observers often comment that the “new” Colombian prosecutors, many of whom had been instructional judges, continued to operate much as they had in their former roles. Moreover, many holdovers brought with them the vices the new systems sought to eliminate. A prosecutor or judge used to taking bribes was unlikely to desist just because the basic procedures were different. Even getting new recruits to act differently has been difficult because the only system they knew, however imperfectly, was the one being supplanted.

One evident answer is training, but much of what has been taught is more inspirational than practical. Absent the development of new *operational* procedures (what one does on arriving in the office on Monday morning), there is little other basis for the courses. Donors tried to fill the breach with programs on investigative or oral trial techniques, but that still left a large gap. Knowing how to conduct a single investigation is one thing; knowing what to do with 250 pending investigations and how to coordinate them with the police is quite another. In a situation where individuals traditionally learned by doing, picking up bad practices with the good, the need to design work processes systematically was simply unrecognized.

Much the same is true of structural re-engineering—setting up offices and work groups to address new tasks in the most efficient manner. Organizational “organic” laws (regulating internal structures and responsibilities) did exist, but had rarely been drawn up from a practical standpoint and were completely inadequate to current needs. At one point it probably made sense for each judge or prosecutor to have one secretary or clerk, two or three drafters, and a concierge, but that time had long passed. Unfortunately, the basic work unit design was as often as not carried over into the new era along with the original staff.

Finally, there were the issues of incentive structures (explaining why individuals behave one way and not another) and the oversight role played by organizational leadership. Incentive structures require carrots and sticks. Traditionally both revolved around the subjective evaluations by higher ups. Where higher ups had nothing to go on but their gut reactions, they were unlikely to distribute rewards any differently, in fact might punish those attempting to adopt new procedures. Despite the small

fortunes invested in computerization, automation plans rarely incorporated management information systems to allow more objective assessments. When performance statistics were provided, leaders often had no interest in using them and no basis for their interpretation.¹⁷

As this suggests, one overlooked element was the development of sector leadership and governance. Donor and national programs alike seem at most to require that leaders accept the new inputs, but virtually never mention concrete results. Computers were provided because those financing them believed they would accelerate case processing, but no one set targets. Training is financed to improve the quality of performance, but results are not tracked. Sector leaders have become more adept at requesting inputs, but they never make explicit promises on the outputs or attempt to monitor them. The problem—getting agency leaders to see themselves as managers—is both more critical and more resistant to resolution than getting lower-level actors to perform differently. In fact this second goal will never be achieved absent advances in the first one.

The challenge is most difficult for the judiciary, as collegial governance and judicial independence pose enormous obstacles to a more managerial outlook. However, the judiciary can and should be managed without interfering with judges' ability to make independent decisions. As one Argentine provincial court noted on firing a judge for inexcusable delays, "judicial independence refers only to the content of your decisions; it does not affect your responsibility for making them in a timely fashion." Unfortunately, a managerial perspective and skills are in short supply.

Then there is the problem of how to proceed when leaders are also incompetent and corrupt. Fortunately, the reforms have reduced the frequency of that situation. However, even in Brazil, where both problems are relatively rare, there have been a few recent scandals involving bribe taking as well as the discovery that many state appellate judges were receiving illegally high salaries or had violated the law against nepotism by placing their relatives in positions of confidence.¹⁸

As this suggests, the reforms, however nobly motivated, have fallen short of their aims because of enormous strategic oversights. Fortunately, many of these have been recognized, and if still lacking satisfactory solutions, are being addressed. However, what has been achieved has introduced several new concerns, most of them never contemplated previously. They are the topic of the final section.

EMERGING ISSUES AND CONTRADICTIONS

The challenges can be grouped into three related categories. Starting with the easiest, they are: how to get inefficient organizations to work more efficiently and effectively; how to deal with escalating workloads; and how to tackle the ideological and political contradictions among the various reform goals.

Dealing with Retrograde Institution and Politics:

This relatively basic problem largely affects countries at the lower end of the developmental spectrum. Typically, their justice sectors benefited from the reform

inputs (buildings, equipment, higher budgets and salaries) without making any effort to resolve performance problems—corruption, inefficiency, and a series of rather banal obstacles to marginalized clients (fees, attorney costs, and simple judicial prejudice). In the worst cases, the principal resistance originates not in the sector but in a broader power structure dependent on patronage and corruption and thus with little interest in improving sector capabilities or its professionally-based independence.

There are serious questions as to whether judicial reform can be advanced in a pervasively corrupt political environment. We have seen partial successes (the Dominican Republic during the late 1990s), but they thus far ended in substantial backsliding. Arguably, measures aimed at improving leadership's oversight and monitoring capabilities, increasing efficiency of case processing, and providing training to staff are worthwhile. Yet, there are risks that leaders' enhanced capacities will be used to undesirable ends. The same question applies to reforms directed at the police, prosecution, or defense. How much does one want to improve the internal efficiency of an organization if that efficiency might be misused?

In most of Latin America, the political situation is not so grim and the question is instead how one encourages unreformed, but relatively independent courts to adopt a program of self-improvement. What needs to be done is evident—the challenge is to encourage those in charge to do it. Governments and interested donors missed their chance by initially giving the organizations much of what they wanted (buildings, equipment, higher budgets and salaries) with no strings attached. Their only recourse is to condition further assistance on resolving concrete problems and to enlist the private bar, the press, and civil society organizations as monitors and supporters.

Demand Management in More Advanced Systems:

An emphasis on efficiency, managerial oversight, and control of corruption is a good start, but there are limits to its impact on growing demand. Eventually, organizations with large workloads must find other means to deal with them: expanding, diverting business to other venues, or simply rejecting it. Further expansion (“doing more with more”) seems unlikely, and thus they will have to adopt other measures or face mounting backlogs of unattended work. In truth, both options come down to rationing services, explicitly or implicitly.

For organizations adopting explicit rationing, cases can be prioritized in various ways—by monetary value, subject matter, or clients.¹⁹ Demand can also be controlled through entry barriers, ranging from the traditional tactic of rejecting filings for small errors in presentation to the relatively novel compulsory pre-entry mediation. Unfortunately, barriers usually have the largest impact on poorer clients. A third approach, now being explored by the most overburdened judiciaries, starts by recognizing that their workload includes many cases they should not be treating. Some are legal garbage—frivolous complaints; unnecessary, repetitive appeals, and other dilatory practices. Others involve important issues that might be handled more

expediently by alternative judicial or non-judicial means. These include examples like Brazil's pension cases where the judiciary steps in to do the administrator's job and others where the traditional absence of binding precedent means that thousands of identical complaints must be treated individually. The different categories have diverse solutions: targeted code reforms; judicially-enforced restrictions on appeals and redundant pleadings; steps to improve administrative services and sanction administrators for systematic abuses; dejudicialization, and adoption of collective actions and binding precedent. All will face enormous resistance. User complaints to the contrary, many powerful actors benefit from pervasive delays and congestion. Resistance is also bolstered by traditional values (i.e., the right to appeal any decision to a second-instance trial; the right to individualized treatment) and by certain unfortunate realities—an often well-founded suspicion that multiple reviews are necessary because individual officials (whether judges, prosecutors, police or bailiffs) cannot be trusted to act fairly and objectively.

For countries with individual caseloads upwards of 700 annual filings, efforts to control demand seem inevitable. The courts cannot instate them unilaterally—legislative, executive and citizen cooperation are needed to put them into effect and because of the political values at stake. Most solutions have a large technical component, but they will produce winners and losers, and thus merit a careful consideration of those impacts before being adopted.

Emerging Ideological and Political Issues:

The first challenges invite technical discussions and solutions however much politics impede their realization. In the third second set, the dilemmas and solutions are politically and ideologically defined. Most have already emerged in more developed democracies. It is surprising that Latin American reformers did not anticipate them, but they were too busy pursuing their individual projects. Nonetheless, the other shoe is dropping and can no longer be ignored. The issues are highly interrelated and can be expressed in several forms. The following is one of several possible iterations.

A first set of questions concerns the relationship between judicial independence and judicial accountability, the issue of “who guards the guardians?” Because external interference with the courts (and, to a lesser extent, other sector institutions) was a traditional complaint and a reputed cause of most other ills, reforms focused nearly exclusively on increasing independence, on the apparent assumption that more was always better. Two emerging scenarios challenge that assumption. In the first, repoliticization, courts, while nominally more independent, have been recaptured by political and other elites, resulting in a subservient bench with “stable tenure.” In the second, neo-corporativism, courts have translated greater real independence into an ability to forge partisan alliances, set their own rules, and exercise irregular controls over their own employees. While the temptation in both cases is to replace the incumbents, this risks a return to the status quo ante of complete formal and informal dependence—judges who owed their appointments and continuity on the bench to the administration *de turno*.

Other solutions being explored for these modern versions of traditional vices reintroduce the overlooked theme of accountability. Efforts to fine tune appointment systems continue, but quality at entry for officials who may remain in office for thirty years is insufficient, especially when they can further define the rules under which they will operate. Some kinds of accountability are easy to introduce — those regarding compliance with national rules on budgeting, contracting, transparency, and hiring. Judges and even police (claiming national security interests) have found creative ways to avoid them, but time is not on their side. Accountability is trickier for judgments—what to do about judges who habitually delay decisions, violate or misapply laws, or substitute biased interpretations. Improving complaints and disciplinary systems and increasing external oversight (if only to call attention to problems) are some solutions. Extending to other types of judges the limited appointments adopted for constitutional courts (following the European tradition) is another, but the general dilemma (which also affects other sector institutions) entails a continuing political debate over how much independence is desirable and how it is best achieved.

A second set of issues incorporates the themes of judicialization of politics, judicial activism, and the courts' appropriate role in controlling the other branches of government. If court actions were limited to resolving disputes between private parties, "excessive" independence would be less worrisome. However, their tendency to enter into grand politics has increased, if only because political actors invite it. If some judiciaries have voluntarily leapt into the breach, others are the victims of the vices of others—the executive and legislative creation of a legal framework, "never intended to be enforced" (Wilson et al, 2004) which the judges must now apply. The problem is less judicial activism or a government of judges (two terms now attaining currency in the region) than flawed legislation and parties' expectations that it be enforced. Its ultimate solution thus lies in countries' deciding which laws they want applied and rewriting their legal framework accordingly. Until that happens, the judiciary and others responsible for applying the laws face a lose-lose situation, either enforcing ill-conceived rules or violating them in the interests of higher values or simple common sense.

A third set of issues addresses the suitability of the thin rule-of-law model in a region where distributive justice has come to the fore. The same debate occurs in more developed countries, but the trade-offs are more stark in Latin America's highly unequal societies. Many Latin American jurists contest the model's emphasis on predictability and uniformity because of a traditional preference for the individualization of all claims. In its newer form, the opposition recognizes that laws are written by and for the benefit of elites, and thus argues that the classical rule of law only perpetuates an unfair status quo. It follows that judges must take the most pro-poor interpretations and where that fails, circumvent the law to favor the dispossessed. Social revolution by judicial fiat seems an unlikely outcome because it

will eventually provoke a negative reaction.²⁰ However, the argument does raise doubts about the entire rule of law project and its relevance to the region's most pressing socio-economic problems.

CONCLUSIONS

Latin America's quarter century of judicial reform began with the optimistic promise of improving sector performance and its contribution to broader development goals in a few years' time. Today, the optimism seems exaggerated. Changes have occurred, but neither the narrower nor broader goals are near achievement. The narrow goals are probably within reach although further progress will require substantial modifications to the strategies adopted and an ability to overcome the remaining political obstacles. The broader goals are more problematic. They may have been based on false premises, but even where not, still require some fundamental political choices, none of them envisioned by the reformers. If it is any consolation, these same choices face more developed countries and currently affect only the more advanced Latin American countries. For the rest, combating corruption, inefficiency, and limited access remain first priorities, necessarily preceding decisions on the type of rule of law they want and the sector's role in adopting it.

Notes

¹ See Linn Hammergren, *Envisioning Reform: Improving Judicial Performance in Latin America* (University Park: Penn State Press, 2007) for further discussion, especially pages 33-35 for the criminal justice doctrine.

² See *The Report on the President's Bipartisan National Commission on Central America* (New York: Macmillan, 1984) and its description of the judiciary as the "missing pillar" of democratic governance.

³ Other innovations included the creation of judicial councils (as judicial selection and sometimes governance bodies), the introduction of a judicial career (to increase judicial independence); the strengthening of the constitutional jurisdiction often via the creation of constitutional courts, and the incorporation of more constitutionally guaranteed rights. While the constitutions expanded the first generation (political and civil) rights, the real innovation was the long lists of second (socio-economic) and third (diffuse and group) generation rights.

⁴ ILANUD's contacts also permitted the involvement of several Argentine jurists. While less successful in implanting their reforms at home, they were instrumental in introducing them in Central America and elsewhere. For a lengthy discussion of the individuals involved, see Máximo Langer, "Why Do Codes Travel? Three Theses on Diffusion and the Wave of Criminal Procedures Reforms in Latin America," (Draft paper on file with author, 2007).

⁵ The Ford Foundation had been involved in justice programs since the earlier law and development movement (see James Gardner, *Legal Imperialism: American Lawyers and Foreign AID in Latin America* (Madison: University of Wisconsin, 1980 for a discussion). Its programs emphasized legal aid, public interest law, and "legal empowerment." See Stephen Golub and Mary McClymont eds., *Many Roads to Justice* (New York: The Ford Foundation), 2000. Available at: <http://www.fordfound.org/impact/searchresults?many+roads+to+justice> (accessed February 29, 2008).

⁶ Their articles of agreement prohibited political work and dictated a focus on economic development. The MDB's legal departments first interpreted this as placing judicial reform outside the acceptable areas of

action.

⁷ This group has raised questions about the earlier rule-of-law emphasis, suggesting that because the law is made by and to benefit elites, judges should circumvent it when it discriminates against the poor. See Armando Castelar Pinheiro, "Judiciário, Reforma e Economia: A Visão dos Magistrados," *Instituto de Pesquisa Econômica Aplicada*, July 2003. Available at: <http://www.ipea.gov.br/default.jsp> (accessed March 1, 2008) for a review of Brazilian judges' views. See also Ivan Ribeiro, "Robin Hood Vs. King John Redistribution: How Do Local Judges Decide Cases in Brazil?" *Latin American and Caribbean Law and Economics Association (ALACDE) Annual Papers*, May 1, 2007. Available at: <http://repositories.cdlib.org/bple/alacde/050207-03/> (accessed February 29, 2008) who casts doubts on their willingness to act on those views. Self-proclaimed "socially-oriented" judges are not a large minority in any country, but they can influence policy, especially when they sit on constitutional courts.

⁸ Hammergren, *Envisioning Reform*.

⁹ Higher sector budgets were not emphasized in most programs, but they were a natural consequence of the demands for more services and service providers. Donors occasionally included budgetary increases as conditions for their assistance.

¹⁰ See World Bank, *Making Justice Count: Measuring and Improving Judicial Performance in Brazil* (Washington, D.C.: The World Bank, 2005) for a review of these trends in Brazil. Brazil's average of 2,000 annual filings per judge is approximated by both Chile and Costa Rica.

¹¹ Luis Pásara, a Peruvian expert, now working in Spain, has made this criticism repeatedly.

¹² See Pablo Abiad and Mariano Thieberger, *Justicia Era Kirchner: la Construcción de un Poder a Medida* (Buenos Aires: Marea, 2005) for a discussion of this problem in Argentina's federal courts.

¹³ Linn Hammergren, *Do Judicial Councils Further Judicial Reform? Lessons from Latin America* (Washington DC: Carnegie Endowment for International Peace) June 28, 2002. Available at: <http://www.carnegieendowment.org/publications/index.cfm?fa=view&id=1015> (accessed March 2, 2008)

¹⁴ Hammergren, *Do Judicial Councils Further Judicial Reform?* for a review of experiences throughout Latin America.

¹⁵ See Due Process of Law Foundation (2007) for a discussion of the situation in Central America.

¹⁶ On this tendency see Mauricio García-Villegas, "Law as Hope: Constitutions, Courts, and Social Change in Latin America," *Eurozine*, February 25, 2004. Available at: <http://www.eurozine.com/articles/2004-02-25-villegas-en.html#footNoteNUM20> (accessed February 29, 2008).

¹⁷ Recent attempts to use the statistics for planning purposes are illustrative: the head prosecutor who argued that since his country had four times the homicide rate of the United States it needed four times the police, judges, and prosecutors (meaning that Colombia would have a world record 1,200 police per 100,000 inhabitants), or the Chief Justice who suggested that because the judiciary's share of the budget was only a fraction of that for education, the government cared less about justice.

¹⁸ One of the first actions taken by Brazil's new National Judicial Council, in 2004, was to order an end to both practices. It was estimated this affected the jobs of 2,000 to 3,000 judicial employees. Judicial salaries (and pensions) are set by a national law that apparently had been routinely ignored.

¹⁹ In diffuse constitutional control systems, rights cases already get priority over ordinary complaints.

²⁰ See Julio Faundez, "Legality without Courts – The Rule of Law Before Allende," (paper prepared for the *International Conference of Law and Society*, Berlin, Germany, July 25-28, 2007)

Brazil: Bright Prospects or Dark Portents?

by Matthew M. Taylor

Brazil is an island on its continent, separated from its neighbors by an ocean of history, culture, and language. And yet whither Brazil, so too Latin America. The country accounts for a sixth of the region's trade, and more than a third of its GDP and its population. In addition to its large share in all cross-regional quantitative measures, Brazil's weight is geopolitical as well, with the country playing a central role among leading emerging markets. The state of affairs in Brazil, then, is of enormous concern to its neighbors, and should be of great concern to the rest of the world as well.

Sadly, the message of this essay is that there is much for both Brazilian and foreign observers to be concerned about when considering the country's medium to long-term prospects. This message runs counter to the ecstatic headlines and rapturous investor reports that have dominated much coverage of Brazil since President Luis Inácio ("Lula") da Silva demonstrated, during his first year in office, that he would not reverse the process of economic stabilization or take a wildly populist policy route.

First, consider the full half of the glass. The country has not been hit by economic crisis for more than half a decade now, and all suggests that in the medium term, current policies will shield Brazil from the full-fledged financial panics of the sort that repeatedly hobbled it in the 1990s. Indeed, despite initial fears about the potential populism of the Workers' Party government that took office in 2003, Brazil has almost achieved investment grade ratings, the debt-to-GDP ratio is at its best place in a generation, Brazil repaid its debts to the IMF well ahead of schedule, foreign currency reserves stand at over \$160 billion, hyperinflation remains a distant (but not forgotten) nightmare, the primary fiscal surplus remains above four percent of GDP, and the balance of payments is in remarkable condition. Most importantly, after years in which an uncertain economic tide lifted only the wealthiest ships, inequality has been modestly but continuously shrinking for nearly a decade.

On the political front, as Brazil prepares to celebrate the twentieth anniversary of its 1988 Constitution, almost all naysayers have been proven at least slightly over pessimistic. Early concerns about the instability of multiparty presidentialism were clearly overblown, and despite the existence of twenty-eight officially recognized

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political parties, the political system has proven remarkably stable. The Constitution itself, which worried many because of its enormous breadth and binding constraints on policy, has proven elastic. With fifty-five amendments since its inception, it may be the most rapidly amended national constitution in existence. Granted, a plethora of veto players ensures that policy change is slow, but in retrospect, this resoluteness looks appealing next to the extreme policy volatility of more decisive majoritarian political systems such as Argentina's. Things do not ever happen quickly, but they do happen, and the stability of resulting policies may be some consolation.

Further, although growth over the past five years has been mediocre in comparison to the other members of the BRIC group of leading emerging market economies, Brazil seems a step ahead of Russia, India, and China when it comes to the sustainability of its growth.

Although it is far from perfect, in comparison to these three peers, Brazil has a well-adjusted democratic institutional framework, less dire environmental concerns, and remarkable though it may sound, benefits from a more advanced industrial capitalism, which is far less susceptible to political intervention. The combination of a complete commitment to economic stabilization by all the major political parties, the creation of strong fiscal safeguards over the past decade, and a relatively autonomous Central Bank suggest that Brazil's susceptibility to politically motivated volatility is far less pronounced than in the past. Furthermore, although they will never be completely resolved, the pressures of regionalism are far less jeopardizing than in the other BRICs, and ethnic or nationalist strife of the sort imaginable in any of the other three nations (e.g. Chechnya, Kashmir, Tibet) was long ago resolved. There is even reason to doubt the appropriateness of bundling Brazil together with the BRIC nations, rather than with other recently transitioned, and seemingly stable polities such as Spain, Chile or South Korea.

The sad truth, however, is that all this positive news has shifted attention away from the long-term. Given the many risks Brazil has successfully navigated over the past decade, the country is doing better than many anticipated. Partly as a result, policy discussions have hinged on the short-term, with little thought given to the effectiveness, sustainability or cohesiveness of Brazil's overall policy path. But the recent weakening of US financial markets, and the tremors it caused around the world, were a reminder that if things are not looking wonderful in good times, the picture will be far worse when the current global liquidity bonanza passes.

Although most indicators point to the likelihood that Brazil will continue to merit membership in the club of seemingly stable and consolidated democracies, the sustainability of the gains of the past two decades needs to be analyzed through a longer-term lens. This is especially the case if Brazil continues, by default, to rely on the state as the engine of its transformation.

With a great deal of simplification, we can group the threats to Brazil's long-term development around political, economic, and structural issues. As the first is the cause of many of the problems with the latter two, I focus here primarily on Brazil's political system. But it is worth beginning with a laundry list of the economic and

structural issues that seemingly threaten the nation over the next quarter century, before returning to the political system's role.

For all of the very important gains mentioned earlier, of which economic stabilization is undoubtedly the most important and in many ways the lodestone from which all other recent progress has derived, there is no way to hide Brazil's lackluster economic performance under democratic rule. In real terms, the country grew on average 2.9 percent per year during the first decade of democracy (1985–1994), and 2.5 percent in the second (1995–2004). In large part, this lackluster result during the first decade was the outcome of the military regime's dreadful legacy of debt and the exhaustion of import-substituting industrialization, coupled with hyperinflation. Many of these problems were sorted out by the turn of the millennium, but the combination of successive international financial crises, the need to preserve the Real so as to combat inflation, and a strong legacy of statist rule has crippled growth. These economic growth figures are especially disappointing in comparison to many of Brazil's emerging market peers. While many of the problems of external vulnerability have been resolved, not least because of the Partido dos Trabalhadores' (Workers' Party's) turn toward more market-friendly policies, the legacy of statism remains a pernicious force.

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This need not be an impediment to short-term growth, as China has shown so spectacularly. But as political scientist Barry Ames has noted, the tragedy of the Brazilian state is that it primarily benefits itself.¹ Despite hopeful recent improvements, gross public debt accounts for roughly two-thirds of GDP. Government spending is rigid, and seventy percent of revenue is strictly committed to specific programs under the terms of the 1988 Constitution, limiting policy discretion and the government's capacity to invest in infrastructure. Further, the federal government alone spends nearly five percent of GDP in salaries and benefits, with spending on government administration continuing to expand more quickly than the economy as a whole, rising nearly twenty percent in real terms between 2002 and 2006. The pension system is large (nearly twelve percent of GDP), but highly unjust (only 56 percent of the population has pension protection), and heavily biased toward civil servants, who receive far more proportional to their contributions than their private sector peers, despite two significant reforms in the last decade. And that is just within the public sector. The repercussions outside the state are equally frightening. Brazil has a bureaucratic apparatus that puts fear in the spine of all but the most intrepid entrepreneur. According to the World Bank, Brazil is at the bottom

of a long list of countries in terms of the amount of time required to open a new business. Starting a business takes three times the world average; incredibly, it can be even more difficult to actually close firms. The formal labor market is so rigid and regulated that only slightly more than half of those working are formally employed; the remainder manage without the protections they might enjoy under a more flexible but universal system.²

As a result, even in the past five years, as global liquidity has boomed to record levels, Brazil has grown at mediocre real rates of about 2.7 percent annually. This growth is weak not just in absolute terms, but also in terms of its composition. There is no way to escape the fact that Brazil adds little value to exports; it is primarily a commodity exporter, and can compete in terms of value-added exports in only a few fields, such as aircraft manufacturing, that have benefited from robust government assistance. As China and India push into the global market, with the potential for low-cost production and service-oriented industries, Brazil has yet to vigorously address the shortcomings of its business environment. Indeed, although there are hopeful signs, such as a growing push for tax unification between units of the Brazilian federation, government spending has increased, the tax burden continues to rise (by nearly nine percent of GDP between 1993 and 2003, when the total tax take reached thirty-four percent of GDP)³, and there is little sign of decreased regulation.

The effectiveness of government spending is also largely in doubt. The perilous condition of the air traffic control system and the dilapidated and woefully inadequate state of Brazil's airport infrastructure, especially for a nation of continental scale, became evident in the wake of two catastrophic plane crashes in the past year. The problem is not restricted to the air transport sector or to the Lula administration. Five years after blackouts crippled the country during the Cardoso administration, the continued shortage of energy generation illustrates that the lack of attention to infrastructure is a chronic and serious constraint on growth. In addition to air transport and electricity, other key infrastructure projects such as highways and ports badly need long-term investment. But with government spending on infrastructure constrained by other current expenditures, even efforts to increase investment have little promise: the recent Growth Acceleration Program (*Programa de Aceleração do Crescimento, PAC*) announced by President Lula to great fanfare, for example, simply rejiggers many existing programs into new boxes.

The private sector has a hard time providing alternative sources of infrastructure investment, especially in light of the credibility gap surrounding the institutional framework. A sad example emerges from the experience of the federal regulatory agencies. Created in the mid-1990s, these have largely been subverted by old-style political patronage appointments, tight budgets, and the hard-nosed politics of an executive that never had much sympathy for their potential role. As a result, these supposedly autonomous agencies have largely become paper tigers, subservient either to the industries they supposedly control or to the ministries out of whose hands they were intended to take policy. Similarly, despite the party's supposed turn

to market-friendly economic policies, members of the ruling Worker's Party recently floated proposals for the re-nationalization of CVRD—the enormous mining concern privatized in 1997. These are not the only examples of a credibility gap, of course, but they illustrate that the prevailing emphasis of many market analysts on legislative progress and other easy metrics of political change obscure the importance of achieving a credible consensus regarding the long-term institutional framework.

Perhaps the most frightening aspect of Brazil's current outlook, however, relates to human capital. Since the return to democracy, Brazil has made significant improvements in the standard of living: between 1990 and 2005, the number of Brazilians living below one purchasing-power-adjusted dollar per day was halved to four percent of the population; infant mortality has dropped from 53.7 deaths per 1,000 to 28.7; and the real minimum wage rose by nearly eighty percent. But these impressive quantitative measures obscure the fact that the provision of social welfare is extraordinarily inadequate. If there is any consensus whatsoever on social policy, it is that spending by governments at all levels of the federation on health and education is inefficient, and both systems have long been teetering at the brink of complete insufficiency. At an international level, Brazil's lackluster educational performance—one estimate places functional illiteracy at nearly seventy-five percent of the working age population⁴—is the key source of competitive disadvantage, especially as well-qualified workforces in China and India come online at much lower cost.

Meanwhile, the pace of social gains has been slow, at best. Even extremely positive improvements in inequality under Lula appear to have resulted largely from direct income transfer programs and a mandated increase in the official minimum wage rather than from any overall structural improvements. The *Bolsa Família* program has been widely and justly praised for providing a minimum wage support to nearly a quarter of Brazil's population, largely in the northern and northeastern regions. But the very success in expanding the program has weakened the effectiveness of incentives that originally were intended to tie the program to school attendance and mandatory health checks. Another victim of the program's success is other social spending. The government predicts that the *Bolsa Família* will account for three of every five *reais* in federal social spending in 2008.⁵ Finally, for all the good it has wrought, the program provides many with a fish, without teaching them to fish. It is, in other words, a program that is unlikely to put itself out of business, much less to create lasting gains in terms of sustainable human capital development.

Why the difficulty of effective policymaking, such as health and educational reforms with a long-term view? It is not so much a problem of excess veto players, but rather of the way in which these veto players are incorporated into the political system.

Perhaps the best way to illustrate this is by noting that no matter which candidate or which coalition wins the 2010 presidential election, the *Partido do Movimento Democrático Brasileiro* (PMDB) will likely be the key political powerbroker in the new

presidential administration. Indeed, the clearest lesson of the current Lula government is that while presidents of left and right come and go, they all bear the pragmatic, clientelistic PMDB as an incubus. This party, and other centrist but heterogeneous parties like it, hold the votes and the power in Brazil's political system. Without bringing the PMDB on board, no presidential candidate can be elected; without bringing the PMDB and similar parties into the cabinet, it can be impossible to govern.

The irony, however, is that the determining factor in the success of the new government will likely be the president's ability to undertake independent policymaking despite the PMDB. As noted earlier, Brazil's multiparty presidentialism has proven less unwieldy than many expected. As Fernando Limongi and Argelina Figueiredo have convincingly proven, the president has strong tools at his disposal to corral and direct a governing coalition in Congress.⁶ Almost every presidential administration (except, not by coincidence, the doomed Collor administration), has managed to patch together a fairly stable congressional coalition that enabled them to govern, and in fact permitted significant policy reforms, such as the Real Plan, the privatizations of the 1990s, and the social security reforms of the past decade.

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But while a rudimentary governability is possible, hazards permeate the process of coalition formation. Coalitions are pulled together on the basis not of policy preferences, but primarily through pork. Congressional representatives are brought into the governing coalition in return for patronage appointments or the funding of budgetary line items, while campaign contributors give money not to advance particular policy preferences, but to buy personal access to government services. Too often over the past two decades it has become clear that this system makes policy change incredibly slow. Any policy change requires significant advanced planning and executive commitment, as well as constant negotiation and recurrent horse-trading, without which determined policy opponents are handed a veto over policy. Few policy changes are approved without being sponsored and actively pushed by the executive, meaning that reform requires constant oversight and energetic cheerleading by the president. Even the most successful politicians are tarnished by their association with the horse-trading and pork barrel politics at the heart of the negotiations, leading to the perception of political corruption.

These perceptions are especially damaging because there is little sense of a functioning accountability process that can condemn the corrupt and exonerate the

innocent. Over the past two decades, few politicians have been held accountable for corruption, even in the face of overwhelming evidence presented to the public. President Collor was famously impeached in response to widespread public protests, but then absolved of criminal conduct by the high court. In the recent *mensalão* scandal that toppled most of Lula's inner circle, the high court recently indicted the key culprits two years after the scandal erupted, but appears unlikely to reach a decision on either conviction or absolution until after Lula leaves office. It is worth noting that the *mensalão*—a “big monthly allowance” used to encourage ideologically disparate congressional representatives to tow the government line—was itself part of the process of coalition formation.

Endemic corruption is a serious concern at the state and municipal levels of the federation as well. By way of illustration, the euphoria of police when they recently captured Colombian drug kingpin Juan Carlos Ramirez Abadía was undercut by revelations that one of the reasons he had been on the lam for so long in São Paulo state was that local police forces saw handsome profits to be made from milking this billionaire and his lieutenants of protection rents. This is but one of many possible examples of the endemic corruption of key accountability institutions, ranging from police to courts.

Indeed, perhaps the two most destructive threats to Brazil in the medium term lie in the intertwined issues of corruption and public security. While most market analysts and political consultants focus overwhelmingly on macroeconomics and macro-politics, these two threats are increasingly eroding the foundations of Brazilian democracy. There is the same disconnect in public discourse as well. In the recent *mensalão* trials, for example, the high court was widely praised for the indictments it handed down, as though these were sufficient to temper corruption and move the country to a new level of the rule of law. Undoubtedly, the indictments were important, in part because of the novelty of the high court actually moving to try politicians. But a host of other politicians have also been found to have acted corruptly in recent years, and few have even been removed from office, much less convicted. Almost none have actually been sent to jail and it is doubtful any of the kingpins in the current scandal will be either. This constant impunity has a pervasive and corrosive effect on public sentiment.

Public security is a related theme. In part because of the widespread corruption of police forces and the ossification of the judiciary, Brazil is a dangerous place. More importantly, one of the few licit remedies widely adopted to deal with crime has been the packing of prisons, which has the perverse effect of turning these into breeding grounds for criminal gangs. The wave of well-orchestrated attacks that paralyzed São Paulo last year illustrated the sophistication and serious threat posed by such prison-based gangs, especially as they enter into overt conflict with state police forces.

Aside from the clear concerns both gang—and police-related violence should spark about individual rights and the rule of law, they also have a more quantifiable cost in terms of lost lives, risks to investors, and the overall business climate. For

reasons that are not entirely clear, murder rates have been declining from record levels in some major cities such as São Paulo. But homicide rates remain significantly above the world average, and kidnappings and violent robberies are widespread and probably rising (although data is sparse). These crimes inevitably have a cost, most dramatically in the case of tourism, but increasingly in other economic fields. As Fiona Macaulay notes in her masterful recent survey on public security in Latin America, the economic cost of crime in Latin America has been estimated by multilateral development agencies at fourteen percent of GDP, with a lower but still highly significant cost of three to five percent of GDP in Brazil.⁷ If the cost of exchange rate policy to the economy were this high, surely a coalition of business and civil society groups would begin to pressure Congress for change. So far, however, the pressures for public security reform have been too fragmented to generate a common framework that can overcome the strong mutual distrust and jealousy between the powerful professional lobbies of Brazil's many different police forces, prosecutors and judges.

Despite these many long-term risks, it is very unlikely that there will be any explosive denouement to Brazil's current predicament. For all its failures, the political system is well institutionalized, procedurally democratic, and highly adaptable. There is no race between order and disorder; the two seem to coexist in comfortable harmony within the political system. This, to some extent, is both the tragedy and the paradox that confront any observer. Democratic Brazil is the country of muddling through, neither advancing in grand spurts nor imploding in self-destructive fury. The question is whether this is a sustainable or desirable outcome.

My message here has been a cautious one. Brazil appears to be teetering on the brink of greater things. It is far better off than its supposed counterparts in the BRICs, and indeed, it would probably be a mistake to set the country's sights as low as the association with the other three BRIC nations suggests, when the real quest is to pull alongside the consolidated OECD democracies. Although achieving meteoric Chinese-style growth does not seem to be in the cards, neither do the associated political, social and environmental convulsions this may trigger. Rather, the long-term outlook for Brazil must go beyond economic growth alone, deepening the social and political foundations of Brazilian democracy.

In light of recent improvements, there is much to be hopeful about. But if Brazil is to achieve its potential, the consensus regarding economic stabilization needs to be expanded to include three central themes for reform: 1) human capital development, including basic health, education and public security provision; 2) electoral and judicial reform, aimed at curbing both corruption and the pork-centered process of coalition formation; and 3) fiscal and tax reforms aimed at increasing the flexibility and decreasing the weight of the Brazilian state. Although all three are increasingly on the minds of many observers, momentum has not yet built to generate the significant societal pressure required to seriously advance these reforms.

Notes

*The author thanks Georges Landau, Lourdes Sola, Maria Hermínia Tavares de Almeida, Norman Gall, Rubens Ricupero, Paul D. Taylor, and the editors and reviewers at the *Journal* for constructive feedback. All errors and opinions are the author's alone.

¹ Barry Ames, *The Deadlock of Democracy* (Ann Arbor, MI: University of Michigan Press, 2001), 3.

² Paulo Tafner, "Brasil: O Estado de uma Nação: Mercado de trabalho, emprego e informalidade (Brazil: The State of a Nation: the labor market, employment and informality)," *Instituto de Pesquisa Econômica Aplicada (IPEA)*, 2006, 266. Available at: http://www.ipea.gov.br/Destaques/brasil2/Resumo_MercadodeTrabalho.pdf (accessed January 31, 2008).

³ Data courtesy of Tendências Consultoria Integrada.

⁴ The population between fifteen to sixty-four years of age; "5º Indicador de Alfabetismo Funcional: Um diagnóstico para a inclusão social pela educação," *Instituto Paulo Montenegro*, São Paulo, September 2005. Available at: http://www.ipm.org.br/ipmb_pagina.php?mpg=4.02.00.02.00&coin=5&cidn=1&ver=por (accessed January, 31, 2008).

⁵ The category "social spending" in the federal government's budget does not include health, education, and social security spending. When all of these forms of discretionary spending are summed, the Bolsa Família accounts for about one in six reais of total spending.

⁶ A. C. Figueiredo and F. Limongi, *Executivo e Legislativo na nova ordem constitucional*, (Rio de Janeiro, Brazil: Editora FGV, 1999).

⁷ Fiona Macaulay, "Knowledge Production, Framing and Criminal Justice Reform in Latin America," *Journal of Latin American Studies* 39, no.3 (2007): 627-651.

Turning to the Left? Understanding Some Unexpected Events in Latin America

by Carlos M. Vilas

Argentina, Bolivia, Brazil, Chile, Ecuador, Nicaragua, Uruguay and Venezuela are currently ruled by governments that are typically considered to be on the left of the political spectrum due to their progressive, reformist stances. Together, these states account for almost two thirds of Latin America's population and roughly half of its combined GDP. In the 2006 presidential election in Mexico, the candidate who shared the political views of the aforementioned states was defeated by less than 1 percent in a contested turnout.

There is stark contrast between the current political landscape in Latin America and that of the preceding decades, a time in which most of the region seemed politically committed to implementing drastic macroeconomic and institutional reforms inspired by the so-called "Washington Consensus." "Market democracy" was the name of the game, highlighting the combination of representative democracy, enacting market-friendly reforms and an open exposure to the trends and forces of an increasingly globalized international arena. In the field of democratic theory market democracies were interpreted as the successful result of democratic consolidation that followed the transitional stages from military regimes to liberalized states such as Argentina, Chile, Uruguay and Brazil.

After numerous economic crises and social unrest followed the electoral success of a number of reformist-platform parties, replacing the groups who had implemented the socioeconomic models of the 1990's in place. The deterioration of many of Latin America's market democracies seemed to have surprised many in the academic, media, and financial fields as well as the policy makers in the developed world. Nationalism, state-sponsored development, and government controlled market regulation replaced the earlier market reform agendas. To a large extent the typical remarks and hypotheses surrounding these government changes and future expectations appear to be based more on skepticism than an objective analysis of facts and trends.

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The central purpose of this article is to briefly discuss some of the features of these political phenomena, paying particular attention to both the reciprocal differences and common traits, as well putting forward the elements for a basic understanding of the current situation in a number of Latin American—primarily South American—societies. The main conclusion of this exercise is that the new Left-wing reformism in Latin America has risen in response to several decades of neo-liberal economic and social reforms under the aegis of the Washington Consensus, particularly by countries still struggling with national or social integration issues as well as demands for even further social and political change.

DIVERSITY

The range of Latin American governments that are included under the classification of “Left” exposes the imprecision of the term. Despite shared goals of socioeconomic and institutional reforms, the policy-tools and strategies these governments appeal to in order to achieve them are very diverse. What is the criterion by which the Chávez administration of Venezuela and that of Chile’s Bachelet, are grouped together for instance? The Venezuelan government often asserts its commitment to a radical transformation of both the political régime and the socioeconomic system apart from capitalism and towards a “21st Century Socialism”, as Mr Chavez has baptized his political design. Meanwhile, the current Chilean government maintains its dedication to continuing the political and socioeconomic régime it inherited from its democratic predecessors of the 1990s.

Beyond these examples and throughout Latin America the differences in the methods of governance are apparent. The Kirchner administration in Argentina is sometimes perceived as Left-wing due to past confrontations with the International Monetary Fund and foreign creditors as well as previous political differences with the United States regarding international issues, despite Argentina’s relatively moderate social reforms. Lula da Silva’s Brazilian government is frequently referred to as “Leftist” generally due to the social and political trajectory of most of its leaders, as well some ideological traits of the ruling Workers’ Party notwithstanding its persistent attachment to orthodox macroeconomic policies. There is, then, a vast array of political expression that seems to fall under the umbrella term “Left” that must be taken into account in order to achieve a more comprehensive understanding of current political affairs in the greater part of Latin America.¹ Therefore, we must first consider the duration of each administration in their respective offices because a newly established government cannot be treated the same as a more experienced and well established one.

Bachelet’s presidency in Chile is the most recent expression of an ongoing political coalition (Convergencia Democrática, or Democratic Convergence) that has ruled in Chile since 1990. Hugo Chávez was elected President in 1998 and again in 2006 while Lula received the Brazilian vote in 2002, Argentina’s Néstor Kirchner took power in 2003 and Uruguay’s Tabaré Vázquez has led since 2004. More recent administrations include those of Evo Morales in Bolivia (2006), Rafael Correa in

Ecuador (2006) and Nicaragua's Daniel Ortega (2007). Time in office provides experience in the exercise of power, increased knowledge of the scope and limitations of policy options and institutional instruments, as well as gaining awareness of the restrictions stemming from other actors' and from the configuration of political settings—both domestic and international. If politics is—as Max Weber stated—a profession, a successful performance depends a great deal on the acquisition of practical knowledge alongside its exercise.

Secondly, Lula da Silva, Michelle Bachelet, Tabaré Vázquez and Nicaragua's Daniel Ortega came to power as the outcome of an electoral competition within a consolidated institutional framework. On the contrary, Kirchner, Morales, Correa and Chávez, took office in countries undergoing deep, persistent social and institutional crises which in a few cases forced the resignation of previously elected authorities. In the first group of countries Neoliberal reforms predated the ascent to power of the current administrations. Previously, radical market reforms were implemented in Chile by the Pinochet dictatorship; in Uruguay they were advanced by the traditional two-party system that was eventually defeated in the polls by Vazquez's Frente Amplio party; in Brazil and in Nicaragua, market reform was implemented by the preceding administrations of the 1990s.

The range of Latin American governments that are included under the classification of “Left” exposes the imprecision of the term. Despite shared goals of socioeconomic and institutional reforms, the policy-tools and strategies these governments appeal to in order to achieve them are very diverse.

The ‘New Left’ in these countries were able to run for office and win elections unencumbered by associations with past neo-liberal reforms that were largely understood by the citizenry as socially regressive and contrary to national interests. Conversely, in Argentina, Bolivia and Ecuador (as in Venezuela in the 1990s), economic reforms were implemented by democratic parties and leaders—some with a wide labor base such as Argentina's Partido Justicialista or Bolivia's Movimiento Nacionalista Revolucionario—who subsequently had to face increasing social unrest and macroeconomic deterioration. These factors eventually culminated in huge political crises and the overthrow of the governments promoting the reforms, while simultaneously discrediting the political parties that supported them.²

Thirdly, the Morales and Correa governments face a number of unresolved ethnic, cultural and regional integration issues that have been aggravated by recent sociopolitical crises, making the achievement of a basic national consensus on much needed institutional as well socioeconomic reforms a particularly challenging task. The very existence of the state as a unified principle of political command and delivery of public goods is under severe strain in these countries with complex

geographies that reinforce cultural cleavages. In both Bolivia and Ecuador, as well in other Andean societies, the entire make-up of power relations rests not just on socioeconomic or class issues, but also on ethnic and regional issues. Even today, political institutions, wealth, and social prestige, are mostly the inheritance of well educated, healthy urban people of European descent; while most of the historically native population survives under unbelievable conditions of poverty and scarcity. Indigenous South Americans are practically, if not formally, marginalized from schooling, decent health services, personal security, and other basic dimensions of modern human needs. In these countries, political change often involves not only a drastic shift in power holders, but also a cultural and ethno-demographic shift. Accordingly, if social integration (i.e. closing the huge inequality gap that is one of the most relevant features of Latin America's social settings) is a pressing challenge for all of these governments, national integration is an additional complexity in Andean societies.

COMMONALITIES

Reformist democracies

The first common trait linking these “New Left” administrations is their democratic birth; they have all come to power by means of a competitive electoral process rather than through military might. Armed struggle seems to have become a part of the past, proving that there is no better antidote to violent political change than effective political democracy. Like their more conservative counterparts, these Left-wing administrations utilize this consolidation of representative democracy as a system for political competition; yet they have freed the system from an artificial attachment to a specific economic approach such as “market democracies”.

The implementation of the economic reform agendas that enabled these governments to win elections has further exacerbated confrontations with economic elites, as well as with middle class professionals who are oftentimes well-established in certain government institutions and professional corporations. The Morales administration came into conflict with both the Constitutional and the Supreme Courts, in addition to a number of regional governments and several foreign-owned oil companies, including Petrobras, the Brazilian state-owned oil company. Similarly, Chávez has struggled repeatedly with the bureaucracy of PdeVSA and the elite owned media; the Kirchner administration has battled with some segments of the judiciary, as well as with the leadership of the Catholic church; and strained relations between Ecuador's Rafael Correa and Ecuadorian Parliament and the Courts are just some of the more noteworthy cases.

More often than not, leaders from the New Left respond to opposition from more affluent factions of the middle class by a persistent appeal to “the people” through a variety of means. Some hold mass-rallies while others use institutional resources such as referendums or constitutional reforms in order to stir up political tensions. But not all of these conflicts are solely results of economic or social

policies. For example, one of the most significant tensions between the Argentine leadership with sectors of the Catholic Church as well as the judiciary is the intention of the Kirchner administration to thoroughly investigate and ultimately punish those responsible for the human rights violations of the military régime of 1976–83 (also known as the Dirty War).

Beyond their commitment of managing political conflicts without violence, a common feature of all of these administrations is their conviction that exercising democracy involves the promotion of progressive social change. These reforms are advanced in a democratic manner assuming that democratic institutions foster progressive socioeconomic reform. The notion of democratic ideals has been deeply rooted in Latin America's political culture since before the early 20th century. However, social transformations have repeatedly escalated social conflicts within many of these countries primarily due to political opponents who, after losing their positions of power, are the most negatively affected by the changes made by these reform-minded governments. Frequently these individuals appeal to their economic resources, international connections and media ownership to oppose, obstruct, or mitigate reforms. The failed violent coup against the Chávez government in April 2002 that was chiefly conducted with the involvement of powerful Venezuelan economic elites allegedly assisted by some foreign governments (namely the US) suggests that devious behavioral tendencies have not entirely disappeared from the repertoire of conservative politicians and elites.³

The notion of democratic ideals has been deeply rooted in Latin America's political culture since before the early 20th century.

The previously mentioned crisis of traditional political parties in countries like Venezuela, Ecuador and Argentina from their involvement in neo-liberal reforms has contributed to reinforcing the personalization of politics and increasing the effective power of top leaders. A number of comparative opinion polls have shown a persistent public distrust of politics, political parties, the judiciary, and parliaments in most Latin American countries. This skepticism appears to usually arise out of the respondent's perception of the performance of these institutions as well as its leaders.⁴ In the absence of constitutional institutions having strong, unquestioned legitimacy, government offices tend to be associated with the actions of the President considered the constitutional head of state as well as the highest political leader. Under these conditions, ruling parties become little more than electoral tools devoid of any relevant influence in government affairs or in the nomination of candidates for electoral competition. While conventional political wisdom tends to associate *caudillismo* as an inheritance from Latin America's Spanish colonial rulers, it is also a recurring factor wherever a new political régime is being built.⁵ In Venezuela, Chávez dealt with this aspect in a two-fold manner: he created a new political party while promoting a failed constitutional reform which, among other innovations, was

addressed at removing limits on the number of times a president could be reelected. In Argentina, despite enjoying a high approval rating, Kirchner relinquished the constitutional possibility to run for a second term. In the style of the old Mexican PRI, Kirchner bypassed party mechanisms to personally appoint the party's official presidential candidate—his wife, Senator Cristina Fernandez, who was elected in the presidential contest in October 2007.

In democracies focused on *social* transformation, decision-making is heavily centralized in the executive branch. In the neo-liberal “delegative democracies”⁶ of the 1980s and 1990s presidents addressed the standard prerogatives given by the parliament while exerting pressure on the judiciary. These actions facilitated the implementation of the Washington Consensus in Peru, Mexico, Brazil, Ecuador and Argentina and came with the endorsement of the international financial institutions and sectors of the US government. Conversely, today, democracies promoting progressive social transformations are devoted to advancing change in a different direction. Chavez's or Kirchner's *decisionism* is not stronger, more evident, more intense, or greater than that of Carlos Menem's or Fernando de la Rúa's in Argentina, Alberto Fujimori in Peru, Mexico's Carlos Salinas de Gortari or Venezuela's Rafael Caldera. Only the contents of the decisions have changed, as have also changed those who win and those who lose with them.⁷

Pragmatic politics

Another trait worth underlining is political pragmatism. Pragmatism does not necessarily suggest moderation in government goals or reforms, but rather it provides a more careful assessment of what can be successfully accomplished at each juncture; which policies should be deferred or discarded; and how to anticipate or manage conflicts with other political or social forces. A pragmatic approach to decision making addresses all aspects of policy creation, such as procedures and methods, and not only their objectives and goals. It especially implies discarding the notion of unlimited governmental power, a frequent misunderstanding in those who have not held government positions before.

Political experience during the 1980s and onward, in holding power at either the municipal, provincial, or parliamentary levels, has proved to be of utmost utility. The Brazilian Workers' Party, Bolivia's MAS (Movement Towards Socialism), the Chilean Democratic Convergence, Uruguay's Frente Amplio, and Argentina's Justicialista Party have acquired extensive experience in political institutional participation at both the executive and legislative branches, in domestic as well international affairs. Daniel Ortega presided over Nicaragua in the 1980s; Néstor Kirchner began as the elected mayor of his hometown, Río Gallegos prior to being elected, and re-elected, governor of his Santa Cruz Province, from where he successfully competed in the presidential race in 2003. Tabaré Vázquez was a successful and very popular mayor of Montevideo before being elected to the Uruguayan Presidency. There are few newcomers in this political arena, although some have only recently gained their somewhat notorious reputations on the international level.

Pragmatism is also apparent in the strategies created to build broad electoral coalitions that paved the way to power. Daniel Ortega is one of the more illustrative cases. His electoral victory in January 2007 after three unsuccessful attempts was nevertheless the result of sustained popularity in large segments of the Nicaraguan society, together with pre-electoral *power* brokering with his former political foes, such as Cardinal Obando and former Nicaraguan President Arnaldo Aleman. In Brazil, Lula has managed to initiate a complex system of parliamentary agreements to appeal to right-wing parties thus preserving much necessary parliamentary support. In Chile, the successful coalition of Socialists, Christian Democrats and Radicals has kept the coalition government in power for more than a decade. In Argentina, Kirchner created alliances and negotiated with factions of the centrist Radical Party, smaller political organizations and provincial governors in order to counterbalance the Justicialista Party's hegemony of his Frente de la Victoria, yet without alienating JP's much needed contribution as an electoral machine. In addition, Kirchner has appointed a number of leaders of independent non government organizations to government positions in areas such as environment, human rights or social policies. Thanks to the creation of the *Alianza PAIS*, Rafael Correa was able to win over the presidency of Ecuador from traditional parties and, more recently, the new Constitutional Assembly.

A proactive state

Recently many Latin American countries have benefited from sustained economic growth, in part fueled by rising international prices for exports. Increased earnings are being channeled to cover the expansion of government costs that are intended to alleviate poverty, remove social inequalities, advance social and economic development as well as reduce the burden of foreign debt. Although the shared goal is to establish an alternative public-private economic mix, the reorientation of social and economic policies in Bolivia, Ecuador, Venezuela, and to a lesser extent Argentina and Uruguay contrasts sharply with the preservation of 1990s neo-liberal parameters in Chile and Brazil (Nicaragua still being an open question).

In spite of pragmatism, this Left-wing reformism has clear ideas regarding socioeconomic issues. While it criticizes "really existing capitalism," (as opposed to theoretically) it is not against capitalism as a system, but what could be termed as "Neo-liberal capitalism," i.e. the result of more than a decade of macroeconomic, institutional, and social reforms which many people, including most of these governments' electoral supporters, blame for decline in their living conditions. The new Left governments do not push forward an inclusive program of structural transformations as the Left of the 20th century intended to do, but rather a program of reforms aimed at more steady growth, more equal distribution of wealth and benefits, and a more balanced national participation in regional and global settings. Thus, it opposes the specific type of deregulated, individualistic capitalism born in the 1980s and 1990s under the aegis of the Washington Consensus, but in its place it proposes no more than to move beyond it by means of more ambitious policy

goals and more effective policy instruments, much in the vein of World Bank's former Chief Economist Joseph Stiglitz.⁸ The main exception to this model is Chávez and his proposal of “a socialism for the 21st century” which up to now has gained some sympathies from the governments of Bolivia, Ecuador and Nicaragua.

A number of comparative opinion polls have shown a persistent public distrust of politics, political parties, the judiciary, and parliaments in most Latin American countries. This skepticism appears to usually arise out of the respondent's perception of the performance of these institutions as well as its leaders.

In all these cases, the state is assigned a more active role in regulating private investment and businesses and in directly controlling certain resources considered to be of strategic relevance. This includes, but is not limited to: renationalizing companies that had previously been privatized—in fields such as natural gas, oil, telecommunications—and greater state participation in planning investments in economic and social infrastructure—housing, education, health, communications and transportation. While to some critics resorting to a more active state participation may invoke 20th-century Latin American experiments with populism or development, it can also be linked to the persistent influence of Western European political institutions and experiences in Latin American political culture. If the very idea of a regulated capitalist economy may sound as anathema to neoclassic economists and to the unregulated Anglo-Saxon capitalism of the second part of the past century, it is an important notion in the “social democratic” and Asian models for capitalist development. The latter school remains influential on Latin American policy makers, but unlike the development or populism of the past, new Left administrations pay closer attention to macroeconomic fundamentals and proper management of fiscal accounts (fiscal discipline, efficient public management, public responsibility, and ensuring policies of social reform are apace with macroeconomic foundations).

The expansion of the state's involvement in economic affairs can be understood as a consequence of the perception on the necessity to recover or reinforce regulation capabilities—as listed in most of the constitutional texts—in key sectors of the economy which had been transferred to business actors in previous decades. The privatizations of the 1980s and 1990s involved not only transferring the ownership of state assets to business corporations, but also delegating on the boards of those companies the policy objectives and goals that are typically political concerns of the state.⁹ Reincorporating the state in these matters should be viewed in the context of the rebirth of nationalism in certain economic activities, and as the political determination to recover the control of policies for development and well-being.

Reformist governments halted the wave of dismantling the state's regulating tools and privatization of strategic natural resources and services of the 1980s and 1990s. The objective of enhancing the state's involvement in economic development is prevalent in administrations that, without altering property relationships, have strengthened government tools for regulation and control (Chile, Brazil, and Uruguay); some have occasionally resorted to nationalization. In Argentina the state resumed direct administrative jurisdiction over certain services that had been conceded to foreign companies: water and waste disposal in the metropolitan area; the administration of radio waves; the postal service; and a state-run energy company which was created in order to develop a countervailing actor to private ones. Nevertheless, most services that were privatized in the 1990s continue to operate under private companies, despite the recent repossession of certain industries by states. Evo Morales' administration re-nationalized oil and natural gas which was his main campaign pledge; Chavez did the same with the gigantic PdeVSA oil company; and recent public pronouncements from Rafael Correa suggest that the Ecuadorian government is about to do something similar regarding oil wells and exploitation. In most of these cases, re-nationalization has been carried out within the pre-existing legal framework, sometimes after long negotiations which also included the usual ingredient of institutional and de facto pressures and threats from every party in the negotiation.

Argentina, Bolivia, Brazil, Venezuela have strained relations with their external creditors, particularly the IMF. Argentina reduced its foreign debt drastically by means of a gigantic default and paid off its debts to the IMF in advance, as Brazil had done shortly before—a decision that weakened the IMF's traditional capacity to influence the debtor's macroeconomic and social policies. The IMF's performance during the Argentine crisis of 1999–2001 came under severe criticism both from domestic and external actors, thus adding to its discredit before large segments of civil society which the Kirchner administration has been able to capitalize.¹⁰ The main objective of these and other decisions is to increase the autonomy of debtor countries vis-à-vis creditors and other foreign policy-actors and their traditional articulation with domestic power groups that oppose to progressive reforms.

Enhanced state involvement and far-reaching goals for public policies are facilitated by the greater availability of resources stemming from the economic growth of recent years and a sustained increase in exports earnings. Yet favorable economic conditions should not be under, or over-stated. Latin America has known stages of economic expansion before, which could not stop poverty and social inequality from advancing. In societies characterized by deep social inequality—and Latin America displays the highest world rates of inequality¹¹—rewards from economic growth are unevenly collected. In the absence of government intervention and proactive public policies poverty keeps growing alongside the increasing concentration of wealth. During the 1990s Latin America's GDP grew slightly over 25 percent, but poverty increased by percent reaching around 40 percent of the total population, while indigence, or extreme poverty, remained at around 20 percent.¹²

SOCIO-ECONOMIC PERFORMANCE OF A GROUP OF LATIN AMERICAN COUNTRIES, 2000-2005 ¹³

	GDP ¹	Unemployment ²	Poverty ³	Income Inequality ⁴
"New Left"				
Argentina	3.9	- 50%	- 42.0%	- 8.9%
Brazil	1.1	- 20%	- 6.2%	- 4.0%
Chile	3.5	- 20%	- 6.6%	0.0%
Venezuela	2.3	- 44%	- 23.6%	- 1.6%
<i>Average</i>	<i>2.7</i>			
Non-Left				
Colombia	2.7	- 2.6%	- 8.2%	+ 2.6%
Costa Rica	3.3	0.0%	+ 3.4%	- 3.6%
Mexico	1.4	+ 1.8%	- 9.9%	+ 2.7%
Peru	4.2	- 9.5%	- 6.7%	- 3.8%
<i>Average</i>	<i>2.9</i>			
Latin America	1.9	- 1.7	- 9.5	s/d

1: GDP per capita. Average annual rate of growth, 2002-2006 2: Urban 3: Persons 4: Households

The contrast between that inertia and the current panorama seems to be due fundamentally to the economic and social policies implemented. The quality of public policies marks the difference between the efficient allocation of resources and profligacy, in the same way that the political gravitation of different domestic and foreign social actors sets priorities on how resources are allocated. In uneven measure, the arrival of the new Left governments implies a shift in power relations among social actors and consequently in policy-making and implementation. The table presents preliminary, inconclusive figures on the recent evolution (2001-2005) of per capita GDP, unemployment, poverty and social inequality in two groups of countries. Administrations of the new Left have performed in a relatively positive manner in social issues, while the growth of per capita GDP lags slightly behind that of their center or right-wing counterparts. Information available makes drawing definitive conclusions difficult beyond acknowledging that the new left has not been as successful as their partisans assert, nor as disastrous as their critics decry.

The pursuit of greater autonomy in the face of globalization can be seen in the strengthening of regional integration efforts, motivated by proactive and reactive factors. The former refer to the advisability to coordinate development policies in infrastructure, energy and finance. By supplementing resources to reach economies

of scale as well to speed up the circulation of production factors, states are able to achieve a more balanced involvement within globalization, improving bargaining power with other key actors. New initiatives have been added to the processes of MERCOSUR (Southern Common Market) and CAN (Community of Andean Nations) and are underway; in particular, ALBA (Bolivarian Alternative for America, a Venezuela-inspired initiative) and more recently, UNASUR (Union of South American Nations). UNASUR is composed of MERCOSUR and CAN nations, and has several initiatives for policy and resource coordination in specific contexts between states party. In all, these initiatives share a common critical approach to neo-liberalism; an emphasis on active government involvement in policy-orientation, tighter state regulation of certain economic aspects, as well the need to implement active public policies in order to assure a progressive distribution of the fruits of economic growth. Integrative efforts go beyond strictly economic matters, as they are also addressed at educational and cultural issues; MERCOSUR and ALBA have devised institutional areas for civil society's participation.¹⁴ The main reactive factor is the US FTAA (Free Trade Area of the Americas) proposal and the American strategy of negotiating bilateral or sub-regional free trade agreements among exceedingly unequal partners in terms of market size, production structure and income level. The majority of Latin American public opinion sees this as an economic instrument to preserve traditional US hegemony in the Hemisphere.¹⁵ Yet, Chile signed a bilateral free trade agreement with the United States years ago, and some high officials in the Uruguayan government started to explore that same possibility for their country—despite opposition of other participants in the government coalition.

Efforts to reinvigorate regional integration and attempts at the coordinating development strategies is also a byproduct of the inherent nationalism present in Leftist governments. Active promotion of what are perceived as national interests may collide with other governments' similar goal. Bolivia's decision to re-nationalize gas and oil wells and to achieve a tougher deal with foreign oil and gas companies, and the enactment of land reform have led to confrontations with some Brazilian companies and landowners. This not only places Lula's government in the difficult position of having to step forward in the defense of Brazilian companies or individuals, but also on behalf Brazil's own national interests with regard to the oil company Petrobras. In the same vein, the installation of a huge pulp and paper mill on the left bank of the Uruguay River led to a rapid deterioration of bilateral relations between Uruguay and Argentina on environmental issues. Accordingly, devising ways to regionally coordinate specific development policies is seen as a tool to prevent or downgrade potential clashes as well to strengthen shared development commitments.¹⁶

WHAT DOES ALL THIS MEAN?

The current wave of Latin American reformist governments can be subject to divergent interpretations. It can be understood as an outdated remake of the 20th century populist regimes, sooner or later doomed to deliver new frustrations to their

societies because of their unconventional management of economic affairs, overexpansion of state intervention together with a nationalist insulation from international economic and political trends. Demagoguery, *caudillismo*, manipulation of democratic institutions, and the artificial fueling of social confrontations point to the authoritarian stance of the “new Left”. In the most extreme versions, this interpretation depicts some of these regimes—that of Hugo Chávez and Evo Morales to a lesser extent—as the Latin American proxies to the rogue states referred to in the US National Security Strategy.¹⁷

It can also be viewed as a transitory, initial stage which inevitably will lead to more *rational* performances both at the economic and institutional levels. In the meantime, strident rhetoric, nationalistic or socialist language, and social policies excessively generous with the poor have no other purpose than to reduce the anger or resentment of the poor and other social fractions negatively affected by neoliberal reforms. Moreover, notwithstanding some unavoidable modifications, these policies retain the essential traits set forth by the implementation of the Washington Consensus. Administrations presided over by Tabare Vazquez, Lula da Silva, Nestor Kirchner, and most of all Michelle Bachelet would fit into this skeptical characterization.

In spite of their differences, both approaches display a heavy ideological burden as they rely more on rhetoric than objective deeds and facts. More specifically, they pay no attention to historical records, to people’s memories, to past political experiences and to persisting and unfulfilled expectations and demands. In such an approach politics is divorced from history and culture, or it becomes reduced to the leaders’ fancies and ability to cheat or manipulate meaningful segments of civil society—because of the latter alleged ignorance, or volatility or their lack of self-sufficiency. Yet, it is interesting to recall that while in both Eastern and Western Europe millions of people from the middle and laboring classes shifted their electoral preferences to radical right-wing, neofascist or populist options as a reaction to downgrading welfare conditions, rising unemployment or other dimensions of transitions from Communist to post-Communist regimes or the partial dismantling of Social-democratic welfare states,¹⁸ their Latin American counterparts reacted to drastic downgrading of standards of living in quite an opposite way, voting for progressive change.

The author’s view of these “new Left” regimes goes in quite a different direction. Ultimately, reformist governments of the “new Left” and the conflicts surrounding them dramatically portray the still incomplete processes of national and social integration in their countries. The Bolivian case is quite paradigmatic: initiatives for autonomy or separatism of its more developed regions, now that “the Indians” are in office, witness to protracted territorial as well ethno-linguistic, historical and class conflicts. The Evo Morales government thus faces the many challenges of state-building, not just of state-reform. To a certain extent, that is also the case of Ecuador. In societies with sounder, long-lasting national integration (such as Chile, Brazil, Uruguay or Argentina) politics are beleaguered by deep social

inequalities aggravated during the years of Neoliberal reforms. Recent violent street rallies of Chilean workers and middle-class students are a testimony to the growing impatience with the Bachelet administration's lethargic and lackadaisical approach to remedying social differences in education, access to basic services, and labor conditions.

In settings like these, it is not enough to agree on the *rules of the game*; there also has to be an agreement as to which game is being played: either preserving a particular distribution of resources which substantial sectors of the citizenry deem unfair, or progressive democratic change. When social and cultural inequalities reach such profound levels as in most of Latin America, it is inevitable that those who have been charged with most of the costs of market reforms are determined to change things if only in a small measure, just as those who have preserved or increased their share in benefits are determined to wholeheartedly defend them. It is illuminating that in a recent continental opinion survey almost three quarters of those interviewed responded that when the powerful run the government, the government becomes an extension of tools which the powerful use for their own self gain.¹⁹ As the late Brazilian sociologist Octavio Ianni once stated, "Latin American elites do not behave as rulers, but as masters." Thus, Latin America's reformist democracies are torn between Alexis de Tocqueville's warnings against majority rule becoming a tyranny upon minorities and the stubbornness and anachronism of domestic elites.

Notes

¹ One could even say that, because of such a variegated landscape, there is also a "Left" and a "Right" inside this progressive group of governments, with Venezuela being on the extreme Left and Chile on the far Right, and the rest falling somewhere in between. See Carlos M. Vilas, "The Left in South America and the Resurgence of National-Popular Regimes," in *Latin América after Neoliberalism: Turning the Tide in the 21st Century?* ed. Eric Herschberg and Fred Rossen. (New York: The New Press, 2006), 232-251.

² Carlos M. Vilas, "Shaky Democracies and Popular Fury: From Military Coups to People's Coups?" *Research Reports, Latin American and Caribbean Studies, University of South Florida* 2, no. 2 (July 2004); Carlos M. Vilas, "Neoliberal Meltdown and Social Protest: Argentina 2001-2002," *Critical Sociology* 32, no.1 (2006): 163-186.

³ Luis Lander, "La insurrección de los gerentes: PDVSA y el gobierno de Chávez," *Revista Venezolana de Economía y Ciencias Sociales* 10, no 2 (2004): 13-32; Christopher Marquis, "Estados Unidos financió a grupos opositores a Chávez," *Clarín.com*, April 26, 2002. Available at: <http://www.clarin.com/diario/2002/04/26/i-02815.htm> (accessed February 29, 2008).

⁴ See Corporación Latinobarómetro, *Informe Latinobarómetro 2006* (Santiago de Chile, 2006).

⁵ As explained by Max Weber's charismatic domination. Marcos Novaro, *Pilotos de tormenta* (Buenos Aires: Letra Buena Ediciones, 1994.)

⁶ The term was introduced in political analysis by Argentine Political Scientist Guillermo O'Donnell, "Delegative Democracy?" (working paper 172, The Kellogg Institute, Notre Dame University, 1992, 1-17).

⁷ Carlos M. Vilas, "Entre la democracia y el neoliberalismo: Los caudillos electorales de la postmodernidad," in *El fin de siglo y los partidos políticos en América Latina*, eds., Silvia Dutrenit & Leonardo Valdés (México City: Instituto Mora, 1994), 323-340.

⁸ Joseph E. Stiglitz, "Más instrumentos y metas más amplias para el desarrollo. Hacia el consenso post-Washington," *Desarrollo Económico* 38, no. 151 (October-December 1998): 691-722; Joseph E. Stiglitz, "El rumbo de las reformas. Hacia una nueva agenda para América Latina," *Revista de la CEPAL* no. 80 (August 2003): 7-40.

⁹ Luigi Manzetti, *Privatization South American Style* (Oxford: Oxford University Press, 1999). The author conducts an insightful discussion of privatization processes in Argentina, Brazil and Peru during the 1980s and 1990s.

¹⁰ See the most revealing report of the Independent Evaluation Office of the International Monetary Fund, *Report on the Evaluation of the Role of the IMF in Argentina, 1991-2001*, July 2004. Available at: www.imf.org/External/NP/ieo/2004/arg/eng/index.htm (accessed October 20, 2007); Karin Lissakers et al., *Report on the External Evaluation of the Independent Evaluation Office*, March 29, 2006. Available at: www.imf.org/External/NP/pp/eng/2006/032906.pdf (accessed October 20, 2007); Paul Blustein, *And the Money Kept on Rolling In (and Out): The World Bank, Wall Street, the IMF, and the Bankrupting of Argentina* (New York: Public Affairs, 2005).

¹¹ World Bank, *Equity and Development. World Development Report 2006* (Washington DC: The World Bank, 2005); David de Ferranti et al. *Inequality in Latin America: Breaking with History?* (Washington DC: The World Bank, 2004).

¹² Economic Commission for Latin America and the Caribbean, *Panorama social de América Latina 2006* (Santiago de Chile: CEPAL, 2006).

¹³ 1 and 2: Author's estimates from ECLAC, *Balance preliminar de las economías de América Latina y el Caribe* (Santiago de Chile: CEPAL, 2006); 3 and 4: Authors calculations on the basis of figures from ECLAC, *Panorama social de América Latina* (Santiago de Chile: CEPAL, 2006).

¹⁴ For an updated assessment of processes of regional integration see SELA, *Arquitectura institucional para la articulación y la convergencia de la integración en América latina y el Caribe* (Caracas: SELA, June 2007).

¹⁵ According to the 2005 Latinobarómetro Survey (175,554 interviews across 18 countries) only 31 percent of interviewees responded that privatizations had been beneficial either for themselves or their country, which contrasts with 45 percent in the 1998 poll. See Corporación Latinobarómetro, *Informe Latinobarómetro 2005* (Santiago de Chile, 2005): 68, 69).

¹⁶ The South American Initiative for Regional Infrastructural Integration (IIRSA according to its Spanish acronym) is a good example of this trend. Presidents of all South American nations met in Brasilia on August 31-September 1st 2000 in order to launch an Action Plan for the integrated development of transportation and communications in order to close the deep regional inequalities on these matters and to set the conditions for a more balanced development. However, the Initiative remained in an almost dormant state until it was reactivated in recent years by Argentina, Brazil and Venezuela, with particular emphasis in energy matters.

¹⁷ General James T. Hill, posture statement, on March 13, 2003, to the 108th Congress House Armed Services Committee. Available at: <http://armed-services.senate.gov/statemnt/2003/March/Hill.pdf> (accessed February 18, 2008).

¹⁸ Jens Rydgren ed., *Movements of exclusion: Radical Right-Wing Populism in the Western World* (New York: Nova Science Publishers, 2005); Cass Mudde, "EU Accession and a New Populist Center-Periphery Cleavage in Central and Eastern Europe," (working paper 62, Center for European Studies, University of Antwerp, 2004); Duane Swank and Hans-Georg Betz, "Globalization, the welfare state and Right-wing populism in Western Europe," *Socio-Economic Review* 1, no. 2 (2003): 215-245.

¹⁹ Corporación Latinobarómetro, *Informe Latinobarómetro 2006*, 65-66.

Social Cohesion in China: Lessons from the Latin American Experience

by Mariano Turzi

China's economic development over the last three decades has been dazzling critics and supporters alike. Since the launching of the "Four Modernizations" reform process in 1978, growth has averaged 9 percent annually.¹ As a result, according to IMF data released in July 2007, China is poised to overtake Germany as the world's third-largest economy. As growth has slowed in Europe, Japan, and the US the Chinese economy grew at a staggering rate of 11.9 percent in the second quarter of 2007.² The IMF report also pointed out that if exchange rates are adjusted to equalize the cost of goods in different countries (purchasing-power parity) China is already the world's second-largest economy.

This paper contends that major transformations in the economic landscape have a direct effect on the social fabric of societies by disrupting traditional identities and frames of reference. These rapid economic changes are associated with an increasing rift in the division of labor that generates a state of confusion in regard to norms and increasing impersonality in social life. This condition is further exacerbated by the dislocation between the standards or values and the new reality, leading to what is known as *anomie*. As defined by Durkheim, anomie occurs when the rules on how people ought to behave break down and nobody knows what to expect from one another.³ The state of anomie is symptomatic of a social fracture or growing lack of social cohesion. If social dislocation continues to worsen, it can discontinue growth and jeopardize development.

What characteristics of this process have been adopted in the Chinese case? What consequences can it have on future growth? Due to the level of integration with the world economy, the Chinese case becomes especially important; a slowdown in the rates of growth in China would not only send shockwaves that would rattle the entire international economic system, but would also create an immense domestic governance challenge.

In Latin America, social cohesion has been fractured time and time again. Development has often adopted exclusionary patterns that lead to shorter, smaller, and much more volatile cycles of growth. Even during the periods of growth, the

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“inequality trap” of income inequality and social exclusion has rendered the region the most unequal in the world.⁴ Inclusive economic development reinforces social cohesion, which in turn prevents anomic symptoms. Latin America provides an excellent case study to identify structural flaws and to avoid policy mishaps in China.

WHAT IS SOCIAL COHESION?

Theoretically

A consensus is still lacking on a unique definition of social cohesion. Social cohesion is usually associated with other closely related concepts such as social capital.⁵ Putnam originally defined social capital as a:

...feature of social organization, such as trust, norms, and networks that can improve the efficiency of society by facilitating coordinated actions.⁶

Later, Fukuyama refined the definition:

Social capital can be defined simply as an instantiated set of informal values or norms shared among members of a group that permits them to cooperate with one another. If members of the group come to expect that others will behave reliably and honestly, then they will come to trust one another.⁷

Social cohesion is also associated with social integration, which denotes the ability of all sectors of a society to have access to the minimum level of well-being possible at the level of development reached by a society. The social integration approach focuses on the ability of a social structure to distribute opportunities with a certain level of equality.

For the purposes of this paper, social cohesion operates at two levels, a micro level and a macro level. At the micro level, social cohesion is a feature of a community or society that can be associated with the concept of social capital, or the extent of the trust networks among the people. The macro level consists not only of the aggregation of social capital, but also a measure of the interaction between the citizens and public institutions, which adds a vertical dimension. In the framework of a cohesive society, trust in institutions and fellow citizens results in the ability to work together, as the very existence of trust paves the way for mutually beneficial transactions among individuals and societal groups.

It is important to note that social cohesion does not assume benevolent or symbiotic interaction among different social groups; conflict is considered an inherent feature and constitutive element of any system. Cohesive societies, however, do not have entire segments of their population disenfranchised from access to public goods, basic services, and consumption opportunities. On the contrary, cohesive societies have consistent policies to smooth inequalities ensuring minimum access to everyone. Fragmented societies are characterized by entrenched differentiated social networks of interaction for each societal group.

In March 2004, the Council of Europe adopted a revised Strategy for Social Cohesion, which defined social cohesion as,

*“the capacity of a society to ensure the welfare of all its members, minimizing disparities and avoiding polarization. A cohesive society is a mutually supportive community of free individuals pursuing these common goals by democratic means.”*⁸

The problem with this definition is that it is based in the European experience, assuming the existence of a functioning welfare State and intellectually grounded in the notion of social citizenship. Our understanding of social cohesion coincides with the one of the Economic Commission for Latin America and the Caribbean (ECLAC):

*“The notion of social cohesion, then, refers both to the efficacy of established social inclusion mechanisms and to the behavior and values of members of society.”*⁹

The ECLAC framework captures the micro and macro levels established earlier, by defining social cohesion not only as the inclusion and exclusion mechanisms instituted by society (macro), but also as the manner in which these mechanisms influence and shape personal perceptions and behavior towards society (micro).

Empirically

Social cohesion may appear as an elusive concept, because it inherently comprises complementary opposites: inclusion/exclusion, unity/fragmentation, community/individual, harmony/conflict, equality/inequality, belong/disassociate, participation/disaffection, legitimacy/illegitimacy, recognition/rejection. At present, progress is being made towards a conceptually valid and reliable set of variables to build an indicator of social cohesion that can be used as a comparative measure across countries. The Inter-American Development Bank, for example, is working towards developing a reliable set of indicators to measure social cohesion.¹⁰ The European Union has defined twenty-one indicators of social cohesion.¹¹ The socio-economic reality of Europe, however is especially unique, and does not reflect important complexities from other regions (like the integration of indigenous peoples in Latin America, or the situation of women in Middle Eastern countries), thus making it difficult to compare across countries.

Attempts to operationalize social cohesion should capture both micro and macro levels. The macro level should include indicators that capture the existence and status of gaps inside a society. Measures of income inequality (Gini coefficient) and poverty incidence should be at the core of macro level analysis. However, as noted before, social cohesion involves several dimensions and measurement demands going beyond the mere income gap. Social cohesion in this paper is inscribed in a human development perspective, where the distribution of well being and opportunities is more than the distribution of monetary income.¹² Methodologically, a human development indicator should incorporate measures of

inequality in the access to public services, from potable water to the administration of justice. At the micro level, effective measurement would include levels of interpersonal trust and trust in relevant public institutions. Why is it relevant?

Social cohesion is key to economic growth and development through linkages to social order. Widespread economic inequality provides an unsound basis for social cohesion, since it exacerbates tensions. Social cohesion works both to distribute more equally the benefits during the upswings of economic booms and to withstand the pressures of the downturns, as seen in the case of Argentina during the 2001 crisis.¹³

Economic growth raises disposable income, which increases consumption opportunities. This increase fuels expectations across the entire social spectrum. The material realization of those expectations, however, may not be uniform: an exclusionary model of growth will increase purchasing power only for narrow segments of society, as happened in Latin America during the 1990s.

Growth can also have negative consequences, such as unemployment and poverty that can be either temporary or permanent. When expectations about the improvement of living conditions are not met, perceptions of injustice typically arise. When these perceptions combine with the frustration over the lack of access to resources and consumption opportunities, a general lack of confidence spreads through the system.

In the framework of a cohesive society, trust in institutions and fellow citizens results in the ability to work together, as the very existence of trust paves the way for mutually beneficial transactions among individuals and societal groups.

Feelings of disappointment can quickly turn into dissatisfaction and in such scenarios inequality becomes not just an economic feature but the starting point of social unrest. Once social unrest stemming from inequality begins, demand for change quickly multiplies (i.e. the reversal of perceived grievances).¹⁴

Unrealized social mobility can lead to frustration, which is aggravated when access to public services is dominated by corrupt officials. This exacerbates the distributional conflict, undermining governmental legitimacy. If political practices, rules, and institutions function to exclude frustrated social sectors, this will force the citizenry to channel their demands outside the scope of those institutions, challenging the structure of authority and power. At this stage political elites face the option of belated reform or repression. Typically, the political system becomes locked and defensive, sparking a violent response that only aggravates the situation, generating political stalemate with escalating violence, heightened social conflict and a detrimental environment for investment and productive activities. When the system supports inclusion and flexibility, the result is a more resilient, cohesive society.

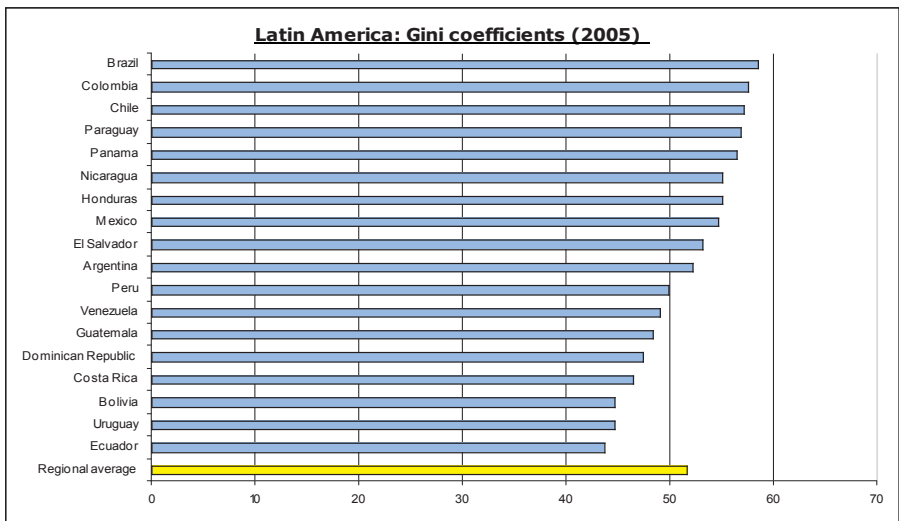
As explained theoretically above, we can see how social cohesion articulates the actions of the individual with the horizontal and vertical social levels. The above exercise explains why cementing social cohesion is a task that must be addressed longitudinally across the social structure. Social cohesion is the foundation that sustains not only growth and development, but also political stability. In the absence of a cohesive structure, economic policies and authority structures will lack a strong society to stand behind them, which will eventually lead to their breakdown. Social cohesion: a comparative appraisal

In this section we will explore the three main areas in which social cohesion can be fractured or eroded: economic, geographic, and political. Within this framework, we will review the present situation and major trends in Latin America and in China.

Economic

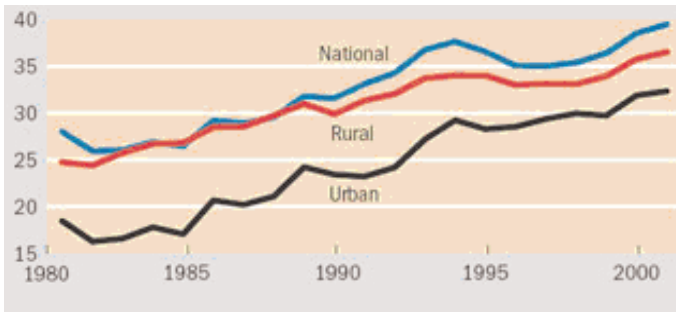
Income distribution is the most widely studied aspect of social cohesion. Inequality in Latin America has deep historical roots in institutions, practices and even cultural attitudes. Even during the strongest cycle of economic growth in the past three decades, average Gini income distribution measures are over 0.5; Latin American inequality remains over the internationally recognized “danger level” of 0.4.¹⁵ To make matters worse, poverty ratios have remained relatively stagnant, while in some countries extreme poverty increased during the early years of this decade.

TABLE 1 – LATIN AMERICA: GINI COEFFICIENT (2005)¹⁶



Income disparities in China constitute an extremely contentious issue. Arguments against the validity of the released data include the lack of available or credible data, and ways of calculating or aggregating the results of Chinese figures. Nevertheless, there is enough information to conclude that inequality has been climbing steadily. In some periods, China's poor grew poorer at a time when the country was growing substantially wealthier.¹⁷ A comprehensive World Bank study on poverty and inequality shows that inequality has worsened for more than twenty five years in China. However, Ravallion and Chen found no evidence that the rise in inequality was the 'price' of high economic growth.¹⁸ Their findings suggest that periods of rapid growth did not increase inequality, which would point to a non exclusionary kind of growth. Nonetheless, there are warning signs that income inequality, on the rise since the mid-1980s, is slowing down the impressive poverty reduction efforts in China. Between 1981 and 2001, the proportion of the population living in poverty in China fell from 53 percent, to an astounding 8 percent. It should be noted that this progress is not uniform, since half the reduction occurred in the first half of the 1980s.

TABLE 2 - CHINA: GINI COEFFICIENT (1980-2004)¹⁹



In the presence of high levels of inequality, individuals are more likely to develop non-cooperative social ties, leading to a widening confrontation between those who have access to resources and those who do not.²⁰ In this way, income inequality would contribute to increased transaction costs, especially in the production of public goods. Higher Gini indices also appear to have a correlation with higher crime rates (Fajnzylber, Lederman, and Loayza, 2000).²¹ Easterly and others also demonstrate that a relationship exists between social cohesion and institutional quality which affects economic growth. The argument is that social cohesion leads to strong political institutions and solid social consensus, which produces more innovative, competitive economies.²² Social consensus contributes to the capacity for adaptation to the changes and demands imposed by market-styled economies and helps to strengthen their capacity to resist potential destabilizing policy changes and the effects of economic shocks.

Geographic

Another manifestation of exclusion is the presence of regional divergences. The causes can be traced back to colonial times and the commodity-based extractive means of production adopted throughout the Western Hemisphere. Furthermore, the long-standing economic inequality we analyzed in the previous section rendered the domestic markets negligible, as vast sectors of society were excluded from consumption. Ultimately, an inefficient economic organization coupled with an inadequate transport infrastructure has reinforced economic mismanagement.²³ This has led an entire geographic segment of countries (the agriculturally rich *pampa* in Argentina, the *Café com leite* states in Brazil, the Peruvian coastal areas) to prefer extraction and export over market integration. In turn, this has produced a geographic concentration of wealth in the rich areas, while great portions of the country remain poorly connected and insufficiently served by basic service infrastructure.

In China, the urban/rural income gap is widening and in 2005 average per capita urban incomes were 3.2 times those in rural areas. In short, since 1985, income inequality has progressively increased, as evidenced in the Table 3.²⁴

TABLE 3 - CHINA: URBAN AND RURAL INCOME (1980-2005)²⁵

Average Per Capita Disposable Incomes, 1980 - 2005			
	Urban (CNY)	Rural (CNY)	Urban:Rural Ratio
1980	478	191	2.49:1
1985	739	398	1.85:1
1990	1,510	686	2.2:1
1995	4,283	1,578	2.71:1
2000	6,280	2,253	2.78:1
2005	10,493	3,255	3.2:1

A closer appraisal of the geographic breakdown reveals an even more daunting picture. The pattern, displayed in the table above, demonstrates that growth within the PRC is highly uneven across regions. Income disparity between the east and the west is most marked in the rural sector, while the urban-rural gap is most pronounced in the poorest areas. Eastern cities are thriving more and more, while the western rural areas are steadily falling behind. For example, urban income in Shanghai is more than double Shanghai rural income. However, Shanghai rural income is almost ten times as much as rural income in Guizhou.

TABLE 4 – PER CAPITA INCOME AND GEOGRAPHY IN CHINA (2006)²⁶

Regional Variatio in Average Per Capita Annual Incomes for Urban adn Rral Population (2005)				
		Urban (CNY)	Rural (CNY)	Urban:Rural Icome Ratio
National		10,493	3,255	3..2
East/Coast al Areas	Shanghai	18,645	8,248	2.26
	Zhejiang	16,293	6,660	2.26
	Guangdong	14,769	4,691	3.14
Central Areas	Henan	8,668	2,871	3.01
	Hunan	9,253	3,118	2.96
	Jiangxi	8,620	3,129	2.75
Western Areas	Sichuan	8,386	2,803	2.99
	Guizhou	8,151	1,877	4.34
	Gansu	8,086	1,980	4.09

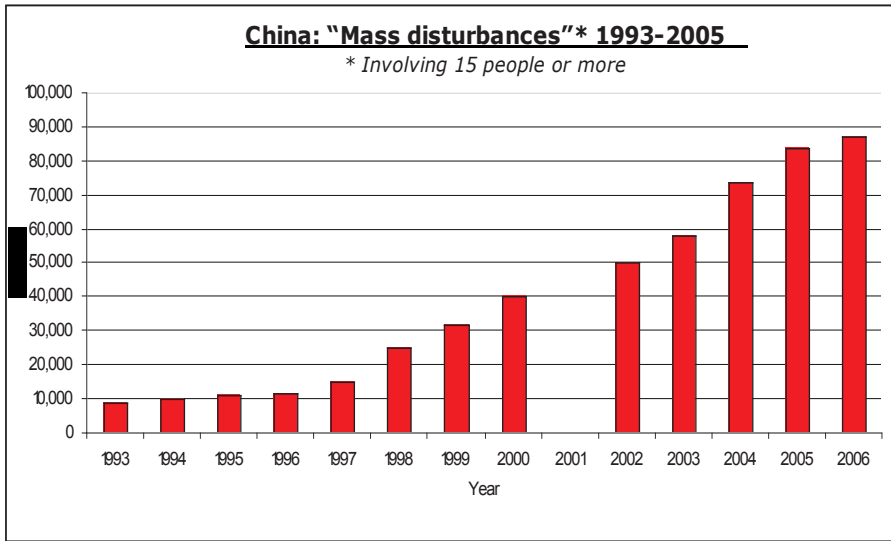
Arguably, eastern and coastal areas have benefited from a proximity to demanding urban populations and easier access to international markets, which has subsequently endowed these areas with better infrastructure and the bulk of investment. As a consequence of these factors, eastern and coastal areas have a more sophisticated market economy which has diversified into manufacturing and service sectors. Shanghai, with roughly 11 percent of the rural population, has a GDP per capita of 51,474 CNY. Shanghai per capita figures are more than ten times that of Guizhou, which are only 5,052 CNY with a population of over 73 percent living in rural areas. There is a clear correlation between higher GDP per capita and higher levels of urbanization, as revealed in the next table, which reinforces the urban/rural disparities that appear in Table 4.

TABLE 5 - CHINA: GDP STRUCTURE AND GEOGRAPHY (2006)²⁷

GDP Per Capita, Urban - Rural Population and Structure of GDP							
		Per Capita GDP (CNY)	Population (%)		GDP Structure		
			Urban	Rural	Primary	Secondary	Tertiary
National		14,010	42.99	57.01	12.06	47.5	39.9
East/Coastal Areas	Shanghai	51,474	89.09	10.91	0.9	48.6	50.5
	Zhejiang	27,703	56.02	43.98	6.6	53.4	40.0
	Guangdong	24,435	60.68	39.32	6.4	50.7	42.9
Central Areas	Henan	11,346	30.65	69.35	17.9	52.1	30.0
	Hunan	10,426	37.00	63.00	19.6	39.9	40.5
	Jiangxi	9,440	37.00	63.00	17.9	47.3	34.8
Western Areas	Sichuan	9,060	33.00	67.00	20.1	41.5	38.4
	Guizhou	5,052	26.87	73.13	18.6	41.8	39.6
	Gansu	7,477	30.02	69.98	15.9	43.4	40.7

So the question remains, how can the disparity between urban/rural economic performance translate into the degeneration of social ties in China? To begin, cleavages in a society can be cross-cutting or overlapping.²⁸ In a cross-cutting scenario, allegiances are distributed across many groups in a society; when cleavages overlap, divisions in a society accumulate. The data indicates that in China there is a rise in overlapping inequalities: the rich, urban and modern vs. the poor, rural and traditional. These inequalities have already manifested themselves in “mass disturbances” in China, with the majority of these disturbances caused by rural demands. Rural complaints include: price adjustments of food staples, rural-to-urban migration (and consequent labor competition), predatory or illegal tax burdens on peasants, and the expropriation of farmland for non-farm uses. It is important to note that in the rural areas, the frequency and scale of incidents are greater but they still remain largely spontaneous and unorganized.

TABLE 6 - CHINA: MASS DISTURBANCES (1993-2005)²⁹



Mass disturbances involve primarily local issues and do not promote broader political reforms. Furthermore, they do not appear to be articulated to any regional or national coordinating organization. Due to the ad hoc nature of these unrest movements, the government does not perceive current unrest to be at a level which could threaten the stability of the regime and handles these issues quietly, primarily with force. However, blunt repression has become increasingly costly and focus has shifted towards preventive policies, like surveillance and containment of crowds, distribution of economic incentives to leaders, managing recording of the events, and supervising press reports on the matter. Regardless, sophisticated control techniques are no substitute for addressing the root causes sparking social unrest.

Political

A final measure of social cohesion, or lack thereof, is the interplay between citizens and state institutions. Political structures and officers can entrench economic and social patterns of exclusion in a society or act as agents of redistribution to mitigate the natural inequalities produced by market economies. This section will examine this interplay.

In Latin America there has been endemic corruption over many years. The World Bank has described the corruption in Latin America as the imposition of distortions in the prescribed *implementation* of existing laws, rules, and regulations to provide advantages to either state or non-state actors.³⁰ According to the World Bank, corruption is a result of the illicit and non-transparent provisions of private gains to public officials.

However, a far worse phenomenon plagues the Latin American region: state capture. State capture is defined as the actions of individuals, groups, or firms, to influence the *formation* of laws, regulations, decrees, and other government policies to their own advantage.³¹ State capture is the result of the illicit and non-transparent provisions of private benefits to public officials. State capture results in demands not being properly channeled, due to a political system that is inherently exclusionary. State capture has produced deadlock, where citizens take to the streets in demonstrations and protests over discontent with the government and its policies. Ecuador and Bolivia's indigenous movements, the rise of Hugo Chávez in the face of a corrupt political party entente, the pickets and the "all the politicians out." (*Que se vayan todos*) campaign in Argentina, and the MST in Brazil, have all been movements that signal that current state structures are incapable of processing demands. When demands at last emerge, they carry with them an explosive force. With demands and conflict magnified beyond the point of accord, frequently the ousting of the government occurs. Examples of this include Pérez in Venezuela, Collor in Brazil, Mahuad, Bucaram and Gutiérrez in Ecuador, Fujimori in Perú, De la Rúa in Argentina, and Sánchez de Losada in Bolivia.

In China, for the past fifteen years, the Communist Party has undergone a remarkable transformation, assembling the most sophisticated government class it has had in generations. These leaders have committed to move China forward, and have adapted to the challenges that emerged at every new stage. However, the pattern of political development has been highly unequal. The sophistication of the elites diminishes as one moves away from the center and into the rural and poorer areas of the country. In the rural areas, corruption is widespread and criminal elements continue to form pervasive alliances with government officials. These "alliances" allow the criminal elements to freely manipulate local power to their advantage.³²

In the current political structure, there is an excessive concentration of power in a few local party leaders. There is an almost total absence of mechanisms to check power in China other than direct intervention from the center. The abuse of power, and the use of public authority for private gains by local cadres, is deepening the perception of institutionalized inequality in China. This perception is the prime cause of discontent leading to social upheaval.³³

Moreover, since the chain of command penalizes local officers that face demonstrations, there is an incentive to resolve social unrest as swiftly as possible. Often, this translates into the use of means that prove not only ineffective in the long term, but counterproductive, as they have extremely negative effects on governance and stimulate further discontent.

Presently, there is little probability that in the current situation, social protest movements will topple the government, as in Latin America. However, this does not mean that recurring contentious issues cannot arise at subnational levels that may leave the government facing dilemmas of repression, embarrassment, or both.

CONCLUSION: LATIN AMERICA AND THE “HARMONIOUS SOCIETY”

When in October 2006, the Chinese Communist Party (CCP) Central Committee adopted the political doctrine of a "harmonious society," the CCP implicitly recognized that disharmony existed. This meant shifting away from the promotion of unfettered growth to deal with escalating social tensions. The first three, and most important, of the eight challenges identified by Chinese scholars in building a harmonious society (the growing gap between rich and poor, corruption, lack of protection mechanisms for some social groups, an inadequate social security system, unsustainable economic growth twinned with environmental pollution, backwardness in science, education, culture, medical care and sports, and a general lack of management skills)³⁴ are essential components for social cohesion. From the Latin American experience we have drawn policy lessons that the CCP could take advantage of in order to avoid the same mishaps.

Human Capital

As stated previously, changes in China have been occurring at a rapid pace. As material conditions change, so do their values and behavior. Among the effects the capitalist economy has had on individuals is a rise in individualism, an increased assertiveness, an unrestricted promotion of acquisitiveness, a constant exaltation of personal success, and a permanent display of prosperity. The fast-paced market economy has made consumerism and consumption expectations soar, especially among the younger generations who have more access to information and education. The Chinese integration into the world economy is simultaneously enhancing overall wealth, while magnifying wealth inequalities; the benefits of globalization in many ways remain largely diffuse, while the costs are highly concentrated. This inequality makes the likelihood of social unrest more likely among the portion of the population that is losing out.

In addition, there is an acute consciousness of local poverty versus local wealth. Even more so, there seems to be a general awareness that quality schools, jobs, and medical care are reserved for the few. Ultimately, this raises the questions: how deserved are the advantages the elites enjoy, and what kind of opportunities are there for individuals of the middle classes? Future stability will depend to a great extent on perceptions of fairness in this emerging social order. Just as it happened with Latin American youths during the 1960s and 1970s, disappointing expectations, if linked to social justice, could prove difficult to handle. If these perceptions of inequality and exclusion are not addressed, they will manifest themselves as social unrest, rising crime, disenfranchisement, and political polarization.

It is often argued that China's population of 1.3 billion poses an unparalleled management challenge. Regardless, China has a better base of human capital compared to its neighbors. This fact is one of the very reasons that allowed China to grow so much faster than the other parts of Asia.³⁵ Without further opportunities for people to develop skills and knowledge, the Chinese population will surely become a "demographic liability" in terms of continued unrest and economic

underperformance. At present, the Chinese state has a lever for creating social capital through education. Eliminating educational inequalities, rooted in income, location, or gender, would act as an intergenerational socializing force that could enhance social mobility. Ending educational inequalities, will also stimulate a merit-based culture, a well-known safeguard against the spread of corrupt practices.³⁶ In cohesive societies, the state does not “crowd out” social forces. Attempts to exert a firm grasp on civil society through undermining horizontal association can have a backlash effect of overheating the system, since the only *locus* of action is the central government.

Latin American citizens have never been the most law abiding citizens, and tend to exhibit a certain disregard for norms, exemplified by the historically high levels of tax evasion. The phrase “For my friends, anything; for my enemies, the law,” has been attributed to presidents all over the region. This phrase what is at the heart of populism: the law is perceived as an unequal recourse available only for the wealthy, while the dispossessed masses turn to the *caudillo*. However, this is a survival strategy in a scenario of pervasive, chronic inequalities. If the state fails to efficiently provide public goods for everyone, then people are bound to turn to a “protector.” The state will see its rule weakened, and social fragmentation will quickly translate into geographic autonomy. From Sicily to Colombia, from the Russian oligarchs to the pseudo-feudal Latin American governors, there are abundant examples of the perils of fragmenting social cohesion.

If political practices, rules, and institutions function to exclude frustrated social sectors, this will force the citizenry to channel their demands outside the scope of those institutions, challenging the structure of authority and power.

The prevalence of the strongman over the rule of law is a phenomenon not alien to China, especially at the local level. Government rule is for many the will of the local officer rather than a universal law. Strong rule in China is not the rule that obtains compliance through the use or threat of force, but rather the one that gets the ruled to comply on their own will. This “rule by compliance” can be achieved by incentive driven institutions run by a merit-based bureaucratic structure. A rule-based administration sets standards identical for all, avoiding privileges and creating a more stable system over time. Moreover, a rule based administration is more efficient, as it deflects criticism off the individuals and onto the institutional structure.³⁷ A concrete example of this is land tenure, which is currently weak at best and vulnerable to corruption and the urbanization impetus. Ironically, although land is usually the one productive resource of the underprivileged, the primitive condition of ownership rights over land in China prevents these assets from being turned into capital. In the end, if property rights are secure and entitlements clear, Chinese

citizens will unleash productive forces in the economy.³⁸ Secure rights will remove the need to seek “protectors” and the host of illegal activities associated with them. Furthermore, If rural land could be used as collateral for borrowing, then a new credit market could develop.

Equitable growth

The Latin American model of exclusionary development has hindered the region from fully realizing its potential, precluded the development of robust domestic markets, allocated infrastructure investments inefficiently, and marginalized potential consumers. With China attempting to move away from the export-led growth strategy, consumption may be stimulated and there may be an emphasis in developing the domestic market. Income inequalities would certainly put these kind of policies at risk, so progressive taxation schemes should be devised with special attention to the rural and urban gaps. Investment should pursue infrastructure that would provide basic social services (e.g., drinking water, sanitation services) and safety nets, as well as universal access to basic health and education. These policies have an important redistributive effect, with the added benefit of reducing the need for high savings rates which are currently over 40 percent.³⁹ Successful income transfer programs have been implemented in Latin America, such as Brazil’s *Bolsa Família*, Mexico’s *Oportunidades* (ex *Progresá*), and Colombia’s *Familias en Acción*. A long standing deficiency in Latin America has been the lack of access to finance and credit for small and medium sized businesses, without which domestic markets anywhere would be rendered fragile. Finally, as Sung and Kahagram found, there is a strong correlation between inequality and corruption. Thus, reducing inequality would also have positive governance effects on China.

Institutional adjustment

What political elites in Latin America have failed to understand until the 1980s, is that conflict only increases in the face of repressive and/or isolated state structures. Overarching compromises translate into effective, enduring policies with a broader consensus, decreasing the probability of excluding actors who might otherwise challenge the legitimacy of the government.

Western analysts of social unrest in China regularly miss cultural differences; western societies are based on the primacy of the individual, and view protests in a dialectic way as a clash of opposing wills. This misinterpretation creates a risk of underestimating the potential for instability. The philosophical framework of principles of authority relations in China is different than in the West. Evidence shows that protests in China are more geared towards the “enhancement” or “correction” of state action than in the West.⁴⁰ Most notably, a recurrent argument is that protestors want local officials to obey Beijing’s laws. This does not mean that the Chinese grievances are not legitimate or that they approve of every state action. The CCP cannot hope to contain social unrest unless they address its institutional catalysts, which usually consist of corrupt and abusive bureaucrats. Failure to

constrain state capture erodes state capacity by weakening revenue collection and affecting public finances. Furthermore, state capture also reduces confidence in public officials and state institutions, fostering an image of incapacity that encourages social mobilization. Paradoxically, episodes of unrest usually tend to reinforce the leadership's view that a firm hand on the affairs of state is necessary to assure continued growth.

An increase in transparency mechanisms, especially those linked with incendiary issues like public health and food safety, would not only be beneficial in the Chinese domestic political front, but would improve the country's image in the world. The execution of former chief food and drug regulator Zheng Xiaoyu in July 2007 is the latest episode in a series of scandals that have been damaging to the reputation of Chinese products. These scandals include pet food sold in the US containing an industrial chemical, toys covered in lead paint, tires that lacked an important safety feature, a cancer-causing dye used to color egg yolks, powdered baby formula that resulted in the deaths of several babies, and pork containing banned additives. Finally, Chinese controls offer many western nations an opportunity to advance a political liberalization agenda in terms that may not be in China's best interest. Taking the initiative in implementing local governance and local accountability will not only improve the CCP's legitimacy in areas affected by unrest, but it would also help monitor performance and strengthen control of the party structure.

Notes

¹ China Statistics Press, *China Statistical Yearbook 2007* (Beijing, China: China Statistics Press, 2007).

² Marcus Walker and Andrew Batson, "China's GDP Poised To Top Germany's As Power Shift Speeds Up," *Wall Street Journal*, July 16, 2007.

³ Emile Durkheim, *Suicide* (Glencoe, IL: Free Press, 1951).

⁴ Inequality in this sense is measured in terms of income distribution and of access to basic public services.

⁵ Social capital is understood as the capacity of individuals to embrace collective norms, maintain networks and reciprocal bonds of trust that can support collective action.

⁶ Robert D. Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton, NJ: Princeton University Press, 1993).

⁷ Francis Fukuyama, *The Great Disruption: Human Nature and the Reconstitution of Social Order* (New York, New York: Free Press, 1999). See also: Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity* (New York, NY: Free Press, 1995).

⁸ Council of Europe, "Revised Strategy for Social Cohesion" (Strasbourg, France: Council of Europe Workshops, 2004).

⁹ Economic Commission for Latin America and the Caribbean, *Social Cohesion: Inclusion and a Sense of Belonging in Latin America and the Caribbean*, May 2007. Available at: www.eclac.org/publicaciones/xml/0/29030/2007-219-SocialCohesion.pdf (accessed February 20, 2008).

¹⁰ Inter-American Development Bank Sustainable Development Department, *Social Cohesion in Latin America and the Caribbean: Analysis, Action and Coordination*. Available at: www.iadbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=733597 (accessed February 20, 2008).

¹¹ The 12 primary indicators are: low income rate after transfers (threshold set at 60 percent of median income), low income threshold (illustrative values), distribution of income (quintile 5/quintile 1), persistence of low income, relative median low income gap, regional cohesion (dispersion of regional employment rates) long-term unemployment rate, number of persons living in jobless households, early school leavers not in education or training, fifteen-year-old students with low reading illiteracy scores, life expectancy at birth, and immigrant employment gap. The 9 secondary indicators are dispersion around the low-income threshold, low income rate anchored at a moment in time, low income rate before transfers, Gini coefficient, persistence of low income (below 50 percent of median income), workers at risk of poverty, long-term unemployment share, very long-term unemployment rate, and persons with low educational attainment.

¹² While income is positively correlated with some of these dimensions, the literature shows that the relationship between income and broader indicators of welfare is often tenuous and unclear.

¹³ It has been noted that due to high levels of social capital, the Argentine society had more resources at its disposal that allowed it to bear the brunt of the 2001 havoc. See: United Nations Development Program and The Inter-American Development Bank, *Índice de Desarrollo de la Sociedad Civil de Argentina*, March 2004. Available at: www.confinesociales.org/pdfs/IDSC%20de%20Arg.pdf (accessed February 20, 2008).

¹⁴ Note that perceived grievances do not always coincide with the legitimate or real grievances.

¹⁵ This is compared to an average annual growth rate of only 2.2 percent between 1980 and 2002

¹⁶ Source: World Development Indicators Online, 2005

¹⁷ Richard McGregor, "China's poorest worse off after boom," *Financial Times*, November 21, 2006.

¹⁸ Martin Ravallion and Shaohua Chen, "China's (Uneven) Progress Against Poverty," (working paper 3408, World Bank Policy Research, Washington, D.C., 2004).

¹⁹ Source: Ravallion and Chen, 2004

²⁰ Alberto Alesina and Dani Rodrik, "Distributive Politics and Economic Growth," *The Quarterly Journal of Economics* 109, no. 2 (May, 1994): 465-490.

²¹ Pablo Fajnzylber, Daniel Lederman, and Norman Loayza, "Crime and Victimization: An Economic Perspective," *Economia* 1, no. 1 (Fall, 2000): 219-302.

²² William Easterly, Jozef Ritzen, and Michael Woolcock, "Social Cohesion, Institutions and Growth," (working paper, World Bank, Washington, D.C., 2005).

²³ John H. Coatsworth, "Obstacles to Economic Growth in Nineteenth-Century Mexico," *American Historical Review* 83, no. 1 (February, 1978): 80-100.

²⁴ This improvement period coincides with that of income inequality observed before, and can be attributed to the end of collective agriculture and the consequent revitalization of the rural economy.

²⁵ Source: National Bureau of Statistics, China Statistical Yearbook, 2006, Table 10.2 (p. 347).

²⁶ Source: National Bureau of Statistics, China Statistical Yearbook, 2006, Table 10.15 (p. 357) and 10.22 (p. 371).

²⁷ Source: National Bureau of Statistics, China Statistical Yearbook, 2006.

²⁸ Ian Budge and Cornelius O'Leary, "Attitudinal and Background Cross-Cutting: Further Evidence from Glasgow and Belfast," *Midwest Journal of Political Science* 16, no. 4 (November, 1972): 712-722.

²⁹ Author's calculation based on numbers by Kiedel (2006) and official data.

³⁰ Sanjay Pradhan, *Anticorruption in Transition: A Contribution to the Policy Debate* (Washington, DC: The World Bank, 2000).

³¹ Ibid.

³² Yu Jianrong, "Social Conflict in Rural China," *China Security* 3, no. 2 (spring, 2007): 2-17.

³³ Albert Keidel, "The Economic Basis for Social Unrest in China," *Carnegie Endowment for International Peace*, May 26-27, 2005. Available at: www.carnegieendowment.org/files/Keidel_Social_Unrest.pdf (accessed February 20, 2008).

³⁴ "Eight Challenges in Building Harmonious Society," *Xinhua News Agency*, October 8, 2006. Available at: www.china.org.cn/english/GS-e/183095.htm (accessed February 20, 2008).

³⁵ David Dollar, "Poverty, inequality, and social disparities during China's Economic Reform," (working paper 4235, World Bank Policy Research, Washington, D.C., 2007).

³⁶ World Bank, *Combating Corruption in Indonesia: Enhancing Accountability for Development*, November 12, 2003.

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www.wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2003/11/25/000012009_20031125111638/Rendered/INDEX/272460IND.txt (accessed February 20, 2008).

³⁷ Max Weber, "The Three Types of Legitimate Rule," trans. Hans Gerth, *Berkeley Publications in Society and Institutions* 4, no. 1 (1958):1-11.

³⁸ Hernando De Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* (New York, NY: Basic Books, 2000).

³⁹ David Dollar, remarks at, "Harvard Project for Asian and International Relations Conference" (conference, Beijing, China, August 17, 2007).

Remarks by World Bank China Country Director David Dollar at Harvard Project for Asian and International Relations Conference, Beijing, August 17th 2007.

⁴⁰ Keidel, "The Economic Basis for Social Unrest in China."

Diplomatic Processes and Cultural Variations: The Relevance of Culture in Diplomacy

by Wilfried Bolewski

Let us not be blind to our differences—but let us also direct attention to our common interests and to the means by which those differences can be resolved. And if we cannot now end our differences, at least we can help make the world safe for diversity.

John F. Kennedy, American University, June 10, 1963.

The relationship between diplomacy and culture has been somewhat neglected in recent academic and practical studies,¹ even though competence and understanding during intercultural exchanges unites societies and facilitates further intercultural interactions. Current public discussions concentrate exclusively on the existence of cultural commonalities and universal values all cultures share.² However, determining likenesses among cultures should be secondary to the awareness of cultural differences as the logical starting point for the evaluation of intercultural commonalities. Intercultural sensitivity within groups paves the way for the acceptance and tolerance of other cultures and allows members to be open to values which are universal among all groups, such as law and justice, which globalized society should then build upon together.

Facing the challenges of an increasingly complex world, the question of interdependency between diplomatic processes and cultural variations becomes relevant: is there a shared professional culture in diplomacy apart from national ones, and if so, does it influence diplomacy? To what extent can research into national cultures help diplomacy and governments to understand international interactions?

DEFINITION OF “CULTURE”³

General definition

Before analyzing the interdependency between culture and diplomacy, it is necessary to state what the word culture implies. According to Hofstede, culture is

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defined as “the collective programming of the mind that distinguishes the members of one category of people (i.e. social group) from another.”⁴ In contrast to personality, culture is not individual but collective. Furthermore, mental programming suggests that information has been internalized by an individual, leaving him unable to judge outside of his program’s purview. Hofstede applies the same definition of culture to professional cultures, such as the diplomatic one.⁵

Another approach to defining culture is to state its key aspects. First, culture is a quality of society, not the individual; second, it is acquired through the process of individual acculturation or socialization; and third, each culture is a unique set of characteristics dictating behaviour in every aspect of an individual’s life.⁶ Culture is the social identity individuals start to develop when they become aware of belonging to a social group:⁷ national cultures as well as political, economic, social, and historical elements form a national identity.

According to these classifications, culture can be compared to a program; it contains information about the society in which individuals find themselves. It provides information about social roles, the structure of relationships, etiquette and how everyday life should be arranged.⁸ Culture is a guideline for social interaction, but it is only valid in the social context in which this program is internalized among its members; therefore, it is necessary to understand the other members of the global society and their program.⁹

Diplomacy deals with culturally diverse groups by means of interactions and negotiations. The negotiation style of each participant is formed by one’s own cultural “program.” As different cultural groups communicate differently, the culture of a negotiation party influences its negotiation style. Therefore, the probability of mistakes and misunderstandings increases when the interaction is cross-national.¹⁰

While sovereignty and equality are the rational backbones of international relations, culture is its distinctive emotional differential; the hidden dimension which projects as much impact as political or economic power on decision-making.

Approach to categorizing cultures

In order to cope with cultural differences and to train cultural awareness and intercultural competence, it is useful to distinguish between different cultures. Hofstede¹¹ categorizes cultures into four dimensions, differentiating 1.between collectivistic and individualistic societies; 2.masculine and feminine societies and distinguishing the level of authority between the two genders;¹² 3.uncertainty avoidance (i.e. boldness versus cautiousness); and 4.long—or—short-term orientation (in their social contact). The ground-breaking ethnologist Edward T. Hall¹³ distinguishes between cultures of high or low context. In high context societies, people have close connections over a long period of time, decisions and activities are focused on relationships, and communication is more unspoken and less verbally explicit. In low context societies, by contrast, people usually have more connections of shorter duration or for a specific reason, individuals are rule and task-orientated, and information is communicated explicitly. Whereas low context

cultures pursue an individualistic negotiation style, high context cultures focus on building a relationship.¹⁴ In other words, low context negotiators are interested in the outcome of negotiations—they want to find solutions to a problem. High context negotiators are more interested in attending to relationships by means of negotiations.¹⁵

Nevertheless, the overall structure of every negotiation is regulated by protocol along with a specific type of negotiation style, such as: circular, linear, functional, task-centred or personal.¹⁶ Further developing Hofstede's definition of culture, it is possible to classify cultures in the following categories: multi-active, linear-active, and reactive cultural groups. Multi-active groups are characterized by a high level of flexibility and are generally disinterested in schedules and punctuality. Reality is more important to them than appointments, and they are willing to invest time in human transactions.¹⁷ In contrast, linear-active groups address tasks on an individual basis, while concentrating on a fixed schedule. They stick to plans and facts, and separate social from professional aspects. In contrast to multi-active and linear-active groups, reactive cultures listen and try to see the whole picture before they become active.

Regional and national cultures in the diplomatic process

In order to handle concrete intercultural negotiation situations, it is useful to classify cultures not only according to dimensions or groups, but also according to regions. Each region of the globe has its own cultural peculiarities, whether it is Asia, the Arab world, or Latin America.¹⁸ On the basis that the cultural background matters for diplomacy, cultural specificities have to be taken into account. The way of thinking, speaking, and behaving is deeply rooted in an individual's particular culture, and hence also influences his conduct during diplomatic affairs.¹⁹ For effective and successful diplomacy at all levels, the influences of regional and national cultures should also be taken into consideration.

*a) The Americas*²⁰

*aa) United States of America*²¹

The preponderance of American power in international relations and American history are inherent in the self-image of the nation and its representatives, and correspondingly influence its culture. It not only provides Americans with a sense of pride, but also gives them a distinct impetus to act with self-assurance. American society is dominated by a pervasive emphasis on achievement, which is perpetuated by historical events such as the pioneers conquering the vast prairie or astronauts landing on the moon. The American culture is characterized by a strong optimistic tendency: it is possible to solve nearly every problem through active effort, and hard work leads to happy endings.²²

American negotiators are characterized by their “can-do” approach. There exists a strong belief that the environment can be manipulated for someone's own purposes. The approach's main features are to set an objective, to develop a plan, and then to act to change the environment in accordance with that plan. As a result, not

much space exists for cultivating personal ties.²³ Against the background of a low context culture, American negotiators typically establish their positions clearly from the onset. They are interested in quickly discussing details and proceeding on an offer and counter-offer basis.²⁴

The volatility of life that prevailed in the early days of the U.S. is reflected in its low-context society. People have more connections of a shorter duration and for a specific reason than longstanding relationships. Therefore, important transactions are based on contracts rather than ties of sentiment, so that all obligations have to be spelled out and ambiguities resolved.²⁵

American society is also a linear-active one. The historical experience of the days of land grab and gold rush, when time was essential for future success, is still present in the American mindset. Schedules and deadlines seem to loom over everything (“Time is money”). Changing schedules or appointments or deviating from the agenda is difficult to accept. Americans prefer dealing with one thing and one person at a time rather than handling several tasks simultaneously.²⁶

Culture is the social identity individuals start to develop when they become aware of belonging to a social group:⁷ national cultures as well as political, economic, social, and historical elements form a national identity.

The worldwide prominence of the English language is further shaping the American culture. There are 375 million native speakers and an estimated 1.1 billion people who speak English as a second language; no other language seems to be as pervasive.²⁷ It is widely used as the dominant language in international organizations and forums. Hence, being a native-speaker creates an inevitable advantage and strengthens one’s self-confidence at the negotiating table. Moreover, native speakers are also able to express nuances in a way foreigners are rarely able to.

American diplomats appear to be direct both with their preference for straight talking and in their approach in general,²⁸ but this can be frustrating for a negotiating partner that may not have an understanding of this culture-based-behaviour. For example, in the negotiations over reforms in Japan’s financial markets in 1984, the abrupt manner of some U.S. diplomats affronted their Japanese counterparts. They complained for instance that Treasury Secretary Donald Regan behaved more as a businessman making a deal on Wall Street, as opposed to a diplomat engaged in a delicate negotiation with a foreign government.²⁹

*bb) Latin America: example of Mexico*³⁰

Mexico provides a good example of a high context and multi-active society. Managing affiliations with other people is of high importance; therefore, human relationships have to be established.³¹ In addition, life in Mexico is not organized around a clock, which means that punctuality is not a top priority for Mexicans. In Mexico’s hierarchical society, it is widely accepted that persons in a position of power

make others wait.³² Furthermore, in the Latin tradition, Mexicans address problems in broad general principles.³³

In a typical negotiation with Mexican diplomats, it is usual to start with friendly small talk and to approach the substance only when time seems appropriate. They do not follow agendas rigidly and prefer to discuss any point when it seems to be the most opportune time.³⁴ Nevertheless, the issues can then be discussed at length, and as conversation is regarded as an art, they seek the approval or conversion of their counterpart. Therefore, passion and eloquence are central to their style of discourse, and feelings are more important than facts. Coming to an end of the negotiation process, symbols of success are important. For a Mexican diplomat any public sign of surrender would mean a serious threat to any arrangement. In the 1982 debt talks with the US, Mexican diplomats preferred, for example, a substantively inferior agreement rather than the appearance of a greater Mexican concession.³⁵

b) Europe: United in diversity?

Diversity within Europe is too broad and historically deep-rooted to speak of one regional culture. Different cultural backgrounds prevail in Europe, from Spain to Estonia, Finland³⁶ to Greece, Germany, France³⁷ or Great Britain, affecting not only intra-regional relations, but intra-regional diplomacies as well.³⁸ Nevertheless, for over fifty years, European states with different cultures have worked together in the context of the European Union (EU). Do these individual national cultures influence the diplomatic process within the EU, and if yes, how and to what extent? Furthermore, will national cultural differences be reflected in future EU diplomacy, or will their influence will be minimized due to the ongoing process of socialization and an emerging “European esprit de corps?”³⁹ Two observations are relevant to this question. First, cultural peculiarities and differences belong to a *domaine réservé* within the European context. Originally, this term referred to specific issues “that cannot be submitted to discussion and interference from the other member states”⁴⁰ within the EU, such as security issues or special interstate relationships. Similarly, cultural influences on the diplomatic process are not reflected upon or openly discussed within the EU-context, but rather taken for granted by all participants.

Second, due to the continuity of positive social interaction and information exchanges between the partners, a practical process of bureaucratic socialization⁴¹ and cross-national collegial solidarity is setting in, overlapping the cultural nuances.⁴² As a result of the continuous interaction and the prolonged experience of cooperation (including co-ordinated *démarches*—policy initiatives—and common reporting abroad), the national representatives are subject to a mutual understanding, which forms part of a certain Community code that could develop into an “esprit de corps.”⁴³ These culturally determined norms of behaviour are: the culture of mutual respect, tolerance, and compromise, as well as other informal rules and facilitations of communication such as “Euro-speak” (the mixed use of different working languages, especially French and English).

On the other hand, there still remains the danger of the illusion of cultural

familiarity among EU partners.⁴⁴ The influence of cultural differences in the behaviour of multinational teams can best be exemplified along the North-South divide of European countries. At least two patterns stand out which adversely influence the multinational team performance: working style and methods of criticism.⁴⁵

The EU is in need of a coherent diplomatic service for a common EU foreign policy, precisely the reason why the Treaty establishing a Constitution for Europe envisaged the establishment of a European External Action Service (EEAS). It would have an estimated staff between 600 and 7,000 employees from varying departments of the Council Secretariat, the Commission, and the national diplomatic services of the EU member states, creating a diverse environment of cultural and professional backgrounds.⁴⁶ While the EEAS would have to rely on national foreign ministries and diplomatic services to recruit its employees, it remains an open question whether (and how) the original cultural peculiarities would be reflected in European diplomacy within the EEAS.

Common culture of diplomacy?

To determine whether a global culture of diplomacy exists, diplomacy as a term must be defined. The aim of diplomacy is twofold: to protect and guide the individual interests of states and to promote global norms and values characterizing the growing sense of a community of states and international unity. Modern diplomacy is a rule-governed activity involving communication, negotiation, and representation between states, international organizations and trans-national participants. These rules help to avoid or settle conflicts.⁴⁷ In the 21st century, diplomacy is ubiquitous and increasing in practice; non-state actors are more willing to engage in diplomatic methods and practice a distinct type of diplomacy.

The definitions of culture and diplomacy raise the question of the existence of a common culture of diplomacy shared by all participants involved in the interactive process of diplomacy; beyond the diversity of state-based diplomatic cultures, is there a common culture of diplomacy? Indeed, a range of similarities can be found in the diplomatic profession. These behavioural similarities create an *esprit de corps*.⁴⁸ Diplomats reap the benefits of a similar professional education and diplomatic training, sharing the same social rules such as restraint, politeness, tolerance, patience, empathy, and mutual confidence.⁴⁹ Furthermore, they have similar professional experiences. They are accustomed to the same procedures, follow the same rules, and display the same behaviours that suggest the reality of a common diplomatic culture.⁵⁰ This diplomatic culture could be defined as “the accumulated communicative and representational norms, rules, and institutions devised to improve relations and avoid war between interacting and mutually recognizing political entities.”⁵¹

Despite these similarities, some original cultural differences remain, which make it difficult to speak of a common culture of diplomacy. Individuals are formed by their cultural backgrounds which can never be truly neglected because they are

unable to erase what Hofstede termed the “programming of the mind.” The social identity achieved by a long lasting socialization process cannot be abandoned by means of professional training, no matter how intense this training might be.⁵² Moreover, abandoning national culture would also cause problems because diplomats would not be able identify with their own cultural background, making it almost impossible to fulfil their job as “servants of national interests.”⁵³

Finally, a serious factor affecting diplomatic traditions is the emergence of a diverse set of actors partaking in activities traditionally reserved solely for representatives of states.⁵⁴ As a result, the culture among diplomatic participants becomes more open; diversity is more common. However, not all of the new actors in diplomacy are experienced in dealing with foreigners and intercultural situations.⁵⁵ Their acculturation stays in many cases only task-related and is rarely adapted outside the negotiator’s professional environment. Similar to career diplomats, they never lose their own programming of the mind as their internalized culture. Therefore, even under the presumption that a common culture among diplomats exists based on a universally accepted protocol, it does conclusively prove the existence of a unique common diplomatic culture.

THE COMPONENTS OF DIPLOMACY:

Participants:

As discussed previously, diplomats are not the only actors involved in the diplomatic process. Due to globalization, many non-traditional actors such as NGOs, trans-national organizations and even individuals can be seen practicing diplomacy, which has become an expanding art and the “engine room of international relations.”⁵⁶ However, governments will continue to remain the principal participants in the practice of diplomacy. The ministry of foreign affairs has had the primary responsibility for coordinating diplomatic interactions for a long period of time, and this is unlikely to change fundamentally.⁵⁷ Nevertheless, globalization requires governments to operate in a context different than before because governmental diplomacy has to fulfil an additional function, which is to integrate other participants of diplomacy in its own decision-making processes.⁵⁸ To meet these challenges, governments have been focusing on new strategies, such as involving ministries and non-state actors and institutions, providing greater transparency, and acting collectively as often as possible.⁵⁹

From 2005 to 2006, 20,928 NGOs were operating in the international community, 2,476 of which have consultation status at ECOSOC.⁶⁰ With the rise of these non-state organizations and new social movements, the diplomatic function is being exercised by a wider circle of citizens. As active participants of civil society they have become symbolic and complementary diplomatic actors, bringing in a diplomatic culture of their own which is more relaxed, direct, and audacious.⁶¹ A new diplomatic practice is emerging and the diplomatic discourse is becoming popularized, detached from the state. The symbolic relationship between the state

and societal actors carries the potential for creative statecraft and valuable diplomatic practices. The NGOs as part of the international civil society can deploy their populist and indirect rule towards the privatization of public authority and responsibility and become a partial surrogate of the state.⁶²

The number of International Organizations (IOs) has risen in 2005–2006 to 1,963.⁶³ They can be seen as autonomous political actors, practicing a form of diplomacy divergent from the traditional practice. As a result, they have created a distinct cultural and diplomatic identity formed not only by organizational practices, but also by the culture of the country or region in which organizations are based. They are involved in a diplomatic network that goes beyond the national interests and concerns and represents common interests of IOs.⁶⁴

The aim of diplomacy is twofold: to protect and guide the individual interests of states and to promote global norms and values characterizing the growing sense of a community of states and international unity.

Apart from representatives of NGOs and IOs as institutional participants, experts as individual actors play an increasingly important role in diplomacy by working out international agreements. They bring their cultural particularities to diplomatic interactions and represent their own professional culture,⁶⁵ which may include special habits, basic beliefs, norms and customs that distinguish those experts from other participants in diplomatic interactions.⁶⁶

Processes/Practices

a) Compromise

All participants in a diplomatic process must be willing to compromise; if not, diplomatic efforts are destined to fail. The willingness to find an acceptable compromise by all actors involved will guarantee consensuses on a possible solution, because it is self-defeating to make the desired result of negotiations their precondition. For that purpose, participants should be aware of their individual liabilities and assets while recognizing the customary authority of international consensus. The result of negotiations must always be to identify common interests and work out acceptable solutions for a wide scope of common concerns.⁶⁷

b) Language

Language is more than just a means of communication; language⁶⁸ is a tool for empowerment. Since communication and culture are acquired simultaneously,⁶⁹ language can be considered the key to a culture. Every language deeply rooted in a particular culture conveys a unique representation of the world. Good argumentative points and diplomatic techniques are useless without the ability to communicate them. As there are strong differences in verbal and nonverbal communication across cultures and subcultures,⁷⁰ language can also be an obstacle to a successful

diplomatic process because of possible cross-cultural misinterpretations. As such, language skills are one of the most important tools for diplomats. The only possibility to communicate and negotiate without proper (foreign) language skills is third party interpretation. However, involving an interpreter can lead to a loss of behavioural nuances and confidence,⁷¹ and can therefore be considered as a secondary option.

Edward T. Hall differentiates the methods of communication between high and low context cultures. High context communication implies the transfer of frequent unspoken messages within communication; communication occurs through allusion, making the context of what is said as important as the content.⁷² Conversely, low context communication contains the exchange of all intended information through speaking; hardly anything is implied apart from what is explicitly spoken.

Even if the negotiating partners use the same language, it can be difficult or even impossible to communicate the meaning and relevance of a certain word. Some words have a completely different meaning depending on the origin of the culture in which they are used; hence, it may be insufficient to simply translate them from one language to another. This different use of language can cause misunderstandings, leading to a communication gap: for example the various interpretations of the phrase "human rights."⁷³ The difficulty the international community has faced to unilaterally define the phrase demonstrates the complexity in finding a consensus in diplomatic interactions without the presence of shared values and ideas backing fundamental terms that are the focus of these interactions. Especially in diplomatic negotiations, the knowledge of such linguistic and cultural nuances and differences helps to avoid the communication gap.

OTHER FACTORS DETERMINING THE NEGOTIATION PROCESS

Nature of the decision

One of the most important determinants of the negotiation process is the nature of the decision to be taken.⁷⁴ The nature of the decision influences the type of the negotiation, which can vary between the traditional bilateral or multilateral diplomacy, parliamentary diplomacy, summit diplomacy, or conference diplomacy by means of ad hoc meetings.⁷⁵ Sensitive topics might especially necessitate secret instead of open diplomacy and thereby influence the atmosphere of the negotiation. Furthermore, there is interdependency between the importance of the decision to be taken and the public interest in it.

Behaviour of the actors

Diplomats are servants of the state, thus their behaviour depends on the instructions they receive from foreign policy makers at home, but conditions during negotiations also affect the actions of diplomats. The number of negotiating parties and individual participants involved in the negotiation process is a factor that influences behaviour. In the case of multilateral negotiations, the number of parties

increases the number of possible coalition partners and makes the negotiation strategically more complex. A high number of participants decreases the secrecy of the negotiation⁷⁶ and has a strong influence on the amount of talking time per participant, because the greater number of participants involved the more parties each participant has to deal with in an inversely proportional amount of time.⁷⁷

Time and place

Traditional diplomatic practice dictates tight schedules and deadlines, and time management becomes important; nevertheless, negotiation can unexpectedly continue longer than expected. In this case, time might evoke stress and becomes a very relevant factor in negotiations.

Even though time is an important factor in diplomacy, the perceptions of time and the importance of punctuality⁷⁸ vary among different cultures and can be an obstacle in negotiations. Edward T. Hall subdivides cultures into mono- and polychronic cultures. Monochronic individuals do one thing at one time, take time commitments such as deadlines and schedules seriously, stick to plans and concentrate on their job, and are usually low-context. Conversely, polychronic individuals complete many tasks at once, consider time commitments an objective to be achieved only if possible, and are usually high context. They change plans often and are highly distractible.

The setting in which diplomatic interaction takes place is another factor that should not be underestimated; the location has to be chosen deliberately to avoid diplomatic blunders. As far as location is concerned, it is important that there is, on the one hand, enough space for all participants to work freely, but not too much space so that a familiar atmosphere can develop and informal meetings among the participants are possible.⁷⁹

INTERDEPENDENCY BETWEEN DIPLOMACY AND CULTURE?

Having examined the cultural differences among diplomatic participants and their impact on the outcome of diplomatic interactions, interdependency between diplomacy and culture can hardly be denied. Negotiation styles are strongly influenced by the cultural background of the negotiation parties, as well as the perception of time, and the setting of priorities within interactions.

Competition exists between national and professional culture in international interactions because of the different negotiation styles.⁸⁰ Diplomats can only be successful if they can cope with the simultaneous challenge of living in or with foreign cultures and representing the interests of their national governments. Moreover, intercultural competence is essential to understanding participants with other cultural backgrounds. Once this cultural awareness exists, it influences the culture of diplomacy in such a way that diplomats at least try to respond to the cultural particularities of their foreign counterparts. It leads to a better relationship among the participants in diplomatic interactions and is the appropriate instrument to pave the way for diplomatic success. Therefore, effective and competent

communication is imperative for successful diplomatic interactions. Diplomacy aims for the protection and guidance of interests on the one hand and the avoidance of conflicts on the other hand; the manner in which diplomacy is conducted influences the negotiation culture because of the need for successful solutions. Due to the need for challenging intercultural differences, a professional or “third” culture of diplomacy emerges. The question is if this impact also works vice-versa; to say if culture also influences diplomacy.

As every participant involved in diplomatic negotiations has his or her own “programming of the mind,” which cannot be abandoned, a cultural impact on diplomacy is inevitable. Culture does not only influence negotiation style, time perception, and the significance of relationships, it also has an impact on social roles and etiquette. As all these aspects play some role within diplomatic interactions, they are in principle capable of influencing diplomacy. In practice, diplomacy is as much about cultural relations as it is about political relations. It is culture, even more than politics that provides structuring principles in the understanding of diplomatic practices and processes.⁸¹ With reference to the new interest in the cultural dimension of international relations, the diplomatic historian David Reynolds formulates: “The diplomatic twitch must take full account of the cultural turn.”⁸²

CROSS-CULTURAL TRAINING:

Having examined the high impact of cultural variations on diplomatic processes, it has to be determined how diplomats and other actors involved in diplomatic processes can successfully be prepared to meet the challenges of the interdependency between diplomacy and culture. Without the awareness of cultural differences, diplomats might tend to look only for similarities rather than first acknowledging the differences. Once they are in a different cultural area, their perception of culture might become selective; filtering out what is inconsistent with their own culture.⁸³ The need for such preparedness is especially relevant in the context of globalization.⁸⁴

The best way to evoke cultural awareness and guarantee the required intercultural competence is international training. Only in this way can diplomats cultivate cultural intelligence and learn how to communicate cross-culturally.⁸⁵ Such an intercultural training should include theoretical, practical, and personal component.⁸⁶ Transfer of cultural theories could be the starting point for this learning process, connected with analysis of cultural similarities and differences. To be efficient, intercultural training should be initiated at an early stage of the diplomatic education and be followed by knowledge, skills, and practice.⁸⁷

Since there are more participants in diplomacy than the employees of foreign offices, it is insufficient to offer intercultural training only within the classical diplomatic education, but also to various government officials and non-governmental participants as well such, as representatives from TNCs, NGOs, and the media. In the future, the need for competent intercultural preparation will increase proportionally with the amount of participants involved in diplomatic

interactions. Though international training can only lay the foundation for successful diplomatic interactions, it is the basis on which diplomats can develop their intercultural skills. Cultural sensitivity thus is the highway that leads to diplomatic success; it can make or break any international career.

CONCLUSIONS

In view of diplomatic cultural relativism and the quest for intercultural accords, only when each of the disparate cultural systems in our world is fully recognized in its intrinsic substance will it be possible to understand the various patterns of globalized relations. Thus, cross-cultural preparation is crucial and to proceed with such a preparation, it is useful to proceed with the following guidelines.⁸⁸

a.) Confidence, respect and empathy facilitate honest interactions possible between individuals and most especially diplomats.

b.) Cultural awareness is the starting point for intercultural competence because culture is a lens through which one observes and judges the world. In order to open one's mind to cultural differences, one must be aware of the existence of this lens.

c.) Every culture, as an expression of identity demands equal respect and tolerance. Awareness of intercultural differences allows diplomats to consider each culture equally and to be cognizant of one's own cultural background. Culture is an expression of identity and must be treated respectfully and sensitively. As far as cultural particularities are concerned, there is no right or wrong; the "correct" culture does not exist. Lacking tolerance and sensibility are a destructive recipe for effective diplomacy. They are signs of a lack of cultural respect and contrary to the principles of diplomacy. Moreover, awareness of various cultural fundamentals, such as religion, philosophy, and ideology, which form a cultural identity, must be taken into account. It is important to realize that some issues can evoke strong emotional reactions, and are therefore a threat to successful diplomacy. The more emotionally responsive a cultural identity is, the more rigid members become when their beliefs are not respected.

d.) It is crucial for diplomats to be mindful of the various perceptions that fellow negotiators may have of not only themselves and their national identity, but of other participants as well. Cognizance on these issues is indispensable in understanding the behaviour of negotiating parties

e.) Nonverbal communication is equally as important as verbal exchanges during diplomatic proceedings. They require particular attention because they are unspoken, and therefore, interpreted according to an individual's cultural knowledge of non-verbal exchanges.

f.) Diplomats should always keep in mind that not all parties have similar interests when entering negotiations. Hidden agendas and unanticipated priorities can influence diplomatic interactions more than the official ones; these concealed interests can influence a negotiation more than the actual purpose of the gathering. Understanding these gaps requires not only a profound knowledge about current issues facing a party's domestic environment, but also underlying cultural motives for

why they may be pursued.

g.) It is imperative that the claims of all participants be taken seriously. Moreover, underestimating any party can lead to unexpected and unwanted revelations during proceedings.

h.) Flexibility is crucial during proceedings because unexpected occurrences are a likely possibility. Diplomats must be flexible enough to react with the required degree of alertness, respect, and professionalism to limit any further impediments to successful diplomacy. Nevertheless, flexibility may not be the appropriate instrument to deal with intransigent negotiating parties.

i.) Lastly, the best way to evoke cultural awareness is to experience cultural differences in practice and to acknowledge cultural pluralism. Even intercultural training, as good as it might be, cannot fully replace personal experiences. Cultural variations should not be viewed as a threat to a specific culture, but instead as the possibility to broaden one's mind.

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⁸⁶ Korshuk, "On Intercultural Training of Diplomats,"410.

⁸⁷ Hofstede and Hofstede, *Cultures and Organizations*, 359.

⁸⁸ Glen Fisher, *Mindsets*, 75; Cohen, *Negotiating Across Cultures*, 225-226; Sunshine, *Negotiating for International Development*, 77; Lewis, *When Cultures Collide*, 174; James K. Sebenius, "Caveats for Cross-Border Negotiations," in: *Negotiation Journal* (April 2002): 121: stereotyping, over-attribution, skewed perceptions and information processing, global negotiating culture.

BOOK REVIEWS

Institutional Interaction in Global Environmental Governance

by John Martin Gillroy

Institutional Interaction in Global Environmental Governance: Synergy and Conflict among International and EU Policies. Eds. Sebastian Oberthür and Thomas Gehing, Cambridge: The MIT Press, 2006. 425 pp. US\$28.00 (paperback) ISBN 0-262-65110-6

John Stuart Mill wrote biographical pieces on both Jeremy Bentham and Samuel Taylor Coleridge. Reflecting on these men, with the first establishing science as the key to social studies and the other reminding us that anything involving human beings must also be considered a subject of philosophical method, Mill argued that anyone considering themselves an intellectual must trace their ontology back to one of these giants. This insight marked the establishment of dividing the positive from the normative and the scientific from the human in social affairs - an insight which still impacts the professions of law and policy to this day.

I believe the case studies presented in *Institutional Interaction in Global Environmental Governance* are well-written, informative, and thought-provoking. And while I find myself in substantial agreement with the importance of interaction effects, I put this book down with the lingering concern that the editors have ignored the important Coleridge component of philosophical argument completely—by buying into only the Benthamite side of social science research, the editors end up skipping some necessary elements of a systematic argument about interaction.

The volume maintains that its purpose is to trace the origins of a “system of norms” for interactions between trans-national institutions and to create ideal-types that can be used for further study. Simultaneously, the editors claim that what they are doing is exclusively “empirical,” with statistical analysis at the end toward which the entire effort aims. Considered at this superficial level, *Institutional Interaction in*

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Global Environmental Governance makes the case that the operationalization of both EU and international governance structures do not come about in isolation, but are the products of interaction between embedded, nested, vertical, or horizontally connected institutions. These interactions, within what G. Majone calls a “policy space,” are first set out within a theoretical model (Chapters One and Two), then this model is tested heuristically by being adopted for use in the ten case studies of EU and international environmental law that comprise the bulk of this book (Chapters Three through Twelve). Finally, in completing their empirical analysis of norms, the editors quantitatively coded and statistically analyzed the cases as a way to provide positive evidence for turning their model into a set of ideal-types (Chapter Thirteen).

Instead of quantitative analysis providing a systematic logic or a fundamental demonstration of the assumptions of the model in Chapter Two, the analysis provides the reader with nothing new. In fact, such analysis exacerbates one’s sense that basic philosophical questions regarding the assumptions and logic of the model have been posited and used for the analysis without adequate justification. At the core of their work, the authors assume, without argument, that the effects of interaction involve only two institutions at a time, and are “*unidirectionally causal*”: “A case of interaction thus comprises a source institution from which influence originates, a target institution that is affected, and a causal pathway through which influence runs from the source to the target.”¹ These are controversial assumptions that dodge some extremely important questions about the definition, ontology, and dialectic nature of interaction, causality, and the systemic links between variables. The editors hypothesize causal relationships without any argument for what this concept means, or if they need its strong implications to make their model work. Although avoiding these philosophical components of the argument may make conducting statistical analysis easier, it cheats the potential of the model by leaving it largely unjustified.

It is also put forward that interactions between institutions are of mainly three types: those accomplished through *cognition*; those that come from *commitment*; and those shaped by *behavior* after outcome. Yet, once again, no attempt is made to stake out the epistemological or philosophical roots of these phenomena. The argument is made that obligations must be part of any inherent commitments; the text depends on the idea of commitment without any argument for a principle or process-norm that would define its meaning. *Institutional Interaction in Global Environmental* assumes that cognitive impacts can be empirically tested, without an effort to persuade us of a definition of knowledge or how it can be transmitted by individual agents or through collective action.

To be fair, the editors acknowledge that many of these questions beg argument. However, each time they approach one of these issues, they rely on the Benthamite logic and maintain that empirical analysis requires no effort to integrate philosophical concerns. The editors seem to forget that even Max Weber spent many pages setting up and justifying his ideal-types on a foundation; the same should have been done here.

The topics covered in *Institutional Interaction in Global Environmental Governance* are of value and I support the idea of creating a set of ideal-types that might standardize the study of “governance interactions.” However, the lack of an argument concerning the concepts, premises, and essential logic of the model makes the rest of the research in this book less convincing. As such, *Institutional Interaction in Global Environmental Governance* is too much Bentham and not enough Coleridge. Like economic analysis that depends on ideas from Adam Smith’s *Wealth of Nations* without the substructure of his *Theory of Moral Sentiments*, the absence of the latter makes the former correspondingly less valuable. I recommend the case studies, and even the sparsely justified model in Chapter Two, to anyone interested in this topic. But, I would also encourage them to skip the statistical analysis at the end of the book, as it adds little to the conclusions of the cases themselves and is a distraction to establishing the philosophical core of this important work.

Notes

1 Sebastian Oberthür and Thomas Gehing, eds., *Institutional Interaction in Global Environmental Governance: Synergy and Conflict among International and EU Policies* (Cambridge, MA: MIT Press, 2006), 19.

Alexandra Xanthaki's, *Indigenous Rights and United Nations Standards: Self-Determination, Culture, and Land*

by Baron Pineda

Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land. By Alexandra Xanthaki. Cambridge: Cambridge University Press, 2007. 358 pp. US\$105.00 (hardcover) ISBN 0-521-83574-7

With the long awaited adoption of the Declaration of the Rights of Indigenous Peoples by the UN General Assembly on September 13, 2007, Alexandra Xanthaki's book could not be more timely. Xanthaki is a legal scholar and senior lecturer in International Human Rights at Brunel University and has worked as a consultant to the United Nations Special Rapporteur on Indigenous Issues. In *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land*, Xanthaki surveys the most relevant United Nations instruments regarding indigenous peoples in order to "test" whether indigenous claims are consistent with current international legal standards.¹ She finds that this is indeed the case and provides a clear, and even impassioned, argument for why the international community should continue to make progress on the international law of indigenous peoples.

Throughout the book, Xanthaki engages her audience of state officials and other skeptics who may recognize the plight of indigenous peoples, but view attempts to address past and present wrongs against them as peripheral, impractical, or even discriminatory. Xanthaki argues that building on the existing structures of international law, indigenous rights can be effectively promoted to the satisfaction of both indigenous peoples and nation-states.

Although Xanthaki is clearly an advocate of indigenous peoples and their rights, she develops an argument that attempts to carve out a middle ground between states' fears (that recognition of indigenous rights will lead to secession or worse) and, what she perceives to be, the imprudent legal strategies taken by some indigenous peoples and advocates (which insist on a narrow definition of self-determination). In a move that runs counter to the rallying cries of much of the indigenous movement,

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Xanthaki outlines the case that indigenous peoples must not place a claim to the right of self-determination at the center of their legal strategies. In fact, she argues that although the United Nations was instrumental in shepherding the world through the decolonization process after World War II, indigenous peoples are better served by not casting their movement in terms of decolonization. Xanthaki explains with depth and clarity why this “maximalist approach” to self-determination is counter-productive.² She favors a more eclectic legal approach in which there is room for creativity in establishing new and unprecedented relationships between states and indigenous peoples; for Xanthaki, this approach is the only way forward.

In countering the claim that indigenous rights are illiberal (because they grant special rights that are not universally extended to all groups and individuals in society), Xanthaki demonstrates that international law can accommodate both the claims to rights made by people as individuals, as well as collective claims of groups. She takes productive forays into political theory as it pertains to issues of multiculturalism and argues for a variety of “critical pluralism.”³ Xanthaki makes repeated reference to the importance of viewing human beings as being composed of “concentric circles” of loyalties and identities that radiate from the individual out - from the local to the global. According to Xanthaki, all of these facets need to be protected by law. She writes:

In order to protect the individual, all the various ‘circles’—loyalties—around her need to be protected. Thus, international law includes a different set of protection for the individual (by establishing individual rights), but also for her family, ethnic, cultural or religious group, the society in which she lives in, and finally the culture of her continent and the culture of the world itself (by establishing collective rights).⁴

Far from a peripheral matter relegated to states, Xanthaki contends that the issues of pluralism and cultural diversity are central and critical issues for all nations and all peoples. In this sense, those of us who are interested in what are now the frontiers of human rights law (such as rights to sustainable development, a clean and safe environment, and others), should take heed.

The book is divided into two sections. The first section surveys existing legal instruments, including those pertaining to indigenous peoples such as ILO Conventions 107 and 169. Fortunately, this section includes an in-depth examination of the Declaration of the Rights of Indigenous Peoples which, at the moment of Xanthaki’s writing, had not yet been signed. Xanthaki analyzes these documents from both a legal perspective and in the context of other aspects of international law, such as human rights law.

In the second section of the book she establishes three thematic issues: self-determination, cultural rights, and land rights. In both sections, Xanthaki draws heavily on relevant secondary sources and United Nations documents. Although she draws most heavily from legal documents, Xanthaki also debates culture theory, which will certainly be welcomed by readers in the social sciences and humanities.

Alexandra Xanthaki has produced an accessible and densely researched book that is a productive read both for legal scholars who are not familiar with the international law of indigenous peoples, as well as the general reader who is interested in indigenous issues. She does an excellent job of explaining why this case is of broad significance for all of us—indigenous and non-indigenous alike.

Notes

¹ Alexandra Xanthaki, *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land* (Cambridge: Cambridge University Press, 2007), 5.

² Xanthaki, *Indigenous Rights and United Nations Standards*, 153.

³ Xanthaki, *Indigenous Rights and United Nations Standards*, 26.

⁴ Xanthaki, *Indigenous Rights and United Nations Standards*, 23

Jan Zielonka's *Europe as Empire: The Nature of the Enlarged European Union*

by Matthew Omolesky

Europe as Empire: The Nature of the Enlarged European Union. By Jan Zielonka. New York: Oxford University Press, 2007. 304 pp. US\$35.95 (paperback) ISBN 0-199-23186-9

In an otherwise unremarkable speech on July 17, 2007, European Commission President José Manuel Barroso made reference to the European Union as “the first non-imperial empire...Sometimes I like to compare the EU as a creation to the organization of empire.” Barroso continued, concluding that the EU has “the dimension of empire.” These statements raised heckles throughout Europe (particularly in Britain, where the new EU treaty signed on June 23, 2007 has led to widespread calls for a referendum), and allowed wags and pundits to liken their own democratically-elected national governments to mere provincial satraps. Yet, as Oxford professor Jan Zielonka has shown in his recent book, *Europe as Empire: The Nature of the Enlarged European Union*, the result of decades of European integration

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does have something of an imperial savor (albeit, in Zielonka's words, a "neo-medieval" one).

The starting point for Zielonka's analysis of the present state of the European Union, is the aftermath of the French and Dutch rejection of the European constitutional project, which effectively mooted the idea of a European superstate. Zielonka introduces a new model for viewing the EU system, one radically different from the standard Westphalian federal model, namely that of a "neo-medieval empire." Under the "neo-medieval empire" conception, the future EU system will feature: soft-border zones in flux; multiple cultural identities; interpenetration of various types of political units and loyalties; a blurred distinction between the European center and the periphery; overlapping military institutions; and divided sovereignty along functional and territorial lines. In other words, the "neo-medieval empire" is something of a post-modern Holy Roman Empire.

In positing a neo-medieval alternative to the neo-Westphalian system, Zielonka concentrates on the effects of EU enlargement and the incorporation of post-Communist states. The effort to include these states began as an attempt to "assert political and economic control over that unstable and impoverished neighborhood," but led to East-Central and Southeast European "access to the EU's decision-making and resources at the end of the accession process," with profound ramifications in terms of social, economic, and foreign policies.¹ Like the aforementioned referenda, the latest rounds of eastward expansion have undermined Brussels' aspirations of European superstatehood, lending further credence to Zielonka's alternative conception.

Throughout *Europe as Empire*, Zielonka is mindful of recent developments within the EU that seem to support neo-Westphalian aspirations (for example, the increase in EU delegations abroad, the creation of the European Military Committee, and EU peacekeeping operations in the Central Africa and the Balkans), but these are shown to be more or less chimerical. Instead, Zielonka astutely argues that European foreign policy remains in the hands of the individual states. Moreover, Zielonka contends that that EU membership is instead instrumentalized as one of many institutional foreign relations tools, along with membership in the UN, NATO, OSCE, and involvement in contact groups or bilateral ties. Furthermore, as nations are wooed by both Brussels and Washington, "like in the Middle Ages, European actors are subject to two competing universalistic claims."²

Zielonka prefers to look at the EU's strategic goals in terms of economic governance, citing the body's stated aims of "a zone of prosperity and a friendly neighborhood."³ Thus, future EU efforts beyond its borders will likely be centered on building up common infrastructure, bolstering energy security, and enhancing cross-border cultural links, as opposed to pursuing traditional superstatist goals. If Zielonka's thesis is correct, this will have considerable impact on EU accession hopefuls like Ukraine, Croatia, or Turkey, as well as states within the EU's broader sphere of influence (e.g. the Black Sea region or the Maghreb).

This paradigm offers a new way forward for EU neighborhood policy, especially in light of the recent European “enlargement fatigue” (a stumbling block Zielonka himself has in the past underestimated, having in the 2006 edition of *Europe as Empire* operated under the curious assumption that Croatia was “quite likely” to join the EU along with Bulgaria and Romania). As Zielonka notes, “it is not hard to conclude that were this strategy to succeed the distinction between EU members and non-members would become blurred and the Union would shape economic transactions and legal rules on the territory of its neighbors.”⁴ For Zielonka, the fuzzy borders and amorphous characteristics of this potential arrangement are what would give the EU its “neo-medieval” aspect.

Zielonka’s framework is a novel and compelling one—the first to fully grapple with the implications of the failed constitutional referenda and recent rounds of EU enlargement. By looking beyond the superstatist aspirations of many policymakers in Brussels, *Europe as Empire* sheds considerable light on the direction the EU is being taken by its constituent states. Aside from validating Mr. Barroso’s (perhaps unartful) comments on the subject of European empire, Zielonka has made a genuine contribution to scholarly EU literature. It is now to hoped that the “neo-medieval” paradigm will enter the European lexicon.

Notes

¹ Jan Zielonka, *Europe as Empire: The Nature of the Enlarged European Union* (New York: Oxford University Press, 2007), 20.

² Zielonka, *Europe as Empire*, 141

³ Zielonka, *Europe as Empire*, 111

⁴ Zielonka, *Europe as Empire*, 112