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Strengthening of Democracy and Human Rights in Latin America -Current situation and challenges-

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Latin America is commemorating 30 years of the deepest and far reaching democratization process that has ever taken place in the region. The transition from authoritarianism and dictatorships fostered a widespread electoral euphoria which was accompanied by much looked-for and needed civil liberties and political rights. As a result democracy became the only game in town (except for Cuba). However, after three decades of, for the most part, free and fair elections unsatisfied social aspirations and needs, remain reflected in the steady levels of poverty and inequity, which exert pressure on the political systems and constitute a challenging scenario for governability and for the enjoyment of not only civil liberties and political rights, but also social, economic and cultural rights. This essay attempts to make a contribution for further analysis and reflection through a review of the current situation of Latin America, as well as citing some trends and challenges that are essential elements of said context.

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Latin America's collective pursuit of human rights and democracy

The Latin American states constitute a diverse array of democracies that has made enormous progress in setting up an outstanding regional system for the promotion and protection of democracy and human rights. The Inter-American Democratic Charter, approved in Lima, Peru, in 2001, following the progressive development of international law and inspired by the values and principles set forth in the founding Charter of the OAS, together with the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights, stands out as the most advanced instrument in linking, in an indivisible way, democracy and human rights.

In its Article 1 the Charter establishes "The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it". In this way the Latin American states acknowledged that democracy is a right of the people that allows the exercise and enjoyment of other fundamental rights as clearly stated in its Article 7:

"Article 7. Democracy is indispensable for the effective exercise of fundamental freedoms and human rights in their universality, indivisibility and interdependence, embodied in the respective constitutions of states and in inter-American and international human rights instruments."²

In this regard Humberto de la Calle asserts that in the light of the Inter-American Democratic Charter "One cannot talk about full respect for the body of human rights if democracy does not exist...."³ and adds that the Charter as "an organic compilation of the principles and values that serve as the foundation for the effective functioning of democracy..." stands, beyond its legal applicability, as a political guide for the region which is anchored in

² Organization of American States (2001) Inter American Democratic Charter. Washington, DC.

³ De la Calle, Humberto (2006) La Carta Democrática Interamericana y transición en Cuba. Paper. Fundación Canadiense para las Américas (FOCAL)

fundamental and universally accepted standards within the Inter- American System, establishing as a result the boundaries for political development in the region.

Despite the remarkable achievement of building regional consensuses about democracy and human rights upon which such regional instruments were approved, there are still pending tasks to assure a sound implementation of the responsibilities derived.

Latin America--a diverse region in transformation: current situation and trends

Latin American countries are witnessing, and in some cases, undergoing processes towards the establishment of more deliberative, participative and inclusive democracies implying enhanced social participation in the design, discussion, enactment and implementation of public policies.

A number of countries in the region have entered into discussions about political and/or electoral reform processes whilst others have convened Constituent Assemblies (i.e. Venezuela, Bolivia, Ecuador) reflecting a trend that suggests the need to review the organizational and institutional structure and rules of the game under which States are functioning, as well as the role played by political parties as fundamental political institutions that are meant to be the representatives of citizens, the articulators of social demands, the proponents of political plans, the agents of constructive opposition and the implementors of effective government when they are the official parties.

Midway through 2009, Latin America finds itself in the middle of the most severe global financial and economic crisis since the Great Depression, at the same time witnessing a number of innovative democratic transformation processes in which the maps of political and social relations are being redrawn as shown by the above mentioned cases of Venezuela, Bolivia and Ecuador.

Latin America looks forward to an unprecedented set of challenges and backward to a period of unparalleled economic growth and democratic vitality. After the purportedly "lost decade"⁴ characterized by mainly right-leaning governments adhering to the Washington Consensus (1980s through early-mid 1990s), a wave of left-leaning governments emerged in the region based on socially driven discourses and promises to tackle the region's pressing problems of inequality, poverty, and governance from a different perspective. The success or failure of this 'new left' in addressing these issues will be crucial in determining in the next few years whether Latin America can finally enter into a balanced course towards achieving long-lasting economic growth and socio-political progress.

It is important to bear in mind that Latin America constitutes an assortment of countries that have undergone different socio-political processes since colonial times determining, as a result, a diverse set of social and political values and structures, as well as particular idiosyncrasies. On the whole Latin America is one and several at once ruling out, as a result, the notion of a homogenous region. This diversity also applies to the concept of the "new left". In this sense the frequent practice of using the label of the "new left" to put into a same category President Colom in Guatemala, President Funes in El Salvador, President Ortega in Nicaragua, President Chavez in Venezuela, President Correa in Ecuador, President Morales in Bolivia, President Bachelet in Chile, President Fernandez in Argentina, President Vasquez in Uruguay and President Lula in Brazil entail inaccurate and misleadin analysis of such cases. The circumstances that led to the election of each one of these

⁴ This decade has been considered lost in economic terms, however in political and democratic terms it was the same decade in which the "third wave of democratization" began and gained momentum across the region making for it a positive decade.

Presidents reflect different national development conditions as the result of individual sociopolitical processes, though all seem to share broad social dissatisfaction with the way traditional elites were conducting the political process and how the State did not satisfy the aspirations and needs of ample sectors of the population.

It is not uncommon to hear analyses distinguishing between the "right" and the "wrong" left in Latin America. However, this separation might be considered to be determined by political prejudices and/or economic interests. The 'right left' is described as retaining the Latin American left's longstanding commitment to social justice, but also being internationalist, committed to democracy, and respectful of free market principles. At the other end, the 'wrong left' is regarded as committed to social justice, but it is also nationalist, authoritarian, and still connected to old statist economic policies.

At this point in history, it seems that Latin America has left for good its militaristic authoritarian past behind and that the challenge is the long overdue crafting of solid political institutions and public administration systems able to buttress the democratic, though unfinished, achievements of the last three decades and to bestow upon the state the required legitimacy and capacities to bolster economic growth, implement effective poverty alleviation and achieve the reduction of inequality and the opening of opportunities for social development.

In political terms, despite the progress made in the organization and undertaking of elections across the region, there is still a threat to democracy that becomes evident from time to time when democratically elected leaders have been forced out of office ahead of time by widespread criticism and outraged multitudes. The most potent sources of civil discontent leading to a breakdown in the constitutional process suggest a deteriorating economic situation and widespread charges of lack of ability, corruption and abuse of power by the traditional political elites⁵.

In this context furnishing the policy process with quality leaders and institutions seems to be at the center of the priorities for the Latin American political process, as well as revaluing politics as a principled and respectable occupation. The Inter-American Development Bank and International IDEA in their book "Politics Matter - Democracy and Development in Latin America"⁶ assert that "if politics is important for institutions and institutions are important for development then politics matter for development."⁷ This assertion underscores how politics wield their weight over the process of development through their effect on political institutions.

The democratization process and the political and institutional dynamics of Latin America have been broadly studied and discussed by scholars and practitioners from within and without the region. Regardless of the approach followed, most coincide in that Latin American states are characterized by a set of institutional weaknesses and practices that undermine their performance in fostering development and the fulfillment of societies most basic needs and aspirations. In this sense Fernando Carrillo-Florez argues that "the quality of public institutions depends upon the quality of politics and the quality of democracy"⁸.

⁵ For instance in the past ten years, a deteriorating economic situation and crises of governance led to the downfall of Carlos Mesa in Bolivia in 2005, Gonzalo Sanchez de Lozada in Bolivia in 2003, Fernando de la Rua in Argentina in 2001, Jamil Mahuad in Ecuador in 2000, and Abdala Bucaram in Ecuador in 1997. Charges of corruption have led to Lucio Gutierrez in 2005 in Ecuador, Alberto Fujimori in Peru in 2000, and Raul Cubas in Paraguay in 1999 to resign as well.

⁶ Banco Interamericano de Desarrollo e International IDEA (2003) **La Política Importa. Democracia y Desarrollo en América Latina**. Segunda Edición. Washington. Pp. 14

⁷ Translation of the author.

⁸ Carrillo-Florez, Fernando (2006) <u>Una democracia de pobres es una pobre democracia</u> in Paramio, L and Revilla, M (2006) **Una nueva agenda de reformas políticas en América Latina**. Fundacion Carolina. Siglo XXI Editores. Madrid. Pp.115

The Central American Governance Institute⁹ has asserted that most of the countries in the region have as their governmental system a particular representative and republican model, though in differing degrees of development, as well as a series of prevailing legal and institutional anomalies and scarcities that undercut the correct functioning of the political and institutional systems and generate a set of perverse effects affecting the routine functioning of political systems. This affects the exercise and enjoyment of human rights. Among said institutional weaknesses are the following:¹⁰

- Defenselessness and lack of protection of basic fundamental rights for broad sectors of the population
- Disconnection between the values guarded by the Constitution (republican volunteerism) and the practical and demandable rights made operational by substantive and procedural laws
- 3. Lack of institutional machinery for horizontal and vertical accountability
- 4. Corruption as a daily political practice and impunity as the systemic response
- 5. Absence of mid to long term planning and the production of superfluous public policies for the reform and good functioning of the State
- 6. Taxing injustice, regressive character of taxation and inefficient financial management of the State
- 7. Unequal distribution of wealth
- Minimal and inefficient social investment, aggravation of poverty and deterioration of the quality of life

⁹ The Central American Governance Institute is a network of experts, researchers and institutions studying the legal and institutional frameworks as determinants of good democratic governance. The institute is headquartered in San Jose, Costa Rica.

¹⁰ Instituto Centroamericano de Gobernabilidad (2007) Primer Informe Centroamericano de Gobernabilidad. San José, Costa Rica. http://www.epfcentroamerica.org

- 9. Perpetuation of centralist and exclusive public management structures
- 10. Political electoral systems misrepresenting social plurality
- 11. Organic weakness of local governments
- 12. Pseudo processes for social dialogue and concertation and non participatory decision making
- 13. Legal insecurity
- 14. Illegitimate public policies (legal, political and social)
- 15. Absence or lack of implementation of basic norms on public administration
- 16. Voids in terms of modern customs legislation; legislative regulations; reform of the judiciary; legislative modernization, registry security; etc.
- 17. Precarious development of the installed capacities of local governments (administrative, public administration, legal enforcement, etc.)

Socio-political trends affecting democracy, governance and human rights in Latin

America

Despite the predominance of formally democratic regimes and given the legal and institutional voids and inconsistencies identified by the Central American Governance Institute, a review of the contemporary Latin American sociopolitical scene at the halfway point of 2009, suggests a series of trends in the region which are to be taken into consideration in order to understand the future prospects, strengths, weaknesses, threats and opportunities that Latin America presents for democracy and human rights.

According to Latinobarometro public opinion surveys indicate support for democracy in the region has held steady in the mid-50s percent throughout the past thirteen years despite serious economic crises and political changes. Satisfaction with democracy has also held steady in the 30s % and displays a seeming correlation with economic crises. Within this broad picture, however, there is a marked increase in satisfaction with democracy whenever a 'new left' government has taken power in a country. For example, Uruguay, Bolivia, Argentina, and Venezuela all experienced jumps of over 15 percent in satisfaction with democracy after their leftist governments came to power despite mixed changes in their GDP growths after the elections.¹¹ These results suggest that populations are hoping for more from leaders that privilege social aspects over macroeconomic goals in their agendas. This is a sociopolitical position that seems to make sense in a region that after thirty years of democratization had in 2007 thirty four percent of its population¹² living in poverty (down from 44% in 1999)¹³ which stands as one of the most unequal regions of the world in terms of income distribution.

- An acceptable level of support for democracy (57% in 2008 up from 54% in 2007) and for a market economy (56% in 2008, down from 60% in 2005 and up from 47% in 2007)¹⁴ combined with low levels of satisfaction with democracy's performance (37% in 2008 and the same as 2007);¹⁵
- A region-wide tilt to the left as economic issues, unemployment, inequality and social justice are of central concern to voters;
- 3. The rise of ethnopolitics in countries such as Bolivia and Ecuador;

¹¹ Corporacion Latinobarometro (2007) Informe 2007. Santiago de Chile. www.latinobarometro.org

¹² According to Latinobarometro 2008 this percentage represents about 190 million people living in poverty an estimate that is 35% higher than 1980.

¹³ CEPAL (2009) Cumbres de las Américas 1994-2009 Indicadores seleccionados.

http://www.eclac.org/publicaciones/xml/5/35755/2009-156-Indicadoresseleccionados-WEB.pdf

¹⁴ Corporacion Latinobarometro (2008) Informe 2008. Noviembre, Santiago de Chile. www.latinobarometro.org

¹⁵ Latinobarometro 2008

- 4. The rise of leaders proclaiming a new socialism across the region taking a pragmatic approach to implementing social reform;
- The rise of new populist trends seemingly prone to favor authoritarian rule, confrontational politics encouraging polarization, and rewriting or heavily amending Constitutions;
- 6. Growing consensus on the need for a continent-wide plan to fight hunger, poverty, and social inequality;
- Entrenched belief that democracy is the best political option (73%),¹⁶ with growing consensus on the need to strengthen democratic institutions and political parties to ensure its health;
- 8. Hope and optimism with regard to the establishment of a renewed relationship with the United States based on respect and equality as a direct result of the election of President Barak Obama in the United States and his participation at the V Summit of the Americas held in Trinidad and Tobago in April, 2009.

Latin America: challenges for the strengthening of democracy, the rule of law, and human rights

Based on the review of the main sociopolitical characteristics of Latin America, we can distill a series of challenges for the entrenchment of democracy and of democratic governance and human rights in Latin America in the coming years. Efforts towards attaining good democratic governance, in the sense that it fulfills the aspirations and needs of the population have to focus on the following key areas:

¹⁶ Latinobarometro (2008) Informe 2008. www.latinobarometro.org p.105

- Strengthening of political parties, moving them from electoral machineries to analytical and constructive bodies and from inchoate to institutionalized party systems;
- ii.) Implementing cooperation and dialogue initiatives rather than confrontation with traditionally excluded and vulnerable groups and the poor thereby encouraging stable and democratic additions to the political process;
- iii.)Conducting, when necessary, constitutional and political reform processes aimed at strengthening political participation and more effective representation, democratic institutions, the rule of law and especially checks and balances in light of the history of strong presidentialist systems in the region;
- iv.) Reforming, when appropriate, the judiciary system encouraging its independence and competence to address issues of corruption and equitable treatment of citizens under the rule of law;
- v.) Promoting and implementing programs aimed at enhancing transparency and accountability, bringing under their purview regulation, supervision, and oversight of privatization and/or nationalization efforts;
- vi.) Designing and supporting programs for the professionalization of the police and other public security agencies aiming at increasing effectiveness, raising citizen's confidence and reducing bribes and inequitable treatment by the forces themselves, as well as increasing public safety by tackling violence, crime, and drug trafficking;
- vii.) Designing and supporting the adoption of professional ethical standards and media independence, given the increasingly important role television and radio play

in shaping people's opinions and in generating a propitious general atmosphere for the functioning of the regime;

- viii.) Promoting the reform of the state's administrative and revenue systems,
 especially tax administration, encouraging policies that address income inequality in a sustainable manner;
- ix.) Designing and implementing programs for political leadership, conflict transformation, peace building, promotion and respect for human rights, to resolve complex problems and build or strengthen a democratic culture;
- x.) Supporting organizations that encourage constructive relationships and permanent dialogue between civil society and government, strengthening the democratic culture and values of citizens.

The wide-ranging aforementioned list aims at addressing the greatest challenge for Latin America in the coming years which seems to be how to address the vicious circles of poverty, inequality, and poor democratic governance and at the same time deterring old tactics of errant populism or violent revolution. Even though all these tasks should be accomplished by local actors, there is no doubt that the process and the region would certainly benefit from international advice and support.

It is worth bearing in mind that since the beginning of the third wave of democratization thirty years ago the emphasis in international cooperation strategies has shifted from human rights and a minimalist conception that equated elections with democracy, passing through a more far-reaching approach focused on governance and the functioning of key political institutions such as the Congress (legislative process), the Judiciary (administration of justice) and the Electoral Management Bodies, to prioritizing political participation and civil society organizations.

All in all the main problems for politics in Latin America are the lingering issues of weak party systems, reliance on charismatic or personalistic leaderships, constrained governance because of poor planning methods and practices, limited dysfunctional revenue systems, poor accountability, and general institutional weakness.

The right to democracy as a human right is recognized across the region particularly since the adoption of the Inter-American Democratic Charter in 2001. For Latin America the recognition of the human right to enjoy human rights should be a quotidian practice throughout the region to build a culture of respect and promotion of human rights well beyond the indispensable formalities and legal instruments and declarations necessary to level the field and prevent ambiguities and biased interpretations or misinterpretations. The goal should be a functional¹⁷ rules-based democracy to establish a framework for enjoying human rights in every country across the region.

¹⁷ By functional I mean a democratic system base on a solid rule of law that performs to the satisfaction of the needs and aspirations of its inhabitants.

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