

Collectively Defending Democracy: The Inter-American Model

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BEGINNING IN THE LAST DECADE of the twentieth century, the Organization of American States (OAS) and Summits of the Americas proclaimed a “hemispheric community of democracies.” It was not the first time that the nations of the Americas declared such a commitment. Indeed, the preamble of the OAS Charter, signed in May 1948, stressed that true “solidarity can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and...respect for the essential rights of man.” The challenge of turning that phrase into a collective system of democracy, however, foundered on Article 18 of the Charter, which barred interference “for any reason whatsoever, in the internal or external affairs” by any other state. It was this congenital contradiction of proclaiming a collective ideal of democracy but prohibiting the means of attaining it, which made the commitment an empty one for so long.

Of course, Article 18 was more often used by authoritarian governments to defend against democracy than to promote it.¹ This was simply because the vast majority of OAS states were dictatorships, and the OAS reflected the views of its members. However, beginning in the mid-1970s, a powerful wave gradually washed away virtually every dictatorship in the hemisphere. Many of the new democracies were quite fragile, and they looked to each other for support to defend their new rights. With the lone exception of Cuba, every government realized that it could only derive its legitimacy from the consent of the people governed.

In 1991, at the OAS General Assembly in Santiago, the governments of the

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Americas side-stepped Article 18 and began a journey to instill substance into the fulsome declarations of democratic solidarity. That journey toward a collective defense of democracy passed an important marker with the unanimous approval of the Inter-American Democracy Charter, but there remains a long road ahead. The burden of unilateral interventionism and its twin, non-interventionism, continues to impede progress.

ESCAPING THE CONGENITAL CONTRADICTION

The two contradictory norms of democracy and non-intervention stalemated the OAS for decades. Ironically, it was the revolutionary Sandinista government in Nicaragua that was responsible in 1989 for devising a formula that would transcend the sacred principle of non-intervention.² President Daniel Ortega invited the OAS, the United Nations, and numerous non-governmental organizations (NGOs) to observe and mediate the terms of Nicaragua's first election. The Nicaraguan precedent proved so compelling that, with the exception of Cuba, during the course of the next decade, every country in the hemisphere permitted international election observers. The role played by the international community in several of these elections—notably Mexico (2000), Paraguay, Haiti, the Dominican Republic, Guyana, Peru, and others—was critical in ensuring their success.

In June 1991, in Santiago, Chile, the OAS General Assembly began to address the dual contradiction. Of all the OAS member states, only Mexico had not had an election judged free and fair by all parties, and thus Mexico was left to make the case for the sanctity of non-intervention. However, the majority of states had fragile democratic institutions, and wanted to construct a safety net.

The Venezuelan delegation proposed the "Betancourt Doctrine," named after its first freely elected president. The doctrine recommended that any regime that overthrew a democratically elected president be automatically isolated and suspended from the OAS. Although Betancourt's proposal was unrealistic in the early 1960s, when the OAS was dominated by military regimes, it became feasible by the 1990s. On 4 June 1991, all thirty-four nations ultimately approved the "Santiago Commitment to Democracy and the Renewal of the Inter-American System." The following day the OAS approved Resolution 1080, which re-defined sovereignty by authorizing the secretary general to call an emergency meeting of the Permanent Council in the event of an interruption of the democratic process.

This was the moment when the OAS crossed the Rubicon, and within a year it had established an office for the Promotion of Democracy. Canada had just joined the OAS, and its officials provided a natural bridge between the United States and Latin

America. Led by a Canadian, the Unit for the Promotion of Democracy (UPD) not only monitored elections, but also assisted governments with a wide range of political activities that would have been forbidden just a few years earlier.

Within four months, the Santiago Commitment was tested by a coup in Haiti. Governments followed the procedures: Ministers held an emergency meeting in Washington and sent a delegation to tell the Haitian military to step aside; after being insulted they returned to Washington to impose sanctions. However, subsequent events showed that only the presence of a credible threat would persuade the Haitian military to permit a return to constitutional government. This was not something that the OAS was ready to do.

In December 1992, the OAS General Assembly in Washington agreed to amend the Charter and insert a new Article 9, giving the assembly the power to suspend from membership, by a two-thirds vote, any government that overthrew a democratic regime. This Washington Protocol—the first approximation of the Betancourt Doctrine—was approved by a vote of 31–1–1, with Mexico opposing and Trinidad abstaining. It went into effect on 25 September 1997, after twenty nations signed it.

The member states grappled with constitutional interruptions in Peru (1992), Guatemala (1993), and Paraguay (1996). Democracy was not reversed in any of these cases, but neither was it strengthened (Venezuela 1999).

An OAS electoral mission overlooked serious irregularities in the legislative elections in Haiti in 1995, but five years later, another OAS mission was bolder, sharply condemning the irregularities in runoffs for the presidential elections in Peru in May, and for parliament in Haiti in June, 2000. Since the elections went ahead in spite of the OAS mission's criticism, the inter-American community was faced with a dilemma. In the case of Peru, the OAS General Assembly met the following month. Canada chose not to support the OAS mission or the call for new elections, but it sent a high-level team to meet with both the government and the opposition and discuss the kinds of reforms that would permit future elections to be free and fair. This regrettably equivocal response was a bad signal to other weak democracies.

At the Québec Summit of the Americas in April 2001, thirty-four presidents and prime ministers approved a democracy clause, which declared that unconstitutional changes or interruption of the democratic process constituted "an insurmountable obstacle to the participation of that state's government in the Summit of the Americas process." This implied, but did not declare, that violating states would be suspended from the Free Trade Area of the Americas (FTAA). Since the OAS had previously approved the Washington Protocol, which was designed to isolate and suspend a government that suffered an interruption of democracy, the Québec Declaration did not advance the cause. Indeed, in its re-affirmation of support for the Free Trade Area of

the Americas (FTAA), the states failed to mention "democracy" as a precondition for entry or suspension.³

A possible silver lining could be located in the Québec Declaration in its instruction to the Foreign Ministers to prepare an Inter-American Democratic Charter. Perhaps because the vote occurred on 11 September 2001, the horrific news of the World Trade Center bombing moved

the assembled delegation to approve the Charter unanimously in the presence of Secretary of State Colin Powell. The Charter begins: "The peoples of the Americas have a right to democracy and their

governments have an obligation to promote and defend it." It also spells out numerous rights and specifically identifies the "essential elements of representative democracy," including "periodic, free, and fair elections based on secret balloting and universal suffrage ... the separation of powers and independence of the branches of government." These have been described as two axes of accountability—the vertical (elections) and the horizontal (separate branches).⁴

The Charter shows the requisite deference to sovereignty by placing the initiative for collective action in the hands of each state.⁵ It grants the secretary general discretion to send a mission to analyze the situation and report to the Permanent Council, but only "with the prior consent of the government." However, it also permits "any member state or the secretary general" to request a meeting of the Permanent Council "to undertake a collective assessment of the situation and to take such decisions as it deems appropriate."⁶ If diplomatic initiatives are judged to have failed, by a two-thirds vote, it can suspend the state from the OAS, although it can maintain ties for the purpose of trying to restore democracy. Lifting the suspension also requires a two-thirds vote.

The Charter also grants authority to "any person or group of persons who consider their human rights [to] have been violated ... [to] present claims or petitions to the inter-American system..."⁷ It specifies that electoral missions can only be sent at the request of a state, but that it should receive "free access to information" and full cooperation. The missions should also advise the Permanent Council if the "necessary conditions for free and fair elections do not exist."

While these represent significant steps beyond the traditional boundary of sovereignty, they tread much the same ground as Resolution 1080 of 1991. All in all, the Charter fails to add very much to the democracy resolutions of the previous decade, and given the circumstances, represents a serious missed opportunity.

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There are other signs that a government's use of the phrase "hemispheric community of democracies" is inversely related to their determination to make it a reality. In the Brasilia Summit on 1 September 2000, President Alberto Fujimori signed a declaration affirming the region's support for democracy, and no one protested. Similarly, several years before, at the Ibero-American Summit in Chile, Fidel Castro signed an eloquent statement on behalf of democracy, and other leaders were silent. If dictators like Castro or patently authoritarian leaders like Fujimori sign such declarations, then the hemisphere not only lacks a community; it has also lost its understanding of democracy's meaning.

Furthermore, if the hemisphere's leaders are serious about forging a collective defense of democracy, rather than just praising the idea, then there is much that they can and should do.

LESSONS AND OPTIONS

What have we learned from a decade of supporting democracy? First, the norm has been firmly established, and despite critics who dismiss this progress as "electoralism," every country in the Americas understands that democracy can be more than free and fair elections, but it cannot be less. Second, international and domestic election observers are recognized as vital players in this process. Third, the establishment of the UPD by the OAS represents an important institutional step as it has an inter-governmental organization that assumes authority for activities such as electoral assistance, which was previously viewed as outside the legitimate boundaries of such organizations. NGOs have also provided valuable aid to political parties, election commissions, the media, and other democratic institutions.

On the other side of the ledger, most of the action on behalf of democracy has been ad hoc and unilateral, and sometimes, as in Peru in 2000, the OAS mission has begun its work without having first secured unrestricted access to all stages of the electoral process. This has proven to be a serious mistake. Brazil's threats to the Paraguayan generals and American threats to the Ecuadorian generals were effective in preventing them from seizing or continuing in power, but not in creating a climate of multilateral cooperation on behalf of democracy. When considering options for the future, the inter-American community must address the following questions forthrightly: Is it better for a single power to defend democracy on its own, as Brazil and the United States have done? Or is collective decision, based on clearly defined rules, is more desirable? If the latter proves to be the case, how far should the inter-American community go to defend or recover democracy?

The choice between unilateralism and multilateralism has, of course, been at the

center of the foreign policy debate the modern United States, and at different moments, Washington has gone one way or the other. The premise of the international organizations established after the Second World War, with the initiative and vision of the United States, is that both small and large powers are better served by a rule-based, multilateral system. Why? First, a rule-based system generates support for the rule of law within countries and between them. Second, collective leverage is always more effective than unilateral action, particularly by a superpower, because unilateral action is likely to engender fear or resentment among friends. Third, a multilateral response can bring collective weight to bear in a manner that could secure democracy when it is in danger, deepen it where its roots are shallow, and improve its quality in advanced democracies.

When moral suasion is not sufficient to secure democracy, the Americas face the question of what to do next. Should authority be transferred to the UN Security Council, or should they retain the lead? This is what occurred with respect to Haiti. Because the OAS could not face this question, the UN Security Council, led by the United States, approved a resolution in July 1994, authorizing the use of force to implement previous UN Security Council resolutions calling for the restoration of constitutional government in Haiti.

Ultimately, this is a question about whether lingering fears of U.S. interventionism should trump efforts to secure democracy in the Americas. If the Americas are to become a genuine community of democracies, then that community cannot exclude the option of using force to defend itself.

The clearest lesson to be drawn from the experiences of the last decade is that the Americas have not yet devised a formula for dealing with the 'gray' areas—threats to democracy that stop short of a coup. The OAS stumbled in Haiti in 1995 and did not recover. Only a decade after Aristide was returned to power, U.S. troops arrived to send him back into exile. The OAS failed to defend its own mission in Peru in 2000, has been divided as to what to do about the crisis in Colombia, and has no strategy on Cuba. Although the secretary general of the OAS has been active and daring on Venezuela, the most significant case since the approval of the Inter-American Democratic Charter, the organization has been reticent and inconsistent. The OAS as an institution was also silent when the George W. Bush administration took sides in delicate elections in Bolivia, Nicaragua, and El Salvador.

The Québec Declaration and the Democratic Charter are positive steps in the evolution of the inter-American policy toward democracy, but both have seven serious omissions or flaws. First, both fail to define "democracy" with the kind of precision that would permit the hemispheric community to distinguish between problems and crises. This failure of definition is not because the diplomats were insufficiently cogni-

zant of scholarship on the subject; it is because the literature and public opinion in the Americas is vague on the definition. Nevertheless, unless the definition is clarified, the collective defense of democracy will continue to stand on a precarious foundation.

Second, Article 1 of the Democratic Charter speaks of the people's "right to democracy" and of the government's obligation to defend it. But it omits the people's responsibilities and, more importantly, the collective obligation of all peoples, of all governments, and of the inter-American system, to preserve democracy. That collective obligation is implicit in the Charter, but it should be explicit. Third, the two declarations fail to define an interruption of constitutional government, taking us no further than Resolution 1080. This vagueness has precluded an effective strategy in the countries mentioned above and, more importantly, will frustrate the organization's efforts in future crises. Fourth, the twin declarations fail to establish an institution or a process beyond OAS consultation for interpreting potential threats to democracy or for identifying the lines that should not be crossed. Fifth, neither includes an explicit reference to the Free Trade Area of the Americas, the single most important collective initiative in the hemisphere in the next decade and the most compelling incentive to remain democratic.

Sixth, beyond the talk of excluding dictators, the resolution is silent on what the OAS should do. In particular, several opportunities were missed in the fifth section of the Charter dealing with election monitoring. It would have been far better for all member states to invite OAS electoral missions in the Charter, leaving it for the OAS and other groups to decide whether to send them. The OAS should have promised to review negative reports before elections and considered asking the government to postpone the election until the conditions improve. This would have placed considerable leverage in the hands of the OAS and prevented governments from manipulating the election. And seventh, the resolution does not activate or even allude to other possible sources of leverage against the offending regime. For example, it could instruct the Inter-American Development Bank and other aid-granting or oil-subsidizing institutions to suspend aid. Where, then, do we go from here?

ESTABLISHING A HEMISPHERIC COMMUNITY OF DEMOCRACIES

The Democratic and the OAS Charters need another review and some changes. Elections should be placed at the center of democracy, and democracy at the center of all inter-American institutions—the OAS, the Summits of the Americas, and the Free Trade Area of the Americas. In the new Charters, each country and all peoples should affirm their commitment to defend democracy everywhere, and each should pledge to open its democracy (and, specifically, all stages of the electoral process) to observers.

The new charters should also incorporate the following five points.

First, explicit democratic criteria should be defined for membership, suspension, and exclusion to the OAS, the Summit, and the FTAA.

Second, the Summit leaders should identify a mechanism by which the community can judge whether a country is eligible for membership and whether it has violated the rules. A distinguished group of statesmen, comparable to the Inter-American Commission on Human Rights, with a staff and a secretariat, would be established to monitor democratic practices in the Americas. Such a group would be similar to the Council of Presidents, led by former President Jimmy Carter, but this would be an inter-governmental body, under the auspices of the OAS rather than an NGO.

Third, the group would identify warning signs when a democracy was threatened or eroding, visit the country, and make recommendations to an emergency meeting of foreign ministers to respond to the threats.

Fourth, the member states should discuss and agree on discretionary and automatic actions that the OAS should take in response to threats, and finally, they should also propose positive programs to lift the level of democracy and accountability.

Democracy needs to be nurtured and sustained by leaders in each and every Latin American country, but it also needs support and defense from the outside. The inter-American system has already taken important steps to build a collective safety net for fragile or threatened democracies. It is a model that should be replicated in other areas, but it is also a model that should and could be improved. ❧

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NOTES

* Earlier drafts of this paper were presented at conferences at the Carter Center in 2001 and at the Liu Centre at the University of British Columbia in 2002. The author is grateful to the comments by participants at both conferences.

1. In one case, in June 1954, Article 18 was invoked by Guatemala to defend its democracy from covert United States intervention.

2. Robert A. Pastor, *Not Condemned to Repetition: The United States and Nicaragua* (Boulder: Westview Press, 2002).

3. Organization of American States, *Declaration of Québec City*, (Québec, 2001).

4. Andreas Schedler, Larry Diamond, and Marc F. Plattner, eds. *The Self-Restraining State: Power and Accountability in New Democracies* (Boulder: Lynne Rienner Press, 1999).

5. Organization of American States, Inter-American Democratic Charter, Article 17 (Washington DC, n.d.) <http://www.oas.org/juridico/english/decl_lima.htm>.

6. Ibid., Article 20.

7. Ibid., Article 8.

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