

Inter-American Relations

Inter-American Relations:

Past, Present, and Future Trends

Edited by

Joshua Hyles

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AN INTRODUCTION TO THE VOLUME

When the United Nations officially entered its charter on June 26th, 1945, a new age of international diplomacy dawned. But this was not, by any measure, the first time a group of states had joined together for the purpose of improving international relations and democracy. By the time of the United Nations Charter's signing, the republics of the Western Hemisphere had been in voluntary association through the Pan-American Union for over fifty years. Founded in 1889 through the work of then-U.S. Secretary State James Blaine and his counterparts throughout Latin America, the Pan-American Union acted as the world's first regional international organization.

Whether through the Pan-American Union, a shared history of European conquest and revolution (from Toussaint L'Ouverture to George Washington, Simón Bolívar, and José de San Martín), or the unique relationship between the United States and the rest of the hemisphere beginning with the Monroe Doctrine, the relationships between the republics of the Western Hemisphere have served as both a model and a warning. As pioneers of international diplomacy, the Inter-American system of states has matured and adapted from its Pan-American Union origins through the development of the Organization of American States and its auxiliary programs and conferences.

This volume, a collection of the papers presented at the 20th Annual Eugene Scassa Mock Organization of American States Conference on Inter-American Relations, brings together academic research from a vast array of topics centered on the diplomatic relations of the Inter-American system. Consideration of the Organization of American States and its effect on the democratic stability of the region opens the volume. After presentations on the organization, the volume switches to works on domestic movements around the hemisphere through history, and their effects on international policy. A special section on Cuba, in many ways the outlier of the region in ideology and political structure, considers some of the unique ways the country has related to its neighbors. Finally, two papers present a modern case being handled within the Inter-American system between Chile and Bolivia, and the story of early American imperialism and its legacy in the Caribbean and beyond.

SECTION ONE:

THE ORGANIZATION OF AMERICAN STATES

From its roots as the Pan-American Union, founded at the close of the 19th Century, the Organization of American States has grown from a U.S.-dominated enforcer of policy to become the premier agency responsible for managing the diplomatic negotiations and international infrastructure of the Western Hemisphere. Today, though still based in Washington, D.C., the organization has become increasingly contentious. The republics of Latin America, particularly Venezuela and Brazil, have flexed their diplomatic muscle with greater frequency in the organization's proceedings, and have turned the halls of the Pan American Union Building into the forum-of-choice for challenging U.S. foreign policy in the region.

Despite the tension, the OAS still works on a consensus-basis, moving slowly but surely on topics from international crisis management to the cooperative building of infrastructure and sharing of best practices among national and multi-national entities. Each of the papers in this section considers an aspect of the organization and its influence on the region. First, Dr. Joan Supplee of Baylor University writes on the challenge of improving democracy (often cited by the OAS as the "First Pillar") over the years from 1990 to 2001. Following this, Dr. Lisa Vasciannie of the University of the West Indies reflects on the OAS practice of election monitoring, particularly in the Caribbean region. To close the section, Adam Ratzlaff of the Josef Korbel School of International Studies considers the eroding of democracy in the region through constitutional coups, and suggests new directions for the Organization and the region to deal with these new issues.

DEMOCRACY AND THE OAS 1990-2001

DR. JOAN SUPPLEE
BAYLOR UNIVERSITY

The end of the cold war did more than create new democratic states in Europe, it shifted the focus of priorities for the Western Hemisphere's oldest regional organization, the Organization of American States (OAS). Established in the Declaration of Bogotá in 1948, the OAS was built on the foundation of the old Pan American Union (PAU). The PAU's primary goal was to establish a framework for peace in the Americas with an eye to improving commercial relations. The road to reaching that goal was fraught with disagreements about how smaller, but more numerous Latin American states would deal with the influence of U.S. hegemony in the region. Although each member state had an equal vote within the organization, in practice the United States frequently dictated the organization's agenda. Created to strengthen inter-American cooperation in the post war period, the primary focus of OAS action reflected U.S. concerns about communist penetration in the hemisphere. The premier statement of that concern came in the 1954 Declaration of Caracas. It led directly to action taken against Jacobo Arbenz's administration in Guatemala in 1954, suspension of Cuba from the organization in 1962, and intervention in the Dominican Republic in 1965; all taken despite disagreement from several Latin American states in stark reminder that U.S. priorities took first place on the agenda. The fall of the Soviet Union and the much touted end of the Cold War, finally provided an opening for the organization to take up other issues such as: promotion of democracy, free trade, human rights and judicial reform, coordinated action against drug trafficking and money laundering, agreements on environmental protection, and statements supporting social equality.¹ As the Declaration of Asunción affirmed in 1990:

¹ Carolyn M. Shaw, *Cooperation, Conflict, and Consensus in the Organization of American States*. (New York, Palgrave Macmillan, 2004), 5 and Howard Wirarda and Esther M. Skelly, *Dilemmas of Democracy in Latin America: Crises and Opportunity* (New York: Roman and Littlefield: 2005).

In the face of the great changes now taking place on the international scene, we applaud and support with enthusiasm the easing of international tensions and the advance of democratic ideals in every region of the world. . . We reaffirm our faith in representative democracy as the expression of the legitimate and free manifestation of the will of the people and as the political system that best guarantees the goals and purposes of the interamerican [sic] system. We understand that democracy, which we have chosen as a way of life and as the basis for the ordering of our societies, must also inspire new relations in international society and in working out and understanding the interdependence of nations.²

These new issues, particularly the promotion of democracy and free trade, required an alteration in the structure of the organization and a new forum for setting the priorities of the hemisphere. This paper will discuss the changes to the organization that reinforced its new agenda from 1990-2001.

As the Cold War ended, the OAS General Assembly (the policy setting organ of the organization) signaled a switch in its approach to regional politics by revising its structure so that the organization could serve as a resource for member states as they reconstituted or sought help to preserve their democratic systems.³ At the annual meeting in Asunción, Paraguay in June 1990, the General Assembly acknowledged “That unprecedented political changes are taking place in the world, changes that will necessarily have important consequences for the hemisphere; that the foregoing circumstances provide a good opportunity for a penetrating re-examination of hemispheric relations and the orientation and use of the inter-American system.”⁴ Representatives recalled the request of the

² Organization of American States [hereafter OAS] “Declaration of Asunción,” AG/RES.1064 (XX-O/90).

³ The General Assembly is the supreme organ of the OAS and it meets once a year in June in member states on a rotating basis. The delegations from each member state are generally headed by the Minister of Foreign Affairs and include the state’s ambassador to the OAS and members of its mission and other experts. The General Assembly approves resolutions that will determine and fund the work of the organization. With the advent of the Summit process in 1994, in which Heads of State and Government of each member state meet every four years and head their delegations, the General Assembly follows the mandates set by the Summit at its annual meetings. “Amendment of The Rules of Procedure of the General Assembly.” Organization of American States [hereafter cited as OAS] AG/RES.1053 (XX-O/90) “Summit Meeting of Heads of State and of Government of The OAS Member States.” OAS AG/RES. 1059 (XX-O/90).

⁴ “Consultation Group on the Inter-American System,” AS AG/RES 1047 (XX-O/90).

Nicaraguan government's invitation to send election observation monitors for the February 1990 general elections and on the agreement of cooperation between the OAS and the Haitian government concerning upcoming general elections.⁵ As part of those initiatives and concerns about restructuring the organization to make it more effective in protecting democracy in the hemisphere, the General Assembly approved the creation of a new unit in Resolution 1063. Making the case that "to maintain unwavering support for democratic processes in the hemisphere and to step up and increase its efforts towards achieving the integrated development of the countries of the region, in view of the close relationship between socioeconomic development and democracy, of which the Organization is an indispensable mainstay" and noting the success of action taken in Nicaragua and Haiti, it authorized the creation of a permanent Unit for Democratic Development (UDD) under in the General Secretariat in Washington, D. C. The mission of the UDD was to enable the OAS to support and assist "member states in their efforts to renew, preserve or strengthen democratic institutions. . . ." Highlighting the need for this expanded role of the OAS in promoting democracy, the General Assembly tasked Secretary General João Clemente Baena Soares to work with the Permanent Council in crafting a plan of action to define how the Unit would respond to requests for assistance with democratic development from any member states.⁶

Haiti became the first testing ground for the new structure. At the request of the Haitian government, the OAS sent election observers to the national elections in December 1990. In those elections, Jean-Bertrand Aristide won a convincing majority of votes. But all was not smooth sailing for Haitian democracy. Less than a month after elections, armed gunmen, allies of ousted President Jean-Claude Duvalier, took the outgoing president, Ertha Pascal-Trouillot prisoner and forced her to resign on national television. Secretary General Baena Soares condemned the action while the Permanent Council met in emergency session. When the Chief of the Haitian Army sided with the ousted president, the gunmen relented and restored her to power. She then assured Baena Soares that an orderly transition of power would proceed on schedule. The Permanent Council issued its own statement of opprobrium. On February 7, 1991 Aristide assumed the presidential mandate in Haiti.⁷

⁵ "Demobilization of the Nicaraguan Resistance," OAS AG/RES 1056 (XX-O/90); "Report on the Procedure for Establishing Firm and Lasting Peace in Central America," OAS AG/RES. 1057 (XX-O/90); "Support for the Democratic Process in the Republic of Haiti," OAS AG/RES 1048 (XX-O/90).

⁶ "Unit for Democratic Development." OAS, AG/RES. 1063 (XX-O/90).

⁷ OAS, IACHR Annual Report 1991, Chapter IV, Haiti.

Following the work of the Asunción meeting, the General Assembly expanded the organization's power to respond to democratic threats. In the Twenty-First Regular meeting in Santiago in 1991, Resolution 1080 (or the Commitment of Santiago) passed. It highlighted the fragile state of democracy in the hemisphere despite the end of the cold war: "[t]he region still faces serious political, social, and economic problems that may threaten the stability of democratic governments."⁸ The Resolution also reiterated that the type of democracy for the hemisphere was "representative;"

Whereas: The Preamble of the Charter of the OAS establishes that representative democracy is an indispensable condition for the stability, peace and development of the region; [and] under the provisions of the Charter, one of the basic purposes of the OAS is to promote and consolidate representative democracy. . .⁹[emphasis mine]

In addition to highlighting this type of democracy, Resolution 1080 indicated what would trigger action by the OAS: "any occurrences giving rise to the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected governments in any of the Organization's member states."¹⁰ In the case of such activity, the Secretary General would call an emergency meeting of the Permanent Council. That meeting would decide on three options: 1) if an immediate response was needed to act in lieu of a full meeting of the Foreign Ministers, 2) to convene a meeting of the Foreign Ministers, or 3) to call a special session of the General Assembly. The resolution also required that the Permanent Council create incentives for strengthening democratic systems in the hemisphere.¹¹ In many ways this resolution followed the patterns already established by the PAU and OAS in peacekeeping efforts, but it was the first time these patterns were to be applied in the case of democratic breaks.

This application of the peaceful settlement of disputes process to democratic disruptions would not have been possible before the end of the cold war. The United States had made it clear that it would not condemn any government that stood against communism. This included the myriad

<http://www.cidh.oas.org/annualrep/91eng/chap.4c.htm>; accessed March 3, 2012; OAS, Permanent Council CP/RES. 555 (842/91).

<http://www.cp.oas.org/council/eng/842/91.htm>; accessed March 3, 2012.

⁸ OAS, AG/RES. 1080(XXI-O/91), accessed February 1, 2012,

<http://www.oas.org/juridico/english/agres1080.htm>.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

of staunchly anti-communist military dictatorships that flourished in the region from the 1950s until 1990. Despite the rhetoric of the Reagan Doctrine, which supported the restoration of democratic regimes in Central America (read: Nicaragua), the Reagan administration continued to support military governments in Chile, Panama, El Salvador, Guatemala, and Honduras.

The importance of Resolution 1080 for democracy in the hemisphere is that, in addition to defining what a democratic disruption was, it created a blueprint for action by the organization. The General Assembly granted the Secretary General power to decide if the situation warranted closer inspection within ten days of the event. If he decided in the affirmative, the Permanent Council had the responsibility to investigate and, if it voted that action need to be taken, to call on the Organ of Consultation (a meeting of the Ministers of Foreign Affairs or a special session of the General Assembly). Under the Rio Treaty, the Organ of Consultation has sanctions it can impose ranging from “recall of chiefs of diplomatic missions; breaking of diplomatic relations; breaking of consular relations; partial or complete interruption of economic relations or of rail, sea, air, postal, telegraphic, telephonic, and radiotelephonic or radiotelegraphic communications; and use of armed force.”¹² In Resolution 1080, the OAS assumed responsibility for guaranteeing democratic continuance in the hemisphere.

Again, the first country to test Resolution 1080 was Haiti. In September 1991, the Haitian military moved against President Aristide. Secretary General Baena Soares immediately convened a meeting of the Permanent Council and invoked Resolution 1080. The Permanent Council approved Resolution 567 which condemned the coup, demanded that Haiti’s constitution and its electoral system be respected, and reaffirmed its solidarity with the Haitian people and their democracy. In view of the seriousness of the situation, the Permanent Council, citing Resolution 1080 convoked an ad-hoc Meeting of the Consultation of Foreign Ministers (MRE) to discuss measures to restore Haitian democracy.¹³

The second step in Resolution 1080 came into effect with ad-hoc meeting on 2 October 1991 in OAS headquarters in Washington, D.C. President Aristide who was offered refuge by the Venezuelan government, travelled to testify at the meeting. In view of the seriousness of the democratic break made clear in Aristide’s testimony, the Foreign Ministers deplored the action of the Haitian military and issued Resolution 1

¹² Rio Treaty, Article 8, accessed February 20, 2012, <http://www.oas.org/juridico/english/treaties/B-29.html>.

¹³ <http://www.cidhi.oas.org/annualrep/91eng/chap.4c.htm> and MRE/RES.1/91).

“Support for the Democratic Government of Haiti” early the morning of October 3. In addition to supporting actions taken by the Permanent Council, the Ministers recommended that a delegation of Foreign Ministers and the Secretary General travel to Haiti to deliver their message of support for Haitian democracy. They urged that all states “suspend their economic, financial, and commercial ties with Haiti and any aid and technical cooperation except that provided for strictly humanitarian purposes.” Resolution 1 also called on regional organizations “such as the Caribbean Community (CARICOM), the Inter-American Development Bank, the Inter-American Institute for Cooperation on Agriculture and the Latin American Economic System (SELA), to adopt the same measure.” Finally, the Foreign Ministers resolved to boycott all arms shipment to Haiti, to keep the ad-hoc meeting of the Foreign Ministers open to consider additional action, and to inform the United Nations of the action it had taken.¹⁴ It was the strongest action the OAS could take in the name of democracy.

The Diplomatic Mission that travelled to Haiti was also unprecedented in OAS history. It too had emerged from Resolution 1080 and was constituted in MRE Resolution 1. The Mission’s goal, to restore Haiti’s democracy, was composed of the Secretary General, the President of the Ad Hoc Meeting (Foreign Minister Carlos Iturralde of Bolivia), and the Foreign Ministers of Argentina, Canada, Costa Rica, Jamaica, Trinidad and Tobago, Venezuela, and the Assistant Secretary of State for Inter-American Affairs of the United States (Bernard W. Aronson). It departed for Haiti on October 4 in a plane sent by the Canadian government. The Mission arrived requesting only permission to land at the Port-au-Prince airport since it did not recognize the coup leaders as legitimate heads of state. An eye witness to the proceedings recalled the tension: “No one said any form of greeting; no one smiled, much less shook hands. The briefest of nods were exchanged. The faces of all the participants on both sides of the table were grim.”¹⁵ The Mission held its meetings with General Raoul Cédras, head of the military junta, and the junta in the airport building. To start the conversation, Foreign Minister Iturralde read Resolution 1 to the Haitians. General Cédras defended the position of the military and rejected OAS interference. OAS diplomats also met at the airport with members of the Haitian community. Business leaders opposed the return of Aristide

¹⁴ <http://www.cidh.oas.org/annualrep/91eng/chap.4c.htm> pp. 7-8 reprint of MRE/RES.1/91(3 October 1991) (accessed February 8, 2012).

¹⁵ Testimony from Guillermo Belt, advisor to Secretary General Baena Soares, accessed February 11, 2012, http://www.eduoas.org/portal/docs/belt_paper._rev.pdf.

while members of Aristide's party from the Parliament emphasized his legitimacy as leader. The Mission decided to continue hearings the following day, but flew to Jamaica to spend the night. As had been the case with the meetings on 4 October, the Mission confirmed that there were divided opinions regarding Aristide's leadership.¹⁶ It returned to Washington on October 5 to continue its work. Its existence and its trip to Haiti already marking a step forward by the organization to defend a democratically elected leader based on the authority of Resolution 1080.

The Diplomatic Mission continued to break new ground in trying to resolve the crisis. Back from Haiti, it consulted again with President Aristide. He had just returned from addressing the United Nations Security Council which recommended his restoration to power. OAS diplomats decided to return to Haiti on October 7 to meet with General Cédras before the Ad Hoc Meeting reconvened. They found the country in chaos. Armed men had surrounded the National Assembly and pressured it into appointing a member of the Supreme Court as acting president. Another group of soldiers and police arrived at the airport and approached the room where the Mission was meeting with General Cédras. As the Secretary General remembered: "about 25 heavily armed policemen came up to the first floor where we were, shouting threats."¹⁷ General Cédras had to send his personal guard outside to make the men withdraw. Sobered, the Mission returned to Washington to report to the Ad Hoc Meeting without resolving the situation on the ground.

Using the power granted in Resolution 1080 and the Rio Treaty and armed with the report of the Diplomatic Mission, the Ad Hoc Meeting of Foreign Ministers took decisive action to turn up the heat on the Haitian military. After receiving a request from President Aristide to send in a Civilian Mission to restore democracy, it issued Resolution 2. By this act, the Foreign Ministers urged all member states to freeze Haitian accounts and to embargo Haiti. They also acceded to President Aristide's request and authorized the Secretary General to set up a Civilian Mission to re-establish and strengthen democracy in Haiti.¹⁸ Never before had such direct action been taken by the organization to restore democracy.

While Resolutions 1080, MRE 1/91 and MRE 2/91 provided the legal basis for these actions, it was also clear that Haiti was becoming a test case for regional action to preserve democracy in a way that could not have been done during the cold war. First, the OAS acted against the democratic

¹⁶ *Ibid.*

¹⁷ João Baena Soares, *Profile of a Mandate: Ten Years at the OAS* (Washington, DC: Organization of American States, 1994), 82.

¹⁸ MRE/RES.2/91 (7 October 2012).

breach in Haiti with unanimity. The Consultation of Foreign Ministers did not hesitate in crafting a strong response to the crisis and they granted the Secretary General extraordinary power to act. Second, it was easy for the organization to take such a stance against Haiti since it one of the smallest, and most certainly the weakest in the organization. Third, Haiti, as an immature democracy (having only recently been liberated from the Duvalier family who controlled the country from 1957 until 1986) served as a seemingly fertile testing ground for Resolution 1080.

Both the Secretary General and the Civilian Mission, known as OEA-DEMOC worked diligently to find a constitutional solution to the crisis. The Mission, appointed by the Secretary General included Colombian Augusto Ramírez Ocampo as head and members from Canada, Trinidad y Tobago, Costa Rica, Venezuela, and the United States. It arrived in Haiti on November 10th and was greeted at the airport by a hostile mob. After meeting and negotiating with members of Haiti's National Assembly and in consultation with the Secretary General and President Aristide, OEA-DEMOC signed a Joint Declaration with National Assembly representatives on 10 November. They agreed to meet outside Haiti to derive a constitutional settlement. Although the military was not invited to sign the declaration because it was not recognized as a legitimate political power, the declaration did include the OEA-DEMOCs discussion with the military which recognized civilian powers as the final arbiters of the crisis.¹⁹ This set new precedents for action.

Despite the seeming progress toward the restoration of Haitian democracy, the initiatives taken under Resolution 1080 did not result in restoring democracy or President Aristide to his position. Nonetheless, the OAS worked to increase pressure against the regime, calling for strong measures against the Cédras regime through a commercial embargo and suspension of flights to the island. The Meeting of Foreign Ministers also urged member states to extend humanitarian assistance to Haitian refugees. Ultimately, the military proved intractable to diplomatic isolation and political pressure, the border too porous and the country too poor for trade sanctions to dig in. Restoration came about only with a show of force. So while not successful in restoring democracy peacefully, Resolution 1080 and the work of the Consultation of Foreign Ministers did set up a procedure that the organization would follow when it recognized a democratic break. It did not take long for that system to be tested again. The second use of 1080 came about in February 1992 with the eruption of a military coup led by Colonel Hugo Chávez Frias against the government

¹⁹ Belt, *op. cit.*

of Carlos Andres Pérez in Venezuela.²⁰ The governments of the United States, Mexico, Brazil, and Cuba immediately condemned the action. The Permanent Council acting as the Organ of Consultation met two days after the coup to express support for the Pérez government even as it was clear that the Chávez coup had failed. It also reasserted its right to take action under Resolution 1080 even though none was called for in this case.

The third test of Resolution 1080 and its procedures came in Peru in 1992. In April, President Alberto Fujimori announced an *autogolpe* against his own government suspending the Constitution of 1970, the Congress and the Supreme Court. The Permanent Council serving as the Organ of Consultation met and called for “immediate reinstatement of democratic institutions and respect for human rights under the rule of law.”²¹ As the crisis unfolded and Fujimori continued undeterred, an ad hoc meeting of the Council of Foreign Ministers decided on 13 April 1992 to re-establish democratic order in Peru. It resolved to “voice profound concern over the present status of rights and liberties in Peru and to demand [*italics mine*] that the Peruvian authorities guarantee full observance and exercise of the rights of assembly and association and of freedom of expression, thought and the press.”²² It authorized Secretary General Baena Soares to head another mission of Foreign Ministers to mediate the crisis in Peru under the authority of Resolution 1080. He was to establish:

immediate measures to bring about a dialogue among the Peruvian authorities and the political forces represented in the legislature, with the participation of other democratic sectors, for the purpose of establishing the necessary conditions and securing the commitment of the parties concerned to reinstate the democratic institutional order, with full respect for the separation of powers, human rights and the rule of law.²³

This represents the strongest action the OAS could take under Resolution 1080. The mission was tasked with intervening in the domestic affairs of a member state. Under pressure from OAS member states and other international organizations, Fujimori received the mission. He proposed to regularize the situation in Peru with a referendum on the *autogolpe*; the mission rejected this idea. In May the ad hoc meeting of the Foreign Ministers convened again in the Bahamas before the next regular meeting

²⁰ <http://www.nytimes.com/1992/02/05/world/venezuela-crushes-army-coup-attempt.html>, accessed 15 September 2016.

²¹ CP/RES. 579 (897/92), April 6, 1992.

²² MRE RES.1/92, April 13, 1992

²³ *Ibid.*

of the General Assembly. There, Fujimori offered up another solution to the impasse by agreeing to call elections for a constituent congress to write a new constitution and exercise legislative powers in the interim. To this the Foreign Ministers agreed and authorized the Secretary General to prove whatever assistance Fujimori need to carry out the election.²⁴ To monitor those elections, the OAS sent over 200 observers in November 1992. The observers certified the outcome of the elections as fair and the Foreign Ministers closed their investigation on Peru with the understanding that OAS assistance would continue to modernize Peruvian election procedures.²⁵ In just over a year after its passage, 1080 had been invoked to defend democratic governance in the hemisphere, and twice missions led by the Secretary General had landed in two different American states. The end result of the Peruvian mission was the restoration of democracy.

Resolution 1080 will see action one more time in 1992 as a second coup attempt in Venezuela attempted to unseat President Pérez. The Permanent Council met immediately to reiterate its support for the Pérez government and several ambassadors spoke about the progress being made to amend the Charter in the defense of democracy. The Permanent Council did not recommend any action in Venezuela nor did it call a meeting of the Consultation of Foreign Ministers because this coup attempt like the earlier Chávez coup collapsed under its own weight.

In reaction to the stalemate in Haiti and the democratic breaks in Venezuela and Peru in 1992, the General Assembly, in its sixteenth special session held at OAS headquarters in December 1992, voted to alter the OAS Charter to strengthen sanctions that could be used against democratic breaks in member states.²⁶ Previously, in the Protocol of Cartagena de Indias (1985), member states had added a clause to Chapter One, “Nature and Purposes,” Article 2, section b which clarified that the type of democracy the OAS supported was “representative.”²⁷ At Washington member states took unprecedented action by adding Article 9 to Chapter III “Members.” Article 9 allowed for the suspension of a member state “whose democratically constituted government has been overthrown by

²⁴ MRE RES.2/92 (May 18, 2016).

²⁵ IACHR Country Report, Peru, 1993, accessed September 20, 2016, <http://www.cidh.org/countryrep/Peru93eng/iii.htm>.

²⁶ In addition to the Protocol of Washington, the Charter of the OAS was amended in the Protocol of Buenos Aires (1967), the Protocol of Cartagena de Indias (1985), and the Protocol of Managua (1993).

²⁷ Protocol of Cartagena de las Indias, accessed February 15, 2012, http://www.oas.org/dil/treaties_A-50_Protocol_of_Cartagena_de_Indias.htm.

force. . . .”²⁸ The suspension could only take place when “such diplomatic initiatives undertaken by the Organization of the purpose of promoting the restoration of representative democracy. . . has been unsuccessful.”²⁹ The General Assembly had to approve suspension by a two-thirds vote, but the Organization would not give up diplomatic action to restore democracy. The Assembly also added other condition to the Charter to mollify CARICOM states who insisted that other conditions such as poverty might limit development of democracy in the hemisphere.³⁰ With this protocol, the Organization of American States became the first international organization to set standards for excluding members for democratic lapses.

Because the protocol marked a huge shift in the Organization’s approach to democratic disruptions within member states, it was not approved by consensus and it took some years before it reached the two-thirds majority to come into force (1997). Despite the inclusion of a poverty as a deterrent to democracy, several members of CARICOM, including Dominica, Jamaica, St. Lucia, Trinidad and Tobago, Grenada, St. Kitts and Nevis, and Suriname did not ratify and have not ratified the protocol. Not surprisingly, Haiti also refused to ratify. The most telling member state who refused to sign the document was Mexico. It outlined its objections in a statement appended to the protocol which reiterated its commitment to both democracy and its respect for the sovereign will of the people. It also clarified its objections to giving “regional organizations supra-national powers and instruments for intervening in the internal affairs of our states.” It further asserted that “the preservation and strengthening of democracy in our region cannot be enhanced through isolation, suspension or exclusion” It concluded by stating that the protocol changed the original purpose of the organization and therefore Mexico could not support the change.³¹ To this day, Mexico has not

²⁸ http://www.oas.org/dil/treaties_A-56_Protocol_of_Washington.htm (accessed January 15, 2012).

²⁹ *Ibid.*

³⁰ *Ibid.*

³¹ The complete objection was:

The Delegation of Mexico requests for the record that the following statement by the Government of Mexico be appended to the corresponding Protocol of Amendment: “The Government of Mexico reiterates its bent for and commitment to democracy based on the strictest respect for and adherence to the principles of nonintervention and self-determination. Mexico has reacted swiftly and firmly to disruptions of the constitutional order on numerous occasions in the past but remains convinced, nonetheless, that democracy is a process which comes from the sovereign will of the people, and cannot be imposed from outside. Mexico is

ratified this modification of the Charter. Ironically, the protocol entered into effect with the ratification of Peru.

The OAS would invoke Resolution 1080 two more times before the protocol could come into effect. In 1993, the Permanent Council invoked 1080 in response to a break in the democratic order in Guatemala. President Jorge Serrano Elias, taking a page from President Fujimori, announced an autogolpe against his government in May. He dismissed Congress, the Attorney-General, the Supreme Court and the Constitutional Court; as well as suspended Constitutional and political rights. The Guatemala public did not approve of the president's actions. Secretary General Baena Soares called an emergency meeting of the Permanent Council which condemned Serrano's actions and called an Ad Hoc Meeting of the Foreign Ministers. Again, the Foreign Ministers authorized a fact-finding mission under the Secretary General to Guatemala³². While negotiating with President Serrano and members of the Guatemala government, the mission was surprised by the abrupt resignation of Serrano after his proposal to hold new elections was rejected. He fled to neighboring El Salvador, leaving his vice-president in charge who assumed the presidency. The Ad Hoc Meeting of the Foreign Ministers reiterated its condemnation of the coup and authorized a second mission to Guatemala.³³ Guatemala's Constitutional Court was reconvened and it immediately found that the former vice-president, despite support from Guatemala's military, could not be president because of his

categorically opposed to any attempt to disrupt the constitutional order in any country and further expresses a deep commitment to democracy and the amelioration of our political systems. It insists, however, that it is unacceptable to give to regional organizations supra-national powers and instruments for intervening in the internal affairs of our states.

The Government of Mexico maintains that the preservation and strengthening of democracy in our region cannot be enhanced through isolation, suspension or exclusion, and hence believes that the wording on suspension of member states as approved here today, has changed the original purpose of our Organization.

Mexico is opposed to the punitive character ascribed to the OAS and reaffirms its conviction that cooperation and dialogue are the most effective means of resolving internal conflicts within states or conflicts between states.

Consequently, the Government of Mexico is placing on record its opposition to these amendments to the charter as approved at the XVI Special Session of the General Assembly."

³² MRE RES.1/93.

³³ MRE RES.2/93.

involvement in the auto coup. It authorized Congress to appoint a new president. It selected Guatemala's human rights ombudsman, Ramiro de León Caprio. The Ad Hoc Meeting concluded that with this selection, the democratic crisis had come to an end in Guatemala pursuant to Resolution 1080 and withdrew the mission. Although this *autogolpe* attempt did not have the same level of popular support as did Fujimori, the intervention of the OAS was able to insure a peaceful transfer of power despite strong military support for the vice president.

But the Guatemala crisis revealed a weakness in the enactment of the provisions of Resolution 1080—the issue of funding. The General Assembly in its regular meetings in 1993 and 1994 instructed the Permanent Council to study the implementation requirements and special funding needs of Resolution 1080 stemming from OAS and the Ad Hoc Meetings of the Foreign Ministers. It further instructed the Permanent Council to clarify the definition of the measures the OAS could adopt and how they should be financed.³⁴ All of this was part of the fine tuning of the application of Resolution 1080 and the effort to make it function effectively.

Following up on this adjustment, the OAS extended its activities in Guatemala. The *autogolpe* and the mission sent to resolve the crisis and the clarification on mission and funding led directly to the establishment of a Special Program of Support for Guatemala underneath the Unit of the Promotion for Democracy (UPD formerly the UDD) and funded by the Unit and external sources. The Special program had as its goals the “the strengthening of democratic institutions, conflict resolution, education for democracy, peace, and development. . .” and was to be carried out by the General Secretariat in Guatemala.³⁵ Subsequent resolutions passed by the General Assembly congratulated the Guatemalan people and government on the establishment of stable government and the signing of the Peace Accords in 1996.³⁶ This represented another iteration of the support for democracy within the framework of Resolution 1080 and the OAS's historic mission of peaceful resolution of disputes.

³⁴ OAS AG/RES. 1248 (XXIII-O/93) “Promotion of Democracy”; AG/RES 1281 (XXXIV-O/94) “Financing of Special Activities Arising from the Application of Resolution AG/RES. 1080 (XXI-O/91).”

³⁵ OAS, AG/RES. 1378 (XXVI-O/96) “Support for Building the Process of Democratization and Establishment of Peace in Guatemala.”

³⁶ OAS, AG/RES. 1466 (XXVII-O/97) “Support for Building the Process of Democratization and Establishment of Peace in Guatemala.”; AG/RES. 1703 (XXX-O/00) “Special Program of Support for Guatemala.”

Despite these successes in supporting democratic regimes in the hemisphere, Paraguayan politics will demonstrate the limitations of Resolution 1080. In both 1996 and again in 1999, the violations of the constitutional order in Paraguay were not as clear cut as the previous examples. In both cases, a dispute over party control and power led to a disagreement in the ruling Colorado party. In 1996 a split developed between elected President Juan Carlos Wasmosy Monti and Army Commander General Lino César Oviedo Silva. President Wasmosy objected to the constant intervention of the general in both party politics and the government. He finally asked for the general's resignation on 22 April 1996. Oviedo not only refused, but also threatened a coup. The next few days in Asunción were characterized by threats and counter threats by the two men. When the public and the army deserted Oviedo, he backed down. The Permanent Council met on 23 April to deal with the crisis and voted to condemn General Oviedo. It called an Ad Hoc Meeting of the Organ of Consultation under Resolution 1080, but it never met, the crisis having de-escalated on its own. The new Secretary-General César Augusto Gaviria Trujillo did go to Asunción to offer good offices to meditate the crisis and support Wasmosy. More telling was the internal debate in the Permanent Council where several states expressed doubt that Resolution 1080 applied to the situation because there was no disruption of the political order. Others objected to the lack of clear information on the ground in Paraguay made it difficult to judge what was going on.³⁷ All of the discussion pointed to a need for clarification of the policy.

The second chapter in the Wasmosy-Oviedo rivalry was more serious. Oviedo had been selected as the Colorado party's nomination for the 1998 elections, but was imprisoned for his earlier attempted coup and disqualified from running. His vice presidential candidate, Raul Cubas became the candidate and Luis Maria Argaña moved into the vice-president position. When the Colorado party won the election in 1998, President Cuba moved to free Oviedo from prison. Vice President Argaña along with Wasmosy allied with the opposition parties in Congress. In December 1998, the Supreme Court ordered Cubas to return Oviedo to jail. Cubas refused and the Congress initiated an impeachment process against him. In the meantime, Oviedo orchestrated a campaign of violence that many believe resulted in the assassination of Vice President Argaña in March. Riots ensued. The Permanent Council convened the day after the assassination. The U.S. Ambassador to the OAS, Harriet C. Babbit decried

³⁷ Barry S. Levitt, "A Desultory Defense of Democracy: OAS Resolution 1080 and the Inter-American Democratic Charter," *Latin American Politics and Society* 48:3 (2006): 93-123.

the assassination as a break in constitutional order and therefore Resolution 1080 should be invoked. She was supported by the delegation of Argentina, but Mexico balked and the Paraguayan delegation claimed that the government had everything under control. Before the Permanent Council could meet to take up the issue again, both Cubas and Oviedo had fled the country. A new government assumed power.³⁸ These two incidents raised serious doubts about the effectiveness of Resolution 1080 to protect democracy in the Americas.

The upshot of the Paraguayan situation led in to an active debate in the Permanent Council over the efficacy of the Resolution and the limits to which the OAS might adhere to concerning actions to support democratic regimes. The United States led off the discussion over the limits of the mechanisms. Other delegations also expressed concern about the reactive nature of 1080 and the Washington Protocol. The Mexican delegation stuck close to its argument that the OAS had no business in the internal affairs of member states. Other delegations agreed that additional discussion about what should be done and how to do should take place at the next General Assembly meeting. Before those discussions could take place there were two more democratic breaks in Ecuador and Peru in 2000. In Ecuador, a coup ousted the elected president, but the vice president was able to assume governing power resolving the crisis. In Peru, election irregularities led to a more contentious discussion in the Permanent Council over defense of democracy based on the report by the Electoral Observation Mission that Fujimori's government had violated the principles of free and fair elections. The issue was then taken up in the General Assembly in Windsor, Canada in 2001 and the end result was the creation of a stronger and clearer statement on what the OAS role in supporting democracy would be: The Inter-American Democratic Charter (IADC). Since 2001, the IADC has guided OAS activities during periods of democratic breaks and directed the work of the UPD.

While the IADC is now the standard for the OAS, the importance of Resolution 1080 and the Washington Protocol in establishing the principles on which the IADC is based is clear. The end of the cold war gave the OAS the opening to fulfill the promise of the Charter—to promote and defend representative democracy in the hemisphere as well as maintain the peace. Those initiatives also helped the member states work through the issues of balancing the support for democracy while respecting the sovereignty of individual states. The cases examined in this paper provide ample support for the struggle over these two issues throughout

³⁸ *Ibid.*

the decade of the 1990s. Whether that balance struck in the IADC will be a lasting legacy in the hemisphere, only time will tell.

ELECTION OBSERVATION IN THE CARIBBEAN, WITH SPECIAL REFERENCE TO THE WORK OF THE ORGANIZATION OF AMERICAN STATES

DR. LISA VASCIANNIE
UNIVERSITY OF THE WEST INDIES, MONA

General

The Organization of American States (OAS) has provided a regional forum for its member states for almost 70 years. Since its inception in 1948 it has facilitated and steered policies and proposals for “strengthening democracy, promoting human rights, and confronting regional issues such as crime, poverty, corruption terrorism, and illegal narcotics.” This is in keeping with the mandate set out the OAS Charter to “achieve an order of peace and justice, to promote member states’ solidarity, to strengthen collaboration and to defend the sovereignty, territorial integrity and independence of its member states.” In the area of democratic governance the Charter has been clear on its commitment to representative democracy as an indispensable condition for the stability, peace and development of the region. The OAS Charter (Articles 2, 3 and 9) also declares representative democracy as a prerequisite for membership.

The OAS has had a fairly long and steady history of involvement in the electoral activities of member states. This is reflected in the 1985 Cartagena Protocol and the 1989 General Assembly Resolution that establishes guidelines for electoral missions. Between 1962 and 1989 for example, the OAS sent some 29 missions to 11 countries. Several of these earlier missions were an outgrowth of United States policy of containment during a period of Cold War tensions. The organization has been frequently criticized for various strategies of political manipulation and lending legitimacy to fraudulent elections during this early phase of fairly ad hoc observation. However, these missions cannot reasonably be held under the same scrutiny as those that have begun to operate within the contemporary framework of internationally established guidelines and codes of conduct given the political realities of the era.

Since 1989 the OAS has consistently given signals indicating the importance of democracy. These include the establishment of the Unit for the Promotion of Democracy (UPD) in 1990, the 1991 Santiago Resolution and the 1992 Protocol of Washington which all reinforced the organization's mechanisms for reacting to regional threats to democracy. Another phase of further commitment and consolidation was marked in 2001 with the Inter-American Democratic Charter. This instrument offers a strong acknowledgement of the place of free and fair elections and introduced the notion of democratic government as a right. Article 24 of the Inter-American Democratic Charter facilitates the role of election observers within the framework and norms of the OAS. Election Observation Missions (EOMs) have a threefold mandate:

1. To fulfil the principles of the Inter-American Democratic Charter which envisages the deployment of preparatory observation missions when so requested by countries
2. To observe at the request of member states, not only general and national elections, but also plebiscites, regional polls and events involving specific ethnic groups, and
3. To include other issues in observation activities, such as gender and minority group participation.

The OAS has further institutionalized and formalized election observation through the establishment of the Declaration of Principles of International Election Observation of 2005. This instrument reflects the central role that election observation plays in the democracy agenda of the OAS. OAS Election observation activities and supporting democracy agenda are administered by the Department of Electoral Cooperation and Observation.

Practice

The first election observation undertaken by the OAS was in Costa Rica in 1962. In relatively recent history, the OAS has sent just under 180 observer missions to 26 countries since 1989. There has been a steady increase in the number of states requesting or hosting observer missions. Of the 35 member-states, eight have never had OAS observers: Argentina, Barbados, Brazil, Canada, Cuba, Trinidad & Tobago, Uruguay, and until November 2016, the USA. OAS observation may be placed in three phases:

First Generation Missions 1962 to 1989: The OAS carried out some ad hoc missions from as early as the 1960s. These were of no systematic agenda or policy. They were often symbolic politically motivated, related to Cold War geopolitical issues and therefore quite selectively executed. Often these missions had very little to do with substantive issues of electoral administration. In this period there was a total of twenty-five missions including Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Grenada, Dominican Republic and Panama.

Second Generation Missions: These observation missions started with the observation of the Nicaraguan elections in 1990. This heralded a period of transition for many authoritarian regimes during a period of socio-political transformation. Election observation was a legitimizing tool for countries transitioning to democracy. Teams were bigger, higher profile and more organized than previous ad hoc missions. This period was also the start of efforts to professionalize and standardize election observation. Third Generation Missions These started in 2001 with the Inter-American Democratic Charter focuses on democracy as a process and as an expression of the sovereignty of the people.

Latin American Experience

The OAS has had a longer history of observation within Latin America than in the Caribbean. Here there have been 133 elections observed in 14 countries. The OAS has not sent missions to Argentina, Brazil, Chile or Uruguay. It has observed the fewest elections in Mexico (3) and Costa Rica (6) and the most in ALBA countries Bolivia (14), Ecuador (12), Nicaragua (11), and Venezuela. The OAS has also been involved in the Dominican Republic (11 Colombia and Peru (13). Of particular note is Nicaragua whose posturing was that they would not be allowing the OAS to send observers for elections in November 2016. Describing OAS and other observer groups as “shameless,” this was unfortunate as it is widely regarded that OAS observation and assessment of two consecutive elections helped legitimize Ortega’s return to power in 2006 and further validated his re-election in 2011. Ortega eventually retracted on his statement and the OAS sent a mission to observe the 2016 elections in Nicaragua.

Venezuela has also shown some degree of hostility towards OAS observers. Despite calls from the opposition for OAS observers, Venezuela has not had them since 2006. It has opted instead to have the regional observers form Union of South American Nations (UNASUR). UNASUR’s own mandate precludes it from offering impartial, non-biased

observation as it verifies the work of the states' electoral commission. In the case of Venezuela it is difficult to ignore the effects of the dynamics of US/Venezuela bilateral relations.

Observation in the Caribbean

Most Caribbean countries have had international observers. The OAS has observed 40 elections in the Caribbean since 1990. Currently, only one country: Barbados, has not had international observers. The OAS has never observed elections in Trinidad and Tobago which has only had teams from the Commonwealth. It has only has one mission in the Bahamas and the most (five missions) in Suriname, St Vincent and the Grenadines, Guyana and Haiti. Although observation did not become a clear trend until the 1990s, the earliest instance of international election observation in the region was almost 50 years ago. In 1964 a Commonwealth team concluded that Guyanese elections were “fair and proper”, although a dissenting member of the group chronicled independent concerns about the process that in his estimation did not make the elections free or fair. There was a twenty year hiatus from observers until the 1980s when the OAS observed elections in Grenada (1984). The OAS has subsequently observed four other elections in Grenada; the last in 2013.

Generally, observation became a more regular feature between 1990 and 1999 with twelve observed elections in seven countries.¹ Of these the OAS observed half (6) in five countries—Belize, Grenada, Guyana, Haiti and Suriname. The momentum of the trend has developed as there have already been approximately 34 OAS/EOMs in twelve countries² between 2000 and 2016. Overall the OAS has observed 40 Caribbean elections since 1990. The final frontiers in the Caribbean for the OAS have been Dominica (2009) and the Bahamas in 2012. Although there was some controversy regarding the Dominican elections the OAS described them as positive and as “a true reflection of the will of the people.”³ On the Bahamas General Election in 2012 the OAS noted the administration of the election as “free and fair”. The main recommendations included:

¹ Haiti, Suriname, Guyana, St. Kitts & Nevis, Belize, Antigua & Barbuda and Grenada.

² Suriname, Trinidad & Tobago, Haiti, Guyana, Jamaica, Grenada, Antigua & Barbuda, St. Kitts & Nevis, St. Vincent & the Grenadines, St. Lucia and Belize.

³ “Thumbs Up from Independent Observers but Recommendations Made to Improve Democratic Process,” *www.Caribbeannews.com*, December 21, 2009, accessed February 19, 2010.

1. Adopting a legal framework for transparency in financing of political parties and campaigns
2. Redrawing constituency boundaries
3. Providing access to the media to ALL parties in a free, fair and independent manner
4. Incorporating more women in leadership positions and as candidates.

These recommendations reflect the current focus of the Department of Electoral Cooperation and Observation and the OAS on aspects of democracy where improvements may be made. Recommendations on campaign financing, gender and access to media were similar to recommendations made to Jamaica in 2011.

On the most recent elections in Jamaica in February 2016, the OAS commended the country for its “Good Practices.” The mission report highlights “the positive practices of the Jamaican electoral tradition” and commends the country for implementing the recommendations formulated by previous OAS missions on campaign finance, electoral technology, gender representation and the establishment of a media monitoring unit. The OAS mentioned other aspects of the Jamaican electoral process that despite the glaring decline in voter turnout, made the country a “good example for the region.”

The Jamaican case may be highlighted as an example of a country that has benefitted from having election observers. In 1997, amidst fears of growing voter intimidation, garrison politics, partisanship, apathy and distrust, the Government of Jamaica strongly resisted any notion of foreign involvement in local elections. Then Prime Minister Patterson said it “would be a travesty to the legacy of our democratic reputation were we now to suggest that we are incapable as a country to administer our electoral or other affairs.” Now, almost 20 years later election observation is considered an organic element of the election process. This is so as the invitation of observers, whether they accept or not, is regarded as a strong signaling statement of a country’s commitment to democracy.

Collaboration with other Observer Groups

The OAS has observed more elections in the Caribbean region than any other group. It has observed 40 elections since 1990. Other main actors in the field include the Commonwealth, the Carter Centre, CARICOM and to a lesser extent, the European Union. Although the OAS has been more active in Latin America where it has observed over 130