

Strengthening Parliaments in Conflict and Post-Conflict Situations

Latin American Component

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Introduction

Following days of violent protest in the streets of Quito, the Ecuadorian Congress voted to remove President Lucio Gutierrez from power on 20 April 2005. President Gutierrez was the seventh Ecuadorian president, and the third to be driven from office, since 1995. The interruption of another presidential term in Ecuador increases the sense of a crisis of governance in the region. During the past two decades there have been 15 Latin American and Caribbean presidents forced out of office by congress, military pressure and/or amidst riots in the street (Valenzuela, 2004)

The trigger that led to the ouster of President Gutierrez was related to control of the Supreme Court; twice within a four month span he dismissed and reconstituted the court on grounds that are widely perceived as political rather than legal. Sixty Ecuadorian parliamentarians from the 100 member congress voted on a clause in the constitution permitting the removal of a president for abandonment of his post—arguing that the presidents' efforts to control the Supreme Court violated the laws and went beyond constitutionally mandated powers.¹ Now actions of the parliamentarians are also under scrutiny, the Organization of American States (OAS), the regional institutional charged with the "defense of democracy,"² sent a mission to Ecuador in April to determine if the ousting of the President was constitutional. In turn, the media has questioned why the OAS did not act in December 2004 when the President precipitated this crisis by dismissing the Supreme Court.³

Beyond manipulation of the justice system, analysts have pointed to other problems that contribute to an economic and social crisis in Ecuador, including corruption, inequity, poverty and unemployment. "The President is only part of a larger weakness in the system related to decline of traditional political parties, disregard for the law, disenfranchisement of

all," stated Adrian Bonilla, Ecuador Director of Association of Latin American Social Science Faculty (FLASCO).⁴

The events in Ecuador provide a regrettable but revealing introduction to this paper and the corresponding cases studies that focus on strengthening parliaments' role in crisis management in Latin America and the Caribbean. The paper forms part of the Latin American component of regional research undertaken by the United Nations Development Programme (UNDP) on the role of parliaments and the role of international development aide to parliaments in conflict/crisis situations. UNDP's research, together with studies initiated by the World Bank (WB), the International Parliamentary Union (IPU), and supported by the Government of Belgium, will be discussed at an international conference in 2006.

The focus on parliaments is prompted by three concerns identified by democratic governance experts regarding parliaments in emerging or developing democracies:

- 1) Legislative institutions around the world are delegitimized or marginalized, particularly in situations of conflict, post-conflict and crisis;
- 2) International development assistance programmes and national governments do not pay sufficient attention to parliaments as essential institutions for democracies;
- 3) In many developing countries, there is a lack of confidence, and often cynicism, about the impact and limits of international assistance.

This overview explores these concerns in the Latin American context by attempting to address two questions. First, what particular roles have been played by parliaments in situations of violent conflict, post conflict and governance crises in Latin America? Second, in Latin America, how has

¹ "Ecuador Congress Sacks President," BBC News World Edition (20 April 2005)

² Gaviria, Cesar, Introduction, Inter-American Democratic Charter (September 2001)

³ Sanchez, Marcela, "OAS Shooting the Wounded in Ecuador," *The Washington Post* (April 28, 2005)

⁴ Quoted in *Diario Hoy*, April 2005

international development assistance contributed or not to an increased role of parliaments as an institution for crisis management, conflict prevention and conflict resolution?

The paper is organized around six general conclusions that emerged from the discussions that occurred during the project workshop in Antigua, Guatemala in July 2005 about parliaments in conflict. The conclusions are the following.

1. Conflict in Latin America is predominantly rooted in crises of governance.
2. Parliaments can have a direct preventive impact on situations of conflict or crises primarily through effectively fulfilling the functions of representation, legislation and oversight. Parliaments can also enhance their role in crisis prevention and peacebuilding through legislative action in poverty reduction, oversight of the security sector and addressing past human rights abuse.
3. In the Latin American cases examined for this study, parliaments or leadership within the parliament played a role in resolving the situation. The role however, was usually ad-hoc and reactive.
4. Latin American parliaments have made some progress in the last 10 years in terms of executive oversight, seeking political relevancy, and representation for indigenous or original peoples and women. Obstacles to the structural capacity of parliaments include fragmented political parties, conflicts between the executive and legislative powers, a lack of democratic culture, the need for greater institutional and human capacity and divisive electoral systems and endemic corruption.
5. Democratic space has expanded in Latin America, but the democratic project is unfinished. The "crisis" of democracy in the region requires parliaments to become truly representative institutions with transparent process of legislation and oversight.
6. International assistance to parliaments in Latin America has mainly focused on technical and infrastructure rather than

the parliaments as part of a political community that shares the responsibility of governance.

7. Building capacity for effective fulfillment of the three primary functions of representation, legislation and oversight is the first step in enhancing the capacity of parliaments to contribute to conflict prevention and crisis management.

The first section discusses the phenomena of conflict in the Latin American context identifying government crisis as the root of most conflicts. The second section examines the concept and potential of parliaments as institutions for crisis management. The third section provides an overview of the cases developed in correspondence with this overview that examine the roles parliaments have played in specific situations of crisis and conflict in Argentina, Bolivia, El Salvador, and Guatemala. The third section identifies some of the challenges to parliaments recognized in the case studies. The fourth section looks at the overall state of governance and parliaments as democratic institutions in the region. The fifth section offers an overview of the key programmes of international assistance directed at parliaments. Section six, finally, presents a series of conclusions, lessons learned and recommendations drawn from the regional experience that aims to inform external actors in their efforts to develop more effective programming in support of an increased role for parliaments in crisis prevention and management.

1. Conflict as crisis of governance

Conflict is an integral and necessary part of a representative, democratic system. The concern of this paper focusing on Latin American parliaments and crisis management is not the elimination of conflict, but how to resolve and manage conflict non-violently. Many of the case studies from other parts of the world will focus on armed political conflict—often between government and internally-based groups—where force is used to achieve specific political objectives. In Latin America armed political conflict is still a reality, but recent violent conflict in Latin American more

often unfolds as governance crises leading to mass protests and bloodshed. As the boundaries between political violence, criminal violence, and violence as a result of governance crises are disappearing however, conflict throughout the region requires a broader definition. This section examines different aspects of violent conflict in Latin America.

Violence is tightly entwined with the history of Latin America—historically through the colonial experience and, as well as the state-sponsored violence of the military dictatorships that governed in the 1970-80s. (Moser 2004) There are still many actors who view violence as the most convenient means for resolving conflict. Caroline Moser and Cathy McIlwaine in their book *Encounters with Violence in Latin America*, maintain that the continued power of the military combined with the informalization and privatization of public security systems perpetuate violence. Moser and McIlwaine write of the “inextricable link between everyday violence, fear and insecurity,”⁵ as a serious development challenge in Latin America.

At 25.1 deaths per hundred thousand inhabitants, Latin America has the highest rate of criminal homicides, and by many accounts is the most violent region, in the world. In almost all Latin American countries, violence is now among the five main causes of death, and is the principal cause of death in Brazil, Colombia, Venezuela, El Salvador, and México. The violence takes place in the streets, predominantly in the poor areas that surround every city in the region. The level of everyday violence and inability of most Latin American justice systems to do anything about it creates a sense of what has been referred to as a “culture of violence.”

The need for a broader understanding of violent conflict is exemplified in Colombia’s 40-year war, which is active throughout the country with impacts throughout the region. The war has caused the death of thousands of people every year and claimed 40,000 lives in the past decade alone. The situation in Colombia is most often identified as a political armed conflict, but like many so-called “new wars” it is a conflict that has

many roots. The 2003 Colombian Human Development Report describes the 40 year war as multiple conflicts including economic, drug, rural-urban, ideology, political and territorial.

A new source of violence in Latin America is what the United States National Intelligence Council terms ‘militant indigenism.’⁶ Identified as a potential risk to hemispheric security, this trend is linked to the failure of governments to find solutions to extreme poverty and ingovernability, which creates enabling environments for populism, radical indigenism, terrorism, organized crime and anti-American feeling. Dirk Kruijt and Kees Kooning, in their book *Armed Actors: Organized Violence and State Failure in Latin America* stress that the proliferation of ‘armed actors’ in the region is partly due to ethnic tensions that are violently erupting in various countries, particularly in the central Andean countries of Ecuador, Peru and Bolivia. In a recent column, Michael Weinstein predicts a ‘cycle of instability’ in the Andes, the indicators of which are “massive protest marches, road blocks, the taking of official buildings, regional rebellion, uninvolved governments and anti-constitutional attempts by governments to extend their powers.”⁷

The relationship between violence, livelihood insecurity and increasing vulnerability is only recently gaining attention from security experts and international development practitioners. The Inter-American Development Bank (IADB) estimates the economic costs of armed violence in Latin America to have been between \$140 and \$170 billion per year during the late 1990s – approximately 12 percent of regional GDP.⁸ High levels of violence and armed political conflict also have a degrading effect on democratic systems. Civilian control of the military is an essential characteristic of a democracy. In countries experiencing high levels of violent conflict the army has a greater influence in governance and the rights of civilian are repressed in favor of military objectives. High levels of insecurity are usually countered with a proliferation of informal

⁵ Moser, C. and McIlwaine, C., p. 4

⁶ National Intelligence Council, 2004

⁷ Weinstein, M. 2005

⁸ Inter-American Development Bank

security arrangements that put into question sovereign control over the use of force.

In one reflection of this growing understanding of the global impact of violence and conflict on development, the recent report of the UN-convened High Level Panel on Threat, Challenges and Change offers an expanded definition of security as “any event or process that leads to large-scale death or lessening of life chances and undermines States as the basic unit of the international system.” The expanded definition better reflects the reality in Latin America by including development-related threats such as threats to economic and social welfare, governance crises, inter-state conflict, internal conflict and transnational crime.

2. Parliaments and conflict

The 2001 Report of the Secretary General on the Prevention of Armed Conflict states that national governments bear the primary responsibility for conflict prevention, with civil society also playing an important role.⁹ In most governments, parliament, as the legislative branch of government together with the executive and judicial branches, is one of the three institutional powers of a political system that serve to balance the exercise of power, constraining the capacity of any one branch of government to act independently. As representative assemblies convened to shape policy and oversee its implementation, a functioning parliament is one of the core institutions of good government and democracy. (Johnson, J. & Nakamura R., USAID 2000)

While varying in form, parliamentary institutions in democratic countries are characterized by three basic functions: representation, lawmaking and oversight. As representative bodies, parliaments are envisioned as the branch of government which is closest to the people, both in terms of allowing constituents greater access to decision-making processes and in terms of membership. Ideally, parliaments reflect the diversity of the population

in ethnicity, gender, and religion. By articulating, negotiating and enacting legislation, parliaments translate societal preferences into policy. The legislative function requires procedures capable of reconciling conflict between differing interests in a society. Oversight typically takes place after a law is passed and involves monitoring the executive branch for effective implementation of policy. In most parliaments the oversight function is particularly important in approving the government budget.

On a structural level, a number of factors impact the effectiveness of a parliament: the scope and extent of formal legislative powers to enact laws, the internal management of the legislative process, the capacity of the administrative structure, the availability of research and information systems and the political space afforded to parliaments in comparison to the executive branch and political parties. Parliaments frequently lack the human and material resources needed to fulfill its basic functions. (*USAID Handbook on Legislative Strengthening*, 2000)

Beyond structure an important variable in parliamentary effectiveness is the political party system. As an individual moves from the role of political party candidate to a member of parliament, they take on the responsibility not only to represent their constituency but to form part of an institution that is vital to the democratic process, a dual function that sometimes requires relinquishing partisan interests in order to accommodate the interests of others. Yet the loyalty of parliamentarians to political parties or leaders frequently overshadows their interest for the legislature as an institution. Another aspect of the relationship between parliamentary effectiveness and the political party system is the balance of power. If one party dominates the system, the parliament will often have a diminished capacity to conduct independent law-making. (Johnson, J. & Nakamura R., USAID 2000) On the other hand, if the party system is fragmented into many smaller parties, the challenges of negotiating between and among so many competing interests can lead to gridlock.

Parliaments are receiving increased attention by scholars and international development

⁹ <http://www.un.org/Depts/dpa/2001cpreport.pdf>

practitioners for their potential role in conflict prevention. Michael Lund, in his book *Preventing and Mitigating Violent Conflicts: A Revised Guide for Practitioners* defines conflict prevention as actions, policies, procedures or institutions undertaken in particularly vulnerable places and times in order to avoid the threat or use of armed force and related forms of coercion by states or groups, as the way to settle the political disputes that can arise from the destabilising effects of economic, social, political and international change. In their 1998 report, the Carnegie Commission on the Prevention of Deadly Conflict, categorized preventive activity in terms of *operational* explained as late-term preventive actions that address the proximate causes of conflict as it is unfolding; and *structural* early or institutional preventive actions and reforms that address the underlying structural causes of conflict. Most of the thinking on parliaments focuses on the capacity of legislative bodies to contribute to long-term structural prevention.

Parliaments...are forums uniquely designed to address contentious issues and relationships in conflict-affected societies thereby contributing to peacebuilding efforts. (O'Brien, M., 2005)

In a recent paper for the World Bank, Mitchel O'Brien focuses on the potential of parliaments to affect the lives of a majority of citizens through enactment of legislation, building consensus across groups and interests and shaping policy that integrates the promises of politicians and the expectations of citizens. In ideal situations, the people communicate their needs and concerns to their representatives, who in turn seek to explain to those they represent the outcome of parliamentary debate. Parliaments have the potential to be vertical actors. The concept of vertical actors, as articulated by John Paul Lederach in his extensive work in peacebuilding, refers to the idea of a person or institution that has the ability to communicate up and down the hierarchy of a society. This access of parliaments to the executive, i.e. the president or prime minister, above and their constituents below, is a capacity that can be highly useful in situations of conflict and peacebuilding.

O'Brien makes two points in his paper *Parliaments as Peacebuilders: The Role of Parliaments in Conflict-Affected Countries* that are particularly relevant to Latin America. First, he develops a strong argument for the potential role of parliaments in poverty reduction. He cites the research that indicates a high correlation between poverty and conflict and explains how parliaments can change the environments that enable conflict by passing laws that ensure an equitable distribution of resources. "Inequitable environments create conditions ripe for those motivated by greed to kindle conflict," writes O'Brien.¹⁰ Implementing pro-poor development policies, investing in social capital and seeking greater participation in international development initiatives such as the Poverty Reduction Strategy Papers (PRSPs)¹¹, are some ways that parliaments can contribute to poverty reduction.

O'Brien also discusses how the design of parliament and the electoral system has important implications for representation. Building on the assumption that the more representative a parliament, the more effective it is in terms of its contributions to peacebuilding, he argues that a representative parliament lays the foundation "for the emergence of a constructive conflict culture."¹² The assumption is that broad participation in political institutions means that a larger percentage of the population will feel that its concerns are being represented. But the experience in Latin America has found that increased diversity in governance does not always lead to better representation. The case studies support the idea that the goal of representation must be accompanied by clear procedures for negotiation, decision-making and a capacity to balance majority and minority interests.

Parliamentary oversight of the security sector is another area where legislative bodies can contribute to crisis/conflict prevention. In some countries the role of parliament vis-à-vis the

¹⁰ O'Brien, 2005

¹¹ PRSPs are national documents that describe the country's macroeconomic, structural and social policies and programs over a three year or longer horizon to promote broad-based growth and reduce poverty, as well as associated external financing needs and major sources of financing.

¹² O'Brien, 2005. p. 8

security sector is defined in the constitution, but the exact relationship varies from country to country. Approval of the defense budget is the most obvious form of oversight conducted by parliaments, but around the world legislative bodies also approve defence laws, decide on the strategy for security policy, declare or end a state of war or emergency, appoint defence ministers and top generals and carry out inquiries related to security matters. As a response to the military takeovers of the 1970s and 1980s, many Latin American governments have been working to integrate the armed forces into a democratic structure under civilian leadership.

Parliaments have also played a role in democratization and/or post-conflict reconciliation by addressing violations of human rights. The most successful democratizing and post-conflict countries have been those in which new governments have made an effort to confront legacies of human rights abuse. For example, in Latin America, parliaments in Paraguay (2003) and Uruguay (1985) directly established truth commissions to investigate human rights abuse committed under authoritarian governments. In another example, parliaments in Argentina and Chile have attempted to recognize victims through the enactment of reparations legislation that provides cash payment or special benefits such as medical benefits and free school tuition.

3. Role of parliaments in resolving crisis

In the Latin American cases examined for this study parliaments or leadership within the parliaments did play a role in resolving the situation. This role, however, was usually ad-hoc, reactive and not based on any institutional arrangement.

Four cases studies were developed in correspondence with this overview paper. The cases studies on Argentina, Bolivia, El Salvador, and Guatemala, analyze in greater depth the role of parliaments in specific situations of crisis and conflict and evaluate international assistance to strengthen the parliament's role in crises

management and conflict prevention and resolution.

In deciding upon criteria for selecting the cases for this study, the group first agreed to identify a variety of types of conflicts, i.e. tensions leading to social unrest, situations of violent conflict, and post-conflict peace processes. There was also interest in presenting a variety of parliamentary responses. The decision was made to limit the study to cases where the conflict had a profound impact on the governance system in a country. And given the focus of the research question, it was essential to select cases where legislative bodies and the international community played a role.

The cases studies are organized in three parts: first, the story of the conflict; second the role of the parliament and finally; the interventions of external actors and the appropriateness of international assistance. In examining the role of parliaments in situations of crisis, researchers elaborating the case studies were encouraged to develop analysis along two levels. The first level focuses on how the parliament functioned in terms of its three basic functions: legislative, representative and oversight. The second level of analysis examines the elements within a governance system that effect institutional capacity for conflict prevention, for example, how power is concentrated in a particular government system, what is the role of political parties, and/or the electoral and political financing laws.

Argentina

In 2001, the collapse of the Argentine economy, soaring poverty and unemployment and political crisis led to violent protests between citizens and the armed forces, and 35 people dead. In the midst of this catastrophe, Rodolfo Mariani describes the astonishing leadership of the National Congress, which emerged from institutional paralysis to come to a multi-party agreement on an institutional and constitutional solution, becoming the guarantor of a sustainable transition. Congress in Argentina is not normally seen as a vital instrument of governance, according to Mariani, it has no capacity to initiate or develop a forward agenda. But the resignation

of President Fernando De la Rúa in December 2001 forced the party leadership in Congress to resolve the crisis, in part by acting beyond popular will. Ana Maria Mustapic of the University Torcuato de Tella in Argentina, a commentator on the paper, argued that while the solution may have been beyond the normal mandate of parliament, the situation demonstrated a commitment to the institution of democracy. The president lost legitimacy and support, but both the government and the opposition sought an institutional-constitutional solution.

Mariani does not consider that the international community played any significant role in this crisis. But one initiative, *Diálogo Argentino*, seems to have achieved at least limited success in terms of diminishing the possibility of increased political violence. The Catholic Church, together with UNDP and the national government, led a dialogue process that began under President Fernando De la Rúa, was interrupted by the escalating political crisis, and then began again with the government of Eduardo Duhalde. Members of both the national government and the Congress participated. An independent evaluation of the project found that the dialogue initiative contributed positively to the crisis by creating space for political actors to come to consensus over short and medium-term strategies to relieve the political-economic crisis in the country, as well as providing public institutions some legitimacy for their actions.¹³

Bolivia

Arthur Sist offers a comprehensive study of the Bolivian congress in the country's recent turbulent history, in particular after the series of massive peasant demonstrations culminating in the "Massacre of the Gas War," which led to the resignation of President Sanchez Lozada in October 2003. According to Sist, the violent protests of 2003 marked the end of an 18-year period of relative democratic stability in Bolivia's history and the onset of the current situation of a

period of "a serious reduction in the governability of the country" (Sist, 2005). The role of the Bolivian congress in crisis has been primarily passive; however, skillful leadership in the period immediately after the resignation of President Sanchez in terms of providing for a transparent and constitutional transfer of power and rapid movement on constitutional reform to defuse the crisis briefly raised the prominence of congress as an institution for conflict/crisis resolution. Gridlock between the executive and the legislative, a general loss of party discipline and a trend toward regionalism has unfortunately characterized the congress since that time.

Legislative function is the primary instrument that congress has to prevent conflict, or to resolve it through appropriate and timely legislation. (Sist, 2005)

While recognizing the achievements of international efforts to increase the representative function of the congress, one of his most interesting conclusions is the negative consequences—the rise in representation has led to the increasing dominance of regional interests in the legislative body, and an overall decrease in governability. In general, Sist finds that international development assistance to the Bolivian congress has been insufficient and short-lived. In terms of future assistance, he emphasizes the role of the congress in its legislative and oversight function and thus offers the recommendation that donors focus on the strategic functions of parliaments, starting with the legislative function.

El Salvador

In 1989, the Government of El Salvador and the Farabundo Marti Liberation Front (FMLN), representing joint forces of five political-military organizations, agreed to end the armed conflict which raged for eleven years and negotiate a political settlement. Francesca Jessup describes the role of parliament in the El Salvadorian peace process as instrument rather than a protagonist in a process where the content of the political changes brought about by the accords had been defined by the central parties to the conflict. The Legislative Assembly had to pass and implement

¹³ Calvo, Cristina, Gerzon, Mark, Rial Juan y Zuleta Mark, *Evaluacion del Dialogo Argentino* (United Nations Development Programme Guatemala, October 2004) <http://www.democraticdialoguenetwork.org/english/library/studies/links/>

the legislation that supported the 1992 Peace Accords, but actions taken sometimes represented partisan politics rather than independent support for institutionalizing the Accords.

The positions taken by the Legislative Assembly tended to reflect the political will or lack thereof of the main domestic political actors and their interaction with internationally-led efforts to insure compliance. (Jessup, 2005)

Jessup focuses on the United Nations as a significant actor in the El Salvador process in terms of funding, mediation and the provision of technical support. The UN supported and facilitated the creation of COPAZ, the National Commission for the Consolidation of Peace, as part of the peace agreements. Constituted by representatives of political parties, the FMLN and the Government and guided by the members of the UN Mission to El Salvador, which played a useful role in the helping to shape the legislative agenda. While much of the key legislation underlying the peace accords was eventually passed, the legislative implications of the Truth Commission faced stronger resistance. One of the most significant results of the peace accords for the Legislative Assembly was the opening up of space for political participation by previously excluded forces, with a new electoral process making politics an instrument for access to political power rather than one of exclusion.

Guatemala

The 1992 crisis in Guatemala erupted during the period of transition from the 36-year armed conflict—a period which in Guatemala was distinguished by parallel processes of democratization and peace. Case study author Braulia Thillet maintains that the attempt by the sitting President Jorge Serrano to dissolve the Legislative Assembly, the Supreme Court and the Attorney General's office, and absorb the power of the judicial and legislative into the executive branch is distinctive from past crises because it was civilian government rather than a military take over. Thillet argues that the crisis was between political actors who could not find an institutional means to resolve their disputes, and did not affect

or rise out of the general population. The situation, rooted in the overall weakness of the state, high levels of corruption, a growing economic crisis, and the continued strong influence of the military and business elites in government, led to a profound public rejection of parliamentarians and forced President Serrano out of power. The peaceful resolution of this attempt by Serrano to establish a dictatorship was hailed by many as an important victory for the constitution, the rule of law and civil society. The crisis forced the Legislative Assembly to change the law, and its own internal rules, and led to the establishment of the Party Forum, which mandates that parties send delegates to participate in multi-party discussions and come to agreement over a common agenda. In this case, states Thillet, the crisis of governance led to democratic reform and contributed to the evolution from a "democracia de fachada," or superficial democracy, to a more representative system. The Catholic Church played a major role in terms of mediation between political leaders, but the international community did not have a significant role beyond publicly condemning the acts of the president. Thillet states that international development organizations reacted to the crises with programs that attempted to make the legislative body more transparent, but they were not viewed as neutral players in the crises. More recently there has been progress in the relationship. The Legislative Assembly is more open to international support, and programmes such as support to women's and youth networks with party affiliation are serving to convince parliamentarians that these efforts can help them.

The cases demonstrate a variety of situations in which parliaments have taken a role in managing crisis. Case study authors argued during the workshop that the cases demonstrate a commitment to democracy. While for most of the last century the solution for crisis was military takeover, the cases examined for this study all reveal political actors trying to find solutions to governance crises within legal-institutional frameworks. The solutions, however are ad-hoc and reactive rather than part of an institutional framework for non-violent resolution of conflict. In other words, parliaments in these cases exhibited a capacity to "rise to the occasion," in reacting to

crisis situations, i.e. operation prevention, but have mostly failed to contribute to long-term structural prevention which requires institutional mechanism and reform. Participants in the July 2005 workshop agreed that a more proactive role for parliaments in conflict and crisis prevention is challenged by the fact that the idea of parliaments as a balanced power with the executive and judicial branches has not been a part of the Latin American experience. Many of the governance crises examined for this project exhibited the tension between traditionally strong presidents faced with opposition parliaments and a lack of institutional mechanism or history of dealing with conflicts and political impasse. The following section explores the experience of legislative bodies in Latin America in more detail.

4. Opportunities and challenges for parliaments in Latin America

In Latin America parliaments have a serious credibility problem, and are placed by the region's citizens at the bottom of the scale of legitimate democratic institutions. Parliaments in the region suffer from a diversity of problems including a lack of capacity and skills, weakness of the political parties, subservience before the executive, poverty, amateurism, high levels of corruption and a distant relationship with the citizens. Auther Sist, author of the Bolivia case study, argued that parliaments in Latin America do not meet the requirements of a formal institution because they lack institutional memory, institutional culture and institutional stability.

Historically, the experience of strong executives overwhelming the other branches of government is shared throughout the region. Under the military governments that dominated in the 1970-80s, Latin American parliaments were often reduced to rubber stamp bodies that simply passed the laws decreed from above. In this current period of emerging democracies, parliaments are characterized by political personalism, weak parties and corruption.

Parliamentarians have seldom had formal training in law or legislative process, their political education is learned through the parties, and the result is little interest or understanding of the institution of parliament. The focus is on party rather than national interests and parliaments are viewed as the battleground for these competing interests.

Among the many challenges facing greater credibility for parliaments is the lack of a constructive relationship between majority and minorities. The idea of a "loyal opposition" is a key aspect of democratic culture. The term means that all sides in a democracy share a common commitment to its basic values. Political opponents may disagree, but they are loyal to the institutions of governance and the rights provided under the national constitution. This aspect of democracy is especially difficult to realize in nations where transitions of power have historically taken place through violence. In Latin America politics is more usually characterized by a winner takes all approach. And given the well-developed patronage systems, winners and losers have more at stake than political office.

The Legislative Assembly is an arena for competing interests that reflects the strengths and weaknesses of the political regime, particularly the political parties as well as conflict between strategic sectors and actors. (Thillet, 2005)

The section below first provides a regional perspective on parliaments in terms of the three fundamental functions and second looks at other factors that affect the institutional capacity of parliaments. Latin American parliaments have made some progress in the last 10 years in terms of executive oversight, seeking political relevancy, and representation for indigenous or original peoples and women.

Representation

Latin America parliaments have broadened their representative quality considerably. In terms of indigenous representation, in the last 20 years, voters in Bolivia, Guatemala, and elsewhere have increased the portion of the national legislature

that is indigenous. A World Bank study published this year found that in terms of indigenous political parties, indigenous elected representatives, constitutional provisions for indigenous people or indigenous-tailored health and education policies, their role has grown remarkably. (World Bank 2005) However, that increased representation has not translated into concrete benefits. "Despite increased political influence, indigenous people still consider themselves extremely limited in terms of voice in governmental affairs, and associate this condition with continued poverty," says the report.¹⁴

The average representation of women in parliaments in the region rose from 8 percent to 15.5 from the late 1980s to 2004—much of this increase is a response to quota systems imposed in a number of countries. Yet according to the Women's Progress report issued by UNIFEM, in the 1990s, only eight countries in the world - not one of them Latin American - met the agreed goal at the Beijing World Conference on Women in 1995 for achieving greater gender balance in institutions of political representation. The objective was for women to hold at least 30 percent of parliamentary seats. As of January 2000, Cuba was the Latin American country with the highest percentage of women in its parliament, with 27.6 percent. In terms of the countries examined in the case studies, the percentage of women in parliament is low and certainly not representative of the gender balances in those countries. Argentina, which has a quota system that dictates gender equality in party platforms, is higher at (23%). El Salvador (16.7%), Peru (10.8%) and Guatemala (7.1%); these remain considerably under the goals set in Beijing.

Progress that has been made in Latin American in terms of representation but women, indigenous and Afro-descendants are still participating well below their demographic weight in these societies. Eleven countries (Argentina, Brazil, Ecuador, Dominican Republic, Colombia, Costa Rica, Mexico Panama, Paraguay, Peru, and Venezuela) have adopted quota systems that ensure women's participation in parliament. Few countries have

adopted effective measures to promote greater representations of minorities.

An interesting case in terms of the dynamics of representation in Latin American is Bolivia. Despite other reform to modernize parliament, there was little progress on achieving greater representation until after the revamping of the electoral laws that went into effect in 1997. The new system meant that 50 percent of legislative seats in lower house are elected from single member represented districts. The 2002 elections resulted in an 80 percent turnover within the Bolivian Congress with higher female and indigenous participation. The percentage of women parliamentarians increased from 12 percent in 1997 to 18.5 percent. Indigenous representatives now hold approximately 12 percent of the seats. The change also resulted in the first woman President of the Senate in Bolivia.

The considerable effect of electoral law reform on parliaments is seen not only in terms of the diversity of the members of congress, but the slowly changing relationship between parliamentarians and their constituents. When parliamentarians depend on support from a specific district, they have higher incentives to spend time in that district and represent the needs of those communities. Innovative programs such as the "Congreso Visible" (Visible Congress) program developed by the University of Los Andes in Colombia in 1998 provide constituents with access to information about parliamentarians and contribute to increasing transparency of the institution. The Congreso Visible program distributed detailed information throughout the nation via participating universities and was supported by the National Endowment for Democracy (via USAID) and the Canadian and German development agencies.

Legislation

The legislative process in many Latin American countries is slow and unpredictable. Many systems have vastly complicated legal codes and thousands of contradictory laws, as well as structural impediments such as antiquated, highly bureaucratic procedures, insufficient and unskilled

¹⁴ World Bank 2005

staff, absence or misuse of a committee system and lack of access to information.

Tracking law-making in these countries is a challenge. Legislative action can only be accounted for if it is known. There has been some improvement in terms of keeping records of parliamentary procedures and public access to voting records using information technology--the Brazilian and Chilean congresses record most votes and post the records on their websites. Argentina and Peru began to do the same a few years ago. Public access to the information is limited in Mexico and Nicaragua but most votes are recorded. Bolivia, Colombia, Ecuador, Costa Rica, El Salvador, Guatemala, Honduras, Paraguay, Uruguay and Venezuela record very few notes and access to those records varies. (Carey, 2002)

The legislative progress has been complicated by fragmentation of the political party system. With 3, 4 or more major political parties represented in a parliament consensus building around policy is almost impossible. The result is major conflicts with the executive and gridlock on the legislative process. President Fox of Mexico has not been able to pass one single major law through the opposition controlled Congress.

When legislation is passed the next hurdle is effective implementation. In another Latinobarometro survey for UNDP, only three countries received a score higher than five (out of 10 in total) when Latin American participants were asked whether their governments actually complied with existing legislation.

Oversight

In many countries, researchers observe a continuing centralization of power in the executive branch to the point at which the legislative and judicial branches are subordinate. Yet while the emphasis in Latin American governance is still on leaders rather than institutions; parliamentarians have been exercising their mandate to limit the power and mandate of the executive. In Argentina, Bolivia, Ecuador and Guatemala, parliaments have been instrumental in ousting the president.

A critical aspect of parliamentary oversight is monitoring the government budget. Headway has been made in some countries in terms of increased transparency around the budgetary process. Mexico now has a budgetary office that works cooperatively with the Mexican Congress in the work of oversight of the national budget. But Parliamentarians often lack the expertise and/or the presence of skilled staff and information to provide true oversight. One deficit is the lack of a functioning committee system that can focus attention and expertise to critical areas such as the budget. A committee system offers a procedure for representatives to bring constituent concerns into the decision-making process and yet provide a space for negotiation and consensus building.

Beyond parliaments function in terms of representation, legislation and oversight, this study considers parliaments capacity for conflict prevention and crisis management. To this point, Rodolfo Mariani, author of the Argentina case study, offers the observation that historically Latin American countries have often experienced military takeovers in the face of crises. Thus the fact that parliaments have dealt with many of the crises of governance in the past decade constitutionally can be seen as a step forward. In the Argentine case the National Congress provided an institutional and constitutional solution to the immediate crisis precipitated by high levels of dissatisfaction with the government of President Fernando de la Rúa. While any interruption in constitutional procedure is a cause for concern, the parliamentary replacements of presidents seen in Argentina, Bolivia, Ecuador and Peru have generally been less violent, and certainly have a stronger claim to democratic legitimacy, than military takeovers.

Latin American parliaments have made some progress in the last 10 years in terms of executive oversight, seeking political relevancy, and representation for indigenous or original peoples and women. Obstacles to the structural capacity of parliaments include fragmented political parties, conflicts between the executive and legislative powers, a lack of democratic culture, the need for greater institutional and human capacity and divisive electoral systems and endemic corruption.

Key elements that effect institutional capacity

Fragmented, undemocratic and unstable nature of political parties.

The absence of democracy within political parties is an element that affects and continues to affect the image of legislators, who are not seen as representatives of citizens. (Thillet, 2005, 9)

Political parties play an important role in democratic governance. In Latin American political parties have been essential to everything from the selection of presidential candidates and parliamentarians, to defining the constitution and legal system, to providing a supply of public officials for the highest government positions. But the discrediting of political parties over the past 10 years is a phenomenon seen all over the region. Young people are not interested in joining political parties and citizens in general are suspicious of their origins and objectives. According to the Latinobarometro survey, confidence in Latin American political parties declined from 20 percent in 1996 to 11 percent in 2003. The lack of confidence is apparent in the high levels of electoral volatility and the decline in electoral support for the largest parties, -19.1 percent from 1990-2002.¹⁵ Again the problems are multifold: some research suggests that party representation does not reflect the interests of the majority of the populations and there is a lack of organization and party discipline. The Guatemala case study describes a situation where there is little loyalty to political parties; parliamentarians routinely switch positions and political allegiances during sessions.

Much of this is the fault of the parties themselves. Traditional political parties are ill-suited to rise above partisan interests because they never succeed in establishing themselves on a national or popular level. Parties tend to be developed as vehicles for one charismatic leader and they are born and die within short periods. Parties tend to be undemocratic and hierarchical, offering little incentive for young or new members to join. One result is the proliferation of new parties, ad hoc

movements and non party political actors. Since 1985, 57 different political parties have been formed in Guatemala (Clingendael Institute, 2005)

Conflict between the executive and the legislative

While many researchers still focus on executive dominance in governments in the region, there is also the issue of a gap between formal power and capacity to exercise it. As mentioned above, the presence of 3 or more major political parties often leads to a politically paralyzed government as the president/executive faces an opposition parliament. The Argentine and Guatemala case studies exhibit this tension.

There is an on-going debate in Latin America about the benefits of presidential versus parliamentary systems. The debate has taken on more force in the observation that many of the crises of the past few years have been set off by a decline in the popularity of presidents. Presidents have been ousted in Ecuador in 1997, 2000 and 2005, in Peru in 2000, in Argentina in 2001, Venezuela in 2002, and Bolivia in 2005. Critics of presidential systems warn that these situations can easily become regime crises because there is no constitutional mechanism for removing a chief executive who has lost the ability to govern, as there is under parliamentarism. Jon Carey in his 2002 article in *Revista* suggests that the trigger mechanism for these crises is conflict between the executive and legislative branches, which incites the president/executive to ignore or trample the constitution generating popular outburst and government collapse. It is a scenario which has a long history in Latin America.

Lack of constructive dialogue/lack of democratic culture

Case study authors alluded to a lack of constructive dialogue, a lack of democratic culture and even a tendency to authoritarianism in Latin American parliaments, parties, and politics in general. Both the Guatemalan and Argentine cases studies observe a predisposition toward authoritarianism within the structure of the parliaments and political parties and the lack of procedure for facilitating democratic debate.

¹⁵ UNDP, *Towards a Citizen's Democracy*, 2004

Democratic culture implies the active socialization of organized groups and citizens at large into the practice of democratic principles of behavior within their own societal transactions, as well as an awareness of their individual rights as participants in the monitoring the performance of government. It seems that the evolution of democratic culture in Latin American can be viewed from an optimistic or more pessimistic view. A recent article in the *Christian Science Monitor* lauded the emergence of people power in the region as civil society from Mexico to Ecuador to Bolivia has hit the streets in the last few months to demand change. The article quotes Riordan Roett, director of the Latin American Studies Program at the Johns Hopkins School of Advanced International Studies (SAIS) in Washington, who sees the phenomenon as a "redefinition of civil society," able today to stand up to traditional elites.¹⁶ Yet others find the trend more ominous. Analysis of the April 2005 crisis in Ecuador described it as "politics by the mob"¹⁷ and a "rebellion of outlaws."¹⁸

Democratic political culture is the 'sediment produced by the prolonged practice of participation and tolerance, critical and consensus-building capacity, and the strengthening of the social bases of the political citizenry.' (Jessup quoting War Torn Societies Project, 2005)

Continued lack of institutional and human capacity
All the case studies referred to the structural deficiencies in Latin American parliaments. Although great strides have been made with the support of international assistance, huge bureaucracies, lack of professional staff, limited access to information and analysis, records of legislation, etc... still characterize the majority of parliaments in the region.

Corruption and insufficient legal frameworks

¹⁶ Harmon, 2005

¹⁷ Editorial page, "Politics by the mob claims another victim," *Miami Herald* (April 22, 2005)

¹⁸ Saavendar, Luis Angel, "The Rebellion of Outlaws," *Latin America Press*, (May 5, 2005)

There is an endless procession of political corruption scandals splashed on the front pages of Latin American newspapers. While difficult to measure, experts agree that it is widespread and systemic. Transparency International's Global Corruption Report 2005 called attention to government corruption cases in Bolivia, Brazil, Colombia, Costa Rica and Peru.

Few Latin American countries have anti-corruption legislation and fewer parliaments have internal regulation providing for effective ethics training and self-policing such as investigations and policing. In Guatemala, the 1986 Law of Interior Regime gave the President of the Congress authority to handle the budget resources of the institution at his discretion. Most parliamentarians in Latin America are granted some sort of immunity under the constitution. In Bolivia, parliamentary immunity has impeded the prosecution of criminal acts by members.

The upside is that there is greater awareness among Latin American populations of the high levels corruption. Many countries have created anti-corruption offices or ombudsmen positions that help to identify corrupt practices or offenders but there is little political will to go after offenders and a lack of effective judicial system to prosecute and sanction corrupt officials.

Divisive electoral systems and inadequate campaign financing rules

Most Latin American electoral systems are proportional and use closed lists in at least the most highly populated districts. These systems foster tension between elected representatives, party leadership and voters and result in the over concentration of power within parties and weak constituent-representative relations. As party leaders choose who gets which seats, there is no incentive for candidates to build or maintain support in their districts.

The Bolivia example described in the anterior section demonstrates how changing electoral law can have a profound effect on the representative quality of parliament not only in terms of diversity but in terms of the relationship between representatives of parliament and their

constituents. Yet the change has also had some unforeseen consequences in terms of the rise of regionalism as a decisive force in parliamentary decision-making.

High levels of citizen dissatisfaction with electoral systems have promoted experiments with direct democracy mechanisms including referenda, plebiscites, and consultation. In Latin America 13 out of 18 countries have direct democracy mechanisms included in their constitutions, with 10 of those 13 having used them. (IDEA)

5. Representation and transparency

In this moment of democratic crisis in Latin America, parliaments need to become truly representative institutions with transparent process of legislation and oversight.

A Democratic Deficit

Representative government has made great strides in Latin America and the Caribbean. While in the 1960s and 1970s dictatorships were the norm, today an elected government rules in every Latin American country except Cuba and Haiti - and Haiti is scheduled for its first elections in five years in fall 2005. (Valenzuela, 2004, Freedom House) Even where governments have fallen due to popular pressure as in Argentina, Ecuador, and Bolivia, this has happened within constitutional constraints.

Yet as many have commented, democracy is unfinished in Latin America. The most visible indication of this is that from 1985-2005, 16 presidents have been removed from office early through impeachment or forced resignation, sometimes under circumstances of instability that have threatened constitutional democracy. Ousting the president is the most visible means by which Latin Americans express their dissatisfaction with the results of democracy in their countries.

Much of this dissatisfaction stems from a lack of state attention to basic social needs despite increasingly positive macro-economic figures. Economic growth for the region stood at 5.5 percent in 2004, the best in a generation. Yet the positive economic situation has had little impact

on the lives of the poor. According to the recent UNDP Report, *Towards a Citizen's Democracy*, in 2003 poverty affected 43.9 percent of the population and extreme poverty some 19.5 percent.¹⁹ There are fifty million indigenous people in a Latin American population of approximately 400 million, and 80 percent live in poverty. And inequality in Latin America is the highest in the world. Overall it is an environment that enables conflict by marginalizing and disenfranchising a large part of the population making them more vulnerable to leaders willing to use violence to force change.

These serious socio economic challenges are a threat to continued democratic progress in the region. Governments with limited tax bases have few resources to meet these challenges. Corruption, ineptitude, and poorly organized social systems inhibit many attempts to progress on social issues.

The lack of perceived benefits of democracy to much of the population, particularly the traditionally marginalized poor and indigenous peoples, is taking its toll. In a much cited 2002 study by the Chilean based public opinion research institute Latinobarometro, respondents polled in 17 Latin American countries said they supported democracy as a political system, but only 27 percent said they were satisfied with the results of democracy in their countries.²⁰

People have no confidence in democratic process, if a newly elected president does not, or is perceived as not immediately addressing the countries' significant economic and social problems, then they go to the streets and demand a new president, (Official with Ecuador Mission to the UN.)

"Democracia de fachada" or superficial/shallow democracy is a concept introduced by Braulia Thillet in the Guatemala case study. The term suggests that while the rituals of democracy, i.e. the formation of political parties and elections, exist in Latin America, power is still negotiated

¹⁹ UNDP, 2004, p.5.

²⁰ UNDP, *Towards a Citizen's Democracy*, 2004

among a small group of elites and democracy culture has not yet taken root. This is echoed by Jennifer Windsor, Executive Director of Freedom House in recent testimony to the U.S. House International Relations Committee where she asserts that Latin American has failed to “institutionalize” democracy, particularly in the areas of rule of law, transparency and accountable functioning of government. (Freedom House, 2005) UNDP’s Human Development Report 2002 refers to the idea of a democratic deficit.

A new book published by the Inter-American Bank, titled *Democracies in Development—Politics and Reform in Latin America* supports the concept of unfinished democracy in the region. Authors J. Mark Payne, Daniel Zovatto, Fernando Carrillo-Florez and Andrés Allamand Zavala present evidence that countries that have carried out major economic, social and institutional reforms have failed to implement political reform. The result has been that the advantages of the “new economy” created by these reforms were ultimately undermined by the old “presidentialist” politics, with their renowned inclination to foster cronyism and corruption.

In a recent article, Auturo Valenzuela asserts that the crisis of governance in Latin America is part of the long-term process of democratic consolidation. Echoing the findings of Payne, Zoyatto, Carrillo-Florez and Zavala, he states the following:

The experience of Latin America over the past two decades suggests that improvements in state capacity, accountability, representation and governance — or, more generally, the quality of institutions and the policymaking process—are important factors in achieving economic and social goals. Or to put it another way, it was not the economic reforms of the Pinochet regime (the so-called first generation reforms) alone that explain Chile’s ability to grow its economy while cutting poverty levels in half. Rather, it was the strength of its established political institutions—particularly high levels of transparency and acceptance of the rule of law, coupled with the ability of strong and

*disciplined parties able to forge enduring governing coalitions that generated and implemented public policies—that enabled the country to break the mold.*²¹

Democracy is in a state of crisis in Latin America, but this is not entirely unexpected. Research on democratic processes by scholars such as Edward Mansfield and Jack Snyder finds that countries often go through a rocky, even dangerous, transition to democracy. (Mansfield and Snyder, 19) The 2000 State Failure Task Force Report found partial democracies to be seven times as likely to fail as full democracies or full autocracies. Partial democracies are defined as political systems with some of the trappings of democracy, such as elections and an independent judiciary, but these are combined with other conditions contrary to democracy such as fraudulent elections, limits on political speech or an extremely powerful executive. Partial democracies that correlate most strongly with a high risk of failure feature a powerful chief executive and a fractious or ineffective legislature. (State Failure Task Force, 2000)

Governance crises are not always entirely negative phenomena. In the case of Guatemala, author Braulia Thillet, argues that the presidential crisis of 1993 produced political and social responses that contributed to strengthening the democratic regime. Crisis and/or conflict can sometimes serve to advance processes that are somehow stuck or immovable.

A renewed emphasis on political reform in Latin America should include a renewed focus on parliaments. This consideration will require approaching parliaments not as isolated institutions, but as a vital body of democratic governance. A recent UNDP paper asserts that “democratic governance is synonymous with conflict management.”²² Legitimate and

²¹ Valenzuela, Auturo, “Putting Latin American back on the Map,” *Finance and Development*, Vol. 2, No. 4 (December 2005) <http://www.imf.org/external/pubs/ft/fandd/2005/12/valenzue.htm>

²² United Nations Development Programme, *Guidelines for the International Community: Strengthening the Role of Parliaments in Crisis Prevention and Recovery*, New York (2005)

representative governance that is based on the rule of law and respect of peoples' fundamental rights and freedoms – is in itself the most effective means for societies to prevent, manage and recover from conflict.

6. International assistance to parliaments

International assistance to parliaments in Latin America has mainly focused on technical and infrastructure rather than the parliaments as part of a political community.

Development assistance is provided to parliaments from a wide variety of sources: bi-lateral and multi-lateral funding organizations, the work of parliamentary associations such as the International Institute for Democracy or the Inter-Parliamentary Union, institutions associated with political parties such as the National Democratic Institute for International Affairs, and universities. International development organizations, particularly the U.S. Agency for International Development, began to focus international assistance on parliaments in the 1980s. While parliamentary strengthening programmes vary depending on the country context, overall approaches to these types of programmes can be described as three different generations. In the first generation (1980s-early 1990s) the focus of international assistance was technical capacity building²³. From the late 1990s to the early 2000s there was a shift to a more political focus. In the past 2-3 years there has been an emphasis on more issue-based programming, for example focused on corruption or economic-decision making and parliaments.

Parliaments represent a high risk investment for donors. As inherently political institutions, they remain outside of the classic international development entry points and recipient

institutions such as macroeconomic governance, public administration reform and rule of law through judiciary strengthening. Election cycles make it difficult to guarantee long-term commitment to a reform process. Learning on the part of the international development community as to how to assist parliaments has been an experience of learning by doing; the result is that the “lessons learned” are often drawn from failures. All the cases corresponding to this paper seem to reinforce the conclusion of Arthur Sist in his case study of Bolivia,

Despite these undeniably important gains...neither the assistance of the international donor community nor the capacity of the congress, were equal to the challenge of overcoming the obstacles preventing congress from becoming an effective instrument for the prevention and/or resolution of the extremely serious conflicts that have arisen and continue to plague Bolivian society. (Sist, 2005)

Assistance to support the representative function of parliaments has had the most impact. A 2005 report by the World Bank states that non-governmental organizations, often funded by international development organizations, play a large role in increasing indigenous political influence. Increased and broadened representation has brought with it another host of other issues and emphasized the problem of focusing on only one function of an institution.

Current international assistance to parliaments broadens the picture of the political processes and reforms which can increase their legitimacy, in particular, analyzing how parliaments are elected, how the political parties and electoral campaigns are financed and supporting efforts in the field of ethics, standards of behavior in public life and codes of conduct for elected representatives. Other areas of assistance to parliaments include increasing the administrative capacity of parliaments and encouraging increased contact between parliamentarians and citizens. The focus is increasingly on reducing the conditions that enable corruption, conflict and crisis.

²³ Capacity building in this context refers to the training of members of parliament and/or staff on issues related to their functions, roles and responsibilities, as well as professional skill development.

The section below explores the parliamentary assistance programs of the biggest donors in the region: United States Agency for International Development, Inter-American Development Bank, United Nations Development Programme and the World Bank. These assistance programs have a variety of approaches to parliamentary strengthening all over the world, and, at least rhetorically, all have embraced this idea that parliaments cannot be separated from their economic, political and social environments, but should be considered as part of an overall political reform process that includes the larger legislative community. A review of each organization's websites and programme documents suggests they each have a slightly different emphasis or forte. USAID's focus has often been on legislative process, including increasing the technical capacity of parliaments, the World Bank's programs focus more on training and building the capacity of individual members, with an emphasis on their role in budget oversight. More recently the World Bank has worked in increasing the involvement of parliaments in national poverty reduction strategies. UNDP has emphasized the relationship between parliaments and their constituents, through involving parliamentarians in national dialogue processes, as well as providing funding to increase the advocacy role and capacity of non-governmental organization and the media. IDB began programming in this area later than the others and thus has benefited by learning from the legislative strengthening projects of the 1980-90s. IDB programs are focused on areas, like libraries and developing a cadre of professional staff, that benefit all members of parliaments. The OAS tends to work more on the regional dimension.

United States Agency for International Development (USAID)

The United States Agency for International Development (USAID) is an independent federal agency of the United States government that provides financial assistance to promote agriculture, democracy and governance, economic growth, the environment, education, health, global partnerships, and humanitarian assistance in more than 100 countries. USAID often works with or through implementing partners such as the National Democratic Institute for International

Affairs, a non-profit organization founded on the principles of the U.S. Democratic Party or Management Sciences International, an international development consulting firm, as well as through governments and locally based organizations.

Funding for democracy and governance has four areas of focus: rule of law, elections and political processes, civil society and governance. Legislative strengthening falls under governance, along with decentralization and democratic local governance, anti-corruption, civil-military relations, and improving policy implementation.

USAID's legislative work began in Latin America. The programs in El Salvador and Guatemala in the 1980s represent the first experiences of the international development community in legislative strengthening and tended to stress technocratic solutions as the key to institutional strengthening within the post conflict environments of these countries. Governance issues were often approached solely as administration and service delivery problems in spite of the fact that political issues underlay the poor performance. The result, according to USAID's website "was a lot of failed public administration, decentralization, and civil service reform projects."²⁴

USAID programs in legislative strengthening in Latin America were robust throughout the 1990s. During the administration of President Bill Clinton, USAID programs focused on citizen participation with legislatures as well as institutional strengthening. The focus under President George Bush has been democratic governance. Over \$95 million has been invested in legislative strengthening programmes in Latin American since 1987.

The USAID experience in Bolivia is instructive. USAID began its legislative strengthening project in Bolivia in 1992. With additional support from the Inter American Development Bank (IDB), USAID helped to establish the Legislative Modernization

²⁴ USAID website, "Democracy and Governance," (http://www.usaid.gov/our_work/democracy_and_governance/technical_areas/dg_office/gov.html)

Commission (CML), a bicameral committee chaired by the President of the Congress and comprising political leaders of both houses of the Congress, and a central legislative services unit known as CICON. The Congress of Bolivia made both its modernization committee and its new congressional research service permanent through the reforming of rules. According to case study author Arthur Sist, the CICON successfully combined the functions of a Congressional Budget Office and Congressional Research Service and contributed to the oversight and legislative functions of the Bolivian congress. USAID counts both CML and CICON as successes, stating that IDB continued funding for the programme when USAID funding was phased out. Sist argues that USAID “bailed out of its congressional program”²⁵ because the internal nature of the programs had no impact on people’s lives and thus made it a difficult program for USAID to justify the programme before the U.S. Congress.

There are dwindling USAID funds for democracy programs in Latin America. This is primarily because democratic governance funding is going to other parts of the world, i.e. Afghanistan and the Middle East. Current USAID programs embrace what Keith Schulz, director of USAID’s Legislative Strengthening Program, calls the “broader legislative community,” such as the committee system, political parties, media, civil society and advocacy groups that are necessary for a robust effective legislature. For example, political parties are now considered as governance actors both in their roles as leaders and constructive opposition forces. An example provided by the USAID website described a programme that seeks to improve fiscal budget techniques and systems linked to support for increased transparency of the budget process. These shifts recognize the learning that a more efficient institution does not necessarily make a more politically effective institution.

USAID is embarking on a huge, three-year evaluation process, including rigorous cross-country comparison (not just single country evaluations); of all democratic governance programs, including legislative strengthening. One of the consequences of the evaluation will

probably be a renewed emphasis on public administration in terms of programmes supporting the development of middle level governing institutions and their leadership.

Inter-American Development Bank (IDB)

The Inter-American Development Bank (IDB) has provided assistance to Latin American and Caribbean parliaments since 1996. Established by Latin American countries in 1959, IDB is the oldest regional development bank in the world and the principle source of multilateral development funding for Latin America and the Caribbean. IDB contributes to development through financial services to government such as investment loans, sector loans and national technical cooperation programs. It also offers non-financial support such as facilitating regular policy dialogues, policy documents, research and analysis.

Traditionally focused on infrastructure and macroeconomic reform, IDB’s Board of Governors broadened the scope of the organization’s work in 1996 to embrace the recognition that “sustainable development requires a democratic, modern and efficient state.”²⁶ In its first inception, the so-called *Modernization for the State and Strengthening Civil Society* framework emphasized the need to increase the capacity of specific institutions of governance. Based on the experience of implementing programmes in this area from 1996-2003, IDB changed the focus from institutions to cross-cutting themes: 1) democratic system, 2) rule of law, 3) state, market and society and 4) public management. The new strategy is based on a fundamental assumption that sustainable and equitable growth is dependent on two interdependent objectives: democratic stability and greater political inclusiveness. (IDB, 2003)

A July 2003 strategy document titled, *Modernization of the State*, provides a justification for the change in focus and identifies the lessons that underlie this shift. The need for national ownership, long-term perspectives on development and the essential relationship between state reform and strengthening civil

²⁵ Sist, 15

²⁶ *Modernization of the State*, strategy document (Inter-American Development Bank, Washington, DC; July 2003)

society are covered, as well as two lessons that offer new insight: First, "Target the basic institutions that shape the incentives guiding the behavior of actors,"²⁷ this is described as addressing not only the apparent need, for example training civil servants, but the motivation system that effect political will for change, for example supporting a merit-based civil service. The second lesson is more self-explanatory, "Design operations to have sufficient flexibility to be able to adapt them to changing situations and, at the same time, monitor them more closely during the implementation phase."²⁸

Within the democratic system theme the Bank identifies two programme focuses with direct reference to parliaments: 1) Strengthen the legislative branch, and 2) modernize the electoral and party system. Specific projects can include strengthening the technical assistance systems, establishing a professional administration, developing channels for communication between parliaments and constituents, developing training programs for political leaders and establishment of independent and technically reliable electoral institutions. IADB has provided technical assistance directly to parliaments in Argentina, Brazil, Colombia, Dominican Republic, El Salvador, Honduras, Panama and Peru. (IDB, 2003)

Parliament in Peru is undergoing a significant reform process. Electoral law was amended to change from a system where representatives were elected at the national level, to a more direct system where representatives are elected in each department of the country. IDB is supporting the reform process with a \$7 million loan. One of the stated aims of IDB's new approach to parliamentary assistance is identify projects that strengthen congress as an institution. The current IDB programme aims to establish a comprehensive parliamentary advisory and information services system by providing aide to the existing parliamentary library and creating a parliamentary research center.

Many Latin American parliaments are experimenting with the use of information

technology to enhance the representative function and create greater transparency in the legislative process. IDB provided consulting, equipment and operations assistance for a Congressional portal in Peru that offers a daily journal of legislative activities, summaries as well as full text of legislation under deliberation by the parliament. The public can use the web page to write to the parliament and comment on legislation under consideration. IDB also supported the creation of a bill tracking system through the web portal.

United Nations Development Program (UNDP)

The United Nations Development Program is the development arm of the United Nations providing technical assistance and training in 166 countries. UNDP directly implements projects as well as working through partner organizations. The focus of the organization's work is in five key areas: democratic governance, poverty reduction, crisis prevention and recovery, energy and environment and HIV/AIDS.

Governance is an increasingly larger focus on UNDP programming; nearly 50% of UNDP's program resources were dedicated to governance over the period of 1992-1996. An estimated US\$35 million was dedicated to programs aimed at strengthening parliaments during that time. ²⁹In 2002 UNDP had programmes for legislative development in 51 countries. UNDP work with parliaments spans an array of activities including: electoral assistance, constitutional reform, strengthening internal organization of parliaments, training for legislators and staff, support to civil society and the media, policy development, particularly in human rights legislation and constituency relations.

UNDP's began specific programming to parliaments in the mid-1990s. This early programming was generally in the category of capacity building for legislators and staff and institutional development³⁰. UNDP has provided assistance for constitutional reform and political party training, but these have not been the focus

²⁷ IDB, 2003, 8

²⁸ Ibid, 10

²⁹ Johnson J. & Nakamura R. 13

³⁰ Institution building in this context refers to a process of strengthening the internal organization of a legislature through modernization of its facilities, systems and processes.

of UNDP's work with parliaments. In the Latin America and Caribbean region, UNDP funded an \$11.7 project in Haiti in November 1994 after the reinstatement of President Jean-Bertrand Aristide. UNDP succeeded in building a parliamentary library, remodeling the parliament building and provided furniture and equipment. Attempts to support parliamentary development in terms of its governance functions, however, met with serious obstacles because of a prolonged stalemate between the president and the parliament, and the overall weakness of all state institutions in the post-conflict environment.

UNDP began a project with the Peruvian legislature in 1993. The project was developed after a turbulent period in Peru's history in which former President Alberto Fujimori disbanded the Congress and the Supreme Court (1992) and oversaw a reform of the constitution that eliminated many congressional checks on the president, and enhanced the already substantial powers of the presidency. The objective of the UNDP project was modernization of the information technology of the Congress including electronically wiring and connecting all the congressional buildings, creating a modern website, procurement of computers, video equipment and software, creating a Congressional network, database and e-mail system and providing Internet access. The objective in providing this electronic infrastructure was to increase administrative efficiency as well as strengthen the legislature's capabilities for representation and oversight.

UNDP has facilitated a number of dialogue projects in Latin America with a focus on political parties, parliamentarians and other political actors. Primarily developed within the framework of UNDP's work with civil society, these dialogue projects have included parliamentarians, and in some cases, successfully provided for political actors to come to consensus on contentious issues. In Guatemala, UNDP and the Netherlands Institute for Multiparty Dialogue initiated the Multiparty Dialogue Programme to strengthen political parties and overcome the high state of fragmentation in politics. Participants from 20 political parties joined a process to develop a long term vision for the country based on the 1996

Peace Accords. The outcome was a National Shared Agenda, as well as a Permanent Forum for Political Parties that have subscribed to a declaration of compromise.

The World Bank

The World Bank is the global development bank with a mandate to provide loans, policy advice, technical assistance and knowledge sharing resources to developing countries to reduce poverty. It forms part of the Bretton Woods organizations along with the United Nations and the International Monetary Fund, formed in the aftermath of World War II.

The Bank engages with parliamentarians on a variety of levels. The hub for global parliamentary outreach and activities is based in the Vice Presidency for Europe, and run by the Bank's Development Policy Dialogue Team. This team also facilitates the Parliamentary Network of the World Bank, an on-line dialogue and member-driven network that was born out of the First World Bank conference with Parliamentarians, held in The Hague in May 2000. There is an annual meeting of parliamentarians working with the World Bank as well as a Field Visit Program. One primary focus of the World Bank's work is engaging parliaments in the Poverty Reduction Strategy Paper's process.

The World Bank also works with parliamentarians through the World Bank Institute's (WBI) capacity building programs and country offices and country teams. The "Parliamentary Strengthening Program" originally focused on strengthening individual parliamentarians and their staff in budgetary oversight, developing and facilitating workshops and seminars for over 5,000 parliamentarians. Like the other large donors in the field, the World Bank emphasis now lies on enhancing the capacity of parliament as an institution of governance. Working closely with the National Democratic Institute, the World Bank identifies four areas of work: 1) parliamentary oversight, 2) parliaments in poverty reduction, 3) support to parliamentary networks such as the Global Organization of Parliaments and 4) partnerships. The program is undertaking empirical and analytical work to

increase resource material for parliamentary strengthening programs.

The World Bank also provides loans to government for parliamentary modernization projects. A multi-year project with the National Congress of Chile to strengthen the library and the research capabilities of the Congress was funded in the 1990s.

The Organizations of American States (OAS)

The OAS works with Latin American parliaments through the Programme to Support the Strengthening of Legislative Institutions (PAFIL) managed by the Department of Democracy and Political Affairs. PAFIL supports National Congresses and regional parliaments in their own efforts at modernization and inter-parliamentary cooperation. PAFIL offers support specifically in legislative techniques, ethics, budgetary processing, political communication strategies, election systems and use of communication and information technology. From 2003-2004 OAS funded activities such as: support for the Central American Legislative Studies Institute (ICEL) for follow up research on political parties and parliaments, parliaments in the media and civil society relations with congresses, a seminar on political management for new legislators, and worked with member countries to develop a legal framework of reference to combat terrorism.

OAS convenes of the Andean Parliament, which is comprised of representatives of National Congresses and promotes the harmonization of Member Country legislation and the growth of cooperative and coordinated relations with the Parliaments of the Andean countries and of third countries, and the establishment of the Andean Legislative Development Center (CADEL).

OAS has also played an important role in pushing democratic reform at the regional level. The Inter-American Charter for Democratic Charter and new legal instruments to combat corruption demonstrates a new willingness among Latin America's major democracies to isolate,

diplomatically and economically, neighboring governments that breach democratic procedure.

7. Capacity Building

Building capacity for effective fulfillment of the three primary functions of representation, legislation and oversight should still be the priority for international aide focused on mainstreaming conflict/crisis prevention and management in the work of parliaments in Latin America.

Informing and Improving Development Practice

This overview had two objectives: first to consider Latin American parliament in terms of their role in conflict prevention and management and, second to evaluate international assistance to parliaments in the region. This section offers lessons learned in regards to the role of international development organizations and recommendations for how to approach future aide to parliaments in terms of strengthening parliament's role in conflict prevention and crisis management. The principle message of the authors of the case studies and the workshop participants was that functioning democratic systems provide many channels for dealing with conflict in productive, non-violent ways. Parliaments play an essential role in democratic governance, thus strengthening the basic representative, legislative and oversight functions of parliamentary bodies in Latin America is an essential first step in conflict prevention.

| Lessons Learned | Recommendations to international donors and multilateral organizations |
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| Analysts contribute the current democratic crisis in | Consider how to strengthen the "parliamentary community" |

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| <p>Latin America to a lack of democratic culture. Inherent in the idea of democratic culture is an informed citizenry and the concept of a “loyal opposition.”</p> | <p>for example,</p> <p>Invest further in initiatives that will contribute to creating an informed citizenry and national press such as voter education projects, issue-based networks that follow parliamentary decision making, media training and training of civil society groups in advocacy and lobbying.</p> <p>Extra-parliamentary bodies that include representative of political parties and civil society groups can help establish common values and objectives among all parties. Facilitating regular interaction between potentially opposing groups can contribute to building a more constructive relationship between majority and minorities with the objective of creating a “loyal opposition.”</p> |
| <p>Increased diversity in parliaments does not necessarily translate into better representation. The widening inequality throughout the region demonstrates that parliamentarians and governments more generally are not representing the needs of the poor and marginalized.</p> | <p>International assistance that seeks to increase the representative role of parliaments through increased diversity must also consider how other processes of parliament’s effect diversity and representation, for example how the decision-making process within parliament balances majority and minority interests.</p> |
| <p>Political parties are failing in their job of educating parliamentarians. While party members should be able to support some range of position, the complete lack of party discipline in many countries, particularly the Andean countries and Guatemala, is detrimental to the entire governance system.</p> | <p>Establish programmes for new legislators that focus on practical issues such as: how to develop a work agenda, parliamentary procedure etc... and fit in more progressive issues such as constituent relations and mechanisms for dispute resolution.</p> |
| <p>Electoral systems have an immense impact on parliaments, particularly in terms of its representative role. The Bolivian experience provides an example of how changes in the electoral system can positively affect representation in parliament.</p> | <p>Need more study of the electoral systems to determine if they are meeting the needs of current and emerging social and economic changes in the region.</p> |
| <p>Many international funded programmes focused on parliaments fail for lack of participation or a lack of incentive on the part of parliamentarians to support the programme from their own budgets.</p> | <p>International actors should consider the incentives of parliamentary behavior when designing programmes. For example, what are the incentives for parliamentarians to use available mechanisms of representation such as public audiences or to participate in training? On example is international assistance to party affiliated women’s and youth networks to build capacity of civil society and bring representatives into contact with constituencies.</p> <p>Design programmes in cooperation with parliamentarians rather than in opposition to parliaments. For example the 1990’s project of IDEA in Guatemala that made public attendance and voting records was considered by parliamentarians to be an attack and ultimately failed. The more recent OAS project has taken a more “friendly” approach working through political parties and the Congress to support the technical needs of parliamentarians.</p> |

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| | Identify leaders within parliaments and political parties and work closely with them to conduct needs assessments and develop programming that is useful for parliamentarians. |
| International assistance to parliaments in Latin America has focused primarily on the representative role of parliaments. Parliaments in the region demonstrate extreme weakness in terms of their strategic functions—developing and passing legislation and executive oversight. | International assistance should focus on strengthening the legislative and oversight functions of parliaments. |
| Many parliaments in Latin America still lack the human capacity, expertise and institutional infrastructure, necessary to fulfill the basic functions of representation, legislation and oversight. | Continued funding of the overall institutional capacity of parliaments is necessary, including such things as research libraries, professional staff and technical offices such as specialized budgetary offices. Support networks between parliamentary bodies and research institutes, universities, non-governmental organizations, etc...as a way to increase expert exchange on important public policy issues. |
| Parliaments can contribute to both operational and structural conflict/crisis prevention, but in Latin America, particularly in the cases considered for this overview, the role of parliaments has been primarily crisis management, i.e. operational prevention. | Dialogue initiatives can create space for political actors to come to consensus over short and medium term strategies for crisis management and conflict prevention, as well as provide legitimacy to public institutions. These experiences should be shared widely across the region. Integrating a conflict prevention approach within basic trainings for parliamentary members, dialogue initiatives and program design is a first step to creating a capacity for structural conflict prevention. Invite parliamentarians to participate in conflict assessment or scenario based planning exercises with a conflict prevention objective. Work with the electoral institution and/or the parliament administration to facilitate required training or integrate into existing parliamentary trainings sessions on ethics, dispute resolution, security sector oversight and international human rights law. |

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