



SUMMITS OF THE AMERICAS BULLETIN

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The Inter-American Democratic Charter

Welcome to the first edition of the Summit of the Americas Bulletin. We in the Office of Summit Follow Up hope that the articles published here can serve to inform the citizens of the hemisphere of the activities that have taken place in fulfillment of the Summits of the Americas mandates. The adoption of the Inter-American Democratic Charter responds directly to one such mandate, and so we dedicate our first issue to this historic document.

A Message from Dr. César Gaviria Secretary General of the OAS

With the Democratic Charter, the governments are sending a clear message to authoritarian elements that there will be no compromise with perpetrators of coups d'état and those who attempt to subvert the constitutional and political order. In this manner we are taking an important step to defend the rights of our

peoples, to take a stand against threats and challenges to democracy. We do so collectively and in a clear, determined and orderly fashion.

But the Charter is only the beginning of a great responsibility. Our governments must face tremendous challenges posed by globalization. In our times, political factors are exerting increasingly more influence on economic growth, without which democracies are incapable of delivering the benefits that citizens of the Americas hope for. The democratic system must stand for improved political, economic and social institutions. It must mean improved efficiency of the state, economic growth and social justice. It must translate into increased international cooperation to counter threats faced by democracies.

The Summits of the Americas Process and the Inter-American Democratic Charter

Jaime Aparicio Otero

Active presidential diplomacy is driving a common democratic agenda in the Americas. In this context, Heads of State and Government at the Quebec City Summit instructed their Foreign Ministers to create a Democratic Charter that would defend democracy throughout the region.

This Charter was signed in Lima, on September 11, 2001 – a day that will be remembered for the terrorist attacks

that occurred in New York and Washington. It is a date that for many Chileans evokes violent and tragic memories as a military coup defeated their democratic regime on that same day in 1973. Confronted with these ghosts of intolerance and fanaticism, we must keep in mind that the Democratic Charter symbolizes the hemisphere's first collective response to the outrageous actions of the current enemies of democracy.

The Lima Charter

This new commitment to democracy in the region represents its

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- Dr. César Gaviria
Secretary General of the OAS

attempt to recuperate the principle, as Kant purports, that the universalization of Rule of Law is a categorical necessity for an international co-existence based on reason.

In this sense, the advantage of the Democratic Charter is that the concept of a democratic system, within the logic and spirit of a liberal democracy, is broadened. That is to say that democracy, as contended by the likes of *Benjamin Constant* and *Alexis de Tocqueville*, is only found within the framework of a Rule of Law that recognizes and guarantees the personal, political and economic rights fundamental to each individual – a Rule of Law that defines and applies these guarantees while respecting the independence of the State powers.

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(The Summit Process and the Charter...)

The importance of this link between democracy and Rule of Law will be made evident in the event that one of our countries is confronted with a crisis. Indeed, what gives it relevance is the fact that the classic coup d'état is no longer considered the only peril to democracy. Newer and subtler threats coming from within a democratically elected government – for example, Peru, during the Fujimori government – will now be taken into account, as well. Such regimes maintain democratic formalities (i.e. elections) but then nullify them, either by violating their citizens' constitutional guarantees (i.e. human rights, freedom of expression) or modifying them so as to favor the powers of the State over each individual. The Charter mentions other threats to democracy, as well: corruption, inequity, exclusion, inefficient public

stem from the citizens of each country, there is space for positive and effective multilateral support in that process. Clear examples of this can be found following the democratic crises in Paraguay and Peru, when the OAS, along with Mercosur, the Rio Group and the United States, worked to find positive solutions to each emergency. Today, no one can deny that the Charter will serve as a new instrument of dissuasion against the temptation towards authoritarianism and a positive step towards constructing the proper institutions for the XXI Century. The two great legacies of Greek democracy – *constitutions and citizenship* – are today, more than ever, the lifeblood of the Inter-American agenda.

- Former Bolivian Vice Minister of Foreign Affairs and current Director of the OAS Office of Summit Follow Up.

seriously impairs the democratic order in a member state.” Most importantly, it has as its ultimate sanctions expulsion from the OAS, and the termination of a country's participation in the Summit of the Americas process and, by implication, in its centerpiece, the Free Trade Area of the Americas. Henceforth, the region's powerful private sectors will have strong incentives to join in the protection of constitutional stability.

Fusing the historic march toward democracy with the powerful incentives and benefits of economic exchange is a strategic victory for the Hemisphere. Inter-American summitry appears to have buried the longstanding view that “national sovereignty” prevented a collective defense of universally accepted international norms and common values.

The good news for summitry is that success need not be sought in lengthy laundry lists of action items, but can be achieved by appropriately focusing leaders' attention on overarching strategic issues.

- Richard Feinberg served as senior director at the National Security Council during the first Clinton Administration, and is professor and director of the APEC Study Center at the University of California, San Diego. Robin Rosenberg is Deputy Director of the Dante B. Fascell North-South Center at the University of Miami. The authors are co-directors of the Leadership Council for Inter-American Summitry.

“The Charter is a concrete result of the Summit of the Americas Process.”

- Jaime Aparicio Otero

The Power of Summitry and Collective Defense of Democracy

Richard E. Feinberg and Robin L. Rosenberg

The historic OAS Inter-American Democratic Charter is further proof of the power of summitry in the Americas to produce results that have profoundly positive consequences for the nations and peoples of the Western Hemisphere. Arising from the April 2001 Quebec City Summit of the Americas' “democratic clause,” this far-reaching commitment to self defense against a wide array of threats to democracy could only have been forged by the kind of high-level negotiations of Heads of State and Government for which the Summit of the Americas has provided an ongoing forum since 1994.

The Charter goes beyond the 1991 OAS Santiago Resolution 1080 to counter the kinds of threats to democracy that have caused some serious setbacks to democratic rule over the past decade, especially in the Andean region. Resolution 1080 has been interpreted as limited to military or armed interruption of democratic rule, and its enforcement provisions are weak. The Democratic Charter, however, addresses any “unconstitutional interruption of the democratic order or an unconstitutional alteration of the constitutional regime that

The Inter-American Democratic Charter and Terrorism

Office of Summit Follow Up

Terrorism is a well-known phenomenon to practically every country in the Americas. All have suffered directly or indirectly from this scourge that aims to undermine order and stability. In order to prevent, combat and eliminate terrorism, the Organization of American States organized the First Specialized Conference on Terrorism in 1996, in compliance with a mandate from the 1994 Summit of the Americas in Miami. The Second Conference on the same issue took place in 1998, in Mar de Plata. It was during this conference that the Inter-American Committee Against Terrorism (CICTE) was created.

The brutality of the terrorist aggression that manifested itself on

management, violence and weak institutions.

Along these lines, the Charter clearly defines those components within the concept of Rule of Law: **respect for human rights and fundamental freedoms; periodic, free and fair elections based on secret balloting and universal suffrage; the pluralistic system of political parties and organizations; the separation and independence of powers; freedom of expression; transparency and probity in government activities; and the control of civilian authority over state institutions.** In the same way, the Charter makes reference to strengthening electoral observation missions and establishes the procedures to be followed in the event of a democratic crisis in a Member State, including those sanctions that would be imposed on the government of that country.

Finally, the Charter is a concrete result of the Summit of the Americas Process. In past years reality has shown us that, even though a democracy should



Comments on the Inter-American Democratic Charter

Jennifer McCoy

The Inter-American Democratic Charter reiterates the hemispheric commitment to democracy in the existing OAS instrument and strengthens that commitment by clearly defining the elements of democracy to which the Member States adhere. Even more importantly, the Charter clarifies and makes more coherent the multiple existing instruments to protect and promote democratic government, collecting them all within one document. Nevertheless, the Charter makes only small advances over existing instruments in the protection of democracy, rather than constitutes a bold new approach.

If I could amend the Charter, I would do two things: (1) delineate the basic conditions that would trigger the democracy clause; and (2) form an independent commission to assess threats to democracy. The first amendment would spell out the conditions that threaten democracy. Threats to democracy today include not only challenges by extra-constitutional forces, but also the abuse of power by elected officials themselves. Because governments are reluctant to criticize their colleagues, the OAS should go as far as possible to spell out the conditions under which the international community will respond to, protect and restore democracy, thus lessening the need for the perceived “subjective” or arbitrary evaluations of peers.

The failure to delineate situations that may represent an “unconstitutional alteration or interruption of the democratic order” weakens the document and leaves open the possibility that its application could be misused as countries arbitrarily bring complaints to the Secretary General. Granted, an enumeration also runs the risk of the failure to anticipate all possible scenarios in which the clause might be implemented, but the hemisphere should begin to enumerate some of the basic acts that would constitute an “unconstitutional alteration”. This list should include:

a) Holding of elections which do not meet the minimal international standards of the right to vote: ample opportunity for major parties to get their messages to the

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The Civil Society Perspective - Office of Summit Follow Up

At the same time that Member States decided to elaborate an Inter-American Democratic Charter, it was also decided “to make public the proposed Inter-American Democratic Charter in order to help civil society form an opinion, in accordance with the Guidelines for Civil Society Participation in OAS Activities.” Thus began civil society’s important contribution to the formation and dissemination of this historic Charter.

In order to collect comments and suggestions from non-governmental organizations, research institutions, universities, and other sectors of civil society and individuals, an Internet portal was opened through the main OAS website. An estimated 8000 civil society organizations and individuals were sent a notice informing them of the portal and providing instructions on how to send their comments. In total, 69 comments were collected on issues pertaining to human rights and the defense and promotion of democracy. All comments were collected and presented to the Working Group on the Democratic Charter in what amounted to a document of approximately 150 pages.

The participation of civil society went beyond commenting on the content of the Charter. In fact, it was a Peruvian organization, *Asociación Civil Transparencia*, that published the book that contained the final version of the Inter-American Democratic Charter. This book, entitled *Inter-American Democratic Charter: Contributions from Civil Society*, includes the Charter, other official documents, articles on the Charter and civil society comments. The publication and dissemination of the Charter demonstrates the enthusiasm that sectors of civil society had in making the Inter-American Democratic Charter a reality.

What is most important, however, is the inclusion of civil society into the Charter preparations, since it is a clear step forward in the OAS opening itself up to receiving input from these sources. Indeed, this type of participation must be fostered in the OAS and in its Member States in order to truly attain the type of democracy promoted in the Charter itself.

Defending Democracy

Humberto de la Calle

It is no coincidence that the OAS, being the only international governmental organization to proclaim and enshrine the defense of representative democracy as an essential element of its *raison d’être* in its own charter, has approved unanimously the Inter-American Democratic Charter this past September 11, 2001.

After having emerged from an era dominated by dictatorships in the Hemisphere, we can now fully enjoy a democratic environment in almost the entire region. However, this fortunate circumstance must not blind us from the fact that democracies confront challenges that put their existence at risk. The commitment to eradicate poverty is far from being fulfilled, thus creating popular dissatisfaction and along with it an environment favorable to the enchantment - albeit fleeting and counter-productive - of populist authoritarianism.

The disclosure of serious cases of corruption, so easily diffused as a consequence of civil rights, leads to a pattern of rejection not against those who are corrupt, but against the political system as a whole. The volatile nature of capital, a product of globalization that can destabilize countries and financial systems overnight, blurs the benefits of globalization and threatens the permanence of democratic regimes.

The end of the Fujimori administration in Peru served as a warning. It demonstrated that the risks facing democracy today have strayed from the classic coups d’état and taken on more subtle forms, at times emanating from behind the scenes of the very people in power.

Consequently, it became necessary to modernize the legal instruments designed to preserve democracy within the Inter-American system. The OAS Charter, the

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(The Charter and Terrorism...)

September 11th was a catalyst for the countries of the Americas to stand united in defending and strengthening hard-earned democratic principles through the powers of democratic instruments entrusted to them. On September 21, during the Foreign Ministers Meeting of OAS Member States, the Secretary of State of the United States, Colin Powell, noted that the great strength that comes from the solidarity that states have achieved, the same solidarity that was achieved in the past, will be absolutely critical to prosperity, critical to progress in this crisis, critical for democracies in the hemisphere, and critical for security.

The Ministers agreed to call a meeting of the Inter-American Committee Against Terrorism (CICTE), on October 15, to decide on what actions must be taken to “prevent, combat and eliminate terrorism in the hemisphere,” entrust the design of a project for the Inter-American Convention Against Terrorism and convene as soon as possible a Special Conference on Security.

The signing of the Inter-American Democratic Charter constitutes a clear show of will among the countries of the hemisphere to live in a system based on freedom, cooperation and justice. The convocation of CICTE in response to the terrible acts of terrorism on September 11th is a clear demonstration of that will.

b) Failure to hold periodic elections or to respect electoral outcomes.

c) Leaders terminating the tenure of other elected officials, such as presidents closing legislatures.

d) Leaders failing to respect the decisions of independent judiciaries or compromising the independence of the judiciary by arbitrarily removing justices.

e) Systematic violation of basic freedoms, including freedom of expression, freedom of association, or respect for minority rights.

f) Interference by non-elected officials, such as the military, in the jurisdiction of elected officials.

Second, the OAS needs a commission or body to assess and make recommendations when erosions begin to be apparent. A commission of notables (elder statesmen, human rights and democracy experts, jurists) could be nominated by the Secretary General to assess the situation in a country and report back to the Permanent Council with an assessment and recommendations for action. Such a mission can draw on reports by established bodies including international election observer missions, the Special Rapporteur for Freedom of Expression, and the Inter-American Commission on Human Rights. A standing commission would be preferable to ad hoc commissions, and could specify critical thresholds necessitating responses.

- Jennifer McCoy is currently Director of the Latin American and Caribbean Program in the Carter Center.

(Defending Democracy)

Washington Protocol and the Santiago Commitment, among others, had to be brought to date and assembled into one far-reaching instrument. The right of the American peoples to democracy, the effective exercise of democracy as a basis for the Rule of Law, citizen participation, the promotion and protection of human rights, integrated development and the promotion of a democratic culture – all of these issues had to be considered as part of our institutions’ defense mechanisms. These mechanisms would be framed so as to keep pace with reality, while acting at the same time as dissuasive elements in the face of attempts to rupture or gravely alter the constitutional order. With this in mind, the “Democratic Clause” was created and approved by the Heads of State and Government at the Quebec City Summit.

As the President of the Working Group that produced the text approved in the Special Assembly in Lima, I must recognize the effort and dedication of all the Missions to crown this undertaking with rousing success. The hours were long, the discussions were serious and their commitment was tenacious. After the first phase of deliberations, which included the revision of at least seven different versions of the Charter, a draft was presented at the General Assembly in Costa Rica. Some Ministers sought revisions, and as a result the existing text was carefully amended. Issues that had not been incorporated previously were included, and it was only after eighteen versions that the final text received definite approval.

It is tragic that this approval occurred on September 11, 2001, the date of the serious terrorist attacks that occurred on United States soil. But in a way, this commitment to democracy, civil rights and the pluralistic and tolerant society that is created under those rights, is the best response to such fanaticism.

- Humberto de la Calle is Ambassador of Colombia to the OAS.

(Comments on the Charter...)

voters, the absence of physical coercion or intimidation, a secret vote and honest count, and a meaningful appeals process.

The Inter-American Democratic Charter can be found at the following address:

<http://www.summit-americas.org/Quebec-DemocraticCharter/mainpage-eng.htm>

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