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Constitutional design

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EXECUTIVE SUMMARY

An inclusive, workable, carefully designed constitution is an essential prerequisite for the creation and maintenance of a democratic order. The Head of State or Government has a profound opportunity to reinforce, or to undermine, the success of a new democratic constitution.

We make six general recommendations about the overall character of a democratic constitution. These relate to: (1) inclusion of all citizens; (2) the fundamental building blocks of a constitution; (3) constitutional stability and sustainability; (4) the role of international democratic norms and their relation to sensitivity to domestic historical and cultural circumstances; (5) the importance of democratic processes of constitutional drafting and amendment for the future legitimacy of the constitution; and (6) the fundamental importance of broad citizen and elite commitment to the underlying values of constitutionalism.

We then make a set of more detailed recommendations addressed to four issues that arise out of our conclusions. These include:

1. The need for inclusiveness in all aspects of the constitution.
2. The need to build institutions to support democracy throughout the political system.
3. The need to build and sustain effective and loyal opposition.
4. The need to ensure that government powers to combat terrorist threats do not themselves threaten democracy in the long run.

REPORT

Introduction

The central premise of the constitutional design panel is that a well-designed constitution is an essential prerequisite for making democratic politics a reality. A democratic constitution may not by itself guarantee democratic governance, but a poorly designed constitution will almost certainly undermine it.

A well-conceived constitution will set out the basic rights of citizens and the institutions to protect them; establish the institutions to provide for representation and the democratic participation of citizens; define the authority of governing institutions; set out the amending procedures that will allow the constitution to adapt to new circumstances and needs. A well-established and workable constitution reduces the level of uncertainty among the population about whether or not democracy will remain 'the only game in town' and reduces the level of risk that a reversal to an authoritarian regime may take place. Thus, it both limits and empowers.

By their actions, Heads of State and Government play an essential role in the constitutional process. There is no more valuable legacy for a modern politician than a record of building and promoting a constitutional order.

If Heads of State and Government emphatically support democracy and the constitution, make the establishment of democratic, constitutional processes a priority, and strictly adhere to democratic practices in their own conduct, the chances of democracy surviving will be much greater. Heads of State cannot avoid their personal responsibility for constitutional development. Will they use their leadership to disrupt constitutional arrangements or to deepen them?

If, on the other hand, the leaders ignore the constitution, make policy decisions behind the scenes, exploit populist pressures, and in other ways disregard the rules of the democratic game established by the constitution, citizens will quickly lose their respect for constitutional government. Once lost, belief in the value of democracy will be very hard to restore.

General recommendations

The first set of recommendations relates to the fundamental goals of a democratic constitution:

1. A sustainable democratic constitution must be inclusive of all the citizens of the society. This is particularly important in societies that are divided along ethnic, religious, linguistic or cultural lines, but it matters as well in more homogeneous societies where representation in terms of gender and income levels are also important issues.

It is also essential for the maintenance of political stability since excluded groups may well challenge the democratic order.

2. The indispensable elements of any democratic constitution include a set of rights for citizens, rules and procedures that will govern the actions of public officials, and procedures for free and fair elections. In many countries, constitutions have two other central elements. First, they may include a statement of fundamental values to which the country aspires. This may have an important educational and symbolic effect, especially in a new democracy. Second, especially in divided societies emerging from protracted conflicts, some

countries include a 'social contract' that sets out the terms of the settlement of the conflict and begins the healing process required for democratic politics to take root. This may be necessary to secure the commitment of all groups to the new constitutional order.

3. A constitution must have enough continuity and stability that it is understood as a stable set of rules and principles of governance. It should not, therefore, be subject to easy modification but it must also be flexible enough to change in response to new circumstances and needs. That means constitutional amendments must not be too frequent or subject to the whim of transitory majorities. They should only be made by super-majorities that ensure broad consent, and perhaps should take effect only after they have been passed by two successive legislatures.

4. A democratic constitution in any country today is part of a global movement toward democratization, which is reflected in the growing importance of international laws and treaties. International norms and values will, therefore, inform any domestic constitutional process. By the same token, successful development of democracy in any country will feed into and enrich the global dialogue. It is a two-way street. Nonetheless, the language, symbols and some specific provisions in the constitution should also reflect the historical and cultural circumstances of each country if it is to be successfully implanted in the society.

5. The processes through which a constitution is designed or amended will have important implications for its long-run sustainability. The broader the participation in its development, and the broader the support used to ratify it, the more legitimate and secure it will be.

6. A democratic constitutional order is only sustainable

in the long run if it is backed by a deep commitment to constitutionalism and its underlying principles both among citizens and leaders. In new democracies, this cannot be taken for granted. It involves conscious efforts by governments and political parties. It requires the development of a profound culture of democracy among courts and judges and a network of academic research and civil society organizations committed to the development of democratic values and practices. These are fundamental to energizing and giving real meaning to a democratic constitution, but they are not part of the constitutional design itself and therefore the panel does not make any specific recommendation on this point.

Specific recommendations

With these fundamental goals in mind, we addressed four issues that relate to the day-to-day life of a functioning democratic system:

- The need for equal citizenship and full inclusion in democratic processes.
- The need to build institutions that support democracy throughout the political system.
- The need to build and to sustain democratic opposition.
- The need for explicit provisions with respect to the scope and limits of emergency power.

The need for inclusion

Democracy is especially difficult to build and sustain in

societies deeply divided along ethnic, cultural and other lines. Yet, in fact, the great majority of modern countries are divided in these ways. Finding ways to accommodate these differences, therefore, is essential. We must avoid two sets of problems. First, is the situation where an 'insecure majority' represses or dominates the minority. Second, is the situation in which an 'insecure minority' is tempted to rebel or secede.

These dangers are all too real in many new democracies. Many have defined their political community in ways that exclude certain minorities and deny them full rights and citizenship; and many face secessionist movements that threaten the stability of the democratic order.

The panel makes the following recommendations:

1. The fundamental principle of equal citizenship should pervade the entire constitutional document. The rights spelled out in the constitution must apply equally to all citizens.
2. The majority must avoid any temptation to define the nation in ethnic terms in the constitutional text or in its political practices.
3. The bill of rights must reject all forms of discrimination against any minority groups defined by religious, cultural, linguistic or other such attributes.
4. Recognition of positive support for minorities, such as the right to education in the minority language, is often desirable, especially for those groups that have been disadvantaged. These measures must be exercised within the framework of basic human rights that apply equally to all citizens.
5. Responses to diversity that involve the empowerment of minority groups through special political arrangements,

such as federalism, are somewhat more controversial. Since the situation in each country varies so much, the panel did not wish to make a recommendation on this point.

6. The panel strongly recommends, however, that where such arrangements are made, equal if not greater attention must be paid to building positive linkages and bridges among the different groups. The electoral system and other institutions should be designed so that they encourage political leaders to make appeals across group lines and build multi-group coalitions. In this way, distinct political communities can be embedded in a common, shared, democratic framework.

The need to build institutions that support democracy throughout the political system

In any democratic system, the central protection for citizens' rights lies in the bill of rights and in a strong, independent judicial system to enforce it. But this alone is insufficient because challenges to democracy arise in a great many different arenas, not all of which are easily addressed through the judicial process. As a result, a number of other institutions need to be built into the constitution. They will act as guardians of democracy in a number of specific arenas. These institutions should be autonomous and independent of the party of government in power. They are designed to strengthen the checks on unrestrained power and to provide alternative avenues of redress for citizens and groups whose rights may have been violated. Such institutions include:

1. A national election commission that will be responsible for ensuring that elections are conducted freely and fairly. Such a commission will be responsible for ensuring the fair selection of candidates, the avoidance of intimidation of voters or candidates in the conduct of election campaigns, a secure and secret process for the casting of ballots, and a fair and accurate count of the result.
2. A body to ensure the freedom of the press. This is especially important in those countries in which major media are owned by the State, but it may also be important when privately-owned media constitute a monopoly or are subject to government pressures.
3. A body to ensure that public finances are conducted in ways free of corruption or misuse. Such a body would audit and monitor the use of public funds and promote full transparency in order to allow citizens to hold government accountable.
4. A public official or body— usually referred to as the ombudsman— to which citizens harmed by governmental misconduct can appeal for redress.

The need to build and to sustain democratic opposition

An essential element of democracy that is often misunderstood is the necessity of an effective— and ‘loyal’— opposition. The opposition is often a government in waiting and is therefore integral to the basic need for democracies to allow for and to encourage alternation in power. The opposition can often give voice through legitimate political processes to minority groups that might otherwise be tempted into extra-

parliamentary political activities. A strong opposition is a key to effective monitoring of governmental action and to ensuring full accountability.

Even governments in power should welcome effective opposition because in a democratic system they are likely one day to be in opposition themselves; because effective criticism will maintain their own attention to the provision of open and effective government; and because public policy will be improved by open public deliberations.

There are two sides to this question. First, governments must learn not only to tolerate but also to welcome opposition. Second, the opposition must learn to accept the legitimacy of government and to operate through democratic procedures.

It is not easy to guarantee an effective opposition through constitutional provisions. However, the following measures will assist in doing so:

1. Constitutional affirmation of the necessity and legitimacy of opposition in the democratic order. Several supplementary provisions flow from this basic commitment.
2. Strong freedom of information provisions. The opposition should have full access to government information and the actions of bureaucracy.
3. Constitutional guarantees for freedom of the press, freedom of association, and so on, are essential to the expression of dissent in healthy democratic debate.
4. Protection of members of the opposition against intimidation from public officials.
5. A constitution that provides for a strong and effective legislature, since this is the primary form in which opposition ideas can be voiced in a democratic manner.

6. Involvement of opposition representatives in appointments to the courts and to the other independent agencies discussed previously.

The need for explicit provisions with respect to the scope and limits of emergency power

The possibility of terrorism or extremist actions frequently leads governments to adopt measures that may infringe on citizens' rights in order to allow the State full powers to maintain order and security. Such powers may be necessary where the integrity of the State and its democratic regime are under serious threat. However, in the interest of democracy, emergency powers must be subject to strict control in order to narrow their scope as much as possible and to ensure that they are only temporary. Governments must take extraordinary action only when there exist fundamental threats to the democratic order itself. But, they must take care to ensure that what they do does not become an even greater challenge to democracy.

If the constitution is silent on the matter of emergency powers, there will be little restraint on their use by governments. Therefore, the constitution must contain specific provisions dealing with emergency matters. These must include the following aspects:

1. Any granting of extraordinary powers must be explicit and contain only those powers absolutely necessary to deal with the threat.
2. Any such granting of power must have strict time limits. These limits should be as short as possible. They should

be renewable only after full legislative debates.

3. An independent body should be established to monitor and to assess the government's use of its special powers. This body will later report to legislature and citizens on what has been done.

The legislature and its relations with the executive

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EXECUTIVE SUMMARY

The legislative branch of power is a central element of any democratic system. Legislatures across the world today face a diverse set of challenges, both traditional and new, tied to deepening international ties. It is, therefore, imperative to enhance the role, value, and effectiveness of legislatures in both their operational and symbolic functions. This requires the improved performance of legislatures in their three basic capacities: the creation of laws; oversight, particularly over the executive branch; and as forums for debate and negotiation. To this end, we suggest consideration of five key issues. First, **enhancement of the commitment of legislators to their parliament as an institution.** Legislators must regard the legislative career as a worthy and honorable vocation, and be willing to invest in gaining skills and expertise. Institutional reforms such as the reinforcement of standing committees and rules encouraging specialization and seniority can promote this institutional attitude. Second, **increasing the capacity of legislatures.** To meet these challenges and improve their performance, legislatures must have adequate office space and resources, including staff with training and access to technical information and policy analysis adequate to their responsibilities. Third, **enhancement of the legitimacy and symbolic importance of the legislature.** In order to be effective, legislatures need to be viewed by the public, the other branches of government, and by their own members, as a legitimate, critically important public institution. Ethical and professional standards to improve transparency and accountability and to strengthen the ties between the legislature and its individual members with the society they serve should be established and enforced. Fourth, **striking the appropriate balance between organizational**

stability and flexibility. Party discipline and cohesiveness is important, but flexibility is needed to insure responsiveness to citizen demands and the ability for legislatures to serve as arenas of negotiation and mediation. This can be pursued through various means, including changes in electoral or political party systems. Fifth, considering the debate on parliamentary versus presidential systems, **rigid presidential systems may be particularly problematic and consideration should be given to alternative parliamentary or semi-parliamentary configurations.**

REPORT

Introduction

The legislative branch is a central element of any democratic system. As forums for public representation, legislatures and parliaments are distinct from the other branches in the openness of their proceedings. Their institutional transparency, derived from the direct relationship between legislators and the citizens they represent and from whom they receive their commission, makes the legislative branch highly vulnerable to criticism, misunderstanding, and public disaffection.

Legislatures across the world face an increasingly diverse set of challenges, both traditional and new. Deepening international ties produce rapid demographic changes related to human migration, increase the urgency of economic reforms and demands for heightened fiscal accountability, and heighten countries' vulnerability to crises related to transnational activities including corruption or terrorism. These challenges affect mature democracies as well as those in transition.

It is, therefore, imperative to enhance the role, value, and effectiveness of legislatures in both their operational and symbolic functions. This requires the improved performance of legislatures in their three basic capacities: the creation of laws; oversight, particularly over the executive branch; and as forums for debate and negotiation. In order to achieve this, we suggest that attention be paid to five critical issues. We recognize that suggested reforms within an issue area may not necessarily be applicable for every country or situation. Moreover, for most countries the range of options available is restricted to some degree by longstanding institutional or social patterns. In each case, policymakers will use their knowledge and experience to

consider which of the measures we suggest are most applicable. In addition, the comprehensiveness of a reform program and the pace of its implementation are also matters for political decision, as they depend on the contextual factors surrounding each country case.

We have identified five central issues:

- Enhancing the commitment to the legislature as an institution.
- Increasing the capacity of legislatures.
- Improving the legitimacy and symbolic importance of the legislature.
- Striking the appropriate balance between organizational stability and flexibility.
- The advantages of parliamentary or semi-presidential government configurations.

Enhancing the commitment to the legislature as an institution

To become important, a legislature must be seen as a central institution by its own members. The *sine qua non* condition is, therefore, that legislators must regard a legislative career as a worthy and honorable vocation. They must also be willing to invest time and effort to gain the required skills and expertise. As more legislators become dedicated to strengthening the legislature as an institution, it will be easier to enact other reforms improving the effectiveness and quality of the institution. Legislators must be encouraged to view themselves as professional servants of the public, engaged in a vocation in which effectiveness, accountability, experience, and expertise are rewarded. Incentives for legislators to invest

in increasing their skills and expertise rely on the possibilities of holding office through successive terms. In fact, most reforms for the improvement of legislative performance at the individual level require the capacity for members to be reelected. An additional tool for improving effectiveness is the strengthening of committees, which encourage the accumulation of expertise and a higher level of intellectual commitment to complex policy issues. The creation of committees calls for moderation and specificity.

To improve professionalism, we suggest consideration of the following measures:

- The reinforcement of legislative standing committees supported with adequate staff and informational resources. Communication technologies can be useful in this regard. To avoid the problem of an excessive, unwieldy committee system, committees should be few in number, should specialize in technical policy areas, and should, in their organization, parallel executive ministries to facilitate balance and even exchanges on prospective laws and policies.
- Legislators should be able to seek reelection so that they may benefit from their individual investments in the gaining of expertise, so as to provide an effective balance between experience and new ideas.

Increasing the capacity of the legislature

In most emerging democracies, legislators lack the resources they need to carry out effectively their various duties. To redress the imbalances that commonly exist between the

legislative and executive branches, legislatures require adequate office space, staffing, and other resources. Without these enhanced capacities, legislatures cannot engage in constructive collaboration with the executive branch on the technical aspects of policies, nor can they be expected to generate laws of high quality or to oversee executive-branch activities effectively. To enhance the capacity of the legislature, we suggest consideration of the following:

- Increased institutional resources and better access to information on areas of policy. Congressional libraries or services for information and analysis, independent of those of the executive branch, may be useful, along with technologies such as the Internet, closed e-mail lists, and televised congressional proceedings.
- Creation of incentives for the employment of trained professional technical staff, especially with specialized knowledge of relevant policy areas. Such staff should be hired, retained and promoted on the basis of merit-based criteria. These positions should not be used for clientelism, nepotism, or other narrow partisan or personal purposes.

Improving the legitimacy and symbolic importance of the legislature

The decline in the influence of traditional parties worldwide and the relative increase in the power and organization of interest groups, coupled with the rising importance of the media, have dramatic implications for legislative representation and influence. Public polls across the world indicate

dissatisfaction with legislators, often related to perceptions of institutional corruption or ineptness. Corruption is a longstanding feature of many legislatures in both transitional and mature democracies. Although in much of the world these practices may be in decline, institutional steps are necessary to protect or rebuild the legitimacy of the legislature. While the recent increase in levels of public dissatisfaction with legislatures may be a temporary response to the social distress caused by political and economic reforms, certain practices can be applied to improve legislative performance, accountability, and ties with society. We suggest consideration of the following:

- Commitment to the promotion of higher ethical standards of public practice. Internal investigative or oversight committees can improve internal practices and avoid the damaging situation of censure from the executive or the public.
- The improvement of transparency and accountability through the public dissemination of members' voting records, the expenditures of the legislature, its members, and staff, and as much information as possible regarding legislative procedures and practice.
- The public financing of campaigns and party operations. Such financing is vulnerable to opportunism; on the whole, however, it can help reduce corruption.
- The definition of a clear, enforceable legal and normative framework for lobbying and situations of conflict of interest.

Instruments of direct democracy (e.g., referenda and plebiscites) can be useful for certain purposes, such as for public consultation or guidance on a deadlocked issue. However, as

tools for lawmaking they are severely flawed. Referendums often misrepresent real public interest, favor the interests of the wealthy or well-organized minority interests, and produce shortsighted or erroneous policies that can be costly to overturn. Other forms of direct democracy, such as legislative ombudsmen or processes of participatory budgeting, can be useful tools for enhanced public participation. In all cases, however, mechanisms for direct democracy should be implemented with caution, because they tend to undermine the legitimacy of elected officials and legislatures along with their crucial role in aggregating views, debating contending views, and enacting public policies. Therefore, we suggest consideration of the following measures:

- Judicious use of public referenda or other mechanisms for direct democracy, preferably only for purposes of consultation or guidance, but not for direct lawmaking.
- The establishment of incentives and mechanisms for increased public participation in the political process. Although these have been most effective at the local or municipal levels, under certain circumstances they could function nationally or in local level electoral or party processes.

Striking an appropriate balance between flexibility and stability

Current academic debates focus on two contrasting models of legislative representation. A *pluralist* perspective stresses the protection of minority views, the importance of dynamic, diverse party systems, and the need to avoid the

concentration of power in any one party. A *majoritarian* perspective emphasizes that effectiveness demands aggregation of decisionmaking power and argues against the debilitating effects of multiple, relatively weak or smaller parties. Most legislatures tend toward one or the other form. Clearly, however, governments should aim for a balance between these poles: sufficient representation with efficient outcomes.

Political parties play a critical role in the operation of a democratic system. Overly disciplined or helplessly inexperienced parties and party systems have definite costs, and governments facing one of these situations should seek to improve this balance between effectiveness and diverse representation. Party systems tend to play different roles as the democratization process evolves. Highly cohesive parties are helpful in the early stages of democratization when critical negotiations and far-reaching reforms are necessary, but such parties can become overly rigid and constraining once democracy is more consolidated. At this point, flexibility, accountability, and individual initiative take front stage. A creative balance between these two also facilitates the crucial function of the legislature as a plenary (i.e., the full body as opposed to specialized committee meetings) in which crucial national questions can be debated, providing opportunities for differences to be mediated and compromises reached.

Tensions surrounding especially severe imbalances are usually played out in the legislature. Where parties restrict the autonomy of their members, the legitimacy of legislators as direct representatives of their constituents is reduced and their capacity for leadership and innovation tends to be constrained. Overly disciplined party systems can hinder the dialogue and negotiations that are essential in a functioning legislature. Such

rigidity can undermine the legitimacy of the legislature and its ability to respond to public demands. In these cases, we suggest consideration of the following:

- The alteration of party rules to allow members greater flexibility in offering and debating proposals as well as in voting.
- Increasing the openness and transparency of procedures for the nomination of party candidates.
- The creation of preferential voting systems, whereby voters can vote for individuals instead of for closed party lists only.
- Disaggregating nationwide districts into smaller districts.

At the other extreme, fragmented, undisciplined parties and highly fragmented party systems also limit the effectiveness and legitimacy of legislatures and provide incentives to members to pursue short-term, self-interested goals. In these cases, we suggest consideration of:

- The possibility of creating two-tiered, or ‘mixed’ electoral systems, achieving proportionality while at the same time maintaining single member districts.
- The creation of threshold or barrier clauses (i.e., a minimal percentage requirement of the total vote for a party to have access to the national legislature) to discourage microparties.
- Holding single-round presidential elections, in which the candidate winning a plurality is elected.
- The addition of nationwide districts to increase legislative attention to national concerns, instead of those driven by local or special interests.

Another structural issue to be considered is the usefulness of a unicameral system compared to a bicameral system. Although in smaller or homogenous countries unicameral systems can be adequate, in more heterogeneous countries a bicameral system becomes necessary to balance regional differences. In such cases it is especially critical that the lower chamber be fairly apportioned according to population.

- In cases of bicameralism, it is essential that the lower chamber be apportioned fairly to compensate for the imbalances of the higher chamber.

The advantage of parliamentary or semi-presidential government configurations

The academic literature on constitutional democracy has long debated whether parliamentary or presidential forms of government are more stable and less likely to generate undue concentrations of power. Over the long term, there is evidence to suggest that parliamentary governments tend to be more stable. This is because, *inter alia*, the institutionalized distinction between a head of state and a prime minister provides constitutional flexibility in crisis situations, a mechanism that pure presidential systems lack. In the short or medium term, however, a government's stability and effectiveness depend on multiple factors, perhaps the most important being the nature of its political party system. However, the complete overhaul of existing systems outside of historic moments of constitutional crisis can be a very difficult process.

- Presidentialist governments with fragmented party

systems are an extremely problematic combination. This case involves two sources of instability. On the one hand, presidents who have lost their ability to govern cannot be constitutionally removed before the end of their terms. On the other hand, there is a high probability that they will face a hostile majority in the legislature.

- The model of full-fledged semi-parliamentary systems, in which president and prime minister share executive authority, also involves serious risks of conflict between the two offices.
- To avoid the perils of pure presidentialist systems and to increase flexibility, governments can include semi-parliamentary practices. One suggestion is a system of regularized, formal consultations between executive officials and the congress. Another possibility is the creation of a prime minister or coordinating minister post, with powers to represent the legislature in dialogue and cooperation with the executive.

The judiciary and its relations with the executive

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EXECUTIVE SUMMARY

An independent judiciary can be an important ally for the leader of a transitional democratic regime. In addition to providing domestic and international legitimacy, an independent judiciary carries out the important tasks of adjudicating disputes and clarifying the constitution, freeing government to engage in lawmaking and policy development. Economic development is greatly assisted by a credible and efficient judiciary as it provides the certainty necessary for transacting business and investing.

Since most transitional regimes inherit some form of legal system, our experts recommended looking at ways to make the existing system work well, rather than attempting to build from scratch. Where the legal profession is not numerous or well developed, civil or bureaucratic systems provide the best means of developing legal capacity in a short period of time.

The recommendations for achieving an independent and efficient judiciary in transitional democracies are grouped under four categories:

- Appointment of judges.
- Governance of the judiciary.
- Creating a legal culture.
- International resources.

REPORT

The most important challenge for the relationship between the executive and the judiciary in transitional democracy is the creation of an independent and credible judiciary. Such a body can serve to legitimate the new regime in the eyes of the population at large. It can undertake the important task of elaborating the principles of the new constitution to create a body of law to guide the public and private sectors. Since governments cannot address every dispute in society, a credible and efficient judiciary and court system leave the government free to address key policy issues. The new government and its leaders can act with confidence knowing that the practice of political successors harassing their predecessors with abusive court actions will be less likely with a judiciary that is free from political interference.

The presence of an independent judiciary has become a requirement for certain forms of international recognition and for creating a climate of investor confidence. As important, it enables the domestic economy to grow and transact with confidence. In meeting the challenges of establishing a new democratic regime, political leaders are greatly assisted in reinforcing a sense of citizenship among the people by the presence of an independent judiciary.

In examining the challenge of creating an independent judiciary, we have identified three key issues: ensuring the quality of judges, the governance of the judiciary, and the creation of a democratic legal culture.

Appointment of judges

Most transitional regimes inherit some form of legal system, i.e., common law or civil law. Although one can identify the

various strengths and weaknesses of each system, for most countries, it is realistic to work with what they already have. Common law systems require a well-developed legal profession whereas the civil law, or bureaucratic form of legal system, allows for the training of judicial personnel on the job. Many new democracies have thin legal cultures with few trained lawyers. Therefore, it was the opinion of our experts that where a choice needs to be made, a transitional democracy should probably choose the bureaucratic system, at least for the lower court judiciaries which do not deal with complex constitutional issues. Moreover, it is impractical for most new democracies to replace the existing legal framework, but rather, they must find ways to utilize the existing cadre of judges. The experience of a number of countries has shown that many judges are, in fact, able to adapt to the new reality quite successfully.

Recommendations

- A) Where the previous authoritarian regime was noted for its repressiveness, a certain number of judges should be purged in order to enable the courts to move in a new direction and to provide tangible proof of change to the public and the legal profession.
- B) Legal scholars should be recruited for positions in the high courts, especially for the constitutional courts.
- C) The process for appointing judges should not be monopolized by any single agency of government. Where the final power of appointment resides in the executive or legislature, there should be involvement by other parties, notably the legal profession, the judiciary, legal academics and civil society groups in assessing the suitability of candidates for appointment. Some experts

- recommend the creation of a similarly representative council to make judicial appointments.
- D) The candidates with the highest level of legal training and experience should be recruited for the highest courts.
 - E) For lower and bureaucratic courts, appointments should be open to a broad constituency, not confined to lawyers and should be selected on the basis of clear criteria, possibly by competitive examination.

Governance of the judiciary

While judges must be independent, there must be means to ensure that they have the sufficient resources to carry out their duties and that they observe appropriate standards of integrity.

Recommendations

- A) Disciplinary actions with respect to judges should not involve the executive or the legislature, but should be the responsibility of the judiciary and representatives of the public.
- B) Parliamentary impeachment of high court judges should be only for the most extreme circumstances as clearly defined in the constitution, and should require a special majority.
- C) Where judges are appointed for fixed periods (8-12 years is recommended), they should not be eligible for reappointment.
- D) Judicial terms should be staggered in order to provide an ongoing provision of new blood to the bench.

- E) Judicial terms should not coincide with the terms of elected officers in order to avoid the perception of politicization of the appointment process.
- F) Where a judicial appointment is meant to be a final career move (such as in the case of high court judges), the appointment should not be for life, but should specify a mandatory retirement age.
- G) A system of mandatory education programs for the judiciary to ensure a high level of awareness of issues relating to diversity and knowledge of developments in the law should be established. While these programs should be initiated by the judges themselves in order to protect their independence, they should involve legal academics and members of the bar.
- H) Judges should be paid salaries that allow them to do their jobs honestly and full time.
- I) The determination of the judiciary's budget should not be in the power of the executive but rather in that of parliament in order to avoid either the perception or reality of political pressure by the government on the administration of justice.
- J) The administration of the judiciary's budget should be in the power of the judiciary or professional management appointed by the judiciary and subject to independent audit and public scrutiny.
- K) 'Contempt of court' should be very narrowly defined, and scrutiny of the courts' activities and judgements by academics and the press should be encouraged.
- L) Judgements should be issued in writing in order to provide transparency of courts' decisions and a record of decisions to promote consistency among courts.
- M) Dissenting opinions should be welcomed and

published and distributed on the same basis as majority opinions.

Taking justice to the people: creating a legal culture

In order to promote political stability and ensure that the organs of the legal system have a critical mass of cases to ensure their effective functioning, transitional democracies must create a legal culture where citizens come to expect that the law matters and where they have respect for those who adjudicate the law. In some countries, this problem can be exacerbated by the discrepancy between urban and rural conditions and the distance between the capital and the regions.

Recommendations

- A) Circuit courts should be created to enable senior courts to travel to locations outside the main cities to hear cases.
- B) Non-lawyers may be trained to educate people about their rights under the law and even to mediate certain forms of local disputes. The use of paralegals in Uganda is an example of this function, which could also be a public service requirement of law students.
- C) The experts strongly recommend the appointment of an ombudsman.
- D) All citizens should be ensured access to means of protecting their constitutional rights. Where courts are not sufficiently developed to do this, other means may be productively employed such as:

1. The injunction system.
2. Class actions.
3. Public funding for constitutional challenges by groups.

Utilizing international resources

Many foreign governments and international NGOs offer assistance in developing legal infrastructure.

Recommendations

- A) Governments should encourage international links between their own judges and those of other democratic courts in order to reinforce the norms of a democratic judicial culture and to increase the knowledge of judges.
- B) Notwithstanding the availability of advice from international sources, governments should be careful to ensure that advice is consistent with the particular requirements of their own countries.
- C) Where international bodies such as the World Bank require reform as a precondition for assistance, governments should avoid weakening their own societies by ensuring that such reforms utilize the indigenous capacities of their citizens rather than simply supplant them.

Anticorruption measures

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EXECUTIVE SUMMARY

Corruption is the illegal use of public power for private gain or political ends. Widespread corruption imposes serious costs on States by undermining legitimacy, deterring investment, and limiting the capacity to collect taxes and to implement programs fairly. Although no single solution applies everywhere, some proposals have broad applicability to most democracies in transition. Some proposals can produce political gains for those who support them and do not involve high budgetary costs.

Democracies should expand mechanisms of external and internal accountability

A) *External accountability* requires the public disclosure of information so that private watchdog groups and the media can monitor this information and complain about irregularities.

- Candidates must reveal sources of campaign funds and their interests in any companies that might benefit from governmental policies.
- The government must make information on the content of budgets available to the public, pass a freedom of information act and define a small number of clear rules concerning conflict of interests.
- The media must be free to criticize public officials without fear of breaching libel laws.

B) *Internal accountability* requires one part of the government to monitor another part.

- Examples include federal electoral commissions and audit bodies.

- Anticorruption committees are often recommended although they have been a disappointment; they should focus on structural reform rather than on criminal prosecution.
- An accountability that works properly must include an honest, efficient judiciary.
- Private enterprises must furnish information on their board members and define ethical codes.

Specific sectoral strategies: some examples

- Tax collection: simplify tax rules and shift to more easily measured types of taxes.
- Police reform: may involve retraining, reorganization and citizen complaint mechanisms.
- Health care: reduce routine payoffs by privatizing services and increasing public funding.
- Procurement and privatization: introduce more competitive and transparent procedures.

REPORT

Anticorruption measures

Corruption is the illegal use of public power for private gain or political ends. It can occur when public officials have power to dispense benefits or impose costs on private individuals and businesses. Widespread corruption can impose serious costs on countries making a transition to democracy. It can undermine the legitimacy of the State in the eyes of citizens and of investors, both domestic and international. Regimes that face criticisms from their citizens should recognize that public condemnation of corruption means that people are beginning to expect the State to act in their interest. They are demanding accountability from political, bureaucratic, and judicial actors in return for their political support. Democratic regimes need to respond in a way that produces real reforms and does not leave them open to the criticism that they are using anticorruption campaigns to silence and discredit political opponents while overlooking serious problems within their own governments.

Attempts to reduce corruption should focus on the costs in terms of decreased State legitimacy and reduced economic functioning. Corruption deters investment and limits economic growth. It encourages the development of illegal businesses and the shadow economy. Corruption undermines State capacity by limiting the State's ability to collect taxes and to enforce regulatory and spending programs fairly. It also threatens the legitimacy of the democratic experiment by reducing public trust in government. Citizens may begin to view all who participate in politics as tainted and hence may limit their participation in the project of State-building by turning to

purely private concerns. Worse, they may become corrupt themselves out of cynicism and despair.

What practical steps can political leaders take to limit corruption in ways that can have real payoffs in promoting the institutionalization of democracy, but that recognize the political and resource constraints under which governments operate? Obviously, there is no single blueprint that will apply everywhere. The nature of the problem varies from State to State. Nevertheless, we can make some suggestions that ought to have broad applicability to many democracies in transition. Our basic claim is that corruption cannot be addressed by the State acting alone. Because corruption is a product of the interaction between public officials and private individuals and business firms, it can only be addressed by policies that require both the public and the private sector to take responsibility for limiting payoffs and self-dealing. Many States are experiencing a vicious cycle in which corruption breeds corruption. Instead, the goal is to produce a virtuous cycle where honesty breeds honesty.

We emphasize two types of strategies below, not because they are the only ones that are relevant, but because they seem to us to be a necessary part of any serious reform agenda and because they can be at least partially accomplished so long as the necessary leadership is forthcoming from the top of government. Our primary focus is on alternative methods of achieving greater accountability as a means of exposing and deterring corruption. However, we also discuss the possibility of beginning the anticorruption effort by focusing on one or two particularly important areas of government functioning. We conclude with some observations on the political costs and benefits of alternative strategies.

Accountability

Democracies ought not to rely on the criminal law as the only tool against corruption. It is needed as a backup, but it should be combined with mechanisms of external and internal accountability. By external accountability we mean State openness to scrutiny by the public. By internal accountability we mean the use of organs of State power to limit incentives for corruption. Furthermore, private firms should be required to make certain information available and encouraged to develop internal procedures to limit corruption. Finally, accountability can be affected by the decentralization of State functions.

1. External accountability

Elections are the fundamental means of achieving accountability in democracies, but they are not sufficient to ensure the day-to-day integrity of government. This is so even in political systems with credible opposition parties that can use accusations of corruption as part of a strategy to gain power. Thus, we focus here on other forms of external accountability. They all require the public disclosure of information and workable mechanisms for public participation and complaints.

First, consider the transparency of the electoral process itself. Candidates should disclose the sources of campaign funds in a timely manner. They should also disclose their family's personal finance interests in companies that could benefit from government policies. Private watchdog groups and the media can then monitor and publicize this information. The State needs to establish a small number of clear rules both about conflict of interest for high officials and legislators and about

the sources of campaign funds. The point is to have rules that are clear to candidates before the campaign and that can be complied with under realistic conditions.

The media should be free to criticize public officials with little fear of running afoul of libel laws. Some countries have anti-insult laws that punish the media for being outspoken. However unfair the media may sometimes be, such laws can seriously hamper anticorruption efforts by dampening criticism.

Public financing is frequently mentioned as a solution, but in poor countries it is unlikely to be a realistic option. In any case, it needs to be structured to avoid favoring incumbents. This can be done by giving citizens vouchers to spend on whatever candidate they wish or by an allocation procedure that disfavors incumbents.

Second, the operation of the bureaucracy and the legislature needs to be subject to scrutiny. The goal is to make corrupt deals difficult to hide from a vigilant public. There are four parts to such a strategy. First, the government needs routinely to make information available on budgets and the contents of laws and executive decrees. The Internet has drastically reduced the costs of such strategies by making it easy for governments to supply information to a broad audience. Second, a freedom of information act is a key part of the structure. Such acts permit citizens to access government information that is in the files but has not been published. Those requesting information need not have a personal interest at stake; they can demand disclosure simply in their capacity as citizens or members of the media. Exceptions can be added to the law to protect privacy and security interests. Third, the State must make it easy for groups to organize as nonprofit, issue-oriented groups or as business associations. Private sector monitoring of the public sector

cannot solely be the province of individual citizens; groups are needed because they can provide expertise and continuity. The State should not impose substantive requirements on registered groups but should, instead, limit itself to assuring that the groups are not acting as fronts for the personal financial interests of their founders. Of course, a free media also needs to exist as well. Fourth, once private groups or individuals have access to information, there must be an effective means of seeking redress or registering complaints short of urging criminal prosecutions. For individuals this might be an ombudsman, but for larger policy concerns, such as corruption in major contracts or service sectors, such as the police, this might involve access to the courts or to an independent oversight commission.

2. Internal accountability

One part of the government can also check another part. The best recent examples are the federal election commissions that appear to have played a positive role in a number of countries, especially in Latin America. These commissions have mostly focused on avoiding fraud in the casting and counting of ballots but they can also serve an anticorruption goal in monitoring the system of campaign finance and in supervising the collection of candidates' financial disclosure forms. Independent financial control agencies can also serve an important monitoring function but they must operate under clear, simple and transparent procedures so they do not become one more source of red tape and corruption themselves.

More problematic examples are the anticorruption commissions that have been established in a number of countries. The problem here is not just to assure their

independence—often a difficult task—but also to be sure that they focus on important issues. Too many of them have had a mandate that mostly involves law enforcement. Our claim is that corruption cannot be addressed primarily through the criminal law but requires a rethinking of the way government service delivery and regulatory programs are organized. This should be the primary focus of an independent commission

The judiciary and the public prosecutorial system are key institutions in the fight against corruption. For the development of the private sector, an honest judiciary will facilitate trade and investment by making it possible for arms-length deals to take place against a background of legal protections. Furthermore, an honest judiciary facilitates the control of corruption within government. Challenges to the corruption of public officials can be resolved in the courts in a way that limits the use of false corruption allegations as a tool of political control and that makes effective punishment for the corrupt more realistic. The courts can also monitor second-order allegations concerning government attempts to hide information. To perform these functions, however, the courts need to be open to suits by citizens or public interest groups seeking to challenge government action or inaction.

There are many ways to achieve a professional independent judiciary and we do not presume to present a preferred method. However, some practices are obviously counterproductive. These include constitutional courts with judges whose terms are identical to the chief executive's or provisions that make it easy for the president to remove judges.

3. Private sector transparency

The private sector also needs to provide information about its own activities to permit the public to monitor its performance. To make it possible to enforce rules on conflicts of interest and self-dealing, corporate board memberships need to be public, and companies need to create codes of conduct against corrupt dealings of their own executives. These practices can have an impact not just on the internal behavior of firms but also on the ability of ordinary citizens to track possibly illicit connections between businesses and the State and to publicize instances of ‘State capture’ by outside interests.

4. Decentralization

Recently, it has become fashionable to support decentralization of political power to regions, states, or municipalities as a way of making government more accountable to the people. Some claim that government will be easier to monitor and corruption easier to detect at lower levels of government. There are several problems with this argument. First, it may not be true. National level media and nonprofit watchdogs may function better than local ones. Second, even if citizens of local governments can easily observe the corruption of local leaders, there may be nothing that they can do to limit malfeasance. Corrupt local leaders may have a monopoly on power and act with impunity.

Nevertheless, some promising recent experiences in some municipalities and villages in Brazil, Nepal, India and Uganda suggest that well-designed systems of citizen participation can overcome entrenched patterns of corruption and favoritism in

the provision of public goods and services. These experiments all involve broadly participatory procedures either to allocate public funds or to monitor aid projects or grants from higher levels of government. In many cases, they supplement the work of formally constituted local government. In a number of situations, higher levels of government or nonprofit organizations with expertise play a role by supplying technical assistance that helps the participatory processes to operate. Other countries could learn from these experiments.

Sectoral strategies

In some democracies, corruption is not all-pervasive but is concentrated in particular sectors. The worry is not just that these sectors are performing poorly but that their weakness will overflow into other sectors and will contribute to a general delegitimation of democracy. Of course, the sectors at risk will differ widely across countries, but we mention a few cases that have posed problems in countries with which we are familiar. They are tax collection, the police, health care, and the related issues of privatization and large-scale procurement.

1. Taxes

Corruption in tax and customs collection can produce a vicious cycle. Widespread evasion through payoffs to tax collectors or simple fraud means that a given tax rate produces too little revenue. Hence, tax rates are raised to collect more revenue. As a consequence, even fewer taxes are collected as more taxpayers evade payment. One solution is to lower rates,

simplify the rules, and engage in a credible enforcement effort. Alternatively the tax base could be changed to one that is easier to measure—i.e., a tax on revenue could be substituted for a tax on profits. In some cases, the human element can be reduced along with the corrupt incentives it produces. For example, customs collection can be carried out through electronic programs. Where tax collectors are necessary they can be rewarded with performance-based bonuses instead of higher pay.

2. Police

Corruption of the police is not uncommon throughout the world in established as well as new democracies. It is often associated with the flourishing of organized crime and of a society where violence and its control have been partially privatized. The police extort payoffs in return for protection from arrest or from fines and both actual lawbreakers and innocent victims are targeted. The venality of the police permits private extortion rackets such as kidnapping rings to function with impunity. There are no easy answers here, but the experience of anticorruption efforts in the municipalities of established democracies may be of help. In many cases, reform will not be cheap since it will require the recruitment of a more professional group of employees as well as retraining of existing personnel. Reorganization of police work combined with mechanisms for citizens' complaints can also help and are less expensive.

3. Health

The countries in a transition to democracy appear to face a particular problem with corruption in the health care system. Payoffs have become so routine that they are hardly viewed as corrupt, yet they undermine the social goals of a State-managed system. Here the answer is not a law enforcement crackdown. Rather, the State has to face up to pathologies of the existing systems and decide where to legalize payments through privatization and where to retain public funding but increase the State's financial commitment in order to reduce incentives for payoffs.

4. Privatization and procurement

The first wave of privatization is largely complete in the post-socialist countries, and elsewhere, most large-scale privatizations have been accomplished. Some of them, however, involved so much corruption and insider dealings that they have little legitimacy in the eyes of ordinary people and may have produced ongoing corrupt links to government regulators or providers of subsidies. These cases need to be reexamined to see if more competitive pressures can be introduced. For remaining privatization deals and for all large-scale procurement and concessionary deals, many governments may need to introduce more competitive and transparent procurement procedures as well as establish a framework that creates competitive pressures instead of giving monopoly power to insiders. They need to publish procurement rules and procedures ahead of time, and open the bidding process widely.

Conclusions: the importance of a political coalition for reform

Anticorruption reform is not easy, nor will it always show immediate results. In many cases, longstanding practices have to be changed, and those who benefit from corruption often want to block reforms. Benefits often will not appear immediately, weakening public support and giving opponents an opportunity to challenge policies. Nonetheless, many of the reforms suggested above can be adopted without paying a very high political price. Some of them will attract allies or generate immediate results. Others will not require high budgetary costs, so they can be adopted without threatening other government projects.

First, consider reforms that will not immediately threaten powerful interests. A freedom of information act will provide access to government information, but its impact will only develop gradually as organized groups begin to understand how to use it. Providing more information about government decisions does not require any immediate changes in the policies themselves.

Other reforms will attract allies who can provide political support. Making it easier for non-governmental organizations to organize and register will attract their support. Corporations may benefit from good publicity by adopting anticorruption codes of conduct. Although local government officials may not always welcome requirements for public hearings or public participation in decisions, if these requirements are accompanied by authority over more decisions, they might be more welcome.

A third group of reforms can be adopted without major new expenditures. These changes would demonstrate that

action is being taken without threatening other policies. More information about the content of laws, decrees, and regulations can be made available on the Internet at a relatively low cost.

Anticorruption reforms present Heads of State and Government with an opportunity to demonstrate political leadership on an issue of critical importance to many voters. While corruption will not decline immediately, the small, concrete steps toward greater openness and accountability suggested here lay the foundations for long-term changes in expectation and behavior that may eventually reduce the level of corruption. Corruption is often deeply entrenched and notoriously difficult to reduce solely through direct prohibitions or criminal penalties. General strategies aimed at increasing internal and external accountability, combined with specific reforms targeted at the areas of greatest concern in particular countries, stand the best chance of creating favorable conditions for a reduction in corruption. Even though corruption may never be totally eliminated, each step toward reduction makes further steps more likely and helps reduce the real cost of corruption—the ability of governments to govern.

Of course, some reforms, such as a reconstituted judiciary and an honest police force are likely to be both expensive and politically controversial. However, because the benefits are potentially so large, a bold leader can gain legitimacy and respect by taking on such challenges.

The role of armed forces and security forces

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EXECUTIVE SUMMARY

Democratic control over the armed forces is critical to the consolidation of democracy. Military prerogatives and autonomy are contrary to democratic rule, since they continue to maintain strongholds outside the control of elected authorities.

Heads of State and Government should establish a set of mechanisms to enable the civil authorities to exercise supreme power over defense issues. Essentially these are:

- Congress participation in the debate and definition of defense policies, extending this involvement to different sectors of civil society.
- Creation of ministries of civil defense, fully empowered to define and implement defense policies.
- Transparent defense funding and management.

Democratic nations require means to enforce law and order. The only institution authorized to use force against its own citizens in a democracy is the police, which must operate under democratic terms and conditions. Police reforms must be focused upon the creation of professional corps that are co-substantive with democracy and provide the community with a public service. Achieving this requires:

- Drawing up rules of engagement, which respect human rights, encourage gradual deployment of weapons in police actions, and are subject to an external control body.

REPORT

The role of armed forces and security forces

The armed forces have a different role to play from that of the security forces. In this section, we shall start off by indicating what is required so that the armed forces do not challenge democratic consolidation; we shall then consider what characteristics democracies should expect of their police force and, finally, we shall reflect upon the impact that the latest terrorist attacks will have on democratic control of the armed and security forces.

The role of the armed forces

The institutional framework for democratic control over the armed forces is critical to the consolidation of democracy. If elected governments fail to subordinate the military, the resulting military autonomy runs counter to democracy. In a democracy, there cannot be strongholds exempt from accountability on such fundamental issues as the armed forces.

The priority of any democratic government must be to establish democratic civilian control over the armed forces. This entails eliminating the special prerogatives and autonomy of the armed forces, within the society. Experience over the last few decades suggests that if democratic control is to flourish it must be accompanied by a greater degree of legitimacy and

empowerment of the democratic civilian institutions and a curbing of government coercion.

Parliamentary participation in the debate and control of budgets earmarked for the armed and security forces is crucial in ensuring compliance with modern democratic procedures. Procedures for allocating resources and budget must be transparent. For this to happen, aside from Congress's role in controlling and participating in resource allocation, the media and the general public must also be involved in the debate on the armed forces' missions and budgets.

However, such participation is impossible unless the general public is privy to information on defense issues, which in most countries previously governed by authoritarian regimes has been reserved exclusively for the armed forces. Both the government and the civil institutions need to invest in the training of experts to advise members of congress and ministry of defense officials. At the same time, the creation of strategy and research institutes and courses at universities all contribute to a growing defense community, which will fuel debate and monitor defense and security issues. This should also encompass advocacy groups, NGOs and journalists. Public discussion on armed forces' missions and resources is vital to a lively democracy. Democratic normalization of relations between the State and the armed forces must involve society, generating mutual trust between the three sectors. For government to exercise democratic control over the armed forces, it is paramount that society maintains good relations with its government.

A democratic society benefits from the armed forces carrying out foreign defense missions whilst other institutions deal with national security. From time to time, they might carry out some of the military's domestic functions, for example, in times of disaster. But even when such exceptional circumstances prevail,

this should be done under the auspices of institutions exercising democratic control. One parameter which could be used in the demarcation of security tasks to be undertaken by the military would be to prevent the military performing socially intrusive intelligence missions.

Mechanisms to establish democratic civilian control should thus include:

- Enforcing a democratic civilian decisionmaking process on defense policies, defining military missions. This should involve the executive, the legislature and civil society bodies.
- Creating a civilian-controlled ministry of defense, truly empowered to formulate and manage defense policies, staffing policies for the armed forces, procurement, logistics and military education as well as long-term strategic planning.
- Preventing the armed forces from raising their own finance or having recourse to special autonomous resources not allocated and controlled through parliamentary debate, e.g. funds derived from military pension funds or private enterprise.
- Establishing a system of military promotion with clear and well-defined procedures based on professional merit. The highest ranks will be defined with approval from the democratic authorities. Military compliance on this point might involve, for example, allowing officers to appeal before a court of law. Although this is a new procedure, it has been tried out successfully by the Spanish government and might be considered by others.
- Preventing military forces from being involved in non-military missions. Military involvement in issues of

public order heightens the social and political profile of the armed forces. For this reason, there should be a clear-cut separation of the functions of foreign and domestic security, supported by legal provisions.

- Eliminating privileges, limiting military justice exclusively to specifically military crimes, such as insubordination, and not just any type of crime perpetrated by the military.
- Fostering the development of centers of strategic studies; specialist qualifications for experts in the public administration of defense; the training of journalists; the creation of defense-related academic institutions so as to trigger off public debate and provide a democratic perspective on strategic thinking that used to be lacking.

The role of the police

Democracy cannot be consolidated into complex, modern societies without a legitimate coercive apparatus. Normally, the only institution authorized to use force against its own citizens in a democracy is the police, which is charged with establishing and enforcing law and order.

The military deal with external defense, whilst the police have to defend citizens within the State. However, many new democracies began with police forces that were, in legal and operational terms, under military control. The separation of the police from the military should be a priority to these democratically elected governments; the reason being that the police have a different mission from the military. The police are accountable first and foremost to their own citizens for the protection of their community; their training is different and

they need to be equipped with different weaponry. Likewise, so different are their missions, their chain of command, training and promotion criteria from those of the military, that the police should have a totally separate institutional structure. The command of the police should be taken out of military hands and placed under appropriate democratic authorities, such as the ministry of the interior.

In general, during democratic transition, both democratic governments and academic theoreticians have focused more on analyzing armed force than police force reforms. This is a serious problem, since the State's failure to deal with public safety expectations is potentially one of the most destabilizing factors in consolidating some democracies. Governments should give high priority to allaying the sense of insecurity and increased crime rates in their region.

In many of the new democracies emerging from an authoritarian past, the old means of social control are discarded, without formulating new guidelines for police forces as institutions constrained by hierarchical institutional and horizontal social controls, legitimated by and accessible to all citizens. The absence of such a framework is one of the reasons for the increased crime rates in many such societies.

Citizen participation in the construction of safe communities will entail that citizens recognize the right to equal access to law and the application of its sanctions. This means doing away with special privileges, so that no individuals or groups can claim impunity from legal rules. This would occur if, for example, the police were charged with collecting, weighing up and trying evidence in situations where they are accused of undue use of force against citizens. Such investigations should be carried out by a body at arm's length from the unit being investigated, and the judicial proceedings

should be conducted under ordinary, not military jurisdiction. These proceedings help to break up the traditional cycles of impunity.

The mechanisms to reform the police force according to democratic societies' needs are:

- Education in respect for human rights, reducing tolerance of police excesses and abuse of power.
- Reduction in the high number of citizens killed by the police, often indiscriminately, and the establishment of strictly regulated procedures on the use of arms. This requires stringent standards of use and clear-cut rules of engagement, as well as suitable training on how to begin with verbal deterrents, with shooting only as a last resort. If possible, police should only be issued with guns and not rifles that can shoot an innocent child at 400 meters, nor automatic weapons that even when aimed at a single person can end up wounding eight.
- Ensuring that a democratic police force is accessible to all citizens. For example, women-only police stations, with all-women teams consisting of social workers, nurses, psychologists, would be easily accessible for women wishing to report domestic violence or abuse or other crimes that otherwise might go unreported.
- Strict regulations on the way private security agents should work. In some countries these are poorly trained and more numerous than police officers.
- Request for State aid to other States, which, in general, consists of training given by one police force to another, should also be directed at fostering aid to civil institutions monitoring police corps or private security corps.
- Mechanisms of control and accountability, including

judiciary bodies and human-rights organizations.

The fight against terrorism

The terrorist acts of September 11th have severely tested democratic regimes, with objectives contrary to their very principles, values and standards. Democracies have the most powerful weapons of any system of government with which to combat terrorism: a community of shared values and institutions. They can and must use them to fight without undermining the standards of democratic community. Democratic governments, when duly legitimized, can demand and obtain citizen cooperation to create firm new security rules.

Global cooperation against terrorism is necessary, including new global forms of detection that are compatible with democratic procedures and means. Democracy cannot be less global than the terrorists or criminals that are attacking it. Fortunately, some democratic measures available to States in democratic transition cover international cooperation in quite different areas, such as the regulation of banking, migration and transport. There has never before been a situation in which so many countries are so favorably disposed to combating international terrorism. All the measures mentioned require governments to have very clear-cut understandings, such as the exchange of intelligence information.

For this international cooperation to be efficient at the level required, nations that are consolidating their democracy must now, more than ever, try to reduce the autonomy (which sometimes degenerates into anarchy) of the police and military forces, so that they are placed exclusively under the strict

command of civilian democratic authorities.

The response to international terrorism should not be limited to military action. The perceived scope of terrorist threats has expanded and the widespread concern that this has triggered should give rise to a platform of broad agreements on combating terrorism.

The international agenda continues to encompass a wide range of diverse issues that will not be frozen by these new manifestations of international terrorism. It still contains the debate on what mechanisms to use to further consolidate democracy as well as what multilateral action is unavoidable in the face of the latest terrorist attacks.

Along these lines, the following are a few recommendations on how to fight terrorism:

- Establish mechanisms so that the Heads of State and Government can coordinate international cooperation to help fight against terrorism and against other forms of international crime, such as drug smuggling, and trafficking with children and women.
- Increase international cooperation, reinforcing banking controls and regulation. This affects not only terrorists' resources, but also those of drug-traffickers and smugglers, but all of these measures come together in the effort to combat terrorism.
- Make an effort, as in the European case, to discuss common framework agreements on principles underlying extradition, so that terrorists cannot slip through the hands of justice.
- Demand that no measures intended to combat terrorism should restrict human rights, and that all such measures should be under civilian control.

- To call a meeting of the **Club of Madrid** to put forward recommendations to create an international democratic community to fight terrorism, share intelligence information and foster multilateral actions amongst democratic nations.

The reform of the State bureaucracy

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EXECUTIVE SUMMARY

State bureaucracy reform is an essential part of democratic consolidation. Consisting of measures to decentralize State power, enhance coordination, solidify representation, and monitor abuses of power by elected officials and bureaucrats, it makes new democracies more participatory, accountable, effective, and honest.

The result of an action on any one front depends on whether, how, and when reform actions on other fronts are pursued. Decentralization requires greater policy coordination if it is not to undermine bureaucratic effectiveness, and a routine monitoring of the possible abuses of power if it is not to degenerate into a corrupt system of rule by ‘oligarchs’. The three should come as a package.

Decentralization, coordination, and monitoring each involves a bundle of smaller reform measures to be pursued simultaneously.

Competitive elections at subnational government levels need to be instituted and, simultaneously, some tax authority transferred to subnational governments to make decentralization real.

A strong, autonomous central bank needs to be set up to place an overall monetary constraint on all political actors’ behavior.

Budgetary, financial and personnel policy responsibilities must be located in three separate institutions at the central government level and where State policies can be coordinated through them.

The recruitment of qualified experts from outside the State bureaucracy should increase or decline according to goals, means, and actor capability in order to secure ‘right’ kinds of expertise for different coordinators and line ministries.

An ‘honest broker’ has to be appointed to facilitate communication and consensus-building between all stakeholders in order to effectively coordinate policy.

Monitoring must be made routine and effective by building a system of checks and balances among all three branches of government, within the State bureaucracy, and between political parties.

REPORT

Introduction

- State bureaucracy reform is an essential part of democratic consolidation. Consisting of measures to decentralize state power, enhance coordination, solidify representation, and monitor abuses of power by elected officials and bureaucrats, it makes new democracies more participatory, accountable, effective, and honest.
- The result of an action on any one front depends on whether, how, and when reform actions on other fronts are pursued. Decentralization requires greater policy coordination if it is not to undermine bureaucratic effectiveness, and a routine monitoring of the abuses of power if it is not to degenerate into a corrupt system of rule by ‘oligarchs’. The three should come as a package.

Decentralization

Definition

Decentralization is the process of devolving State power downward to subnational levels to build new institutions of power.

Why decentralize?

The public as a whole benefits immensely from decentralization because it helps democratic consolidation.

- Decentralization encourages grassroots political participation and enhances political representation.
- Through political participation, citizens acquire knowledge and skills of politics; develop collective ideas and organization; and inculcate a civic spirit, a sense of rights and duties, on which democracy is based.
- By empowering citizens, decentralization diffuses power and places entrenched social elites under a system of checks and balances. The powerful are thus responsible and held accountable for their actions.

The Head of State and Government (HSG) is also a ‘winner’ in spite of some power transfer and diffusion, because decentralization:

- Enables the HSG to save time and resources for a few nationally critical issues and to effectively prioritize and coordinate state policy.
- Lowers the HSG’s personal political risks by bringing in subnational leaders to share responsibility, as well as by getting rid of society’s myth of the HSG as an omnipotent leader, which only gets him/her into political trouble, with society holding the HSG responsible and accountable for even events beyond his/her power.
- Strengthens the HSG’s power by giving him/her a network of new allies for social mobilization and new channels of policy implementation at subnational government levels.
- And provides a window of opportunity for him/her to make a permanent mark on history. Once decentralization is put into motion and society empowered, there is no way to turn back.

Moreover, even with decentralization, the HSG retains diverse coordinating powers, which make subnational governments remain dependent on his/her leadership.

Why do so many decentralizations fail?

Decentralization is a ‘win-win game’ for the HSG and civil society. Yet, only a few new democracies have decentralized in ways conducive to democratic consolidation. Why have so many decentralization reforms gone wrong and failed to achieve their original democratic goals?

Partial decentralization: decentralization helps democratic consolidation only when the HSG simultaneously institutes fair, regular, transparent, and competitive elections and transfers some tax authority to subnational government levels. This is because competitive elections increase democratic accountability, policy transparency, and efficiency at subnational levels by giving political parties a strong incentive to keep close tabs on each other’s political practices. The downward transfer of tax authority has a similar positive effect through forcing subnational governments to accurately calculate and internalize costs when raising each additional unit of tax. Electoral competition results in an increase in the quality of public service, while tax authority imbues a sense of responsibility in subnational leaders. However, believing in gradualism and sequencing, many HSGs set up subnational elections without fiscal decentralization, which makes subnational leaders unable to provide local goods for which they are nominally responsible. This partial reform undermines both efficiency and accountability.

Weak monitoring: decentralization goes wrong when the HSG fails to back it up with a dense web of monitoring

institutions with professional staffs and independent expert groups to investigate abuses of public authority. Without routine and effective monitoring, decentralization degenerates into ‘crony capitalism’, with subnational politicians colluding with local social elites to use public power for private gains.

Weak coordination: decentralization demands more, not less, policy coordination (see section on monitoring below) because it brings in more actors, more issues, and more mutual veto points into policymaking processes. Weak coordination makes decentralization and policy incoherence synonymous and undermines new emerging democracies’ ability to build up legitimacy through delivering on policy promises and outperforming their authoritarian predecessors in economic, social, and political arenas.

How to decentralize?

Set up simultaneously competitive elections at subnational levels and transfer some tax authority to subnational governments in order to increase policy transparency, efficiency, and democratic accountability and responsibility.

Establish an auditor, an anticorruption commission, an ombudsman, a constitutional court, and an administrative court at the national level. Develop each into a highly professional institution with expertise, job security, political independence, as well as credible powers to sanction abuses of public authority, in order to prevent decentralization from degenerating into political rule by local ‘oligarchies’ (see section below on monitoring).

Build an internally balanced, yet coherent institutional mechanism for coordinating crosscutting policy actions between

national and subnational state actors, in order to make democracy economically efficient (see section below on monitoring).

Coordination

Definition

Coordination is the process of political bargaining, compromise, and persuasion to make policy actions by multiple actors more logically consistent with one another, as well as part of some larger integral strategy to realize common goals.

Why coordinate?

For an emerging democracy to consolidate, it has to be effective in delivering on policy promises, maintaining social stability, and generating sustainable economic growth, because society values a political regime for its capacity not only to open up politics to popular participation, but also to process societal demands into policies and realize both social stability and economic growth through those policies. Democracy's ability to do so critically depends on its possession of a coherent but flexible bureaucratic coordinating mechanism.

But policy change and reform frequently draw resistance from bureaucrats, because they threaten bureaucratic interests. The HSG cannot fight alone, but rather needs political allies. However, in new emerging democracies, there rarely exist cohesive political parties and social movements whom HSG can mobilize as countervailing forces to bureaucrats. Given such a lack of organized political allies, the HSG needs to build

a system of checks and balances with the State bureaucracy and work through it to reform. There is no better instrument than a bureaucratic coordinator for the HSG in influencing other State ministries' political actions. They are both 'bureaucratic', drawing power from routine procedures.

Building a coordinating mechanism serves the HSG's personal interests because it is the HSG who is held responsible for coordination on national agenda-setting, consensus building, policy formulation, and implementation. The HSG has a personal stake in effective coordination, improved communication between stakeholders, and shared orientation.

Learning from mistakes

In spite of many efforts at coordination, however, only a very few new democracies boast success. From numerous failures and even disasters, the HSG can learn a few critical 'negative lessons':

- Do not always set up a new state agency, or reorganize extensively one or another existing State ministry whenever a new policy task arises. This temptation is understandable, given frustration over bureaucratic inertia, if not resistance against policy change, but it is not helpful. The HSG is more likely to waste time. To achieve results within one's tenure, closely work with and through existing State ministries.
- Do not establish a 'superministry' with virtual monopoly over coordinating powers, including budgetary, monetary and fiscal authority. The superministry may help the HSG overcome line ministries' resistance, but it will also 'capture' and 'blind' him/her by monopolizing

information, excluding politically detrimental issues from agenda, and structuring options in a way that will further its organizational interests.

- Do not think dogmatically on bureaucratic professionalization. The ‘closed’ civil service, with an elite recruited exclusively from within through complex internal rules and norms, may score high on organizational effectiveness and stability for a while, but much less on accountability, flexibility, and innovation. The ‘open’ system, with an elite recruited from outside the bureaucracy, from professionals and experts, may be responsive and innovative, but much less institutionally effective. There is no one universally ‘right’ way to recruit coordinating officials. The ‘closed’ and ‘open’ civil service model each has its own distinctive weaknesses as well as strengths. Be prepared to mix internally recruited career bureaucrats with external experts in one team.
- Do not have a myopic eye on coordination. The quality of coordination depends not only on coordinators but also on coordinated line ministries, because it is line ministries through which coordinators reach more deeply into society for resources, influence organized social interests’ behavior, and bring a coordinated outcome.

How to organize a nation’s policy coordinating mechanism?

This is done through the following actions:

- Set up a strong, autonomous central bank. This will serve as the HSG’s ‘last pillar’ of economic order when all other

coordinating agencies fail under political pressures. The central bank places a tight macro monetary constraint on political actors' activities.

- Build an internally balanced coordinating mechanism by putting budgetary, financial and personnel policy responsibilities in three different independent ministry-level entities. They control what are necessary instruments for any policy coordination: power to distribute economic resources and bureaucratic posts. Check and balance these institutions in order to get critical information and appraise all available options. Let them compete in supplying information to the HSG.
- To reach a 'right' balance between policy flexibility and direction, as well as secure 'right' kinds of professional expertise for different coordinators and line ministries, vary recruitment patterns and criteria. Where goals are unambiguous, means clear, and actors very heterogeneous, with one possessing far greater capacity and knowledge than others, as in the case of health, monetary or budgetary policy realms, build up a 'closed' career civil service. Where both goals and means are less clear but actors homogeneous, with similar cognitive capacities, as in typically very politicized interior policy areas, build a decentralized State ministry with upper posts open to outside experts, in order to allow authorities to constantly adjust to each other's beliefs and interests, share political responsibility, and gradually develop a consensus.
- Be prepared to vary recruitment patterns and criteria even within a single ministry. When means are clear but goals multiple and changeable, close off only more 'technical' bureaucratic layers and posts to outside experts. For upper decisionmaking positions, actively bring in experts from

the private sector.

- Besides working with and through State ministries, always consider the option of appointing a ‘process owner’, a politically neutral but widely respected individual, to serve as an ‘honest broker’. The process owner is a facilitator rather than a decisionmaker. Do not give him/her formal authority, which can alienate relevant stakeholders, including line ministries, who fear a loss of power. Make him/her strictly an honest broker. Send him/her to all stakeholders to listen to their policy preferences, make all information and knowledge equally available for everyone, clear away communication bottlenecks, search for and articulate commonly agreeable performance measures, and extract mutually binding policy commitments from all.

Monitoring

Monitoring involves creating an institutional ‘watchdog’ who routinely checks on politicians and State bureaucrats’ actions and sanctions illegal activities.

Why monitor?

Democracy is rule of law. Monitoring the State for illegal activities and holding everyone, including the powerful, accountable for their actions is in itself an act of constructing a democratic political order.

Monitoring the State is also an act that strengthens national competitiveness, because there is nothing more corrosive

of society's moral fabric, economic efficiency, and political cohesion than abuses of public authority for private ends.

Building a monitoring mechanism is urgent in new democracies especially because potential monitors within society, including the press and NGOs, are generally weak. To wait for their maturity is hardly an option because emerging democracies are too fragile to survive any massive abuse of public authority. There needs to be an effort to devise an institutional mechanism for monitoring before civil society becomes strong enough to independently monitor State activities, not only during elections but also between elections.

But HSGs have been reluctant to put in place an effective monitoring mechanism for fear of its turning against them. This is, however, a wrong calculation. The real choice HSGs face is not whether they will be monitored, but whether monitoring will be fair or partisan. History is replete with past 'crimes' being later judged by new norms, if not brought to 'justice' by political rivals for partisan reasons. Refusing to establish a neutral monitoring mechanism does not necessarily reduce one's chance of being held accountable for past actions. The existence of an impartial monitoring mechanism with clear rules is better for HSGs than no monitoring mechanism, because it can place partisan revenge under check.

How to monitor?

There is no better mechanism for monitoring than political checks and balances. Apply this principle to State organization.

- Establish checks and balances among the three branches. Allow a vote of confidence in parliamentary systems and impeachment procedures in presidential systems, but

with strict conditions in order to strike a balance between democratic accountability and political stability.

- Set up competitive elections at national and subnational levels, which will make elected officeholders compete for votes by publicizing each other's wrongdoing. The threat of exposure restrains abuses of power.
- Build a modern transparent accounting system so that monitors have the access to information about the financial transactions of their officials.
- Construct simultaneously five monitoring agencies at the national level: an auditor separated from both the executive and legislative branches; an anticorruption commission with powers independently to investigate and even prosecute; a constitutional court to perform constitutional review on both the executive and legislative branches' political actions; an administrative court to correct abuses of power on issues involving citizens; and an ombudsman to investigate complaints submitted by individual citizens to the legislature. These five should come as a package, with one agency's power and function complementing and supporting another agency's.
- Assure these five monitors' political neutrality and impartiality by having their key members nominated by a neutral selection committee partly consisting of experts and appointed through the legislature. Also, provide a constitutionally guaranteed long nonrenewable tenure for their top officials, except ombudsmen, so that they are subject to less political pressure.

Strengthening of political and social pluralism and of political parties

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EXECUTIVE SUMMARY

A vibrant civil society and well-structured and robust party systems are the fundamental underpinnings of democracy. However, in new democracies, there is an overwhelming concern with the weaknesses of both. Empirical evidence shows that new democracies that were more successful in building coherent party systems and pluralist civil societies have more secure and stable democratic institutions. Therefore, one of the biggest challenges for new democracies is to develop strategies to strengthen political parties and civil society organizations.

While the need for rebuilding civil society has been widely accepted as one of the most pressing tasks of new democracies, much less attention has been devoted to the strengthening of political parties. We argue that there is no working democracy without strong political parties, as much as there is no successful pluralism without effervescent civil society organizations. Therefore, leaders must focus on the simultaneous development of these two domains, since they mutually reinforce each other. To that end, we offer a set of recommendations, for both civil society and political parties, which focus on three critical dimensions:

- Institutional incentives and opportunities.
- Internal governance.
- The relationship with other public and private actors.

While no universal recipes exist, *civil society* is strengthened through the following measures:

- A well-structured and freedom-protecting legal environment, which places minimal restrictions on civil society other than the commitment to non-violence.

- Transparency in internal practices, and respect for the dividing line between political parties and civil society organizations.
- Public funding incentives, which emphasize citizen contributions and encourage the crossing of the traditional cleavage lines of ethnicity, race, and religion. Funding for civil society organizations can come from ‘participation vouchers’.

Equally important is the strengthening of *political parties*. As actors with access to government authority and potential for financial malfeasance, political parties must be held to higher norms of accountability than their counterparts in civil society organizations. To that end, we make the following recommendations:

- When possible, a parliamentary proportional representation system gives parties more responsibility in making and implementing policy. It also better represents diverse national constituencies and interests. In presidential systems, empowering legislatures holds the key to strengthening parties.
- To register, political parties must demonstrate that they are committed to democratic rule of law, that they disavow violence, and that they are open to all citizens.
- The finances of political parties should be transparent, and there are reasons to believe that public funding may be beneficial.

REPORT

Introduction

Strengthening pluralism and public participation is an indispensable part of building democracy. In democratic transitions, popular mobilization and protest movements play a critical role in spurring regime change. Their active presence raises the cost of political repression, strengthens the hand of reformist elites, and creates alternative networks of activists and political leaders. In new democracies, active citizen participation imparts habits of civil engagement, builds trust, facilitates the rule of law, as well as enhances society's monitoring capacity, elite accountability, and controls corruption. For new democratic leaders, a strong civil society and strong political parties enhance State capacity, increase public legitimacy and compliance, and facilitate the implementation of new public policy.

- There is a solid consensus among our experts that active participation of citizens through a variety of organizational and institutional channels is a fundamental condition for the completion of democratic transition, consolidation of democracy, and improvement of its subsequent performance.

Historical experience shows that even high levels of protest and mobilization can be absorbed by new democracies with relative ease. In such cases, high levels of contentious political participation often improved democratic performance and preserved the reform momentum. In fact, insufficient or low public participation may result in premature stabilization of semi-reformed institutions

and formation of patron-client relations, which pose a pernicious threat to new democracies. Thus, one of the major dilemmas facing democratizing elites is how to enhance public participation but at the same time harness it to best democratic effect.

- Political participation can be enhanced by institutions that maximize political liberties, grant inclusive and equal citizenship to all citizens, protect autonomy of individuals and organizations, and expand influence of citizens on leadership selection and the decisionmaking process. Participation requires not only opportunities but also resources. Social and political organizations should be subsidized in part with public funds and exempted from fiscal charges through favorable tax provisions. Subsidization should not be used, however, to reduce the autonomy of recipient organizations or to facilitate patron-client relations. The guiding principle should be fairness and the reduction of disparities between organizations.
- International actors can provide expertise and financial resources to support both civil society and political parties. However, such international aid is only useful if it does not delegitimize local democrats, call into question the sovereignty of new democracies, or preclude local responses to specific challenges.
- The breakdown of law and order resulting from terrorism and insurgency presents a deadly threat to democracy. It is essential, therefore, that violent actors must be neutralized through the enforcement of existing laws, through public condemnation by elected officials and through the concerted political inclusion of the groups that the extremists purport to represent. Preventing the

growth of antidemocratic movements and restraining political behavior that clearly undermines democratic processes should be a top priority for the government. It is especially important to encourage democratic participation by groups that might otherwise be mobilized by politicians to defect from democracy. In the transition period, inclusive pacts should be employed to introduce restraint, a sense of civility, and curb violence and aggression. In the consolidation period, swift and decisive judicial action combined with public condemnation should take priority. Such efforts to restrict violence must not curb the ability of nonviolent actors to operate freely and with full access to the public arena and resources.

Democratization is a sequential process consisting of several distinct stages and it takes place in a variety of specific contexts (cultural, social, economic, geographic). Therefore, any strategy or policy recommendation has to be tailored to specific conditions of a given country. Policy choices and strategies are not universally valid but can be effective only in relation to specific political, legal, social, and institutional conditions in which they are applied. The choice of strategies and policies should take into account the stage of democratization. Policies that are effective during the transition period may become ineffective or even countereffective during the consolidation period. Similarly, one should distinguish two basic types of democratizing societies. Building democracy in divided societies that are characterized by major insurgencies, ethnic and communal conflicts, and severe socioeconomic inequalities presents a different set of challenges and requires different policies than in cohesive societies.

In sharply-divided countries, where democracy is less

likely to develop and to endure, two grand strategies are available. First, a democratic government could recognize existing boundaries between groups and introduce a variety of institutional mechanisms to assure their peaceful coexistence (grand coalition, mutual veto in decisionmaking, proportionality in allocation of opportunities and offices, group autonomy through, for example, federal arrangements). Second, a government could seek the attenuation of group boundaries through promotion of integration strategies such as building national identity or promoting organizations transcending main cleavage lines. Both strategies should be tailored to specific local conditions in order to succeed.

Strengthening civil society

An active, tolerant, and law-abiding civil society is an indispensable condition for the consolidation and persistence of democracy. All self-organized, intermediary groups representing collective interests and identities of citizens should be equal partners in a pluralist civil society. Building a civil society that is not merely strong or densely organized but disavows violence and upholds the democratic rule of law should be a top priority. Moreover, democratic civil society must be based on universal democratic norms, which transcend cultural and geographic boundaries.

Civil society organizations can perform their democracy-facilitating functions only when certain conditions are in place.

- First, they need a predictable and stable legal environment, freedom of association, protection of civil

liberties, and the presence of diverse and independent media.

- Second, they need autonomy from direct State or sponsor interference.
- Third, they need resources and technical assistance that can be provided by the State (through non-partisan subsidies and tax exemptions), by international actors, or by other civil society organizations.
- Fourth, they should have access to the decisionmaking process through advisory councils, consultative channels, and local cooperation in policy implementation.
- Finally, their behavior should be characterized by nonviolent means and civility.

Specific policy recommendations fall into three domains: the institutional context, the internal regulation of civil society organizations, and relationship to external actors.

Institutional context

- Associational life should not be segregated only along dominant cleavage lines (ethnic, religious, territorial or linguistic), since these may promote intractable group conflicts. Steps should be taken to create incentives for cooperation and coalitions across dominant cleavages (for example, promotion and subsidization of corporatist or professional organizations that transcend ethnic and religious boundaries or national organizations that transcend regional divisions).
- Various forms of devolution of government power and cooperation with civil society stimulate the diversification

of civil society organizations and maximize citizen commitment to democratic policymaking institutions. Some successful examples include neighborhood-level participation in public budget allocation, or in preventive health programs in rural areas.

- Civil society organizations should not usurp or strive to achieve political power that should be the domain of other actors and political parties in particular. For example, only political parties should run candidates for national office. Conversely, political parties should not seek to subordinate core civil society organizations, since this undercuts the free articulation of diverse social interests and identities.

Internal regulation

- Internal practices and statutes ought to be transparent and predictable. Civil society organizations must be committed to nonviolence, truly accountable for their financing and governed by democratic procedures. These practices will help avoid illegal use of resources and prevent the use of these organizations by forces hostile to democracy.

Relations with public actors

- To avoid the overrepresentation of dominant class, sectoral and professional interests, those organizations representing poor or marginalized sectors of society should receive priority in assistance from public and

private sponsors.

- To avoid the permanent domination of civil society activities by just a few large organizations or one type of organizations (such as labor unions or industry groups), a multiplicity of diverse actors should be encouraged through carefully targeted technical and material assistance.
- Public resources should be provided transparently, privileging organizations that provide public goods (such as charities) and without interfering in the internal functioning of the recipients. *Indirect* state support is preferable, and should be channelled through intermediaries (foundations, councils), provided through endowments or seed money rather than permanent subsidies, distributed on a limited basis (via matching funds, for example), and subject to time limits (such as sunset clauses.) Moreover, technical assistance should take priority over financial aid. Another possibility is ‘preference vouchers’, where citizens receive a fixed sum each year to contribute to the civil society organization of their choice.

Support criteria should prioritize nonviolent, pro-democratic associations that have open membership. Funding organizations on the basis of these commitments not only supports potential democratic actors, but may help to create incentives for less democratic actors to either moderate or split into competing organizations. The size of the recipient organizations is less important than their aims and their role in local communities: mass parties and mass organizations should not be necessarily prioritized. Similar criteria should be used by foreign donors. Our opinions are divided, however, on whether

religious organizations should be eligible for public funding.

Strengthening political parties

The development of political parties is widely viewed as the institutional basis for democratic pluralism and representation. Their weakness is one of the most fundamental challenges facing new democracies.

Political parties play numerous roles in a democratic system. Among these are codifying information for voters, aggregating and representing popular interests, legislating and taking responsibility for policy decisions, and recruiting and reproducing future political elites. They are thus key to representation, legislation, and public accountability. Even for a strong president, they provide indispensable tools of popular mobilization and legislative policymaking. Not surprisingly, then, free political parties are the *sine qua non* of a modern, stable, democracy.

Strengthening parties can take several forms, including: constitutional arrangements, electoral rules, and other institutional devices, such as monopoly over candidate nomination in national elections and registration requirements that separate political parties from civil society organizations. While several of our experts stopped short of endorsing mandatory voting, all agreed that increasing voter turnout is critical.

The chief challenge of democratic political party systems is steering between the twin demands of representation and policy effectiveness. An excess of parties in parliament can derail effective policymaking, but policymaking by a single party does little to represent the diverse interests of modern constituencies

or enhance effectiveness. While engineering party systems is difficult, new democracies can make several choices regarding the type of representative institutions. The most basic choice is between parliamentary and presidential systems. A second fundamental choice is between proportional representation or single member district rules.

Among the institutional choices available, a parliamentary system with proportional representation tends to best combine flexibility, responsiveness, and stability. Therefore, it provides a better framework for strong parties.

Parliamentarism based on proportional representation can also promote competition based on political programs, rather than on patronage or individual charisma. Such 'programmatic competition' creates more stable party identities that go beyond the political lives of individual leaders or patronage programs, and promotes greater political cohesion. Finally, it is more likely to recruit a relatively broad political elite, produce a collective parliamentary institutional identity that is separate from those occupying office, and transmit democratic values throughout the political system.

Where a presidential system already exists for historical reasons, policymakers should work to increase accountability and to balance presidential power with that of political parties by enhancing the role of parliaments.

Specific policy recommendations fall into three domains: the institutional context in which parties operate, the rules governing internal party policies, and their relationship to other public actors. The improvement of internal party practices, especially, can clean up their image and strengthen them.

Institutional context

- In the early stages of transition, it is better to err on the side of representation and inclusion. Even a superficial commitment by a new party to democratic competition and to pluralist norms should suffice for initial inclusion. Low (1-2%) electoral thresholds will allow more parties to enter parliament. Increasing the number of representatives from a given district or constituency has a similar effect.
- In divided societies, higher thresholds may be appropriate. National and closed party lists tend to force parties to represent broader constituencies with programmatic appeals, rather than regional interests or popular personalities.
- Granting political parties the monopoly on fielding candidates in national elections further strengthens parties. In presidential systems, political parties can be strengthened by weakening the decree and veto powers of the executive.

Internal rules

Internal governance and decisionmaking should be transparent, inclusive, and fair. Party statutes should be public, and registration requirements should include democratic selection and accountability of party leaders. The codes of conduct for political parties must commit them to the rule of law, disavowing violence, anti-system appeals, and discrimination on the basis of race, religion, culture, or ethnicity. Given their access to governmental power and considerable resources, political parties must have stricter

codes of conduct than civil society organizations. Independent and diverse media are especially important in holding parties accountable.

Relations with public actors

- Party financing should be public and transparent. The sources of party funding may be less important than their transparency: the clearer the financial backing of each party, the clearer their identity for voters, and the potential for the latter to withdraw support for parties with sources of funding seen as illegitimate. Public financing of political parties and electoral campaigns, following the Scandinavian model, should be nonetheless seriously considered. The direct funding of political parties by foreign States should be prohibited, although political parties should have the right to receive technical assistance and expertise from parties and foundations in other countries.
- For new democracies, flexibility and openness to change should be among the most important principles guiding institutional choices. Thus, as democracy begins to consolidate, institutional changes may be necessary. For example, electoral thresholds may have to be increased to limit party fragmentation, or the share of public funding to civil society organizations and political parties may need to be increased.

Economic and social conditions

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EXECUTIVE SUMMARY

Economic and social policies must be directed towards equitable development. The two most important issues are how to organize public revenues and reorient public expenditures to this goal.

Macroeconomic stability, trade liberalization and regulated forms of privatization are necessary policies but insufficient to achieve growth. First, they need previous institutions if markets are to work. Second, they must follow a particular sequence if reforms are to be effective.

If democratic governments in developing countries open their trade, their agricultural products must have access to the markets of industrialized countries.

How to organize public revenues

Development policies require sufficient fiscal resources. An increase in tax incomes in new democracies is only possible with institutional transparency, political accountability, and a public expenditure that corresponds to social demands.

The economic consequences of taxation cannot be separated from those of the public expenditures that they finance. Public expenditure in productive inputs increases private investment and growth rates. Investors care more about whether public expenditure increases the productivity of factors of production, governments are stable, macroeconomic conditions are under control, and tax rules are predictable.

How to reorient public expenditures

Democratic governments in developing countries do not have to accept that a trade-off exists between redistribution and development. Greater equality can enhance economic efficiency: for instance, when the State redistributes productive assets that generate diminishing returns. Public expenditure on primary and secondary education, on primary and preventive health care, and on food subsidies increases the productivity of physical and human capital.

Economic fluctuations will create frictional unemployment, thus education and training must avoid its conversion into structural unemployment.

If public resources are limited, protection from need must depend on targeted social safety nets, different from means-tested programs, directed to the growth and welfare of socioeconomic groups and geographical areas, and integrated into policies of development that include job creation and economic competitiveness.

Democratic governments in the poorest countries can only design policies for equitable development if they get external aid. This aid is dependent on domestic conditions (political stability, rule of law, responsible macroeconomic policies, and transparent and competent agencies) being met. This aid also requires an overhaul of current international financial institutions. When these conditions are met, the debt of poor countries must be written off, with new lending based on conditionality. External aid is crucial to promote pro-poor economic development, increase the productivity of workers, and improve regional infrastructures.

REPORT

Introduction

If economic and social policies are to be directed towards development, the two most important issues are: (1) how to organize public revenues; and (2) how to reorient public expenditures to this goal.

Over more than ten years, overwhelming evidence has shown that democracy is compatible with the market and with economic efficiency. At the same time, the international context in which these democracies have operated has been globalized (both in terms of trade openness and liberalization of capital flows); economic growth has been limited (the average growth rate over the last twenty years has been halved since 1973); job creation has been slow; and income inequalities have grown. Macroeconomic stability, trade liberalization, and regulated forms of privatization must be combined with additional policies if effective growth is to be achieved. These additional policies have to be financed. While marginal tax rates can be lowered in some countries, a reduction of fiscal resources would harm growth. High tax revenues have no effect on investment, the supply of labor or growth, even in globalized economies. Investors care more about macroeconomic, fiscal and political stability. Sufficient public resources are needed for economic management, adequate investment in physical and human capital, and policies to raise the productivity of the poor.

New democracies have generally been established in hard times. Evidence shows, however, that democracies become more stable the higher their levels of development and rates of growth. They also become more stable when the distribution of income is more egalitarian. Economic and social conditions,

from both an aggregate and a distributive perspective, influence whether the new regimes can last and work.

How to organize public revenues

For more than a decade, economic policies in new democracies, with few exceptions, have produced only modest economic growth, a sluggish creation of jobs, and greater income inequalities. The levels of savings and investment have been low; the balances of payments have been in large deficit; free competition has been limited; the States have often been captured by powerful vested interests. Macroeconomic stability, trade liberalization, and regulated forms of privatization are necessary policies, but insufficient to achieve growth. Thus, if economic growth is an important condition for the survival and effectiveness of democratic regimes, economic policies must include the following components:

1. Democratic governments must ensure attractive conditions for investment:
 - (i) They must construct from scratch (especially in post-communist countries) new institutions, such as stock exchanges, investment banks, security control commissions, investment funds, trade and tax codes, competition and antitrust rules. The construction of new institutions should be an essential part of the advice and assistance given by international financial institutions.
 - (ii) They must pursue economic reforms in a given sequence. The market determination of exchange and

interest rates must come before both trade liberalization and privatization. The abolition of barriers to competition and the establishment of antitrust laws must precede changes in the structure of ownership if private monopolies are to be avoided. Privatization, without effective regulation, can result in a host of negative externalities and negative fiscal effects. The liberalization of capital markets and natural monopolies requires effective regulation in order to avoid economic abuses. (The risk for an efficient market often stems not from too much, but inadequate, regulation).

(iii) If democratic governments in developing countries open up their trade, their agricultural products must have access to the markets of industrialized countries. The value of protectionist measures for agricultural production in the industrialized countries exceeds by 50% the value of total external aid to developing countries.

(iv) They must achieve low inflation, and control fiscal and current account deficits. Macroeconomic stability is crucial if a government wants to have a margin of manoeuvre to follow its policy preferences.

(v) They must increase savings rates, including fiscal reform to encourage retained earnings by companies, and improve the operation of factor markets (financial markets, for investment; labor markets, for the training of the labour force).

2. Democratic governments must utilize the State to promote growth. For this to be effective and transparent, the bureaucracy must become competent and accountable. If this is achieved, governments must

then:

- (i) Restructure public expenditure, from investing in noncompetitive industries to investing in human capital, infrastructures, and labor market policies.
- (ii) Promote exports. This depends on investing in infrastructure: communications, energy, and transportation. The State must also help in reaching external markets with information, products, and technology.
- (iii) Create links between large and small firms, to augment the productivity of the latter.
- (iv) Form productive private-public partnerships.
- (v) Ensure that predictable rules that encourage the confidence of economic actors are compatible with alternation in government and policies as a result of elections.

How to reorient public expenditures

3. Democratic governments must also develop fiscal resources to promote growth.

In the poorest countries, the short-term possibilities for doing so are limited: their expenditures have to be based upon external aid, contingent upon domestic conditions. This is one reason why the commitment of the developed countries to dedicate 0.7% of their GDP to foreign aid is critical. In other developing countries, new democratic countries have inherited systems of very limited public revenues and expenditures. These are also very unequal: higher taxes are not related to higher

income, and the lower income groups do not benefit more from public expenditure. Under authoritarianism, revenues depended on State intervention (tariffs, licensing fees), on the export of high-value resources, on the complicity between the State and key interest groups. In most developing countries, income tax represents less than 15% of public revenues. The design of new fiscal systems involves:

(i) A political battle under technical disguise. On the one hand, previous beneficiaries of privileges will try to sabotage fiscal reforms. On the other hand, taxpayers may reject taxes due to a persistent mistrust in the capacity and fairness of the State. A democratic government can only appeal to the population against entrenched resistance if:

- (a) It offers greater political accountability and is willing to accept monitoring, in exchange for greater revenues.
- (b) It introduces changes in public spending to correspond to social demands.

(ii) Sufficient fiscal resources for macroeconomic stability. Public revenues must be sufficient if they are to be an effective economic instrument, and meet development needs, such as necessary investment in education and training, infrastructure, and labor market policies.

(iii) Different reforms that include:

- (a) Broadening the tax bases.

- (b) Streamlining and simplifying the tax system because the more complex it is, the more difficult to administer and the higher the propensity for evasion.
 - (c) Establishing moderate tax rates, with a minimal number of exemptions.
 - (d) Stabilizing the tax rates and the fiscal structure, to enhance predictability for economic decisions.
 - (e) Balancing direct and indirect taxation according to which taxes make evasion more difficult, which distort less decisions on investment, production, and employment, and which are fairer.
 - (f) Making customs collection more transparent.
 - (g) Enforcing corporate taxes.
 - (h) Taxing some financial transactions.
 - (i) Reducing tax exemptions.
 - (j) Avoiding one-shot revenues from privatizations as a substitute for fiscal revenues.
 - (k) Establishing fiscal federalism if a country is politically decentralized, and not just transferring public expenditure to regional and local authorities. Otherwise, fiscal irresponsibility will result. Under fiscal federalism, a system of territorial transfers must be established in order to redistribute income from rich to poor regions.
- (iv) Using fiscal sufficiency as the criterion for taxation. Redistribution should be the task of public expenditures rather than of taxation.

(v) The economic consequences of taxation cannot be separated from those of the public expenditures that it finances. Thus, if taxes contribute to public expenditure in productive inputs, private investment can increase and higher growth rates can result.

(vi) Available evidence (for OECD countries) shows that tax rates have no effect on savings, investment, the supply of (and demand for) labor, or economic growth. Investors care more about political and macroeconomic stability (including the absence of fiscal deficits), and the predictability of tax rules, than about the level of fiscal pressure.

(vii) The effect of globalization on foreign investment is inconclusive. Negative reactions to tax rates are more likely among domestic investors than among foreign ones.

4. Democratic governments do not face a 'cruel choice' between economic efficiency and redistribution of assets and income. It is often argued that the redistribution of assets and consumption misallocates productive resources, decreases aggregate savings and thus investment. But it is also claimed that greater equality enhances efficiency, improving the use of human resources, fostering public and private savings, and expanding support to economic reforms. Can economic growth be promoted, rather than eroded, by redistribution?

(i) In the case of productive assets that generate diminishing returns, a more egalitarian distribution can lead to greater economic output. But redistribution

can only be implemented by the State, as credit markets for such assets are missing because borrowers cannot credibly commit the productive use of loans. The cost of redistribution is lower if it consists of lump-sum transfers (i.e., a land reform, or a one-time levy to build schools).

(ii) Resources that increase the productivity of physical and human capital must be considered as investment. Public education increases the productivity of the poor, and generates high returns: it contributes to growth and to income equality over the life cycle. Public expenditure on health also enhances the productivity of the labor force. Food subsidies reduce poverty: 1.2 billion people in the world can survive, but not work; micronutrient malnutrition can cost a country 5% of GDP, while redressing it can cost less than 0.3% (World Bank data).

(iii) The argument that a redistribution of consumption increases the value of leisure, and thus reduces the supply of labor, is unconvincing. Econometric studies have shown that taxes that finance transfers lead to higher growth, and that a guaranteed minimum wage has no effect on unemployment. In addition, the debate on the consequences of labor market rigidities on employment is not conclusive. Our experts see deregulation, as well as decentralized wage negotiations, as crucial for job creation, while a few others argue, on the basis of econometric evidence, that labor market rigidities do not have consequences for employment levels.

(iv) Economic fluctuations will create greater frictional short-term unemployment. Education and

training are the best policies to avoid the conversion of frictional unemployment into structural long-term unemployment. This means teaching people how to learn over the course of their lives, rather than training them only for their first job.

(v) One way of improving the quality of jobs is to focus on where jobs are actually being created. Small and medium enterprises are the main source of jobs in developing countries. They must have better access to finance and technology, and better links with large firms. Micro-firms have fewer chances for improving the quality of jobs, and workers should be gradually incorporated into other parts of the economy. A large informal sector is prominent in many developing new democracies. While this sector must be gradually incorporated into the 'formal' economy (for instance, in order to avoid exploitation and improve working conditions), it can also be the location of entrepreneurial initiatives, and can contribute to the profitability of formal businesses via the provision of small or specific orders. The informal sector does not necessarily cause a loss of taxes, because it generates income and therefore effective demand. Lastly, it often plays a significant role in alleviating material hardship, providing a 'partial safety net'.

(vi) If public resources are limited, protection from need must depend on targeted social safety nets, rather than on citizenship-based welfare policies, as targeting is more economically efficient. Targeting is different from means testing, and must avoid the social stigmatization of beneficiaries. It may, however, be difficult to administer, politically vulnerable, and socially divisive.

Rather than targeting households, redistributive programs can be directed to the growth and welfare of socio-economic groups or geographical areas (providing them with roads, transport, telecommunications, schools, or clinics). Protection from need must be integrated into policies of development that include job creation and economic competitiveness.

(vii) If growth and redistribution are to be combined, public revenues will have to be reallocated to different social programs. For instance, in education, greater resources must be redirected from the university to the secondary levels in general, and to the poorest sectors in particular. In health, the priority should be shifted decisively to primary and preventive care, because building large hospitals is expensive and is less concerned with general health coverage. Free access to social welfare provision need not be guaranteed to higher income groups, because it is too costly.

(viii) Decentralization of social services should be limited to management and not to policies or finance; otherwise the poorest areas will get the poorest services.

(ix) The relationship between the level of social expenditures (as a % of GDP) and its distributive consequences is not a direct one. It is mediated by its form of allocation and implementation. Even with limited resources, much can be done to attend material needs and fight poverty. This makes it easier for a new democracy to survive and work.

5. Democratic governments in the poorest countries face particularly urgent necessities. General prescriptions

need to be adapted to their specific circumstances. These countries do not attract foreign investment, have limited participation in international trade, and are not integrated in the world economy. Thus their problems do not stem from the globalization of their economies. Democratic governments can only achieve a minimum level of autonomy if they get external aid.

(i) External aid can be effective in promoting growth only to the extent that certain domestic conditions have been established. These conditions include:

- (a) Reasonable political stability, and progress towards the rule of law (including enforceable contracts).
- (b) Responsible macroeconomic policies.
- (c) A combination of competent public agencies and a legal framework that permits private firms and nonprofit organizations to deliver basic services to the public.

(ii) Some external conditions have also to be modified, including the overhaul of current international financial institutions, and the means by which external aid is monitored.

(iii) When such domestic and external conditions are met, the debt of poor countries must be written off without additional conditions. It is not realistic to expect its repayment, and servicing it leaves governments with no economic resources. However, new lending must be based on standard approaches to conditionality.

(iv) For the poorest countries, minimalist programs

based on the most pressing economic and social needs are the only feasible option. Mostly financed by external aid, they imply fine-grained State interventions, by regions or sectors, designed to promote pro-poor economic development. They respond to political and financial realities: in the short term, they benefit the poor, do not diminish income needed for investment, increase the productivity of workers, and can improve regional infrastructures.

(v) For poor countries, the experiences of new democracies with respect to NAFTA, ASEAN, and the EU demonstrate the potential benefits of regional integration for trade and development.

Constitutional design

Moderator: Valentín Paniagua (Peru)

Coordinator: Richard Simeon (Canada)

Introduction

The central premise of the constitutional design panel of leaders is that a well-designed constitution is an essential prerequisite for democratic politics. A democratic constitution may not by itself guarantee democratic governance, but a poorly designed constitution will almost certainly undermine it.

A well-conceived constitution is essential to the functioning of a developing democratic order. It sets out the basic rights of citizens and the institutions to protect them; it establishes the institutions to provide for representation and the democratic participation of citizens; it defines the authority of governing institutions; and it sets out the amending procedures that will allow the constitution to adapt to new circumstances and needs. A well-established and workable constitution reduces the level of uncertainty among the population about whether or not democracy will remain ‘the only game in town’, and reduces the level of perceived risk that a reversal to an authoritarian regime may take place. It both limits and empowers.

Heads of State and Government play an essential role in the constitutional process:

- They must make sure that the constitution is visible as an effective instrument of governance and of the society's self-rule. When the making of major policy decisions or the accommodation of interests occurs behind the scenes, without regard for the rules of the game and the requirements of openness and transparency established by the constitution, people will quickly lose their respect for constitutional government.
- If Heads of State and Government emphatically support democracy and the constitution, make the establishment of democratic, constitutional processes a priority, and strictly adhere to democratic practices in their own conduct, rather than, for instance, populist ones, the chances of democracy surviving will be much greater. Heads of State and Government cannot avoid their personal responsibility for constitutional development. Will they use their leadership to disrupt constitutional arrangements or to deepen them?

General principles

The recommendations from our panel of experts are based on seven general principles:

- A sustainable democratic constitution must be inclusive of all the citizens of the society. This is particularly important in societies that are divided along ethnic, religious, linguistic or cultural lines, but it matters as well

in more homogeneous societies where representation in terms of gender and income are also important issues.

- The indispensable elements of any democratic constitution include a set of rights for citizens, rules and procedures that will govern the actions of public officials, and procedures for free and fair elections. In many countries, constitutions have two other central elements. First, they may include a statement of fundamental values that the country aspires to. This may have an important educational effect, especially in a new democracy. Second, especially in divided societies emerging from protracted conflicts, they represent a 'social contract' among citizens and between them and their government. This may be necessary to secure the commitment of all groups to the new constitutional order.
- A constitution must have enough continuity and stability that it is understood as a stable set of rules and principles of governance. It should, therefore, not be subject to easy modification. But it must also be flexible enough to change in response to new circumstances and needs. Constitutional amendments, therefore, must not be too frequent or subject to the whim of transitory majorities. They should only be made by supra-majorities that ensure broad consent; and perhaps should take effect only after they have been passed by two successive legislatures.
- A democratic constitution in any country today is part of a global movement toward democratization, which is reflected in the growing importance of international laws and treaties. International norms and values will therefore inform any domestic constitutional process. By the same token, successful development of democracy in any country will feed into and enrich the global dialogue. It is a two-way street.

- Nonetheless, a constitution must also reflect the specific historical and cultural circumstances of each country if it is to be successfully rooted in the society.
- The processes through which a constitution is designed or amended will have important implications for its long-term sustainability. The broader the participation in its development, and the broader the support used to ratify it, the more legitimate and secure it will be.
- A democratic constitutional order is only sustainable in the long run if it is backed by a deep commitment to constitutionalism and its underlying principles both among citizens and leaders. In new democracies, this cannot be taken for granted. It involves conscious efforts by governments and agents of civil society. It requires the development of a profound culture of democracy among courts and judges, and a network of academic research and civil society organizations committed to the development of democratic values and practices. These are fundamental to energizing and giving real meaning to a democratic constitution, but they are not part of the constitutional design itself and therefore the panel of leaders did not make any specific recommendation on this point.

Recommendations

With these broad principles in mind, the constitutional design panel of leaders addressed four critical issues:

- The need for equal citizenship and full inclusion in democratic processes.

- The need to build institutions that support democracy throughout the political system.
- The need to build and to sustain democratic opposition.
- The need for explicit provisions with respect to the scope and limits of emergency power.

The need for inclusion

Democracy is especially difficult to build and sustain in societies deeply divided along ethnic, cultural and other lines. Yet, in fact, the great majority of modern countries are divided in these ways. Finding ways to accommodate these differences, therefore, is essential. We must avoid two sets of problems. First, is the situation where an ‘insecure majority’ represses or dominates the minority. Second, is the situation in which an ‘insecure minority’ is tempted to rebel or secede.

These dangers are all too real in many new democracies. Many have defined their political community in ways that exclude certain minorities and deny them full rights and citizenship; and many face secessionist movements that threaten the stability of the democratic order.

The panel of leaders makes the following recommendations:

- The fundamental principle of equal citizenship should pervade the entire constitutional document.
- The fundamental rights in the constitution must apply equally to all citizens.
- The majority must avoid any temptation to define the nation in ethnic terms in the constitutional text.
- The bill of rights must reject all forms of negative

discrimination against any minority groups.

- Some recognition of positive rights for minorities, such as the right to education in the minority language, may be desirable, especially for those groups that have been disadvantaged. Such positive rights must not infringe on the basic human rights that apply equally to all citizens.
- Responses to diversity that involve the empowerment of minority groups through special political arrangements, such as federalism, are somewhat more controversial. Since the situation in each country varies so much, the panel did not wish to make general recommendations on this point.
- But the panel strongly recommends that where such arrangements are made, equal if not greater attention must be paid to building positive linkages and bridges among the different groups. The electoral system and other institutions should be designed so that they encourage political leaders to make appeals across group lines and build multigroup coalitions.

The need to build institutions that support democracy throughout the political system

In any democratic system, the central protection for citizens' rights lies in the bill of rights and in a strong, independent judicial system to enforce it. But the panel concluded that this alone is insufficient because challenges to democracy arise in a great many different arenas, not all of which are easily addressed through the judicial process. As a result, the panel suggests that a number of other institutions need to be built into the constitution. These will act as guardians of democracy

in a number of specific arenas. Such institutions should be autonomous and independent of the party of government in power. They are designed to strengthen the checks on unrestrained power and to provide alternative avenues for citizens and groups whose rights may have been violated. Such institutions include:

- A national election commission that will be responsible for ensuring that elections are conducted freely and fairly. Such a commission will be responsible for ensuring the fair selection of candidates, the avoidance of intimidation of voters or candidates in the conduct of election campaigns, a secure and secret process for the casting of ballots, and a fair and accurate count of the result.
- A body to ensure the freedom of the press. This is especially important in those countries in which major media are owned by the State, but it may also be important when privately-owned media constitute a monopoly or are subject to government pressures.
- A body to ensure that public finances are conducted in ways free of corruption or misuse. Such a body would provide audit and monitoring of the use of public funds and promote full transparency in order to allow citizens to hold government accountable.
- A public official or body—usually referred to as the ombudsman—to which citizens harmed by governmental misconduct can appeal for redress.

The need to build and to sustain democratic opposition

An essential element of democracy that is often

misunderstood is the necessity of an effective— and ‘loyal’— opposition. The opposition is often a government in waiting and is therefore integral to the basic need for democracies to allow for and to encourage alternation in power. The opposition can often give voice through legitimate political processes to minority groups who might otherwise be tempted into extra-parliamentary political activities. A strong opposition is the key to effective monitoring of governmental action and to ensuring full accountability.

Even governments in power should welcome effective opposition because in a democratic system they are likely one day to be in opposition themselves; because effective criticism will maintain their own attention to the provision of open and effective government; and because public policy will be improved by open public deliberations.

There are two sides to this question. First, governments must learn not only to tolerate, but also to welcome opposition. Second, the opposition must learn to accept the legitimacy of government and to operate through democratic procedures.

It is not easy to guarantee an effective opposition through constitutional provisions. However, the following measures will assist in doing so:

- Constitutional affirmation of the necessity and legitimacy of opposition in the democratic order. Several supplementary provisions flow from this basic commitment.
- Strong freedom of information provisions. The opposition should have full access to government information and the actions of bureaucracy.
- Constitutional guarantees for freedom of the press, freedom of association and so on. These rights are

essential to the expression of dissent central to a healthy democratic debate.

- Protection of opposition leaders against intimidation from public officials.
- A constitution that provides for a strong and effective legislature, since this is the primary form in which opposition ideas can be voiced in a democratic manner.
- Involvement of opposition leaders in appointments to the court and to the other independent bodies discussed previously.

The need for explicit provisions with respect to the scope and limits of emergency power

The possibility of terrorism or extremist actions frequently leads governments to adopt measures that may infringe on citizens' rights in order to allow the State full powers to maintain order and security. The panel accepts that such powers may be necessary where the integrity of the State and its democratic regime are under serious threat. However, in the interest of democracy it wishes to subject emergency powers to strict control, to narrow their scope as much as possible, and to ensure that they are only temporary. Governments must take extraordinary action when there exist fundamental threats to the democratic order itself. But, they must take care to ensure that what they do does not become an even greater challenge to democracy.

If the constitution is silent on the matter of emergency powers, there will be little restraint on their use by governments. Therefore, the constitution must contain specific provisions dealing with emergency matters. These must include:

- Any granting of extraordinary powers must be explicit and contain only those powers absolutely necessary to deal with the question.
- Any such granting of power must have strict time limits. These limits should be as short as possible. They should be renewable only after full legislative debates.
- An independent body should be established to monitor and to assess the government's use of its special powers. This body will later report to the legislature and citizens on what has been done.

The legislature and its relations with the executive

Moderator: Valentín Paniagua (Peru)
Coordinator: Bolívar Lamounier (Brazil)

Introduction

For the purposes of clarity when describing the content and results of the discussions held by the Heads of State and Government in this case, the presentations made by the coordinator are summarized below.

Structure of the initial presentation

First, the premises of the experts' report and the five critical issues identified in it were presented:

- 1) The legislative branch of power is a central element in any democratic system, but in most democracies, both old and new, there is a patent executive dominance.
- 2) As legislatures are by their very nature open to public scrutiny, they tend to be highly vulnerable to misunderstandings and public disaffection.

- 3) Significant efforts must be made, therefore, especially in emerging and transitional democracies, to enhance the role, value and effectiveness of legislative bodies.

The five critical issues addressed in the panel of experts' report were:

- 1) Enhancement of the commitment of legislators to their parliament as an institution.
- 2) Increasing the capacity of legislatures: material and human resources.
- 3) Enhancement of the legitimacy and symbolic importance of the legislature.
- 4) Striking an appropriate balance between organizational stability and flexibility.
- 5) Parliamentary versus presidential forms of government.

An attempt was then made to focus discussion on the third of the five issues listed above: the need to enhance the legitimacy and symbolic importance of the legislature. In order to achieve this broad objective, the experts had suggested consideration of the following issues:

- 1) Commitment to the promotion of high standards of public practice.
- 2) Institutional self-improvement by means of, *inter alia*, internal investigative and oversight committees.
- 3) Improvement of transparency and accountability through:
 - a) Dissemination to the public of members' voting

records, expenditures of the legislature, its members and staff and all possible information on its legislative procedures and practice.

- b) Public financing of campaigns and party operations.
- c) Definition of a clear legal framework for lobbying and situations of conflict of interests.

Another topic selected for discussion was the complex issue of how to strike an appropriate balance between the equally desirable goals of, on one hand, stability, coherence and cohesiveness of political organizations and alignments, and, on the other hand, the flexibility required for the promotion of a lively climate of political debate, making room for new faces and ideas and allowing legislators enough room for individual initiative and accountability. Although it has a specific bearing on the legislature, the experts and I thought that this issue actually pertains to the political system as a whole. As a pervasive theme in contemporary political science, it refers to two contrasting views of democracy: the pluralist (or consensus) theory, which seeks above all to empower minorities, and the majoritarian view, holding that majorities are essential for democratic legitimacy as well as for governability.

Some measures that the panel of experts thought might be useful for emerging and transitional democracies included, at one end of the spectrum, the risks of overly compact or disciplined systems, which might be reduced by:

- 1) Alteration of party rules to allow members greater flexibility in offering and debating proposals as well as in voting.
- 2) Increasing the openness and transparency of procedures for the nomination of party candidates.

- 3) Preferential voting systems, whereby voters can vote for individuals instead of for closed party lists only.

At the other end of the spectrum, the risks of inchoate or fragmented systems can be reduced by:

- 1) Two-tiered ('mixed') electoral systems, which can achieve overall proportionality while at the same time maintaining single member districts.
- 2) A threshold or barrier clause (i.e., minimal percentage requirement of the total vote for a party to have access to the national legislature) in order to discourage microparties.
- 3) Holding single-round presidential elections, in which the candidate winning a plurality is elected.
- 4) The addition of nationwide districts to increase legislative attention to national concerns, as opposed to narrow local or special interests.

The actual flow of the discussion

The actual flow of the discussion was not exactly as had been envisaged. A new structure emerged which roughly covered four topics.

About the premises

Although the premises were broadly accepted, some remarks were made. Some of the participants seemed to wish deeper reflection on the idea that legislatures are central institutions in any democratic system. There are important arguments

(historical, theoretical and normative) why we should continue to regard legislatures as key democratic institutions. But the reality of the matter is that in most democracies, and even among the most advanced ones, legislatures are weak. Clear executive dominance is the rule, not the exception. In the early 20th century, especially in countries influenced by fascist or protofascist ideologies, legislative impotence was easily ‘explained’ as an inexorable trend, the outcome of which would be some sort of technocratic dictatorship. But today this ideological ‘explanation’ has lost its appeal. The experts’ report recognizes that legislative weakness does have important structural roots, but rejects the notion that it is a permanent or inexorable trend. Indeed, it states that enhancing the role, value and importance of legislatures is an imperative for democracies all over the world, and particularly for emerging and transitional democracies. Far from superficial, the discomfort and the inconclusiveness of the remarks offered by the participants should therefore be understood as an indication that placing the present role of legislatures in a broader context is indeed a theoretical and practical necessity.

Practical steps to enhance the value, role and importance of legislatures

My suggestion was to concentrate the discussion on the third of the five critical issues listed in the experts report, i.e., on the need to enhance the legitimacy and symbolic value of the legislature, by which we basically meant self-reform aiming to ensure high ethical standards. Though clearly recognizing the importance of this particular point, participants chose to discuss it together with the two preceding issues addressed in the

report, i.e., enhancing the importance of the legislative career in the eyes of the legislators themselves and strengthening the capabilities (staffing and material resources) of the legislatures. There was strong consensus among the leaders on this. To take just one example, one participant strongly endorsed the suggestion that legislators must be allowed to seek reelection. Very long tenure, i.e., holding legislative office through several consecutive terms, can be bad for a legislature, but very short tenure can be just as bad, if not worse, as it makes any personal investment in the legislative career worthless. A well-functioning legislature requires a lot of learning, in practical matters as well as legislative 'culture', on the part of legislators. In order to achieve this; it is essential to allow legislators to stay in office beyond a first term.

Striking an appropriate balance between organizational stability and flexibility

Participants clearly agreed with the overall formulation—the need to avoid the extremes of rigidity and inchoateness—but several seemed frustrated by lack of time to be able to examine our suggestion nor to make other suggestions based on their political experience. On the whole, they seemed more concerned with the risks of party fragmentation, but nodded positively to my suggestion that individual initiative, autonomy and accountability are also important and that legislatures should be genuine forums for debate and negotiation, instead of mere sounding boxes for predetermined policy or ideological stands.

Presidential vs. parliamentary government

The choice between presidential and parliamentary forms of government was widely discussed — and quite passionately in the case of a few participants. Participants agreed with the statements made in the experts' report that both forms could meet high democratic standards. Sympathizers of one or the other form agreed that both can work well, and also that both can be severely undermined by an excessively undisciplined or fragmented party system. It is, however, worth noticing that some leaders were more positive than the experts about the potential of so-called “semi-presidential” systems. Although they cautioned emerging democracies against the perils of pure presidentialism, the experts also pointed out that the semipresidential form also involves some risks, paramount among which is that executive authority is shared by an elected Head of State and a prime minister. Some leaders pointed out that several European States adopted this system and that it has proved more stable and effective than initially feared by political scientists; that it is a form capable of alternating between presidential and parliamentary “phases” as circumstances evolve, hence a quite plastic one; and, finally, that presidents simply do not have the time to interact closely with the legislature, with the consequence that the presidency thus becomes too “imperial” and aggravates the popular perception of the legislature as being irrelevant and impotent. As stated above, in both the experts' report and in the presentation, we did our best to steer away from an abstract debate on presidentialism and parliamentarism as abstract and extreme poles. But the fact that the choice between the two systems was debated in lively fashion and that the semi-presidential form received more attention than we expected, suggests that this whole subject

should be taken up in future conferences.

The judiciary and its relations with the executive

Moderator: Kim Campbell (Canada)

Coordinator: Guillermo O'Donnell (Argentina)

General comment

In all four sessions there was active participation at all times. One positive— or negative— point was that there was a clear feeling that each one of the issues addressed merited further discussion. The atmosphere was friendly in all cases and there was no noticeable reluctance on the part of the Heads and former Heads of State and Government to express their views. The excellent work done by Ms. Kim Campbell in steering the debate undoubtedly contributed to this fact.

The questions posed to the Heads and former Heads of State and Government

1. *We began by making a generic assertion about the huge importance for different aspects of democratization of having a judiciary that is sufficiently independent and endowed with authority and capacity.*

All the Heads and former Heads of State and Government

quite readily agreed with this assertion.

2. *The next issue was one we specifically raised as a point of consultation. For the legitimation of democracy it is important for justice to reach ordinary people so that they can feel that democratization has significantly changed their relationship with the judiciary in numerous areas to do with their daily life. A discussion took place on the examples identified by the experts for this purpose, including injunctions; national and local ombudsman; class actions; the use of paralegals (especially in poor areas); and the temporary use of senior law students to provide different forms of legal aid.*

The Heads and former Heads of State and Government did not voice any objections to these steps although they did not give any details of them in their own countries, very probably because of a lack of time. However, two of them (from Latin America) did comment on the successful use of paralegals in Nicaragua and one highlighted the successful implementation of injunctions in his country.

With very few exceptions, they agreed that the slowness of court proceedings in their countries is a serious problem. They did not offer any specific solutions.

One African Head of State eloquently argued that although these measures are useful there is little chance of them being implemented in a country like his that has been destroyed by years and years of civil war, where there are practically no lawyers and where the few that do exist do not want to be judges who are extremely underpaid. He proposed that experts from African countries, not solely from South Africa, should be invited to any future meetings so that the reality of the poorest African countries can be properly analyzed together with measures that are specifically relevant to them.

3. *After repeating the principle of the importance of an independent judiciary, the comment was made that the experts had noted with some concern the trend in some new democracies towards granting the judiciary **excessive** independence. The experts observed that this excess tends to lead to an excessive “encapsulation” of the judiciary; a dominant emphasis on the defence of or promotion of privileges; opportunities for corruption that are hard to control; and, generally, a total lack of involvement on the part of this branch of power in major problems and national crisis situations as well as in the policies that are proposed by the democratically elected authorities to tackle them.*

With just one exception, the leaders who talked about the issue (about half) agreed that this was a problem in their countries and some of them regarded it as a very serious problem (one of them used the interesting term “endogamy of the judiciary” to refer to this problem).

In particular, the Latin American Heads and former Heads of State and Government agreed that the creation of “judiciary councils” in their countries following the continental European model could be classed as a failure. According to these Heads, instead of providing a suitable mechanism for the control and governance of the judiciary and the appointment of its members as expected, this institution—widely adopted by these countries during the 80s—has given rise to serious problems of patronage, politicization and inefficiency. Two of those Heads said that there was a need to return to the previous model, similar to the US model, whereby the executive puts forward judges for appointment to congress which has to approve them on a two thirds majority vote.

It was interesting to note too that particularly the Heads of poorer countries said that with or without those councils

they had a serious problem of corruption in the judiciary. They linked this problem to the very low salaries that are paid to members of the judiciary in their countries although this is not the only reason.

4. Comments made by Heads and former Heads of State and Government on some steps suggested to help the judiciary achieve a suitable degree of autonomy (e.g. it should not be allocated a fixed percentage of the public budget; judges in the higher courts should not be appointed for indefinite terms of office without a mandatory retirement age; some of the appointments to higher courts should correspond to distinguished legal experts who do not have a background in the judiciary; external audits of the judiciary's accounts should be carried out by an independent State body; the judiciary's accounts should be opened up to the scrutiny of professional associations, the media and some interested NGOs; gender and other diversity factors should be included in the appointments; and there should be regular, compulsory refresher training courses for judges).

No disagreement with these suggestions was voiced. Some of the Heads of the relatively more advanced countries in economic terms said that they have already implemented all or almost all of these measures although they added that they have not fully resolved the tendency for the judiciary to become entrenched in their position (the “endogamy” idea again). Others added that it is very difficult to introduce suitable gender diversity amongst the male/female judges.

5. Issues not covered in the experts' report or in the coordinator's oral presentation that were spontaneously raised by the Heads and former Heads of State and Government.

In different sessions, two Heads of State and Government raised the point which was clearly endorsed by everyone else that one serious problem that is emerging is what they called “mediatic judges”. These judges basically seem concerned about their own appearances in *the media* and their own media image, ignoring the discreet behaviour and low profile that should be maintained by judges who should only be heard through their decisions in corresponding court cases. Furthermore, this tendency encourages an undesirable politicization of the judiciary. The Heads did not propose solutions for this.

Another member of the group from a country with a fairly high level of economic development pointed out that one important flaw is the lack of training given to these judges to tackle the complex economic problems posed by globalization..

One participant pointed out that in recent cases of transitions from military-based authoritarian regimes it is important to limit the jurisdiction of military tribunals to cases concerning strictly internal armed forces matters.

A number of Heads and former Heads of State and Government said that although they agreed with the recommendation of the experts’ report to purge the higher courts of judges who are particularly implicated with the preceding repressive authoritarian regime, the existing balance of forces unfortunately makes this impossible to do.

Anticorruption measures

Moderator: Leonel Fernández (Dominican Republic)

Coordinator: Susan Rose-Ackerman (USA)

Introduction

This report summarizes my own comments first and then reports on the discussions covering accountability and sectoral reform. Finally, it considers issues raised in discussion that were not emphasized either in the presentation or in the report of the expert phase. Everything contained in the main sections of this report was raised in at least one of the discussions between the Heads and former Heads of State and Government. The groups did not seek to reach consensus on recommendations. Where disagreements or differences of emphasis arose they are noted.

Summary of the presentation

Corruption is the illicit use of public power for private or political gain. Public scandals and the enforcement of the criminal law are not sufficient responses. Instead, reform requires structural changes in the relationship between citizens

and government. In my remarks, two types of accountability were emphasized: accountability, and the reform of particular sectors.

Accountability includes external and internal accountability of government, private sector accountability, and citizen empowerment at the grass roots.

- External accountability requires accountability of the electoral process including disclosure of campaign financing sources and conflict of interest rules. A free media is needed that is not subject to strict anti-insult laws. In the executive branch, accountability requires the public disclosure of information so that private watchdog groups and the media can monitor this information and complain about irregularities. It requires the government to have the means to involve the public and respond to their complaints and concerns.
- Internal accountability requires one part of the government to monitor another part. This could consist of independent commissions for elections, auditing, and to control corruption. However, anticorruption groups must go beyond the prosecution of corruption cases and also deal with structural reform.
- Private sector transparency can help limit corruption by requiring firms to provide detailed financial records and to reveal members of their boards.
- Decentralization: Grassroots participation by ordinary citizens can be a check on corruption and self-dealing.

The need for sectoral strategies will differ on a country-by-country basis but some examples are the reform of tax and customs collection, reform of the police, reform of the delivery

of social services such as health care, and improvements in privatization and procurement processes.

- Taxes and customs: lower rates, simplify the rules, change the tax base, provide credible enforcement, and mechanize collections.
- Police: changes in training to emphasize community service and improved pay and benefits, recruitment based on merit, citizen complaint mechanisms.
- Health care: increase state funding and privatize some parts.
- Privatization and procurement: increase competition in tenders, increase transparency of process by publishing rules and decision standards.

Accountability

The issues raised that prompted discussion included elections, the media, the courts and local accountability. The other issues appeared not to be controversial.

A. Elections

New democracies need to deal with corruption and illicit influence in the electoral process. Before the transition, under an autocratic or one-party state, the problem of political party finance and the regulation of campaign contributions did not exist. An honest and transparent system of financing needs to be built from the ground up in emerging democracies and has not been accomplished in some countries. Regulation of

conflicts of interests was supported, but with the caveat from some that the rules be set up in a way that does not discourage talented people from entering government.

Electoral campaigns are expensive and hence leave politicians open to corrupt influence or at least to capture by wealthy interests. A participant from Africa pointed to the special problems that the costs of elections raise for very poor countries that are heavily dependent on donor funds for a large share of their budget. If donors fund political campaigns, they may distort the local political scene with partisan support.

The demands for funds may be limited by having a short campaign, controlling the use of funds, requiring the media to provide free time and, of course, by providing public funds. There was support for government funding of campaigns although it was recognized that allocation formulas must be designed to avoid disadvantaging small or opposition parties.

B. The media

There was no dissent to the statement that a free media is an essential check on the integrity of the political process. However, there was discussion of the limits of relying on the press for accurate reporting of corruption. The media can be corrupt itself or, at least, irresponsible in its manufacture of scandals. Thus, there needs to be competition in the media, and the population needs to be critical. Also, politicians ought to have access to the courts to defend themselves against slander. But this will not be possible if confidence in the honesty of the courts is low.

There was concern about the way in which scandals can feed on themselves to undermine public support for democracy and “corrupt the political debate”. There are two routes to this result.

First, scandals reported in the media lead the public to assume that all politicians are corrupt, a result that may lead them to distrust any government initiatives and even democracy itself. Second, widespread perceptions of corruption can convince the honest that there is no point in being clean and hence produce even more corruption in a vicious spiral. This is not an argument against press freedom but is a warning that revelations of corruption need to be combined with policies to change behavior and effectively to separate false from well-founded allegations.

C. The courts and other independent institutions

An honest and independent judiciary was viewed as a key institution in States trying to control corruption and create a rule of law. However, independence is not enough. The courts must be administered well and not be subject to corruption itself; independence is not equivalent to honesty and competence.

There was not much discussion of independent electoral and audit agencies as they seemed uncontroversial, especially when there have been problems in the past. However, in one session there was skepticism about any proliferation of independent commissions not under the control of the Head of State or Government. A well-functioning judiciary was taken to be sufficient.

D. Local accountability

Decentralization that involves real local control over some

local spending decisions can aid accountability. In many new democracies, the central government is too powerful given its low level of professionalism and corruption. One helpful response is decentralization to the village level overseen by a federal ministry for the local government to assure that the process does not itself become corrupt or serve the interests of only a few. Compare the report on the bureaucracy panel that treats decentralization at length.

Sectoral reform: control of corruption in public programs

A few issues were raised during the debates that supplemented the brief presentation on sectoral reform. Civil servants must be paid good salaries so that accepting payoffs is not seen as necessary to maintain a decent life. However, good pay is necessary but not sufficient. Even well-paid officials can be corrupt.

Some countries have very limited financial resources. This will limit the available strategies. Clear, well-publicized rules against payoffs are important so citizens know that corruption is not acceptable or necessary. The establishment of a civil service will help limit the incentive for officials to steal at the end of their time in office as they anticipate a change in government.

Reforms should stress transparency of public procedures such as procurement processes. In one case, this was meant literally. One aspect of the country's reform was to tear down dividing walls between offices to force officials to work in the open in their dealings with the public. Military procurement ought to be on the same footing as other procurement. Military

officials are sometimes legally permitted to take commissions on procurement contracts although this is forbidden to ordinary civil service.

One president reported trying to coordinate enforcement to avoid duplication by, for example, having the economic police and internal revenue service's fraud division work together. Another country has set up a special financial control unit that also deals with tax evasion. In Latin America, the finance ministry often plays a powerful role in assuring fiscal integrity. In connection with enforcement, one problem of using the law to limit corruption is that people will find loopholes so that what they do is formally legal even if it has harmful consequences.

Issues not emphasized in the experts' report

Two issues were of great concern to the Heads of State and Government that were given little emphasis in the experts' report. They are law enforcement and ethical issues.

A. Law enforcement

There was criticism of the background paper's de-emphasis of law enforcement. Some new democracies need basic laws against corruption that more established countries take for granted. Confiscation of assets was seen as an effective enforcement tool that was superior to jail time because it benefits the State.

In connection with the issue of law enforcement, one ought to include organized crime and its corrupting effect on some

parts of government. Organized crime corrupts the police and may be combined with violence; demands for protection are backed up by threats. This is a problem that cannot be dealt with by better transparency and accountability but requires law enforcement and fundamental police reform.

The enforcement of the law both against criminal enterprises such as the drug trade and against corruption and self-dealing requires international cooperation along many fronts. The control of money laundering and the operation of tax havens and financial “paradises” were viewed as necessary. International judicial cooperation is needed to bring people to justice. The role of international business in many areas, but especially in the arms trade, needs to be dealt with internationally. (Coordinator’s note: An OECD convention that requires those who ratify the treaty to pass laws that criminalize overseas bribery is a step in that direction.)

B. Ethical issues

The experts’ report de-emphasized the importance of ethical and moral attitudes in the control of corruption and focused instead on structural and institutional reform. In some societies, however, corruption is so engrained that people do not see it as wrong but only as the ordinary way of dealing with public officials. Thus, punitive measures have not worked, and education to change attitudes is needed as part of the reform effort. In one case, the anticorruption agency was overwhelmed with cases and could not function well. The Head of State from one post-socialist country mentioned a national culture of shame and honor that had been destroyed by the communist period. Another participant mentioned that society may have a

a “permissive” attitude toward corruption and that makes law, the police, and the judiciary irrelevant. Thus, although structural and legal changes are needed, attempts to change ethical and moral attitudes should be part of a reform strategy.

The role of armed forces and security forces

Moderator: Kim Campbell (Canada)

Coordinator: Rut Diamint (Argentina)

Introduction

This report on the debates held by Heads and former Heads of State and Government is arranged in four sections. Section one summarizes the presentation of the issue to the political leaders which included the ideas contained in the valuable experts' report, highlighting the topics that most directly concern the decisions made by heads of the executive branch of power. The second section sets out the reactions and comments made by the political leaders to the points selected. There was no disagreement about the importance of the issues presented although there were some contents that did not give rise to any comments and others where a different emphasis and degrees of interest were expressed depending on the region the political leaders came from. The third section includes new suggestions made by the Heads and former Heads of State and Government that the experts had not considered. Section four summarizes all of those proposals through specific policy recommendations.

Presentation

1. The Heads of Government of emerging democracies have to address a number of urgent political, economic and social issues that push the task of building up State institutions into the background. However, in many countries, the elected governments are unsuccessful in their attempts to subordinate their armed forces. In some cases, if the monopoly of force is not successfully institutionalized through the right channels, a risk appears that creates tension between democracy and governability in the face of the dilemma of just how much control can be established over the armed forces without jeopardizing the democratic transition process itself. But there is also a temptation on the part of those in government to obtain power through the discretionary use of the public force.
2. Democratic control starts with the power of the elected Head of Government as supreme commander of the armed forces and continues with their subordination to a civilian minister of defense with real and effective capacity to draw up and manage defense policies. One crucial area to comply with the procedures of a modern democracy is the participation of parliaments in the debate on the budgets allocated to the armed forces and security forces and their subsequent control. The commitment of civilians and their inclusion both from governmental circles and society in the drawing up, planning, implementation and assessment of defense policies is the most ideal way for the armed forces not to challenge the construction and stability of democracies. If

democracies are to function properly, it is likewise important to avoid the self-financing of armed forces and any special, independent funds that are neither granted nor controlled through parliamentary debate.

3. The inclusion of the military in matters of public law and order can only enhance the social and political role of the armed forces, thus making it advisable for the internal and external security functions to be clearly separated and upheld by legal provisions. The only institution authorized to use force within society itself is the police force. Many new democracies start off with a police force that is legally and operationally under military control. Those democratic governments should make it a priority to separate the police from the military so that police forces function as a safeguard for the community. Tension is created here once again between law and order and respect for human rights. This can be avoided, for instance, by lowering tolerance of police excesses and the abuse of power or by setting clear rules on their intervention.
4. Democratic control of armed and security forces is necessary so that democracies combat terrorism without undermining the standards of democratic coexistence. The community of shared democratic values and institutions should allow new mechanisms to control terrorism to be quickly set up. There is extensive willingness on the part of democratic governments to combat international terrorism through global cooperation, including new forms of detection and banking, immigration and transport regulations that are compatible with democratic methods and procedures. The international community of countries that defend

democracy must promote recommendations to combat terrorism by means of common democratic principles that do not encroach on the rights of citizens. No opportunity must be given for a return to a society with no guarantees.

Reactions from the Heads and former Heads of State and Government

The Heads and former Heads of State and Government accepted that the correct functioning of institutions and respect for and monitoring of the rule of law are the basic, necessary procedures for the military to respect the institutional channels through which defense policy is made but that institutional democratic control cannot always be made effective in societies where the laws and institutions are new and reveal weaknesses. That leads to a perverse power game because, in Latin America at least, the military have successfully managed to keep government and civil society out of military questions in exchange for their own acceptance of civil authority.

The Heads agreed that the inclusion of civilians both from governmental circles and society is a necessary step to establish democratic control of the armed forces. But they also warned that budgetary control by the congress is just fictional and, above all, they remarked that arms procurement and commission payments received by the military for choosing to purchase from a certain company do not undergo scrutiny. Thus, although they know that a crucial area for compliance with the procedures of a modern democracy is the participation of parliaments in the debating of and control of budgets allocated to the armed forces and security forces, they have

not yet managed to establish rules to avoid secrecy in security matters. They have no resources to train a civilian bureaucracy to deal with security issues and politicians avoid military matters that commonly lead to intergovernmental tensions.

International commitments are an extremely valid external resource to reinforce the role of presidents and to avoid armed forces being used for their own purposes but consistency on standards is demanded from the more developed countries to create democratic control over armed and security forces.

Armies should not participate in political decisionmaking process. All functions leading to the armed forces exercising political power must be eliminated. The participants accepted the presidential mandate and that of the civilian minister of defense to exercise democratic control of the armed forces and security forces and they suggested that a way of building up the minister of defense's leadership was that the issue should essentially be included in the platforms of political parties so that it becomes part of the public debate.

They also agreed on the importance of separating external and internal security, but very often the new democratic governments do little more than change the name of the militarized police forces to civil police forces. In that case, they maintain the same structure, hierarchies and doctrines from previous times as the governments do not have any human and financial resources to initiate the necessary reform. They said that when things work transparently trust is generated among citizens who thus believe in the legality and legitimacy of their political leaders.

The Heads endorsed global cooperation as the most efficient means of tackling terrorism and avoiding democratic standards being undermined. Some of them underlined the fact that guaranteeing the rights of individuals is a fundamental

question of strategy for the proper functioning of democracies and for the construction of peace. Here, the role of a single, egalitarian justice system is central for police and military forces not to limit human rights. In fact, they said that a regime could not restrict individual rights and continue to be a democracy. Therefore, a lot of attention must be paid to not taking freedom too far in the name of security. The only efficient fight against terrorism is institutionalized international cooperation through global and regional multilateral organizations.

New input from the Heads and former Heads of State and Government

Leaders of African countries asked for more help to undertake the necessary institutional transformations to consolidate their democracies. They drew attention to the fact that although their intention is certainly to exercise controls through the ministries of defense to make supervision of the armed forces effective and through the interior ministries to govern police forces and that, in addition, there is the inspection function of the congress, in actual fact, some African States are still a long way from this point because they have to set up institutions for the first time and create the most basic rules for them to function beforehand.

It was repeatedly said that arms procurement is the most corrupt business and that it does not involve any supervision on the part of the civil power. This shortcoming not only leads to military autonomy but also increases regional insecurity and further weakens the economies of developing countries.

It was explicitly requested that the negative effect of the pressure put on governments to purchase weapons by developed

countries be included. That pressure comes through issue linkage related to other political or economic negotiations. It is exerted by the more powerful countries that need to place their surplus weapons production and not only diverts attempts to create more national and regional security by these Heads of State but also forces them to make unnecessary outlays and weakens the incipient democratic control over the forces.

The leaders felt that regional cooperation is one of the most effective ways of limiting the domestic importance of the armed forces. Regional agreements eliminate an element of dispute used by the armed forces that lobby their governments in order to obtain modern weaponry and make joint demands to have greater participation in political decisionmaking and budgetary allocation.

For some Eastern European countries, the incentive to join NATO or the Partnership for Peace (PfP), a mechanism created for the former Warsaw Pact countries to develop democratic defense criteria, has a two-fold effect: it allows greater civilian control to be set up at the same time as it solves the problems of a reduction in the size of the armed forces and their budget with a modernization alternative. In this way, the armed forces do not oppose the democratic process as they have an incentive to become more professional.

One issue that they considered to be priority for inclusion but on which no concrete recommendations were made was the dismantling of the old intelligence services and the setting up of civilian services that neither report to nor are linked to the military. It was pointed out that the direct dependency between the military and intelligence services that is so corrosive for new democracies must be eliminated.

Recommendations

1. Seek solutions to the military question before it turns into a problem. Politicians should intervene in defense issues before they challenge the system.
2. Strengthen commitment to transparency in arms procurement. Ratify and comply with the UN and OAS Register of Conventional Arms.
3. Ask developed countries not to put pressure on developing nations to purchase arms.
4. Create mechanisms to make military negotiations to buy weapons transparent.
5. Collaborate in building up laws and institutions in countries that do not have a developed State structure.
6. Promote regional defense and security agreements of an institutional nature that set goals through phased proposals.
7. Provide impetus for the creation of subregional collective security and defense agreements.
8. Bring about institutionalized security agreements that set out clear rules of conduct through which decisions are taken to combat international terrorism.
9. Promote parliamentary motions that allow access to secret documents and expenditure by the armed forces and security forces.
10. Take over control of the intelligence services associated with military structures.

The reform of the State bureaucracy

Moderator: Leonel Fernández (Dominican Republic)

Coordinator: Byung-Kook Kim (South Korea)

Packaging reform

The Heads and former Heads of State and Government agreed with the expert panel's report following three major action principles:

- State bureaucracy reform constitutes an essential part of the efforts of Heads of State and Government (HSGs) to consolidate democracy, making it more participatory, accountable, honest, transparent, and politically effective.
- To transform State bureaucracy into an instrument for democracy building, HSGs need to pursue decentralization, strengthen coordination, and place tighter monitoring on State bureaucratic activities. The three should come as a package. Decentralization requires greater policy coordination if it is not to undermine bureaucratic effectiveness, and a routine monitoring of the abuses of public authority and power if it is not to degenerate into a corrupt system of rule by 'oligarchs'.

- State bureaucracy reform is a political enterprise rather than a ‘technocratic’ task because it directly affects how power is organized and operated. The HSGs should think politically if they are to succeed in State bureaucracy reform.

Yet, some HSGs noted two weaknesses in the experts’ report. Based on their personal experience, some HSGs thought the report should have been more “holistic,” explicitly and directly noting its complex interconnectedness with reform on both the judiciary and legislative branches, as well as civil society and party politics. This is true especially for monitoring because corruption has many deep causes. Fighting it only through State bureaucracy reform is bound to fail. For monitoring to succeed, HSGs need:

- A legislature willing to enact tough laws.
- A ‘clean’ judiciary judging cases in a fair manner.
- Political parties with a system of transparent fundraising.
- Citizens understanding why corruption is bad.
- And a vibrant but egalitarian economy, which assures individuals a secure life and reduces their temptation to resort to corruption to ‘protect’ themselves from absolute poverty.

Adopting a holistic approach to State bureaucracy reform accordingly is to think of it as an unending ‘process’ and to pursue it gradually with a balanced mind. Especially in regard to monitoring, many participants warned against a threat of political instability and economic chaos if it is pursued without a sense of balance. Their advice is, “always carefully navigate in between complementary and yet competing political values,

one of which is anticorruption, and achieve a balance between stability and reform. Without stability, everything, including one's dream to build a 'clean' open society, may be lost."

The other weakness in the experts' report noted by HSGs concerns its lack of attention to education and communication. Especially for monitoring to succeed, it is critical to educate individual citizens concerning why corruption is bad, why HSGs are doing what they do, and how they can make a difference. This is because without a major change in popular culture, values and norms, it is impossible to clean up corruption. Moreover, only when society feels it 'owns' State bureaucracy reform can HSGs mobilize it as an ally to overcome bureaucratic resistance. The HSGs should prepare an education and communication strategy as an integral part of State bureaucracy reform. Without communication, everything is lost.

Decentralization

The HSGs agreed with the panel of experts' recommendation to focus on decentralization for two reasons:

- Decentralization, more than any other parts of State bureaucracy reform, constitutes an act of democratic consolidation because decentralization empowers individual citizens to participate in politics, hold politicians and State bureaucrats accountable for their actions, and establishes a system of checks and balances.
- The HSGs should focus on decentralization also because if it is to succeed, HSGs need to move simultaneously on greater coordination and tighter monitoring.

Decentralization serves as a catalyst for systematically asking oneself how to organize coordinating powers and what to monitor.

The HSGs also strongly agreed with the recommendation made by the panel of experts for tying in together political and fiscal decentralization, because only then will decentralization result in bureaucratic efficiency, accountability and transparency. As seen by both HSGs and the panel of experts, competitive elections at subnational levels give political parties a strong incentive to keep an eye on each other's political actions, thus increasing efficiency, transparency, and accountability. By contrast, transferring some tax authority to subnational governments forces their leadership to accurately calculate and consider costs when raising each additional unit of tax and, in doing so, makes it politically responsible as well as economically efficient.

In spite of such a broad agreement, the HSGs warned against four dangers that they thought the panel of experts did not take into account. The dangers are as follows:

- Decentralization can destroy an emerging democracy's already existing bureaucratic mechanism for control, supervision and coordination, without creating any new institutions. The HSGs need to defend 'good' existing institutions when trying to create new centers of power.
- The HSGs should not think of decentralization only in terms of devolving State power downward to subnational levels. Equally critical, if not more important, is preventing excessive centralization within any one central State bureaucracy. This problem exists even after a substantial devolution of State power to subnational governments. The HSGs should try to push power and

responsibility down from minister to bureaus, divisions, and sections in each ministry.

- The empowering of society should not lead one to assume an automatic political support from individual citizens for decentralization. The society is interested in receiving quality public service from State ministries and views decentralization only as an instrument for such a public value. Nor is it correct to always see subnational governments as an active supporter for decentralization. More often they footdrag, if not oppose it, because they fear it will burden them with additional responsibilities. To win their support, HSGs must also transfer powers and resources downward. Even then, HSGs will encounter serious political risks without many needed allies and friends when decentralizing. Only an unwavering presidential commitment will allow reformers to carry out decentralization.
- For plural societies with sharp ethnic, linguistic, or religious cleavages, decentralization, if timed wrongly, organized incorrectly, and ineffectively explained to society, will backfire and intensify 'tribal' conflicts. There is a real danger of one or another larger ethnic group hijacking subnational governments to exclude lesser forces from political power and economic prosperity. In such a case, monitoring mechanisms, however structured and processed, will not function as planned. To prevent decentralization from aggravating ethnic tensions and degenerating into political rule by a larger tribe against lesser ones, HSGs should try to make each subnational government unit as homogeneous as possible in ethnic terms and flexibly reflect local conditions in one's design for decentralization, but in ways which do not put into

motion powerful secessionist political movements. The HSGs should adopt cohesion and identity as two major principles governing decentralization and make each subnational unit of political authority internally homogeneous, but also externally capable of living together with other units and imagining itself as an integral part of a larger nation.

The HSGs also called for adopting subsidiarity as a central principle when deciding what to decentralize and not decentralize. This means that HSGs should identify what is best achieved through decentralization and focus on only those as priority items. Education is one promising area for reform. For smaller emerging democracies, HSGs should consider an option of decentralizing public services but not necessarily State organization in order to minimize costs. Decentralization may be a too expensive option for smaller countries.

For new democracies located in Europe, decentralization has an external dimension. The transfer of power and responsibility to subnational levels occurs with a partial transfer of sovereignty to its supranational regionalist organization, the EU, whose mission is to create supranational centers of power. The HSGs in Europe should seize such supranational regional integration processes as an opportunity to flexibly restructure State organization.

Coordination

The HSGs agreed on the experts' recommendations to use a strong, autonomous central bank as their "last pillar" of economic order in case all other coordinating mechanisms fail

under political pressures; to build a professional career civil service as a principle, but recruit outside experts more or less depending on goals, means and actor characteristics of any given issue area; and to appoint an “honest broker” to facilitate communication between all critical stakeholders.

However, some HSGs voiced a strong caution against dividing up budgetary, financial, and personnel management responsibilities into three separate ministries, especially if there does not exist a highly developed professional civil service. Where restrictive rules and norms on civil service recruitment do not exist, institutionally separating personnel management power from budgetary and financial responsibilities can result in a disastrous increase of State bureaucrats, because political leaders are always tempted to use State bureaucracy as a tool for political patronage. For such States with a weak civil service, HSGs recommended placing all three powers in the ministry of treasury and delegating power to its minister. The treasury is a source of stability in democratic transition and consolidation.

Monitoring

All the HSGs recognized a greater need for monitoring, but they differed significantly on how strong and autonomous monitors should be. The HSGs were divided into two groups, one assuming an uncompromising activist posture against corruption, and the other being more cautious or conditional in supporting anticorruption drives. This difference partly reflected how corruption-prone their politics were. The HSGs from high corruption societies tended to oppose setting up an autonomous, powerful monitoring mechanism, lest anticorruption drives explode into an uncontrollable

systemic crisis. The other group without a similar fear could, by contrast, agree more readily with the Expert Group's recommendations which included to set up the following: an auditor separated from both the executive and legislative branches; an anticorruption agency with power independently to investigate and even prosecute criminal cases; a constitutional court to perform constitutional review on both executive and legislative branches' political actions; an administrative court to correct abuses of power on issues involving citizens; and an ombudsman to investigate complaints submitted by individuals to the legislature.

Those more sceptical of monitoring mechanisms offered deregulation as a more effective way to reduce abuses of public authority for private gains.

Regardless of one's stand on whether to establish an autonomous monitoring mechanism, all HSGs expressed a grave concern on both the media's and political parties' propensity to use rumors on corruption to hurt politicians. The issue of corruption has corrupted political discourses, one HSG argued.

One HSG called for international cooperation to fight corruption. Possible measures include regulation of bank secrecy and confidentiality, international regulation of tax havens, and cooperation between national monitoring institutions.

Economic and social conditions

Moderator: José María Figueres (Costa Rica)

Coordinator: José María Maravall (Spain)

Introduction

This report presents the conclusions that resulted from the debates by democratic leaders on economic and social conditions. These debates were focused on the document that summarized the papers and discussions on that topic during the experts phase of the conference. Unless otherwise stated, no objections were raised to the arguments and proposals that follow, nor was there a minority position. This document thus reflects consensual views among these democratic leaders, with few exceptions.

The economic context of new democracies

The democracies established since 1974 have been born in difficult times: the average rate of growth of developing countries has been, on average, half that prior to 1973. There is overwhelming empirical evidence, however, that political stability depends on the level of economic development, the rates of growth, and an egalitarian distribution of income.

In the discussions, what repeatedly emerged, however, were the dramatic differences between countries. For some, globalization appears to have had only a negative impact. Governments have reduced measures to protect their markets from foreign competition, but as protectionism has remained important in many developed countries, the damage to domestic production and to the balance of payments has often been dramatic. Market reforms have not helped the poor; on the contrary, poverty and unemployment have increased. For instance, imported food in India cannot be distributed to starving people because the government does not have the capacity to act as an intermediary. Fiscal limitations make it impossible to develop in the short term this administrative capacity without external help.

Democratic leaders in the poorest countries remarked that democracies were very vulnerable due to these material conditions. Unless the economy and social policies change the material conditions of people, the potential for political destabilization is very great. People do not care about democracy that much when they must worry about their survival.

The goal of equitable development

Economic development should, therefore, be the purpose of economic and social policies. Macroeconomic adjustment is not enough, and social policies cannot be isolated from this objective of growth. Moreover, economic development is compatible with redistribution; redistributive politics can promote development.

The panoply of policies that were encapsulated in the “Washington Consensus” are necessary conditions for sound

macroeconomic management, but insufficient for growth. Necessary conditions include:

- (i) Macroeconomic stability (understood as control of inflation and of the budget and current account).
- (ii) Stable rules (that should provide confidence to investors while at the same time be compatible with democratic alternation in power).
- (iii) The opening of industrial countries' markets to products from developing countries (the value of protectionist measures is today 50% higher than the total amount of external aid, and the money allocated to domestic agricultural protection in USA has multiplied by seven times in the last five years).
- (iv) Trade liberalisation and privatisation must be preceded by a prior institutional framework and should follow a particular sequence. The institutional framework refers to investment banks, stock markets, rules for competition, fiscal laws, etc. In the poorest countries, this means building up fundamental components of the State (for instance, a ministry of finance). No objections were raised to the argument made by several participants that economic failures had been due to the wrong sequence of economic initiatives: they should begin by institutions, norms and the determination of exchange rates and interest rates before privatisation and full openness to trade take place.

Participants thus criticized the insufficiency of market-oriented reforms and of adjustment packages, and many underlined the negative effects on poverty, income inequality and support for democracy. However, nobody questioned

the necessity of sound macroeconomic management. Representatives from Central and Eastern Europe rejected protectionism and defended the need to attract foreign investment. The economic reforms that they defended followed, according to them, the economic blueprint of the European Union—such reforms included the fiscal system, commercial banking, privatization, commercial transactions, currency stability, a reduction in inflation and fiscal deficits. Representatives from some Latin American countries remarked that protectionism not only lingers in developed countries; they criticized the fact that developing countries in Latin America also introduce protectionist measures when the economy deteriorates.

Participants also remarked that such an economic framework, while insufficient to generate growth, was indispensable if brutal market reactions were to be avoided. As one of the participants remarked, “markets are unforgiving”. Globalization, according to them, makes such reactions instantaneous. Thus, governments’ freedom to set macroeconomic policies is severely constrained by the influence of the market. If they try to go against the market, the result is usually economic destabilization. This impersonal operation of markets is creating deep problems in at least two ways: 1) people attribute the responsibility for whatever happens to vastly unpopular international financial institutions; 2) the preconditions for economic stability are in no way instruments for growth.

A new economic consensus

The Heads and former Heads of State and Government

defended the urgency of a “new Washington consensus”—obviously under a different name. According to them, this consensus includes a more active role for the State in promoting growth. Within the parameters of sound macroeconomic management, as they remarked, important variations can exist in the levels of public incomes and expenditure, the proportion of social policies in the budget, the balance between investment and consumption, or the degree of economic centralization. What is important is that structural reforms do not undermine the capacity of the State as an instrument of growth.

Besides the State, one of the participants emphasized the role of social capital in promoting growth. He defined social capital as “civic virtue”: citizens who obey the law, pay taxes, establish networks of trust. The creation of this social capital corresponded to the State (via the education system) and to civil society (churches, political parties, etc.). This social capital will facilitate entrepreneurial initiatives and transactions. Differences in economic development between Latin America and South-East Asia were attributed to variations in levels of social capital. But several participants reacted with skepticism to this proposal.

The need for sufficient fiscal resources

Fiscal resources in developing democracies are very inadequate. Fiscal systems have had to be rebuilt in former communist countries. If sufficient fiscal resources are needed for sound macroeconomic performance and to promote growth, developing democracies face two problems:

- (i) In the poorest countries, there are no viable sources

of public revenues and thus, State activities depend, above all, on external aid. Participants accepted that the external debt of poor countries should be cancelled whenever the following conditions were met: the rule of law, sound economic policies, political stability, and democratic accountability of the government (which includes a transparent administration).

- (ii) In the other countries, fiscal reforms meet significant resistance from entrenched groups. As one of the Eastern European participants put it, “fiscal reform is the key to all problems”. Popular support for fiscal reforms depends on the administrative transparency and democratic accountability of the governments, and on changes in public expenditure to respond to social needs. It was, however, argued by another Eastern European participant that resources from taxation should be dedicated to investment, rather than consumption, even if the demands for the latter were stronger.

Guidelines for fiscal reform

It was generally agreed that the following criteria for fiscal reform were advisable:

- (i) Revenue sufficiency (in order to avoid deficits and finance State activities necessary for growth).
- (ii) An expansion of the tax base.
- (iii) Moderate tax rates, with few exemptions.
- (iv) Simple administration.
- (v) Revenues from privatization must not be a substitute

for fiscal reform.

The economic consequences of taxation

Participants did not question the experts' conclusion that fiscal pressure does not affect savings, investment, the supply and demand of labor, or economic growth, and that these variables depended much more on political stability and macroeconomic management and predictable fiscal rules. One Latin American participant stated, with no opposition, that taxation could be an instrument for growth.

The economic consequences of growth seemed to be inseparable from the uses of public expenditure. If taxes finance expenditure in productive inputs, private investment and growth can go up.

Public expenditure as an instrument for growth

Public expenditure was seen as necessary for growth, economic redistribution and "social cohesion". Rather than deterring private investment, it permits a better use of human resources, more public and private savings, and social support for economic policies. Both Latin American and European leaders insisted that only the State can efficiently promote physical and human capital, as well as legal security for economic activities. The State should not abandon its responsibilities in these areas. Public expenditure in education should be directed to primary and secondary education. Public expenditure in health should be directed to preventive and primary care. Food subsidies should enable 1.2 billion people to

work and not just survive. The State also has the responsibility for active employment policies that could avoid frictional unemployment from becoming structural. Public help to small and medium enterprises, which are the main employers in developing countries, is necessary to train their workforce.

Socially inclusive growth

Participants stated that globalization should be compatible with social and political empowerment. Some argued that, rather than having gone too far, globalization is still very limited. Although this view was not shared by everybody, there was a general agreement that, to be a positive force, globalization requires social inclusion and the promotion of freedom (that is, public policies to enable individuals to use their freedom).

No objections were raised to the argument that if resources are limited, they must be used to finance targeted programs of growth and welfare. Such programs do not consist only of social alleviation of need; they include job creation and the promotion of economic competitiveness. Thus, social policies are inseparable from policies of growth. In order to avoid the stigmatization of beneficiaries, they should be addressed not to households, but to social groups and geographical areas (in order to provide them with roads, transportation, telecommunications, clinics, schools).

Pro-poor growth programs

If in the poorest countries expenditure depends basically on external aid, the State should concentrate its activity on selective programs of pro-poor growth. Such programs benefit the poorest groups, do not diminish the very limited resources available for growth, increase the productivity of workers, and improve regional infrastructures.

International economic governance

The present international institutions were generally seen as inadequate for the current needs of growth in developing democracies. Every participant saw a reform of this external framework as a key for growth. The external conditions for growth in the developing democracies include the following:

- (i) The commitment of the industrialized countries to dedicate 0.7% of GDP to external aid must be fulfilled.
- (ii) Debt of the poor countries, which cannot realistically be repaid, must be cancelled when the conditions specified in point 4 (i) are met.
- (iii) Inflows of foreign capital, both as aid and private investment, must increase to finance growth. Thus, a new round of trade negotiations in the WTO must start having the interests of developing countries as the main topic of its agenda.
- (iv) Economic globalization requires new institutions of international economic governance. The Bretton-Woods institutions act, in the words of one of the

participants, as “firemen”, unable to anticipate economic needs or crises. When the poorest countries deal on their own with the IMF, according to their representatives in the conference, growth is never on the agenda. According to another participant, the recent East Asian crisis was mitigated when a country did not follow IMF advice. The IMF, the World Bank and the WTO need to be overhauled. But international economic governance cannot be based on the Bretton-Woods institutions; it needs new institutions. One proposal among several was to create, inside the United Nations, a council for economic and social development. Everybody agreed that alliances between democracies cannot only be the result of threats and attacks, nor fundamentally military in nature. They must respond to the urgent needs of economic growth and the material well being of the citizens of new democracies.

Speech by former President
of the USA,
William J. Clinton*

President Gorbachev; *señor* Gallardón, ladies and gentlemen. I am delighted to be here tonight with so many Heads of State and Government and former Heads of State. I thank you Mr. President for giving us the chance to get together, and for those of us who are no longer in office, for giving us at least a fleeting sense that we may not be completely useless in these days.

I want to say a special word of appreciation to the people of Spain, to my good friend and former colleague Felipe González, to His Majesty King Juan Carlos, and to President Aznar, for their strong support of the United States and our common efforts against terror.

In the five months since my last visit to this wonderful city, the world has become a very different place. Therefore, the discussions that will take place over the next few days and the hard work the experts have done over the last week will be of

* Speech given during the inaugural dinner, hosted by the President of the Regional Government of Madrid, Alberto Ruiz-Gallardón, for the Heads and former Heads of State and Government phase of the Conference (Casa de Correos, Madrid, October 25th, 2001).

even greater importance.

As president, I tried to advance democratic transitions and consolidations in Mexico, the Caribbean, Central and South America, in Africa and East Asia, in Central Europe, the Balkans, Russia and the States of the former Soviet Union, in the Middle East and in Northern Ireland, the one bright spot on the world's horizon today.

Dealing with the challenges of terrorism will require us to undertake more of this work, and to greater effect. I am honored to be with so many men and women who have given their lives—some of you have even risked your lives—to the advancement of this cause. I am particularly honored to be with Mikhail Gorbachev, who set in motion a process of change that has made the world a safer place and given hope to hundreds of millions of people.

It is no easy thing for a politician in a position of power to unleash a process which may undo the system through which he has risen. Next to you, President Gorbachev, the only person who I know of who has also done that is my great friend Ernesto Zedillo, whom I also admire so much.

Let me begin by saying that anything I say this evening must be viewed in the context of my present position: I am simply a citizen who strongly supports the efforts of President Bush and our allies in this great global coalition against terror. Nonetheless, I have had some unique experiences in the last eight years which may bring some clarity to the present situation. In the aftermath of the attack of September 11th, I have been immensely proud to be an American, to be a resident of the State of New York, and to have an office in New York City. I have been proud of our leaders, of our mayor, our governor, and, yes, very proud of my wife who is a United States' senator, and who are all working to meet the present challenge.

The terrorists who brought down the World Trade Center saw it as a symbol of abusive power and corrupt materialism. But the New York that Hillary and I, and our daughter Chelsea who is with me tonight, know instead represents a big step toward the world that many of us have been trying to create for quite a long time. A world of growing diversity, expanding freedom and opportunity, and a deepening sense of mutual respect for a genuine community. I have met families from all over the world who lost their loved ones in those attacks. People from many of the countries represented here tonight; from Europe to Asia to Australia, from the South and from Africa to South America, as well as quite a number from the Middle East. A lot of Muslims died in the World Trade Center on September 11th.

Many of those families ask me the same questions that young schoolchildren I visit, whose schools were damaged by the attacks, ask. They want to know: why do the terrorists hate us so much? How did Bin Laden get those people to commit suicide? What do we do now? And, is it going to be all right?

To make some sense of all this, I think it is quite important that we begin with first principles: the clear understanding that we and the perpetrators of the terror and their supporters have very different notions about the most important things—the nature of truth, the value of life, the content of community.

The Taliban and Mr. Bin Laden actually believe they have the truth. The whole truth. For them, the world is divided between those who share their truth and those who do not. The Muslims who disagree are heretics. The non-Muslims infidels. And if you don't share their truth, well then your life doesn't count and you are a bona fide target. Even if you are just a six-year-old girl who went to work with her mother at the World Trade Center on the morning of September 11th.

Those of us who are gathered here believe that the limits

of the human condition prevent any of us from ever having the whole truth. We believe, instead, that life is a journey of searching for and, hopefully, moving closer toward the truth. We know that we actually have a lot to learn from each other and, therefore, everyone's life deserves a chance to make that journey.

These differences lead us to radically different notions about the content of community.

For them, community is a group of people who think alike, look alike, dress alike, act alike. A community whose rules are enforced brutally to make sure there is no variance. Women are imprisoned behind their burkas and veils by men who beat them in public, paint their windows black to make sure they don't see the world outside, and, on occasions, even shoot them in the street for leaving home when not allowed.

By contrast, we believe anyone can be part of our community who accepts the simple rules of engagement because everybody counts, everybody deserves a chance. We all do better when we work together.

In sum, they believe that what is most important about life is our differences and we believe that what is most important about life is our common humanity. That is why, in New York, on September 11th, Irish- and Italian-American Catholics died to save the lives of Muslims, Hindus and Buddhists. The terrorists died to kill. So here we are, after the Cold War, at the dawn of a new millennium, once again involved in a fundamental struggle to define the shape of our world.

First, it has been said, we have to win the fight we are in. But I agree with President Gorbachev that we must also ask the deeper questions. He had a fascinating essay in the *New York Times* last weekend in which he wrote, and I quote, that if the battle against terrorism is limited to military operations, the

world could be the loser. But if it becomes an unerring part of common efforts to build a more just world order, everyone will win. I agree with that Mr. President.

The world now requires a higher level of consciousness, starting with its leaders. The poor cannot be led by people like Mr. Bin Laden, who believe they can find their redemption in our destruction. But nor can the prosperous be led by those who play to our shortsighted selfishness and continue to pretend that we can go on denying others what we claim for ourselves. If we are actually convinced of our common humanity, those of us who live in prosperous countries must assume the responsibilities which flow from it. We must spread the benefits and shrink the burdens of a 21st-century world. And we must advance the cause of democracy.

Here, at least, is the way I analyze the situation. Try to imagine how you felt on September 10th, the day before the terrorist attacks. If we were having this meeting then, and I had asked you: "What do you believe is the single most important force in the early 21st-century world?" What would your answer have been?

If you are an optimist from a wealthy country, it seems to me you would have given one of four answers. You could have said, "Well, it's the global economy, of course! It has made the wealthy countries richer and lifted more people out of poverty in the last thirty years than in any previous period in history." Or, you could have said, "No, it's the revolution in information technology that has driven productivity and driven the economy." When I became president, there were only fifty sites on the World Wide Web. When I left office, there were 350 million!

Or, if you understand science, you could have said, "It's the breathtaking progress in the sciences." There are things now in

progress that will rival the discoveries of Newton and Einstein. We are going to find out what is in the black holes in outer space and we are still finding new forms of life in the deepest rivers and oceans. The sequencing of the human genome will make possible medical miracles. Young mothers will soon bring home babies in countries with good health systems who have life expectancies in excess of 90 years.

Or, if you are like a lot of us, if you are a politician, you might say that the driving force in the early 21st century is the explosion of democracy and diversity. I was honored to be president at the first time in history when more than half the world's people lived under governments of their own choosing. And within many, many societies there was a literal explosion of diversity. People of different cultures and languages and faiths living and working together.

Now, you might have said that.

On the other hand, if you are a pessimist, or you live in a poor country, or you are what my wife refers to as your family's "designated warrior", you might have answered one of four negative things.

You might have said: "It is not the global economy in a positive sense, it's a negative thing, because half the world's people are not part of it." Half the people in the world live on less than \$2 a day. A billion people on less than a dollar a day. A billion and a half people have no access to clean water. A billion people go to bed hungry every night. One woman will die in childbirth every minute we are here. One in four of all the deaths which occur this year will come from AIDS, TB, malaria, and complications from diarrhea, most of them little children who never got a clean glass of water. And all of these trends will be complicated by the fact that the world's population is projected to grow by 50% over the next fifty

years—almost 100% of it in the poorest countries least able to deal with the challenges they face today.

Or you might have said, “No, no. Our environmental crisis will get us before our economic problems will.” The water shortage. The deterioration of the oceans which produce most of our oxygen. Most importantly, global warming. If the climate warms for the next fifty years at the rate of the last ten, we will have whole Asian Pacific nations, island nations, flooded. We will lose 50 feet of Manhattan Island. It will disrupt agricultural production all across the world. Tens of millions of food refugees will be created, spreading violence and disrupting stability everywhere.

Or you might have said, “No. That may be true, but the health crisis will get us before the climate change will.” Public health systems are breaking down all over the world. There are 36 million AIDS cases today, but at the present rate there will be 100 million in four years. Two thirds of the cases are in Africa today, but the fastest growing rates of AIDS are in the former Soviet Union, on Europe’s backdoor, followed by the Caribbean, on America’s front door. The third fastest growing rate is in India, the world’s largest democracy. China has just admitted they have twice as many AIDS cases as they had previously thought, and, tragically, only 4% of the adults in China know how AIDS is contracted and spread.

Or, even on September 10th, you might have said: “No. The dominant factor in this world will be terrorism.” The marriage of modern weapons to ancient hatreds, rooted in differences of race, religion, ethnicity or tribe.

Now, I have just mentioned four positive things: the global economy, the information technology revolution, the advances in science, and the explosion of democracy and diversity.

And four negative things: global poverty, climate change,

the AIDS crisis and terrorism.

I expect that each element has some resonance in your experience. What they all have in common, however, is the most breathtaking increase in interdependence in the whole of human history.

People like us have been talking about an interdependent world for at least 50 years now; since World War II caused the slaughter of more than 20 million people, and the United Nations was created by our visionary forebears who understood that America and other countries could no longer walk away from the world the way we did at the end of World War I. But it has never so permeated every aspect of our daily lives as it does today. I believe you can make a very compelling case that what happened to us on September 11th was the dark side of the age of interdependence which has brought us so many benefits. You simply cannot tear down walls, collapse distances, spread information, and reap all the benefits from that without rendering yourself more vulnerable to the forces of destruction.

Therefore, it seems to me that the great question of the 21st century is whether interdependence will be, on balance, good or bad for humanity. In order to have the right answer, the most important job of leaders and citizens is to strengthen the forces of positive interdependence and diminish the negative ones.

The terrorists that we are fighting against today cannot build anything. Indeed, they get their foot soldiers and their sympathizers largely from the frustrated ranks of people who feel trapped in failed societies. It is not enough, however, for us to beat them. Though beat them we must. We have to build.

Let me just offer a few specific suggestions.

Last year, the United States, Spain and other countries led huge global efforts to provide targeted debt relief to the 24

poorest countries if they agreed to spend all the savings on health, education and development. We have already seen some astonishing results. Uganda used the savings to double primary school enrolment and shrink class size. Honduras used the savings to increase mandatory schooling from six years to nine years – a 50% increase in one year!

We know that in a developing country, every additional year of schooling adds 10 to 20% a year to the incomes of the people who get it and, therefore, it has an enormous positive impact on the national income of the countries affected.

Last year, America funded two million micro-enterprise loans to empower the poor around the world. We should do more of that. More debt relief. More loans.

The Peruvian economist, Fernando De Soto, has been working in countries on every continent to legitimize as much of the \$5 trillion of assets in homes and business the poor now control but cannot use, so that they can get credit and join the prosperous world as a result. We should be helping him. It costs a lot of money to do what he does and it takes too much time.

A hundred million children in the world today are not in school. Half the children in sub-Saharan Africa, 25% of the children on the Indian subcontinent, 25% of the children in the poorest countries in East Asia.

This has led to some tragic consequences. All of you who have been following the present events on the world news networks have probably seen the stories of the terrifying indoctrination going on of young Pakistani children in the *madras* religious schools run by fanatics in that portion of Pakistan where the ethnic groups are the same as the Taliban. One report showed a boy who could recite virtually any part of the Koran by heart, but he could not answer the question what is two times two. He said that it was impossible that anyone

had ever walked on the moon. He then said that there were still dinosaurs on the Earth and that they had been put there by Americans and Zionists to kill Muslims. These people were not fanatics but they made their child one because we did not help them to have a decent school that would give the child an education that could be used.

I saw a television story of another ten-year-old boy who was a beautiful child. I wanted to take him home with me! He had a beautiful face and a sweet voice in his possession, and in his sweet voice he said he would be happy some day if he could die killing Americans. He said that the only country he wanted to visit was Afghanistan, and the only person he ever wanted to meet was Osama bin Laden.

Last year we spent \$300 million—a small amount for a big economy like America—to offer a meal to schoolchildren in poor countries, only if they came to school to get the meal. It got nine million more children in school for a year.

Brazil has 97% of its primary-age children in school because they pay the mothers in the poorest 30% of the families to send their children to school through the *Bolsa Escola* program.

We ought to be funding programs like that, for all 100 million children. In 10 or 15 years from now, it will lift the countries' economies and we would be educating instead of indoctrinating these children. It is a specific manifestation of the principles we say we believe in.

I could give you a lot of other examples, like the whole area of climate change that the United States has been completely remiss in. We should set a good example, but we should also fund the development of alternative sources of energy and energy conservation strategies. There is a \$1 trillion unmapped market out there that with presently available technologies could create millions of jobs in developing countries if we were

to do it right. But if the wealthy countries refuse to do their part, then the poor would rightly believe—and understandably so—that we are trying to get everybody engaged in a fight against global warming to keep them poor. Because most people still believe you have to put more greenhouse gases in the atmosphere to make the economy grow.

Finally, let me just say a word about healthcare.

The United Nations Secretary General has asked for a minimum of \$7 billion a year to fight infectious diseases worldwide. Principally, AIDS, but also TB, malaria, and other infections related to diarrhea. America has pledged \$300 million. We ought to give more. So should everybody else. We ought to give them the money they need. Every year. It would be a lot cheaper than having whole countries' democracies fail because you have got a hundred million AIDS cases. It does not have to happen!

Brazil is the only developing country that has cut its death rate in half in three years. Uganda cut its death rate in half in five years from the highest rate in the world—with no medicine! We ought to be helping countries to deal with this.

So, these are some of the specific things that I think we ought to do. It is all very well to say we live in an interdependent world, but quite another thing to actually do something to help people deal with their challenges. There are Heads of Government in this room tonight who want more than anything to make their democracies work. And the rest of us have to help them if we believe we live in an interdependent world.

We need to be building partners and reducing the pool of potential terrorists.

Finally, on this subject, we simply must do more to promote democracy throughout the world. And I agree with what

President Gorbachev said about the fact that we need to be sensitive (and Americans sometimes have not been so) about the difficulties that particular countries face. On the other hand, we cannot turn a blind eye when there is no democracy at all. It is no accident that the most fertile recruitment grounds for terrorists are not democracies.

You know, when you raise children you hate it when they go away. You hate it when they take risk. But you know that if you keep them in a closet, then when they are 20 they will be only six years old emotionally. By assuming responsibility for themselves and making mistakes, they grow up. Countries are like that. If people are never permitted or required to take responsibility for themselves, it is easy for them to be swayed into believing that their problems are caused by someone else's success, by some alien force doing well at their expense.

Self-government rests on the assumption that citizens have the capacity to make good choices. Now, I know this creates agonizing dilemmas for leaders in some countries in transition who are understandably afraid that dissent could tear their countries apart. And this will remain a significant challenge for us. But let us look at the evidence here. Look at the Middle East, the core Middle East. The most stable Muslim country is not the richest, or the biggest. It is Jordan. Why? I believe because several years before his death, the late King Hussein set in motion a process in which the monarch could be maintained as the Head of State. He can still fire the prime minister, and he shows up to see the president when we need to talk about foreign policy. But they have real elections there. They elect a real parliament for which Islamic extremists are free to run. And they win. The problem, as we all know, is that when you win an election you have to match your political rhetoric with the real world. You actually have to make decisions. And you have to sit

down across the table with people who disagree with you and make honorable compromises.

Just imagine if in every place in the Middle East you could have Muslim mothers going up to the people in power saying, "I heard your speech about death to America, but I want a doctor for my son and a school for my daughter, and if you don't give it to me I'll vote you out."

This is a process which requires not only leadership from us, but also the unleashing of human potential and the assumption of human responsibility in other countries as well.

But we have to help. And when countries are doing a good job we have to support them. I was honored to work with President Zedillo when we gave a loan to Mexico that 80% of the American people said was a mistake. They paid the loan back early. It was one of the best things I did in eight years!

I feel honored to have provided trade assistance and open markets to the Caribbean and African nations and Jordan, for the same reasons. I feel honored now to be working on civil society with President Mandela and South Africa. And to be working in India to try to help build sustainable economic communities in places devastated by the earthquake.

We need to do more about this!

I would like to mention two other things in reference to what President Gorbachev just said.

There are countries that are inclined to do the right thing and literally need technical help. I think those of us who live in countries with good systems just take them for granted.

But if you look at Africa, the radical difference in the AIDS infection rates in different countries in Africa is breathtaking. Some countries have good prevention systems, some do not. All these drugs are going to be made available now. But they will work in some countries and not in others. We have to make

sure that every country at least knows there is a pool of people who are committed to giving them the expertise they need, and to helping them to solve problems that they must solve for themselves.

And finally, I could not agree more that we have to democratize international institutions. The WTO is an organization that I support and helped to create. I am a free trader. I believe, on balance, that if you look at the poor countries that have adopted open market policies, you find that they have grown twice as fast as the poor countries that kept their economies closed over the last 20 years. But you cannot have a system that people trust, that has secret meetings, and does not have participation from all sectors of society. For the same reason, we should strengthen the role of the International Labor Organization. The United States should be more supportive of the United Nations, and whenever possible we should give it more missions. And funding. We need a lot of thought about the democratization of international institutions.

Let me just say, to conclude, that this is all going to be hard. We can do this, but it is going to be hard. It is going to be hard because of the basic things. Because there is still a war going on in the heart of almost every human being on the planet, between whether what is most important about life is our differences when what is most important about life is our common humanity.

We are all taught from childhood to organize the world in little boxes. Blacks and whites. Men and women. Adults and children. Left and right. Business and labor. You name it. We have to do this, otherwise we could never navigate our way through life if we did not have a way of organizing reality.

But at some point in the maturity of our journey, we figure

out that these little boxes in which we organize life only reflect a piece of reality, not all of it. And that if we become imprisoned by our boxes we will never be able to find our unity with the human community. And yet it is very hard.

You talked, Mr. President, about the imperfections in democracies. I live in a country that was born as a democracy and enshrined slavery. A country that once slaughtered its Native Americans with abandon and still has not fully made up for our sorry legacy. But we have made a lot of progress along the way. And I am very proud that the last time we used military power before all this it was to protect the lives of poor Muslims in Bosnia and Kosovo.

But this is hard. Look what happened to the great spirits of our age—and at the hands of their own people.

Gandhi. Killed, not by an angry Muslim, but by an angry Hindu because he wanted India for everyone.

Saddat. Killed, not by an Israeli commando, but by an angry Muslim Egyptian who thought he was not really a good Muslim because he wanted a secular Egypt that accommodated different views, and because he wanted to make peace with Israel.

My friend Yitzhak Rabin. Killed, not by a Palestinian terrorist, but by an angry Israeli who thought he was not a good Jew, or a good Israeli. Because he wanted the Palestinians to have a homeland and he was willing to reach across the divide to stop the killing that had occupied most of his life.

Mandela, praise God, survived 27 years of imprisonment and showed us the way by inviting his jailors to his inauguration and involving his oppressors in building a new future for his country. Not many people can do this. But this is what we have to do.

Our interdependence now requires us to reach across the human divide in a way no people have ever done before in the whole of history. Yes, the leaders must lead, but democracy

must be a part of this, because it will require a journey of the mind and heart of every human being on the planet.

We can do it.

The Torah says, “He who turns away from a stranger might as well turn away from the most high God.”

The Christian Bible says that the most important commandment is to love God, and the second is likened to love your neighbor as yourself.

The Koran says—although the Taliban hate it when I quote this, “Allah put the different people on Earth, not that they might despise one another, but that they might come to know one another and learn from one another.”

The Bhagavadgita says, “The spirit of life existed before any person was born and will be there when he or she is gone.”

That is the spirit we must capture for all our children.

It will be hard, but we can do it.

Thank you very much.

Speech by the President
of the Government of Spain,
José María Aznar*

Mr. President; dear friends.

I am very happy to be here and to be part of this Conference for which I would like to congratulate the organizers. I am delighted to be surrounded by so many good friends.

I am aware of the fact that this is an exciting time in history. My good friend Fernando Henrique Cardoso, the President of Brazil, has talked about some of his concerns and some of his hopes in this regard. What I would like to do, however, is to refer to the subject matter of this Conference: democratic transition and consolidation processes.

Some of you have referred to the transition in Spain. It is true that this process in Spain was the result of a collective effort.

That does not mean, however, that the transformation process in Spain was easy and did not require great efforts to be made. Extraordinary efforts were needed but the most important thing to understand is that any transition involves the maturing of society as a whole.

* Speech given during the opening plenary session of the Heads and former Heads of State and Government phase of the Conference (Madrid, October 26th, 2001).

It is true that there is no universal recipe for successful transition. It is also true, however, that the essential equality of all human beings can lead to phenomena that may enable common lessons to be drawn from the history of mankind. Those lessons may be valid and useful to others.

For instance, the transition periods in Central and Eastern European countries are, I believe, worthy transitions twice over because they have had to build, at one and the same time, the democratic and political fabric, a new culture upon which law can be based, and a new economic basis that could support the project for a new democratic society.

I would like to digress for a moment and talk about something that I think illustrates the close linkage between the political and economic aspects of democratization. I believe that to understand conflicts such as the ones affecting the Balkans, we have to understand, first and foremost, that whole generations in these countries for many, many years could not lead their own lives or follow their own individual initiative.

The greatness that characterizes leaders on the road toward democracy is their ability to break the chains that shackled their people and to enshrine a destiny and goals that must act as a mobilizing force for their countries and for their societies.

The case of the King of Spain—and I say that quite deliberately—is something of a paradigm and all Spaniards, as President Cardoso has said, feel extremely proud of the role that he played as a driving force for this change. I remember that during the transition period in Spain, Adolfo Suárez, one of the key figures in the process, once said something that later became quite a popular expression. He said, “Let’s make what is already normal in the street officially normal”.

That sentence summed up perfectly the true aspirations of the great majority of Spaniards at that time. But what should

not be forgotten, however, is that it all had to be organized. Back in 1997, at the time of the first democratic elections in Spain, Spanish voters were confronted by a choice of more than 300 different political options, more than 300 political parties asking them for their trust and their vote. It is best not to think about what would have happened if the Spanish people then had decided to share out their votes equally amongst the 300 different options. In all likelihood, the operation would have been impossible.

Fortunately that did not happen. Spanish voters chose sensible solutions and conveyed common-sense messages to politicians, messages of respect for anyone with other views. An atmosphere of agreement and of concertation was successfully created between the political and social forces that led to the Moncloa Pacts. In other words, the institutional, political and economic foundations for the successful operation of the country were laid down and this was done in the context of something essential in a transition and in the normal performance of the institutional game in our democracies: full respect for the rules of the game that cannot be broken on any pretext whatsoever.

There was a time when some regimes used the excuse that what they called formal freedoms had to be sacrificed in the interests of the struggle for supposed social or collective rights. I believe that history has proven that that was a mistake, both in practical and conceptual terms, because the main problem of a political community was overlooked; i.e. deciding who has authority to take decisions at government level.

In my opinion, full compliance with the laws and with the rules of the game is the key element in any democracy. For this to be effective, it is equally important: to have a clear hierarchy of values and—I want to use this expression—firm

intransigence vis-à-vis those who have no tolerance themselves. Everything can fit into the rules of coexistence and everything can fit into democratic societies except the denial of the right of another person to be protected by those rules or laws. That is why I use the expression “intransigence” regarding people who are intolerant because, at the end of the day, it is the survival of society itself and democracy itself that is at stake. I believe that this is a prime aspect of a policy for democratic consolidation.

We know that any political project, of course, requires a certain dose of flexibility. Nobody can demand that their viewpoints or interests should override those of other citizens.

Spanish people know from experience, from our own unhappy experience, that in the most extreme cases fanatics can go as far as murdering those who have no space inside their own particular political project. They resort to terrorism and exclusion to impose their political project which was doomed to fail whatever the method used to implement it, be it reason or force, because it simply lacks both.

I would like to congratulate you on the wonderful declaration against terrorism that you have approved at the start of this Conference and which I fully support. Terrorism has never won any battle in history, but that is not sufficient consolation for societies that are forced to see their own citizens who wish to be free fall victims to this barbarism.

Fortunately, and this is one of the consequences of the events of September 11th, democratic transitions in the future will enjoy increasing support from the international community to neutralize these elements which represent our greatest threat. I would like to remind you that Spain did not always receive that support it deserved.

I would like to conclude by saying that I think there are other kinds of hazards that must be avoided and I will mention

them very briefly. I am referring to the problems stemming from corruption and the effects corruption has on democratic systems and transition processes.

I believe that the lack of a past tradition of legal control and audits of public activity often makes young democracies in times of major upheaval feel powerless to successfully confront clandestine activities being carried out by those people who use the tiny cracks in power or even power itself to take advantage of insufficiently developed mechanisms of justice and turn them to their own ends and means.

That certainly happens, but I would add that one of the lessons we have learnt from the reality of today is that terrorism has terribly close ties with drug trafficking, organized crime and a total lack of respect for any laws or rules of the game. That is something quite unprecedented in all the conflicts we have known previously.

I also believe that when faced with corruption the only possible solution is to enforce the law. I think that law enforcement; with the help of the passage of time and the decision to lighten cases of State interventionism (something I personally advise) can help in this struggle.

If democratic structures are preserved, if there is no let up in the defence of freedoms, if those in government return power to the citizens in a framework of clear rules of the game, equal rules for everybody, we can also win this battle of democratic weakness which is the penetration into societies of elements of corruption and crime.

If we look back in time to just fifteen years ago, the progress of democracy in the world since then seems quite incredible.

We have mentioned Central and Eastern European countries, but I would also like to mention, unsurprisingly you will think, Latin American countries where totalitarian

temptations have been laid to rest and where dictatorships are now a thing of the past, where new ways of peaceful coexistence are underway. Where people are aware of the fact that freedom has to be earned day after day—and when this is forgotten it is recalled so terribly and tragically afterwards—and that democracy means being constantly on guard to defend it. Spain has high hopes for all the political and economic modernization processes that have begun in Latin America, as well as a definite strategic interest in them.

Nevertheless, we are also aware that transition is not a panacea or universal solution to all of our problems. We are facing many different problems but the conquest of democracy is the attainment of peaceful coexistence, the only civilized way of giving and taking away power, of living together side by side in a common coexistence that not only imposes majority rule but also respects minorities, freedom of individuals, of peoples and equality of everyone before the law.

And here in Madrid today, at this Conference on Democratic Transition and Consolidation, democracy continues to be the prime goal, the greatest impetus and the greatest wish that all of us who believe in it and are ready and willing to defend it should have.

I am very happy to see you all here and thank you very much for your attention.

Speech by the Prime Minister of the Central African Republic, Martin Ziguèle*

Mr. President; ladies and gentlemen.

Before making some comments on this Conference and on this very rich exchange of experiences, on behalf of my delegation, I would like to thank FRIDE, the Fundación para las Relaciones Internacionales y el Diálogo Exterior, as well as the Gorbachev Foundation of North America, for their initiative of organizing this conference and for inviting my country to attend.

I also want to thank the Spanish government and people for having hosted this meeting in the wonderful historic city of Madrid. It is a great tribute to Spanish democracy.

Mr. President, my country has been invited to this Conference in spite of the difficulties that our democracy is going through. And that is a very important message, because it encourages us to persevere along the road that our country has chosen.

I would like to speak about what the consequences would

* Speech given during the closing plenary session of the Conference (Madrid, October 27th, 2001).

have been if the *coup* attempt that took place recently in our country had succeeded. And in this sense I would like to say that unfortunately in the South of our country there are still people who see violence as the only way to attain power and who see weapons as the only way to get power and money.

In our country, we have had four elections in the past two years: two legislative elections and two presidential elections supervised by friendly countries, by international organizations and institutions, and by non-governmental organizations. However, we should also remember that in this short period we have also had four *coup d'état* attempts.

The sessions held at this Conference on Democratic Transition and Consolidation have given us valuable information on this topic. We have had a dialogue and an exchange of information amongst those who are and have been Heads of State and Government, those who have experience in the exercise of power, and those who are in power today.

I would like to summarize the main ideas I have absorbed over these 48 hours.

I would like to start by saying that democracy is a long process, that there are no perfect democracies, and that social justice and effective redistribution of the national wealth are the core of a true democracy.

A large number of developing countries nowadays cannot offer social justice to their people because of the many obstacles that exist.

I would like to mention the foreign debt burden, the constant deterioration of the exchange rate, the weakness of direct foreign investment. All of these factors which I have just mentioned accentuate the poverty of our people, which of course gives arguments to those who are fighting against democracy.

I would like to conclude by mentioning the dramatic events

of September 11th which have caused such an impact on the international community.

This Conference has approved a Declaration against terror and in favour of freedom. Ladies and gentlemen, the Central African Republic condemns terrorism of any type, without reservations, and we support this declaration.

I also would like to ask each of you, what would you say and what do you think about our people and our nation, the Central African Republic, which for over five years have suffered the terror caused by one man and his armed group.

I am referring specifically to former President Kolingba who for the sole reason of rejecting democratic alternation of power makes constant attempts to take power through *coup d'états*.

I believe, ladies and gentlemen, that these actions, which attempt to destabilize our democracy, are also terrorist acts which need to be condemned.

These actions are committed within the framework of a country governed by the rule of law where there is a clear separation of powers; a multiparty, national legislative assembly; half a dozen unions; NGOs; and independent, private media. We live under the rule of law. We are consolidating our democratic State and yet there have been these *coup d'état* attempts.

With respect to the ongoing crisis in the Central African Republic, I wish foundations like the ones that have organized and sponsored this Conference would think about cases like ours which is a country where the people require peace and the protection that we cannot give them and that must be guaranteed by the international community.

Lastly, I would like to say that we understand the concerns of the North about the emerging democracies in the East. But we should not forget that in the context of globalization in

which we find ourselves, the plight of the poor countries of the South remains.

Short-term solutions are not the right solutions. That is also why I would like to appeal, through your foundations, to all the peoples and countries of the North, so that the countries of the North can provide support for the poorest African countries in their struggle for a true democracy; countries just like mine, the Central African Republic.

Thank you very much.

Speech by the President of Brazil, Fernando Henrique Cardoso*

I would like to thank you for giving me the possibility of being here at this time. Thank you to the Gorbachev Foundation and FRIDE for their invitation. After listening this morning to the presidents of the two foundations, it is only fair to thank you because we have truly felt the significance of this meeting at this time. Mr. Gorbachev has given us a quick and brief overview of his personal experiences. I do not know if he remembers, but some time ago when I greeted him in Brazil, I said to him that *glasnost* and *perestroika* had represented a milestone, not only in the political history of the world, but in world thinking because for the very first time a leader of a country which was a world power at that time and whose ideology was very coherent as regards its past objectives had realized that the world faces challenges that go well beyond the limits of a country, of a territory, of a class, or of an ideology.

One example of this is the atomic threat which was threatening the survival of humanity itself when Mr. Gorbachev

* Speech given during the closing plenary session of the Conference (Madrid, October 27th, 2001).

rescued an old idea of Engels which was criticized later by Marx. Mr. Gorbachev took up this notion, perhaps without thinking about it, and proposed the idea that today we have a specific humanity and that humanity is the subject of history. And that is the basis for all discussions that have developed since then.

Even today, we are here to debate and to talk about humanity. Democracy here is given as an example of an issue that goes beyond cultures, that goes beyond religions, that goes beyond national interests, that goes beyond States. Democracy is a value that is usually understood to be universal, although it is sometimes used as a trick to hide interests of different natures. And Mr. Gorbachev has shown us that we should all continue to be enthusiastic about it and that is why I think it is very important to have this Conference here in Madrid.

I am fully aware of the seriousness of the international situation, and as a Head of a State, as a sociologist, and as a citizen, I am as well aware of the situation as any other citizen in the world.

I know that this is a difficult time, and it is appropriate, I think, for Spain to host this meeting. After the Moncloa Pacts and all the political processes that were developed after that, Spain became an example for many countries, including my own. It became an example of what democratic transition is all about. Each different country has a specific model of transition, but there are certain similarities between Latin American countries, specifically Brazil, and Spain. Therefore, it is important for us to be here in a country that, thanks to the actions of many, but also with the help of King Juan Carlos, has shown that it is one of the pillars of freedom on the international scene.

I think that after what happened on September 11th, we must face the challenge of a logic of fear that has been taken to

its extreme consequences and that has posed threats in all the spheres of our everyday life: travelling by plane, receiving mail, or the simple fact of going to work day in day out. All this has become a situation of potential danger. In the past, political life was often based on fear. The 'Leviathan' that Hobbes spoke about was a society that was based on the fact that citizens had to choose between obedience to an absolute sovereign or violent death as a result of the anarchy prevailing in the State itself.

But for a long time that had been forgotten; that idea had been left behind. And Mr. Gorbachev himself has said that this is not a meeting of academics who, according to him, sometimes talk about things that are completely abstract, obtuse and impossible to understand. But we all know that obedience should not be based on fear, because fear introduces fear and then takes away from obedience the fundamental principle of legitimacy; i.e., the accepting of shared values, to accept that if you obey you do so solely because there are rules that must be obeyed and that are shared by everyone. Fear is not a good adviser for democracy or for any form of legitimate government. The great Brazilian poet during World War II, Carlos de Andrade, denounced what he called the "harmony of fear", which he said led to a situation where love took refuge underground. And in Spain too we can find the example of Miguel de Unamuno, who in the face of irrationality in Salamanca when somebody shouted, "Long live death!", replied: "You will be the victors, but you will not be able to convince us." In other words, fear cannot be the basis for democratic life.

We have to recognize democracy, elections, constitutional rules and laws that might exist in a merely formal manner, but we must be aware of justice and anything that is done because one is afraid of the consequences of not obeying. That is why

I am sure that you will share with me the view that democracy demands first and foremost the reinforcement of a public space for debate.

If we do not have a public space or forum for debate it is impossible for democracy to stand on its own two feet. And our different points of view and interests should be debated and discussed in a transparent manner, without imposing anything, and always from the perspective of the common good which cannot be dictated by 'enlightened' bureaucrats, but should emerge out of the participation of the different social agents, the NGOs, political parties, trade unions, companies, and especially the work in the academic world, universities, and free enterprises that are not censored in any manner. This is the only way to make democracy exist, when you have participation. And in a certain way, democracy in this way is another name for peace. Democracy is synonymous with peace. Because if we do not have peace we cannot have freedom, and we cannot have a public space for debate and we cannot reflect on or do anything. And peace is not only the silence of people who are afraid. Peace is not order that is imposed from above by the powerful. Peace demands free agreement between citizens without fear and with respect for reason and the rule of law.

I say this because in the face of the fear that we have in the world, we have to face certain issues that are not going to be easy.

I would like to refer to these issues and to September 11th, because I think that we who are democrats should think about general issues associated with these events. I have no doubt that the democratic principles will be present in whatever debate or solution is proposed in order for that to be applied in a just and lasting way in the context of these conflicts, and one of them is the conflict between Israelis and Palestinians.

As democratic Heads of State we have to take this seriously. And remember it was actually here in Madrid where we began to negotiate a possible proposal for peace in the Middle East.

Unfortunately, over the last few years and especially over the last few weeks we have not seen any advances. What we have seen is that we have moved back. And a lot of the things that have happened have aggravated the relationships between the Israelis and the Palestinians.

I think it is now time to take specific steps in order to reach a situation where a democratic Palestinian State can be constructed. A feasible State that is based, obviously, on the self-governance of the Palestinian people but which also respects the existence of Israel as a sovereign, free State.

And the person talking to you now is the President of Brazil, a country where we have 100 million voters today, where we have established freedom, where the rules of the game are respected, where debate is free and open. It was Brazil who strongly supported the creation of the State of Israel before the United Nations. Therefore, we have the moral authority to say to you that although we continue to support the existence of the State of Israel, we also have to say that we believe it is necessary to take firmer steps towards the creation of the State of Palestine.

A lot of us here have a lot to say and do as regards democratic developments that can ensure peace and ensure the way forward, a gradual way forward. Brazil is prepared, like many other countries, to act in this regard and to move towards this. We do not believe in the clash of civilizations. On the contrary, we, within our own frontiers, have tried to bring civilizations, cultures, races and creeds together. We have, in Brazil, more or less ten million Brazilians of Arab origin and a million of them are Muslims. We have a very significant

Jewish population which is completely integrated into our national life. We have about 12 million people who descend from Germans. We have 25 million people of Italian descent and about 15 million of Spanish descent. And how many black people? Millions! How many Portuguese people? Millions! And there are also people from Lithuania and from Poland. People of all different origins live together in Brazil!

And Japanese! Almost two million Japanese! And Koreans! They are all Brazilians! The reality of the United States is very similar. That is why we cannot believe in a clash of civilizations. There is no room for a clash of civilizations. We believe in establishing peace. We believe that we have to make the biggest efforts we can to ensure the rule of law. And we believe—although it has already been said but I want to repeat it—that it is indispensable to reinforce the relationships between different countries and to give a more active role to the United Nations' Security Council so that it has a higher profile and is more representative of the world situation. You only have to look at what has happened in the last two to three years to realize this. Even with the best of intentions, the forms of organization of the richest countries in the world such as the G-7 have not been able to gain sufficient legitimacy for the other countries in the world to regard them as a good example. That often leads to actions having to be carried out by two or three of the nations making up these institutions without support from other nations in the world. We are all convinced that we have to continue to cooperate in order to make it possible for all other countries in the world to agree. And the fight against terrorism—and remember I am saying this in Spain where the words are especially relevant—is crucial in order to further democracy, or peace if you prefer, a peace that is not based on fear. Therefore, I believe that we are on the side of reason and

when reason is on our side and terrorism is against reason we have the chance to state loudly and clearly that the distribution of international power needs to be reviewed if we really want to introduce more equality, if we want to reduce the levels of poverty, and if we want to have a situation where democracy is not merely an abstract value but also a specific value that can solve the specific problems of different countries.

We have to acknowledge the fact that the rule of law and democracy and the constitutionalization of States are the prime mechanism for a party democracy to exist. Societies require further participation and a greater participation of the people. States have to start to cooperate with civil society and with citizens in an organized way so that we can increase the mechanisms of legitimacy that are absolutely essential for this idea to become a reality, without the threat of fear leading to a situation where a country lives in fear, and a situation where things fall apart as a result of terrorism. The whole of society needs to understand that with terrorism there can be no democracy or peace or anything else.

I think that we need to be more determined in our actions. Our countries have to be stronger in designing the rules of the game and making them prevail on the international economic and social scene. We already know that institutions and bodies that were created after World War II, such as the World Bank and the International Monetary Fund, have to be reinforced so that they can become stronger. And we also know that in democracies, especially in the large countries like mine which have very great levels of inequality and poverty, but also in smaller countries, there are not always the conditions that are required to face international challenges. And every time there is an international financial crisis, every time the available institutions prove they are unable to solve it we all end up

suffering the consequences.

I am not suggesting any extraordinary measures but we do have to reorganize the world order. We are going to have to do this with determination and will in order to do away with tax havens where resources that come from corruption end up. Resources and money that come from drug trafficking. We have to get rid of them.

And we also have to look for ways. I do not want to mention the Tobin tax, because every time I mention that someone jumps on me, but we need some kind of mechanism that allows the World Bank and the International Monetary Fund, in specific circumstances, to draw down greater funds and to be seen to act as a central bank of central banks. If not, our economies are not going to be able to move forward. They are going to move back. And our economies have to move forward, because the people have needs and we have to maintain democratic institutions with money, not only with values and we have got to create the right conditions so that the living conditions of the people improve and that demands transformation at an international level.

At the beginning of my speech, I spoke about humanity, humanity as the subject of history. We have to go back to the issue of globalization but not as an asymmetric globalization process with a great lack of equality as regards income. Instead, globalization should be a process of solidarity whose consequences are to create more democratic and more open institutions where all the developing countries can prosper and the poorer countries can improve their standard of living and are not permanently forgotten about, and are supported more actively by the World Bank and in a more flexible manner.

To give you just one example, the National Bank for Economic Development in Brazil gives out loans whose interest

rates are enormously difficult to pay. And the fact that we do not have enough resources may mean that the time has come in Europe (where you had the Marshall Plan) to rethink the whole international situation in order to do away with the reasons behind terrorism, in order to give a new impetus to democracy and for New York once again to become a great modern, safe city. This is something we have to do with determination, by creating effective conditions that will make this new world order an order that everybody can look up to and not an order that everybody fears. I think that these are really the crucial elements of democracy.

Thank you very much.

Speech by H. M. King Juan Carlos I*

I would like to begin by thanking the Heads of State or Government from so many friendly countries for being here today, together with the great many dignitaries who have held that high level responsibility in their countries in the past.

I would also like to greet the dozens of politicians and scholars who have made a contribution to this Conference on Democratic Transition and Consolidation, planned and organized by the Gorbachev Foundation of North America and the Fundación para las Relaciones Internacionales y el Diálogo Exterior in Spain.

Your participation in the work that has just concluded has, in itself, been a significant event. You have come here from four continents and some thirty different countries. Your varied geographical backgrounds and your shared desire to strengthen the solid base of a political doctrine whose foundations are respect and freedom is proof enough that democracy is not the monopoly of the East or the West, of the North or the South,

* Speech given at the closing plenary session of the Conference (Madrid, October 27th, 2001).

but rather that it seeks to be universal and can and should be acknowledged as the only political system that is worthy of the human race.

This wish to go further and deeper into the fundamental elements and requirements of democratic consolidation—the noblest wish that can be harbored by anyone who holds political responsibility—is a wish that you have felt strongly enough for you to travel here today at such a difficult moment in time.

Seldom, as far back as one can recall, has the world felt such an intense sense of collective shock as it has done in the wake of the attacks on September 11th in New York and Washington. That day, it was made so terribly plain to us that totalitarian mentalities live on in the form of terrorism and seek to impose their own particular views and objectives by extremely violent means.

In Spain, for many years now, we have been suffering from the tragic delusion of a number of fanatics who grant themselves the right to kill and maim in the name of an exclusive ideology. Threats of this kind are increasing in numbers in the world today but the more solid the systems based on freedom are, the more pointless such despicable acts will prove to be.

Democracy is an end but it is also a means in the struggle against terrorism because its foundations are social consensus, a widely felt desire by citizens to maintain that type of society: an open tolerant society where every single person deserves the right to build up their own life and where there is respect for human rights.

I am, of course, talking about a real democracy, not just a formal one, or a democracy that is just for show or hollow inside. I am talking about a democracy that is respectful of individual dignity, capable of making peaceful differences

coexist side by side and attentive to social welfare. A vigorous democracy like the democracy that has been analysed and advocated at this Conference.

It would have been important to organize a forum devoted to examining questions concerning the strengthening of democracies in any circumstances but it is even more fitting today on account of the tragic events of last month. Free peoples neither give in to terrorism nor do they represent a threat to all other free peoples.

Nobody is unaware of the fact that it is not easy to successfully lay the foundations for a political structure as complex and delicate as democracy and to maintain it. But it is essential.

There will always be someone who will seek to invalidate our systems of freedoms by magnifying their faults and minimizing their achievements. One accusation that has been levelled against democracy, for example, is that it is indifferent to inequalities. Although it is true that democracy does not automatically lead to a fair and perfect society, it is equally true that no other system favours development as much, gives citizens so many means to make their dreams come true or devises so many mechanisms to combat corruption.

In all other respects, history, and unfortunately the reality of too many countries, show us that the alternatives to democracy in themselves hold such potential for abuses and such disregard for the intelligence and dignity of human beings that they can only be defended by those people who take advantage of them or by those people who let themselves be gripped by the fear of freedom.

It is no exaggeration to say that even though there is still room for them to be perfected, democratic systems belong on a different, higher ethical plane to any form of despotism and any

form of authoritarianism.

Spain knows all too well through its own experience what the pain of losing a regime based on freedoms is like and the extraordinary joy felt on regaining it. During the transition, we had our fair share of difficulties and frights but all of those shadows that at times seemed so thick have been put well and truly behind us.

Our experience in transition, our geographical position and our historical and cultural bonds with countries that we still feel are our kin even though they are physically far away make Spain a nation that takes a special interest in the fate of democracies in the world. That is why this Conference has our enthusiastic support and why it has found in Madrid its natural home.

Let us hope that this new century that a few intolerant groups would like to brand with the sign of violence and dogmatism can be the century of freedoms. Initiatives like this Conference and the attendance of all of you at its working sessions make us certain that there is a growing and ever-expanding number of people who recognize the unavoidable urgency of working for a better world on behalf of present and future generations.

Thank you very much.

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Thank you very much.

Closing statement made by the Conference organizers*

In recent years, democracy has advanced greatly in many countries of the world. Yet democracy faces both old and new challenges derived from threats like terrorism, reactions to globalization and growing inequality. Preventing the danger of a return to authoritarian practices is a major task. It can be achieved through consolidation and deepening of democratic processes. Security and freedom have to be balanced. Only through the preservation of our values can liberty and democracy survive and contribute to political governance in a globalized world. That is why the Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE) of Spain and the Gorbachev Foundation of North America organized the Madrid Conference on Democratic Transition and Consolidation, which has brought together about a hundred world experts in a first phase, and, on October 25th-27th 2001, 34 present and former Heads of State and Government from 29 countries. It has been the most numerous meeting of Heads and former

* Closing Statement read out by the president of FRIDE, Diego Hidalgo, on behalf of the Conference organizers during the closing plenary session (Madrid, October 27th, 2001).

Heads of State and Government that has ever met on an initiative by non-governmental groups.

The main idea is to create an interaction between the academic world and political practitioners to, after an in-depth analysis of the problems of democratic transitions and consolidations, propose practical solutions for these problems. The ultimate objective is to help reinforce democracy in the world. The experts phase concluded with the writing of reports with their recommendations and practical proposals, which were used as a basis for the debates held by the Heads of State and Government.

The debates were very rewarding and multidimensional. We see the need to foster democracy in a globalized world; the importance of having an appropriate constitutional design and a clear division between the judiciary, executive and legislative powers. Political and social mobilization and pluralism are also to be enhanced, and political parties have a central role to play in a representative democracy. Fair economic and social conditions go hand in hand with democratic stability. Bureaucracy should be reformed to make it more efficient, and to reduce administrative and political corruption. There should also be civilian control over the military and over defense policy, and a clear separation of the armed forces from police bodies and functions. Finally, the existence of independent media is a guarantee for freedom and political criticism.

The reports of the experts include these conclusions and practical recommendations in more detail.

We would like to thank all participants, all the experts, Heads and former Heads of State and Government present, and, in particular, His Majesty King Juan Carlos for his support of this Conference. Without the help of King Juan Carlos and that of Prime Minister Aznar, this Conference would not have

been possible.

Our main objective for this Conference was to share experiences, and to create a process to help the leaders of emerging democracies in order to contribute to strengthening democracy in the world. However, our work will not end with this meeting. The Conference will be continued through a Steering Committee, the **Club of Madrid**, that will have three main objectives: to act as a consultative body and support group when a country undergoes a transition towards democracy; to disseminate up-to-date information in the areas discussed at the Conference; and to monitor the world situation on a regular basis as well as organize conferences about issues related to democracy. Its members will be the presidents of the Foundations that organized this Conference and the former Heads of State who participated in it. It will be open to and welcome the participation of other Heads of State and Government.

Founding of the steering committee: Club of Madrid*

1. The Conference on Democratic Transition and Consolidation held in Madrid between the 19th and 27th of October 2001 has resolved to set up a Steering Committee to monitor, support and follow up the proposals made and the agreements adopted by the Heads and former Heads of State and Government attending said conference.
2. The Steering Committee will be known as the **Club of Madrid**, out of recognition for the city where it was founded.
3. The **Club of Madrid** or Steering Committee will have the following objectives:
 - a) To act as a consultative body and support group for those countries involved in a transition to democracy. The **Club of Madrid** can make recommendations on, or if asked, participate actively in fostering such transition processes. These recommendations and actions will

* Unanimously approved on the proposal of the former Heads of State and Government attending the Conference and read out by Kim Campbell, during the closing plenary session (Madrid, October 27th, 2001).

require extensive discussions by all the parties involved in the transition.

- b) To disseminate up-to-date information about the eight areas discussed at the Conference, both to the countries whose Heads or former Heads of State and Government have attended the Conference and also to other countries; and to promote research, create professorships, finance these and help publish books.
- c) To carry out studies and/or advise countries or regions, when they request it, about specific problems of democratic consolidation and to make recommendations adapted to the concrete needs of these countries or regions.
- d) To command sufficient legitimacy and respect in order to serve as a reference point for the study of the world situation on a regular basis and, in the future, to organize conferences about issues related to democracy.

4. The members of the **Club of Madrid** will be the presidents of the Foundations sponsoring the Conference on Democratic Transition and Consolidation and all the former Heads of State and Government who participated in the Conference and request membership in the six months following the Conference.

Participating Heads of State or Government at the Conference are entitled to become members of the **Club of Madrid** once their term as Head of State or Government ends.

All those former Heads of State or Government of democratic governments who so request, and are accepted by an absolute majority of the Steering Committee and its General Assembly, will also be eligible for membership.

Message from the President
of Colombia,
Andrés Pastrana Arango

October 26th, 2001

Unfortunately, I am unable to be with you as I had intended but I would still like to send fraternal greetings and kind regards to the organizers of the Conference on Democratic Transition and Consolidation and its participants.

I believe that this meeting –called at such a timely juncture by the Fundación para las Relaciones Internacionales y el Diálogo Exterior (FRIDE) and by the Gorbachev Foundation of North America (GFNA)– is of prime importance because it constitutes an exceptional forum for reflection on the most pressing issues facing mankind at a time of major changes and unprecedented challenges.

Now is the time for all the countries in the world, all of their leaders and all of their citizens, to stand up and be counted, to determinedly take up the standard of democracy with all that it entails: respect for the rule of law, the defence and guarantee of human rights, the legitimate monopoly of force by the State, participation of the people in public decisions, political control and transparency in the way the Administration works.

The exchange of ideas and experiences that will take place at this Conference will be, of course, intellectually enriching for

all those attending and will undoubtedly represent a huge step forward on the road to a global consensus that will take us to an extension and deepening of democratic systems in all corners of the Earth.

I am confident that there will be more and more cases of transitions to democracy and its consolidation. Therefore, it is very likely that the efforts taking real shape today in the form of this Conference will be continued over time.

Moreover, the Conference itself has been called at an extremely appropriate time. We are living through difficult times now in the wake of a number of threats, including terrorism in all of its facets and social inequalities, which are not just a source of injustice but also of instability.

To tackle these situations we need more and better democracies. To make the world rise above the anxiety of terrorism and over the injustice of poverty we need more and better democracies. That is why you are all meeting together in the beautiful Spanish capital: to contribute your experiences, ideas and proposals to help us build consensus on democracy for the world.

From Colombia, one of the oldest and most stable democracies on the American continent, which is strong and alive in the midst of its difficulties, I wish you every success and the best of luck.

Thank you very much,

ANDRÉS PASTRANA ARANGO
President of the Republic of Colombia

Message from the President
of Costa Rica,
Miguel Ángel Rodríguez Echeverría

October 26th, 2001

Dear Sirs,

Not only have the despicable events of September 11th and the cases of bioterrorism with anthrax filled a whole nation with horror, fear and uncertainty but also the whole world. Rarely in its history has mankind been so united as to make a stand against one act and for another: the world is determined to fight against terrorism and to establish peace.

As a country built on the principles of peace, freedom, solidarity, respect for human rights and tolerance, Costa Rica condemns terrorism and the fanaticism that leads to irrational violence. We condemn the terrorist attacks committed against the United States just as we have done when they have taken place in other countries in Europe, Africa, Asia and in our own Latin America. And we believe that the answer to terrorism is union.

We must unite together against terrorism but also as a means of strengthening peace, democracy and respect for human rights. I am confident that this Conference on Democratic Transition and Consolidation, which I regret not being able to attend despite your kind invitation, will help to

shape that new international scenario that we need to ensure peace and live in harmony.

Please accept my best wishes from Costa Rica and the moral support of all the Costa Rican people.

MIGUEL ÁNGEL RODRÍGUEZ ECHEVERRÍA
President of the Republic of Costa Rica

Message from the President
of Peru,
Alejandro Toledo Manrique

October 25th, 2001

Dear Sirs,

Not only have the despicable events of September 11th and the cases of bioterrorism with anthrax filled a whole nation with horror, fear and uncertainty but also the whole world. Rarely in its history has mankind been so united as to make a stand against one act and for another: the world is determined to fight against terrorism and to establish peace.

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Please accept my best wishes from Costa Rica and the moral support of all the Costa Rican people.

MIGUEL ÁNGEL RODRÍGUEZ ECHEVERRÍA
President of the Republic of Costa Rica