



In this Issue

Fugitive Fujimori
Catherine M. Conaghan.....1

Uncertain Times for *Maquiladoras*
Nathalie Gravel.....3

Kirchner versus the Supreme Court
María Gabriela Spuches.....5

A Calculated Blandness? The 2003 OAS
General Assembly
Laurie Cole and John W. Graham.....7

Cuba: The Challenge of Reconciliation
Cristina Warren.....9

Which New Brazil?
Jean Daudelin.....10

Editorial

Doing the FTAA-Lite
Donald R. Mackay.....12

News Briefs

Mexico.....3	Antigua7
Honduras ..5	Guatemala11
Argentina...6	Peru.....13

Abstracts

Canada's Policy of Constructive
Engagement with Cuba.....13

Civil Society Participation in the Inter-
American System.....13

Editorial Board

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Fugitive Fujimori: The Global Campaign for Extradition

Catherine M. Conaghan

As his government crumbled in the wake of scandal in November 2000, President Alberto Fujimori slipped off to a self-imposed exile in Japan. From the comfort of Tokyo, the ex-president insists that he is not responsible for any of the human rights violations, illicit uses of public monies, and myriad other crimes that transpired under his watch. Peruvian officials disagree. Now they hope to rally the international community in a campaign to extradite Fujimori back to Peru and make him account for his acts in a court of law.

Since 2000, Peruvian prosecutors, judges and congressional investigators have compiled a staggering record detailing wrongdoing in the Fujimori government. Peru's intelligence agency, the *Servicio de Inteligencia Nacional (SIN)*, led by its de facto chief Vladimiro Montesinos, was the epicenter of illicit operations. The most heinous crimes committed were by the *Grupo Colina*, a clandestine military squad. Organized to combat terrorism in the early 1990s, *Grupo* members were convicted in two notorious cases of extra-judicial killings in which twenty-five people were killed: Barrios Altos in 1991 and La Cantuta in 1992. In the most recent investigations, *Grupo* members alleged that both Fujimori and Montesinos authorized the operations and participated in the subsequent cover-ups.

Under Montesinos' leadership, SIN was transformed into a political apparatus serving Fujimori's re-election bids in 1995 and 2000. Opposition politicians and journalists became targets of SIN wiretapping and "dirty tricks." In clandestine transactions, money was re-routed from other government agencies and ended up in SIN slush funds. An estimated US \$500 million was diverted to SIN during the period 1992-2000. Montesinos used the funds to bribe judges, media executives, election officials and legislators in pursuit of the goal of keeping both himself and Fujimori in power.

Not all of the official corruption during the Fujimori era was politically motivated. Montesinos and his cronies in the armed forces raked in millions of dollars in kickbacks on arms deals, racketeering and phony business deals. But Montesinos, unlike Fujimori, did not escape. Montesinos was on the lam in Venezuela when he was captured and returned to Peru in June 2001. He stands convicted in four cases and faces charges in seventy more.

While Montesinos continues to deny all accusations involving drug trafficking and the *Grupo Colina* homicides, he has told investigators a great deal about SIN political operations and its illicit use of public funds. He claims to have sent briefcases of cash to the presidential palace at Fujimori's request. The cash ranging between

US\$400,000 to US\$ 700,000 per month, remains unaccounted for. To date, investigators have not been able to locate offshore bank accounts in Fujimori's own name, although Montesinos suggests that Fujimori's sister Rosa and brother-in-law Victor Aritomi may have played a key role in moving the president's cash outside of Peru.

Montesinos insists that Fujimori was complicit in all of the illegal activities undertaken by SIN on behalf of his re-election. Indeed, Montesinos refers to Fujimori as his "co-author" in crime and he has provided investigators with numerous examples. During the 2000 re-election, Montesinos claims that Fujimori was a daily visitor at the US \$100,000 "war room" installed in the SIN to plan the campaign, and that he enjoyed pouring over the two million dollars worth of focus group and survey research paid for by SIN. Montesinos also maintains that Fujimori was an avid consumer of the wiretap information, ordering daily updates on his ex-wife turned political opponent, Susana Higuchi.

From a distance, Fujimori adamantly denies all of Montesinos' allegations. In language evocative of the Watergate scandal, Fujimori refers to Montesinos as the "cancer on his presidency." He insists that Montesinos plotted alone. But Fujimori's claim - that he was kept in the dark throughout his presidency - is exceedingly weak. Throughout Fujimori's presidency, independent journalists in Peru and abroad, along with a host of human rights and watchdog organizations, were up in arms about Montesinos and the SIN; reports about suspected wrongdoing circulated constantly. Peru's principal newsmagazine *Caretas* and the leading opposition newspaper *La República* were always on Montesinos' trail, and openly assailed the role he was playing in Fujimori's government. Indeed, criticism of Montesinos and SIN reached as far as the U.S. Congress and the Inter-American Commission of Human Rights. If Fujimori's claim of ignorance is to be believed, he stands as one of the most incompetent presidents in the history of Latin America. If he participated in the crimes, or knew of them and covered up, then he should stand trial as an accused felon.

The labyrinthine legal investigations of Fujimori, Montesinos and scores of other former officials will continue for some time. But Peruvian government officials now believe that they have amassed sufficient evidence to file their formal extradition request to the Japanese government. In addition to his alleged responsibility for the homicides committed by Grupo Colina, Fujimori is also charged with the illicit transfer of US \$ 15 million in government money as a payoff to Montesinos in 2000.

So far, the Japanese government has not taken an official position on extradition. Because Fujimori's parents were born in Japan and registered their son in his ancestral home, Fujimori was able to claim Japanese citizenship when he fled Peru. There is no bilateral extradition treaty between Japan and Peru. But recent developments may influence Japan's thinking. Last March, the International Criminal Police Organization (INTERPOL) issued a "red notice" to its 181 member countries, an advisory that Fujimori is wanted in Peru on homicide charges. The governments of Germany, Costa Rica, Italy, Switzerland and Spain subsequently announced that they were prepared to execute the arrest warrant should Fujimori dare to travel to those countries.

In order to increase the pressure on the Japanese government, Peruvians are mobilizing to build a transnational advocacy network for extradition. The latest effort

is spearheaded by Peru's *Coordinadora Nacional de Derechos Humanos*. Working together with the Washington Office on Latin America, Human Rights Watch, and Amnesty International, the *Coordinadora* launched "*Fujimori Extraditable*," a web-based petition drive and letter writing campaign directed at the Japanese government (www.fujimoriextraditable.com.pe).

Closure in the Fujimori case may still be a long way off. In the meantime, Fujimori uses his Tokyo-based web site (www.fujimorialberto.com) to dismiss the charges against himself and family members as a vengeful political persecution. He boasts of his plan to return to Peru and run for the presidency once again. If Fujimori is able to delay his return long enough, statute of limitations laws may indeed make prosecution on at least some of the charges impossible.

Whether Fujimori is innocent or guilty of the charges against him, a trial would go a long way in establishing the principle of accountability and respect for the rule of law. Fujimori repeatedly has ignored summonses from Peru's congress and he refused to testify to the government's National Truth and Reconciliation Commission. Protected by Japan, Fujimori continues to assert that he is above reach of the laws he once swore to uphold.

If successful, the global campaign for extradition would score another important breakthrough in Latin America's struggle against impunity, akin to the landmark Pinochet case. No matter what the final verdict, extraditing Alberto Fujimori to stand trial in Peru would give Latin American presidents, whether careless or criminal, good reason to act otherwise.■

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Mexico

The mid-term elections to be held on July 6 have the potential to change the balance of power in the Mexican congress – although the most likely outcome is a continuation of the status quo. In the Chamber of Deputies all 500 seats are up for grabs, 300 by first-past-the post and 200 by proportional representation (Instituto Federal Electoral, 24/06/03). There are also 6 gubernatorial contests.

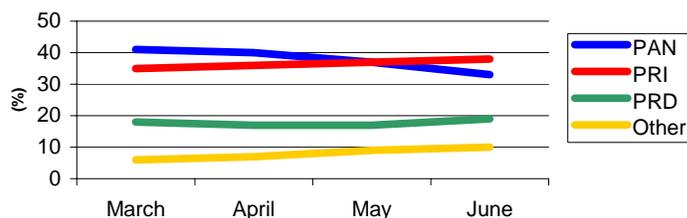
Since his historic victory in 2000, President Vicente Fox has been widely perceived as a lame-duck president. Fox has been unable to push important legislation on labour reform, deregulating the energy sector and state reform through Congress. He has also been unable to negotiate a treaty with the United States to regularize the status of illegal Mexican immigrants working in the US.

Together, the opposition parties, the *Partido Revolucionario Institucional* (PRI) and *Partido de la Revolución Democrática* (PRD), currently hold the majority of seats in the lower house. Polls suggest that both parties may increase their representation slightly, together with some small independent parties. Neither the PRI nor the ruling *Partido Acción Nacional* (PAN) are expected to win the necessary votes to take clear control of Congress. It is expected, however, that each will have the necessary seats to continue acting as a veto player (LA Newsletter, Mexico Report, 13/05/03)

The mid-term election has failed to generate much excitement in Mexico and the major campaign issues have revolved around election financing scandals experienced by both major parties (LA Weekly Report, 10/06/03).

Both Vicente Fox and PRI leader Robert Madrazo have pledged to seek “consensus” following the election, but after two years of political deadlock in Congress in which neither party is likely to be “punished” in the mid-term elections, the incentives for cooperation remain weak.

Voter Intentions for Mid-Term Congressional Election, July 6



Source: La Reforma, 25/06/03

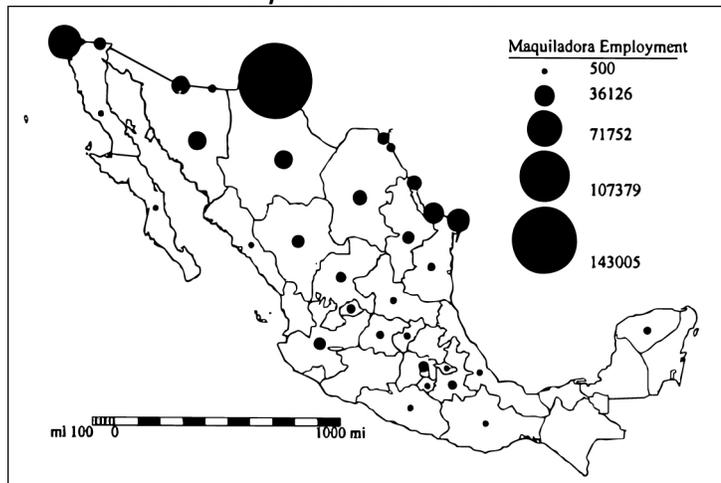
Uncertain Times for *Maquiladoras* in Yucatán, Mexico

Nathalie Gravel

As a result of globalization, *maquiladoras* (foreign-owned or joint ventures export-oriented industries) are being set up in an increasing number of non-border states each year in Mexico. Although foreign firms producing for export have existed at the Mexico-US border since the 1960's, recently, the *maquiladora* phenomenon has expanded as far as the state of Yucatán in the southeast.

After 1995, *maquiladora* investment was encouraged in the Yucatán by then-governor, Victor Cervera Pacheco (1995-2001) as a way of reducing the expected emigration from the territory after the henequen agro-industry, the principal employer in the state, went bankrupt. A government-sponsored publicity campaign described the Yucatán as the “Other Frontier” for *maquiladora* assembly production and promoted the state's cheap and docile labour and its proximity to US Gulf of Mexico seaports. As a result, the number of factories and employees demonstrated astounding growth. It is estimated that in 1999 there were approximately 25,000 workers employed by the *maquiladora* industry in the Yucatán, which increased to 30,000 by the year 2000. Estimates show that 39 percent of these firms are large plants employing over 500 workers (Garcia and Morales, 2000). In the Yucatán, clothing industries predominate, accounting for 78 percent of the manufacturing industry and employing 82 percent of the *maquiladora* workers in 1999 (*Asociación de Maquiladoras*, 1999). Other important production branches are electronics, orthodontic parts, jewellery, yacht manufacturing and fish processing. Investment capital is mostly of US origin (although some plants are owned by Hong Kong investors).

The Distribution of *Maquiladoras* in Mexico



Source: MacLachlan and Aguilar (1998).

A growing heterogeneity among the *maquiladora* industries, in firm size, type of product and origin of the capital, as well as in the type of management, the degree of automation, the flexibility of working conditions and their location in urban or rural areas means it is difficult to generalize about the industry (Garcia and Morales, 2000). The unique combination of these factors for each plant creates specific working conditions, although, foreign-owned or foreign-local joint ventures usually offer better and safer working conditions than locally owned firms.

Diverging Opinions on the Social Costs of *Maquiladora* Employment

The export-oriented *maquiladora*, due to the mass production of manufactured goods, is very different from the traditional small-scale production for the domestic market that has existed in the Yucatán. As a result, local labourers have to learn new skills, produce new kinds of goods, such as denim jeans, and adapt to new kinds of work organization (Bonfil, 1989). Because of the relatively small economic and technological linkages between *maquiladoras* and the rest of the local economy, many analysts of the *maquiladora* industry consider that it furthers a “neo-colonization” process in developing countries. It has been argued that the wide spatial distribution and the extensive employment reached by the *maquiladora* phenomenon in Mexico since 2000, combined with generous state subsidies and provision of infrastructure, leaves little space for constructing home-grown economic and cultural projects. However, it is also clear that workers have managed to balance their traditional work culture with the modern industrial process while seeking out material and non-material benefits.

When analysing the social costs of the *maquiladora* phenomenon, the workers’ point-of-view has to be included in the debate. Workers in the *maquiladora* industry might not be as “powerless” as it appears to the outside observer. The history of labour relations in the Yucatán shows that workers have always managed to find alternatives outside their formal jobs to alleviate poverty (Nadal, 2001: 128-9). Today, many continue to do so, finding work in the informal sector of the economy (such as selling soda pop and homemade food outside their houses, selling fruits, sewing clothes, and offering other services in informal workshops) as alternatives to working at the *maquiladora*.

Labour Turnover and its Consequences

This traditional recourse of Yucatán workers to the informal sector outside their regular jobs has created many difficulties for *maquiladora* employers. High labour turnover, frequently occurring on a 6-month seasonal cycle, has been threatening the *maquiladora* production cycles and is an openly acknowledged concern for plant managers. Many complain that it is difficult getting orders filled on time due to workers’ unplanned leaves of absence. At a roundtable of *maquiladora* owners organized by the *Asociación de Maquiladoras de Exportación*, local work culture was viewed as “the biggest problem foreign managers are experiencing in rural Yucatán” (interview with economist Rodolfo Canto Saenz, 2001). This frequent and unplanned job abandonment (reaching up to 18 percent annually in some industries) is an example of the local resistance displayed by Yucatecan rural *maquiladora* workers. In fact, we can see frequent job quitting and work place change as an expression of their uneasy relation to this capitalist production system and its demanding work environment. In this context, staying in business in the Yucatán is more difficult than it appears. Some new factories in Yucatán have already shut down, often in the first year of their operations, due to a lack of workers (in an area with high rural unemployment!). Also, due to slowed economic growth in the United States, many start-ups have yet to see their first day in operation, and some newly-built factories in rural municipalities are for sale or have remained empty in spite of their planned opening for 2002.

Companies that have succeeded in the Yucatán have had to find ways to adapt to the local work culture inside and outside the production floor. More flexibility in human resources management has been essential - in some cases, owners have had to accept workers who had previously quit their job. The largest factories now have permanent departments and staff for hiring and training. Some of the older factories (5 years or more)

have started to offer social incentives to retain workers, such as after-work sport facilities, yearly carnivals and celebrating workers' "graduation" when they meet their "100 percent productivity target."

A Pragmatic Choice

Apart from these social incentives, other factors also explain why workers agree to sell their labour to the *maquiladora*, such as the chance to earn a steady income (*maquiladora* jobs often pay better than comparable jobs in the nationally-owned sector), and the ability to stay close to their family in the Yucatán and avoid migrating elsewhere. Above all, social security benefits, representing a value of up to one third of a worker's salary, are an important source of increased quality of life for workers (Quintero, 2000).

While the majority of rural workers show a weak commitment to their jobs in the *maquiladora* industry, *maquiladora* wages are a welcomed source of income in a rural job market that does not offer many other paid work alternatives. Many enter the industrial workforce for a limited period of time, thus contributing to the household income when it is most needed, but quitting to pursue other job options on a seasonal basis. In a context where both owners and workers pursue their economic self-interest, rural labourers from the Yucatán have thus found ways of benefiting from the *maquiladora* industry, while balancing it with their traditional activities in the informal sector.■

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Honduras

On June 22, 2003, Cesar Augusto Díaz Flores, the leader of the opposition *Partido Liberal* (PL) in the department of Morazán and the Honduran representative to the *Parlamento Centroamericano* (PARLACEN), a regional political forum that analyzes political, social, economic and cultural issues, was arrested at the Nicaragua-Costa Rica border for carrying 7.28 kilos of heroin in his suitcase (El Nuevo Herald, 23/06/03).

Díaz Flores was travelling with 3 other individuals all of whom were arrested on the Costa Rican side of the border and who are facing deportation. Díaz Flores struggled with Costa Rican officials after they asked permission to inspect the vehicle and managed to escape into the Nicaraguan side of the border where he was arrested for possession of an illegal substance. According to Honduran newspapers, the president of Congress, Porfirio Lobo, is requesting that PARLACEN impose sanctions against Cesar Díaz Flores for violating Nicaraguan laws. Though Díaz Flores enjoys parliamentary immunity as member of PARLACEN, his diplomatic status is not fully recognized by Nicaraguan authorities, so legal charges will be laid (La Tribuna & La Prensa de Honduras, 23/06/03). Police reports show that the diplomat has a criminal record for car thefts. Díaz Flores, who is under Nicaraguan custody, is denying culpability.

Kirchner versus the Supreme Court

María Gabriela Spuches

President Néstor Kirchner's recent moves against the Argentine Supreme Court of Justice are the new government's strongest statement yet. Early in June, after only a week in power, the executive began its attack on the court with a public request to the Congress to begin the impeachment of several members of the court. The idea of impeaching all nine members of the Court was quickly rejected bearing in mind last year's failed attempt to do so. In reality, the attack is targeted against the four judges that constitute the so-called *automatic majority* – those judges appointed during the 1990s who consistently bowed to the policies of former president Carlos Menem. It is for this reason that the conflict and the accusations have focused on one symbolic figure: the President of the Supreme Court, Julio Nazareno.

The new government cited several reasons to justify its moves against the Court. It affirmed that it is absolutely necessary to protect the Supreme Court from the *automatic majority*, which has eroded public faith in the institution. The government accused some members of the Court of threatening to make rulings that threatened governability (such as ruling against the legality of the obligatory conversion of dollar-denominated savings to devalued pesos) as a way of negotiating guarantees of immunity from prosecution for its members. In fact, the current Minister of Justice, Gustavo Beliz, has confirmed that some magistrates of the court "have serious charges against them that lean toward being criminal" (La Nación, 05/06/03).

However, public opinion dreads another dose of the old medicine in which a new government replaces some judges in the Court in order to limit the independence of the judiciary and fails to contribute to the

improvement of the institution. The new government wants vacancies in the Court, but also claims that once created, these vacancies will be filled in a transparent and clear manner. Kirchner asserts that the government does not want a Supreme Court that is “addicted to” and dependent on the executive, but rather one that builds institutional quality in the democracy.

Since the political conflict between the government and the Court began, few have believed that the stated intentions of the new President were sincere. His discourse does not differ much from the repetitive diagnosis made by each new government to justify changing the judges: that it is necessary to put an end to the loss of prestige experienced by the Court. However, less than a month after assuming office, Kirchner restricted his presidential powers to appoint judges by establishing (with Decree 222) a consultation mechanism to elect future Supreme Court magistrates. This appears to be the first good sign of a government that is trying to reconcile politics with the people.

This consultative mechanism constitutes one of the major reforms carried out in Argentina with regards to the appointment of the members of the Supreme Court. Not even Carlos Menem’s constitutional reform of 1994, which was intended to equip the judicial system with improved mechanisms, contemplated introducing norms that restricted the discretionary power of the President to appoint members of the Court. Article 99 of the Constitution only required, as way of control, that the

Argentina

A month since his inauguration, President of Argentina Néstor Kirchner has moved quickly to assert his authority and independence from former president Eduardo Duhalde. In what is being termed locally as the “K style” of governing, Kirchner has retired the top brass of both the military and the federal police; has ordered the conversion of subsidies for the poor into support for starting micro-businesses; is proceeding with the impeachment of the president of the Supreme Court; and has charted a new foreign policy course that calls for “mature” relations with the United States and a strategic alliance with Brazil.

Kirchner assumed the presidency in a context in which his legitimacy, authority and ability to act were highly questioned (see FOCAL POINT May 2003). By taking these actions now he benefits from the breathing room granted to him by the opposition both inside and outside his own party, which are reluctant to oppose the popular president so early in his mandate. For example, Menemist factions in his own Peronist party, are wary of being accused of further undermining Argentina’s fragile institutions after Carlos Menem’s controversial abandonment of his presidential bid. Kirchner is thus trying to establish the conditions for future governability by weakening some of the vested interests he expects to oppose him during his mandate, and establishing his image as a reformer in the run-up to the September and October 2003 gubernatorial and congressional elections. Kirchner will need the support of governors and congressman to continue his reform program in the fall.

candidate was to be approved by the Senate. The executive has had the opportunity to select judges with common political interests, especially when the President had the political support of the Senate. When a vacancy opens in the Supreme Court, the challenge for the executive is to respect its commitment to make new appointments using the consultation mechanism, as unlike the 1994 reforms, Decree 222 is not embedded in the constitution. In this respect, the role and degree of citizen participation will be the determining factor in the success and implementation of the mechanism.

However, the new measures taken by the government represent a restriction of the discretionary powers of the president and thus constitute an exemplary step forward in increasing public trust. This regulation has two principal objectives: on the one hand, it improves the transparency of future appointments to the Court and on other it promotes citizen participation in the process. Decree 222 requires the president to publish the professional background of the candidate, including the court cases on which he/she has worked, names of clients defended and civil organizations that he/she has belonged to during the last eight years, as well a sworn statement of financial assets, including those of the spouse and children. As a result, professional, social and human rights organizations will be able to evaluate the candidacy before the President presents the list of appointees to the Senate. This is a skilful political strategy by Kirchner that assists in recovering the credibility of the Supreme Court and at the same time preserves intact the president’s ability to select the candidate he sends to the Senate, only limiting himself to making the choice from among qualified candidates.

With this first sign of political transparency, Kirchner’s mandate looks promising – although nothing is certain yet. For the moment, the executive power is moving in on the judicial power. But, Kirchner

undeniably requires the support of Congress to win his attack. The executive not only needs a formal breakthrough in Congress, where the Impeachment Commission has already accused Judge Nazareno and called him to present the case for his defence on July 26, but also needs to improve the soundness of the accusations against the magistrate. It remains to be seen whether the impeachment mechanism will be used properly and whether Congress will base its case on substantiated accusations, solid arguments and significant burden of proof. It is necessary for Congress to undertake this impeachment while respecting the norms of the due process of law in such a way that there can be no issue of substance or procedure that undermines the final decision. It is only in this way that Congress will be able to accompany Kirchner in his action plan and contribute to restoring the credibility of Argentina's political institutions.

Only in the medium to the long-term, will the real effect of these reforms be seen: what will the new balance of power be between the executive and the judiciary? Will the former respect the independence of the latter, and will the judiciary be capable of fulfilling the role ascribed to it by the constitution - one of three equal branches of government? It is hoped that the new government has the will to endow the judiciary with a prestigious and independent Supreme Court that will grow and modify itself with the passing of time and not with the arrival of each new government. ■

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Antigua and Barbuda

Raging political debate over the past few weeks signals what may be the eventual demise of the one-family, one-party state era in Antigua and Barbuda. Plagued by personal and political scandal, Prime Minister Lester Bird is facing a revolt from within the ranks of his own Antigua Labour Party (ALP) over allegations of lack of integrity and mismanagement of the nation's public funds. With the Deputy Speaker of the House of Representatives, Sheffield Bowen, introducing a non-confidence motion against him back in May and a loss of his parliamentary majority with the resignation of four ALP members this month, Bird has been forced to call general elections for October (Latin American Newsletter, 19/06/03).

The Bird family has dominated the small island's state politics for over two decades. Lester Bird inherited the leadership of the ALP from his father, Vere Cornwall Bird, who was prime minister from 1981 to 1994. The Bird family is no stranger to scandal. Last year, Prime Minister Bird was charged in a sex-drug scandal involving a minor, but subsequently cleared due to insufficient evidence. Moreover, the last two years of his administration have been sullied by the Medical Benefits Scheme scandal, which included, among other things, the use of public funds to send cabinet ministers abroad for annual check-ups while most of the nation's insured were receiving poor health services (The Economist, 22/08/02).

The opposition party, the United Progressive Party (UPP), will try to end the ALP 27-year rule. In the 1999 elections, the UPP elected four deputies with 44.5 percent of the votes and since the unfolding of the Medical Benefits Scheme scandal the UPP seems to be gaining momentum.

A Calculated Blandness? The 2003 OAS General Assembly

Laurie Cole and John W. Graham

As the hosts of this year's 33rd Organization of American States (OAS) General Assembly, held in Santiago, Chile on June 8 –10, the Chileans chose the topic of "Democratic Governance in the Americas" as the focus for the three-day discussion. It was widely agreed that many of the elements sheltered under the umbrella concept of governance – reform and strengthening of institutions, restructuring of political party systems, and improved rule of law, among others – required the attention and concerted efforts of regional decision makers.

Despite the relevance and timeliness of the discussion about governance, the General Assembly offered little in the way of new ideas or substantive action related to this theme. The agenda, and subsequent discussions, were broad and lacking in practical focus. While reiterating the importance and need for strengthened governance in the region, deliberations failed to produce strong, workable recommendations or resolutions that could act as the basis for future concerted action. In addition, the discussions provided little direction for the upcoming Special Summit that is to be held in Mexico sometime in fall 2003, or even set a date for the Summit itself. In some quarters it was suggested that a non-controversial agenda was exactly what was needed to lower tensions and increase regional solidarity in the wake of the deep economic and social crisis affecting the hemisphere, the political divisions created by the invasion of Iraq, the Cuban crackdown on its dissidents, and the failing enthusiasm for the Free Trade Agreement of the Americas. If that was the plan, it was not entirely successful - the divisions wracking the Inter-American community were well represented in Santiago.

Cuba

Cuba was raised at several points during the proceedings. Human Rights Watch raised the human rights situation in Cuba (specifically the recent crackdown in which 75 dissidents were jailed for up to 28 years) during the Civil Society Dialogue with foreign ministers and was supported by US government representatives, including US Secretary of State Colin Powell. Canadian Foreign Minister Bill Graham was the first to introduce the issue, urging the OAS to “seek constructive ways to begin to deal with this issue [the Cuban human rights situation] and bring the benefits of our work on democracy to the Cuban people.” Graham acknowledged the fact that some member states did not feel that the OAS was the appropriate forum within which to address Cuba, but stressed that as the only multilateral forum in the hemisphere it was indeed the place to initiate a constructive debate on the issue.

Expelled from the OAS in 1962, Cuba has seldom been discussed in the OAS forum in recent years in deference to the sharply divided views of member states vis-à-vis Cuba within the organization. These most recent comments at the General Assembly, the second time the issue has been raised within the organizations in the last two months, signal a greater willingness on the part of some member states to consider OAS discussions on this contentious topic.

Inter-American Human Rights Commission

The most surprising event of the General Assembly proved to be elections for the Inter-American Human Rights Commission. The US candidate was decisively defeated, marking the first time the US has been excluded from a seat on the Commission. The four successful candidates, elected to 4-year terms, were representatives from Brazil, El Salvador, Paraguay and Venezuela. Analysts have suggested that disillusionment with the new US unilateralism and its perceived neglect of the region (exemplified by concerns about the US candidates' lack of appropriate credentials) may have contributed to its diplomatic loss. The State Department expressed their disappointment that the US candidate was not elected, but stated that they remain strong supporters of the Commission and the Inter-American human rights system (NY Times, 12/06/03). It remains to be seen if there will be longer-term consequences as a result of this minor but (in OAS terms) high profile U.S. setback.

Mexico Special Summit

Mexican representatives made preliminary announcements about the Special Summit to be held in Mexico in the fall of 2003 and identified a list of preliminary themes - poverty and inequity, social policy, institutional and economic reform and making Monterrey commitments on development policy a reality. The exact location and dates are still to be decided. Ongoing efforts to further institutionalize the Summit of the Americas process within the OAS were challenged by the Mexican delegation, which advocated limited consultative discussions with the OAS and member states in planning for the Special Summit. In the end Mexico acquiesced to a more ample process of dialogue.

Civil Society

The Santiago General Assembly marked a significant opening of doors to civil society by the OAS, a process that has received decisive support from the

Canadian OAS delegation and which has been underway since the Guatemalan General Assembly in 1999. On Sunday June 8 the largest number of civil society organizations to date met with the OAS Secretary General César Gaviria and several foreign ministers for a two-hour dialogue. Productive discussion among civil society organizations the previous day generated a series of recommendations related to human rights, the implementation of Summit of the Americas mandates, as well as on political party reform and access to information. These recommendations were presented to the ministers. Although it is unlikely that a 19-page set of recommendations will have had much impact on busy foreign ministers, the existence of this new dimension of dialogue marks a significant step forward in civil society-OAS relations.

Despite an official agenda intended to cultivate a conciliatory “blandness” in this years' GA proceedings, underlying tensions continued to bubble to the surface. While the theme of “Democratic Governance in the Americas” created no new points of contention, the minor skirmishes observed over the course of the three-day meeting indicate that it will take more than a bland programme to relieve recent regional pressures.■

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Cuba: The Challenge of Reconciliation

Cristina Warren

Recent developments in Cuba such as the sentencing of 75 individuals advocating for political change through non-violent means to prison terms between 6 and 28 years in April 2003, the execution of three men who tried to hijack a boat to the United States, and the blistering rhetoric from the Cuban government in response to the ongoing condemnation of these actions by the international community, highlight the relevancy of a recently-released report entitled, *Cuban National Reconciliation*. This report, on which FOCAL collaborated, was the result of reflection and discussion over the course of three meetings throughout 2001 - 2003 among a working group of 26 academics, human rights and political activists and policy specialists (16 Cubans from the diaspora and 10 persons from other countries). The report will be of interest to anyone interested in better understanding the significant challenges to be faced in a future peaceful transition to democracy in Cuba.

The report was presented by Marifeli Pérez-Stable, Professor of Sociology at Florida International University, and Jorge Domínguez, Director of the Weatherhead Center for International Affairs at Harvard University to an Ottawa audience at a public event hosted by FOCAL on June 6. Canadian commentators included Paul Wilson, writer, editor, radio producer and translator of prominent Czech writers such as Vaclav Havel and Ivan Klima; Erna Paris, author of numerous books, including "Long Shadows: Truth, Lies and History"; and David Mendeloff, Assistant Professor, the Norman Paterson School of International Affairs at Carleton University. This was one of a series of similar events held in Miami, Mexico City, Madrid, New York and Washington, D.C.

Reconciliation among Cubans, on and off the island, is important for achieving a peaceful future, as this report eloquently argues. *Cuban National Reconciliation* looks through the prism of Cuban history to shed light on the root causes of the polarization that divides Cuban society and a number of key challenges that must be faced in order to achieve reconciliation. It explores the thorny issue of how human rights violations could be dealt with in a transition and examines the experiences in Spain, South Africa, Central America, Eastern Europe and the Southern Cone for important lessons that could help Cubans identify long-term, viable solutions as they attempt to realize national reconciliation.

The process of reconciliation has already begun. Reconciliation among families has advanced significantly and the warlike rhetoric on both sides of the Florida Straits has decreased somewhat. In Miami, reconciliation in the Cuban and Cuban-American community has begun, as those with differing views about the island learn to debate their views, rather than seek to impose them by force. But political reconciliation between the exile community and the island remains only a distant hope. This report argues persuasively that genuine reconciliation will require crafting and consolidating a new political culture, in Cuba and in the diaspora, based on tolerance, pluralism, and democratic dialogue for peaceful conflict resolution. This will be necessary to replace a historical pattern of violence, to confront political crises and to move beyond the justification of violent actions based on the genuineness of ideals. It is a process that depends on democratization and

the construction of a state respectful of international human rights norms.

Before the revolution, Cuban politics tended towards polarization. Though broad and plural, the political spectrum before 1959 did not nurture a true culture of dialogue among opponents nor a strong commitment to democratic institutions. Politics, understood as give-and-take, slowly lost credibility, and violence gained ascendancy as a means to defeat enemies. As the use of just means receded, the Cuban arena for public discourse narrowed. With the coup d'état on March 10, 1952, Fulgencio Batista undermined constitutional rule, installed a repressive regime, and violated human rights. Efforts to negotiate a return to democracy failed and armed struggle ultimately decided the fate of the dictatorship. In the view of almost all Cubans, the triumph of the revolution on New Year's Day 1959 offered the nation an extraordinary opportunity to build a new national foundation. Though at first the revolution opened up the public arena, it soon closed off access to anyone who did not second the views on social justice and independence from the United States espoused by the top leadership.

Radicalization entailed the elimination of capitalism, the suppression of independent institutions to settle political differences and a turn towards the Soviet Union. The great majority of those who opposed the revolution's radicalization believed that restrictions on freedom, total state control over the economy and an alliance with communism debased Cuban aspirations for democracy and freedom. The demand for iron-clad loyalty to the country, the revolution and the maximum leader deepened the political polarization. Though the cold war aggravated it, the roots of the polarization were Cuban. Over the ensuing decades, the Cuban government has excluded more and more Cubans from the public arena by suppressing the growing pluralism in Cuban society and even in its own ranks.

This report does not pretend to have covered all of the complexity for Cuba's current polarization. Furthermore, while its signatories understand that Cuba's future depends mainly on Cubans living on the island, they emphasize that true reconciliation requires a respectful discussion among people and groups with different points of view aimed at integrating the disparate memories about the Cuban past. Cubans of goodwill need to become fully aware of their history of human rights violations so as to commit to overcoming Cuba's polarization, lay to rest an approach of defending ends at any cost, help heal the many wounds opened throughout the years, and foster genuine peace.

Even though current conditions in Cuba are not ripe for clarifying the past, the report recommends doing what is feasible: creating a framework for a discussion of Cuba's recent history in light of international agreements and norms on human rights. With this objective, relations between the Cuban government and the organized opposition throughout the decades can be sketched out. The report delimits two periods since 1959 during which violations were committed: the 1960s, when the government faced an extensive armed resistance, some of which cooperated actively with the US and during which time, the worst and most widespread violations happened; and the decades since the 1970s, when a nonviolent opposition emerged and repression has tended to rely on intimidation, harassment, arbitrariness and imprisonment. The report provides a list of allegations, facts and questions regarding Cuban government violations, and abuses perpetrated by the violent opposition that need to be investigated so that the truth of what happened is credibly established. The US government's participation in violent acts against the Cuban government is also discussed. ■

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FOCAL's Research Forum on Cuba fosters informed discussion on the immediate and long-term challenges facing Cuba and Canadian policy towards the island.

<http://www.cubasource.org>

Which New Brazil?

Jean Daudelin

Those who hoped that Lula's election would usher in some kind of "new" Brazil must be cringing. The name of the game is continuity. Looking at the main planks of the Brazilian government's policy agenda, the "historic" election of October 2002 might as well not have happened. The government's priority, like that of its predecessor, has been to reform the pension system in order to plug a hole that drains 5 percent of the country's GDP. The next big step, again following Cardoso's agenda, is fiscal reform. The same story holds for economic and social policy, as most decisions on interest rates, fiscal surplus and even land reform could very well have been taken by the previous cabinet.

One could say that the government had no choice, given external pressures such as those from the International Monetary Fund (IMF). But this is not true. Nothing would have been easier than changing Brazil's trajectory: A single word, literally, suggesting for instance that debt rescheduling was being contemplated, would have closed the country's access to capital markets and plunged it, along with large parts of the developing world --and quite a few Northern bankers-- into crisis. But no such word was uttered and government spokespersons, beginning with Lula himself, made a point of constantly reaffirming the country's commitment to macro-economic stability and respect for its international financial commitments. The die was cast so quickly, in fact, that few were surprised last month to see the government, piece together a coalition in order to defeat a proposal to significantly raise the minimum salary: no chance could be taken with the ripple-effects of a big change to this widely-used reference price.

More surprising, perhaps, is the political face of that continuity, which to a remarkable extent is the face of the

"centrão." Perhaps best translated as "the fat centre," this coalition has basically controlled the Brazilian Congress since the military retreated to their barracks at the end of the 1980s. Paradoxically, it is as if Lula's Worker's Party (PT) had joined the "centrão," instead of the reverse. The symbol of that "move" is the President of the Senate - and the government's main ally there - José Sarney. A traditional oligarch from the Northeast, Sarney was governor of Maranhão under the military regime – a "bionic" governor, as Brazilians call those who were "made" by the generals. Although not elected directly, he was nonetheless the first post-dictatorship President of Brazil, presiding over a disastrous five years of economic experiments. He then retreated to the Senate, where to this day his extensive network of contacts and his expertise in pork-barrelling have made him massively influential – the reason why Lula sought him out. Sarney is not an exception, he is but one indicator of the new government's pragmatism.

Neither this pragmatism, however, nor the government's policy agenda, have unanimous support - far from it. There is growing resistance to Lula's immediate program and to the means he is willing to use to implement it. The PT rank and file and its natural political base in civil society and the unions are disappointed to see their dreams of a truly new Brazil pushed aside and the "old boys" still in the saddle. There is also much resistance, especially around the issue of pension reform, coming from the old corporatist coalition: from Supreme Court judges and public university professors, to low-level bureaucrats and policemen, to their officers and the military, who will not hear of serious changes to the old ways of the Brazilian

Guatemala

On June 12, 2003, the Guatemalan Supreme Electoral Court refused to accept and register former dictator Efraín Ríos Montt as a presidential candidate for the upcoming November 9 elections (New York Times 13/06/03). This was the third time that the electoral tribunal refused to register Ríos Montt's candidacy for president based on Article 186 of the 1985 Constitution, which prohibits the election of individuals who acquire power through extra-constitutional means.

Efraín Ríos Montt was nominated as the presidential candidate for the ruling *Frente Republicano Guatemalteco* (FRG) on May 24, 2003. The announcement came as a shock to many, particularly human rights organizations who accuse Ríos Montt of committing atrocities against Mayan Indians, peasants and left-wing activists during his 18 months in office between 1982 and 1983.

The FRG and its legal team have the option to appeal the electoral court's decision before the Constitutional Court, Guatemala's highest court. This same court has twice truncated Ríos Montt's ambitions to run for president based on article 186, first in 1990 and then in 1995. Nevertheless, the legal team of the FRG is contesting on the grounds that the Constitution and Article 186 came into force in 1985, three years after Ríos Montt led a coup d'état against General Romeo Lucas García. This, according to the FRG, suggests that Ríos Montt can officially run for the presidency, as the law should not be applied retroactively.

state. Many feel that they have already lost much of the advantage they held over their private sector counterparts and in many ways, they are right - but the situation is nonetheless unmanageable with the government already spending 30 percent more on pensions than on salaries. Finally, opposition is also coming from centrist and conservative political forces already planning for the next election and hoping for a disaster to befall the current government.

The confrontation over pension reform is now coming to a head. For the new government, and arguably for Brazil itself, it is truly pass or fail: if Lula backs down or is forced to do so, and if the reform is compromised, hopes for lower interest rates will fizzle away, the government *and* the private sector will scramble to roll-over their debts, the *Real* will lose its upward momentum, Brazil's dollar-linked debt will increase and the country will be plunged back into the pre-electoral vicious cycle from which it is just now emerging. Default will then really be on the agenda and a true disaster in the offing.

For the better part of a decade now, much of Brazil's political establishment has known the broad outlines of a sensible economic policy for the country. In other words, continuity of purpose had to be expected. For reasons of political expediency, lack of courage, opportunism and sheer bad luck, previous governments have not implemented such a policy. The difference today is that Lula might pull it off, at last setting Brazil on a secure path to growth and development. In this respect, change for the better, if it happens, will occur through continuity of purpose. The other alternative is also a new Brazil, however, one that nobody wants.■

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Editorial

Doing the FTAA-Lite

The Free Trade Area of the Americas (FTAA) is frequently described as being on life support. Familiar crises of confidence seem to have hounded the FTAA since the Miami kick-off in 1994. The first so-called crisis was courtesy of the 1995 Mexican peso crisis. Financial crises in Brazil, Argentina and Asia, President Clinton's failed bid to secure "fast-track" and more recently, the election of Brazil's new president, Luiz Inacio (Lula) da Silva, all signaled a resurgence of the prophets of doom and gloom.

Yet the FTAA and its band of government negotiators have plugged away year after year, meeting after meeting. Though not oblivious to these external matters, government negotiators have largely kept their heads down, remaining focused on the technicalities of individual draft chapters or themes. Most have built up considerable experience and commendable technical skills. Many are also responsible for simultaneously representing their national positions in other non-FTAA trade negotiations.

When the Miami Summit launched the FTAA, there were only around a dozen significant trade agreements in the region. The North America Free Trade Agreement (NAFTA) was one example while Mercosur, the South American Common Market, represented another approach. Chile and Mexico each had a handful of bilateral agreements. This picture was filled out by a number of older arrangements such as the Caribbean Community (CARICOM) and the Andean Community. One of the original ideas underpinning the FTAA was to create an agreement that would encompass as many of the individual agreements as possible so as to provide a limited and consistent set of trade rules governing preferential trade in the Americas.

Today the number of bilateral, and other, arrangements in the Americas has multiplied, with the most recent being the June 6, 2003 signing of a free trade agreement between the US and Chile. Some purists identify a danger in the evident momentum behind regional trading arrangements, arguing that they represent a move away from multilateralism. A counter-argument suggests that liberalization, whatever its form, brings quantifiable trade and economic growth benefits and therefore should be supported in its various forms.

The idea of the FTAA as an umbrella arrangement for the Americas is, by now, probably unworkable. It was hoped that the FTAA would be a broad arrangement covering not only the traditional issues of trade in goods and services, but would also contain liberalizing provisions in areas such as investment, government procurement and trade rules. Liberalization of trade rules in the areas of agricultural-related subsidies and trade remedies such as anti-dumping were always recognized as the most difficult challenges for a regionally based negotiation – but it was also the most critical element.

Tensions between the US and Brazil now threaten more damaging consequences for the FTAA than all of the currency crises previously weathered. The US, in particular, wants to reserve agricultural subsidy and trade remedy issues for the

multilateral negotiations under the World Trade Organization (WTO) - arguing that the problems associated with these issues are global in nature. On the surface, the argument makes a lot of sense, but it rests on a critical assumption that these issues *can* be substantively addressed in the WTO. Past experience and the current state of negotiations in Geneva indicate that significant progress is not likely. In reaction to the US position, Brazil is now talking about an FTAA – possibly pushed back to 2007 instead of 2005 – that would simply address core market-access issues such as tariffs and rules of origin. Serious negotiations on investment, services, intellectual property and government procurement could be sacrificed as a result.

An FTAA "lite" would be a major mistake. First, the FTAA is broadly acknowledged to be the foundation for the entire Summit of the Americas process. Summitry in the Americas is a "big idea" and this big idea simply cannot be nourished on a diet version of a hemispheric trade agreement. Second, public and political support for trade and investment liberalization has probably already passed its zenith in the Americas. If a strong agreement is not finalized within the currently agreed timeframe we likely will not have another chance for a generation. Third, the momentum that carried the world to the successful conclusion of the Uruguay Round is also clearly dissipating and progress in Geneva looks elusive.

The economic liberalization sustained by free trade agreements does not guarantee equitable economic growth and the elimination of poverty. In a globalized world, however, it remains a necessary precondition and the best chance for social and economic progress in the Americas remains a robust FTAA.■

Donald R. Mackay
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FOCAL Abstracts

Canada's Policy of Constructive Engagement with Cuba: Past, Present and Future

Cristina Warren

In June 1994, the Liberal government of Prime Minister Jean Chrétien introduced its policy of constructive engagement with Cuba. The policy was designed to support movement in the direction of peaceful transition, with full respect for human rights, genuinely representative government institutions, an open economy, and eventual reintegration into the hemisphere.

Canada did not break political and economic relations with Cuba following the revolution that brought Fidel Castro to power in 1959. Building on a number of modest linkages in the areas of tourism, humanitarian aid and trade and investment, constructive engagement deepened the ties between Canada and Cuba far beyond under any previous government. No other government so deeply opposed by the United States has been so closely and warmly embraced by Ottawa. Nor has a country with such negligible economic importance to Canada attracted so much attention from Ottawa's foreign policy establishment.

This paper reviews the Canadian foreign policy context of constructive engagement and identifies the key factors that led to its emergence and traces the evolution of the policy through its various phases. It looks at the current drivers underpinning constructive engagement and concludes with a number of recommendations for future Canadian policy toward Cuba.

Available online at:

http://www.focal.ca/images/pdf/cuba_canada.pdf

Civil Society Participation in the Inter-American System: The Case of the Organization of American States

The Summit of the Americas Follow-Up Series, Issue No. 2, June 2003

Laurie Cole

With this, the second in the Summit of the Americas Follow-up Series, FOCAL continues to examine the progress of the implementation of Summit commitments across the Hemisphere. This report turns its attention to the mandates related to increasing civil society participation, focusing specifically on measures taken by the Organization of American States (OAS) to incorporate citizens' voices in the inter-American system. To contextualize the evaluation of the OAS' current participatory mechanisms, the report reviews how civil society has been featured in the content of the three Summits' plans of action, as well as the role that civil society organizations (CSOs) have played in the Summit process itself. Examining the existing means that have been adopted by the OAS to promote inclusion, we consider how the organization is doing at philosophically and functionally incorporating civil society into its decision-making processes.

Over the past ten years the issue of civil society participation has been placed firmly on the agenda of the OAS. A changing global context, an increasing focus on democracy and governance, and pressure from CSOs themselves has resulted in a

Peru

Peruvian President Alejandro Toledo's political problems deepened in June as a result of a nation-wide teachers' strike for higher salaries, which was joined by striking health care workers, members of the judiciary and farmers. For the second time in less than two years in office, President Toledo implemented a state of emergency and enlisted the military to disperse the protests and maintain order. The crackdown left dozens injured, one student dead and caused a further decline in his popularity. The strike ended on June 12 after negotiations in which the government agreed to increase the monthly salaries of teachers, which are approximately US\$200, by US\$30. Although the strikes have subsided, President Toledo's support continues to drop and has recently been reported at 11 percent, its lowest level yet (La República, 23/06/03).

This unpopularity reflects the widespread perception that President Toledo has not only failed to deliver on key campaign promises, including that of doubling teachers' salaries, but that he is irresponsible with public funds. He has taken measures to counter this criticism, including reducing his monthly salary from US\$18,000 at the start of his term, to US\$ 8,400 (Associated Press 23/06/03). It is also anticipated that he will undertake a significant cabinet reshuffle next month, the third since taking office. All cabinet ministers have recently tendered their resignation, one month earlier than is customary. It is likely that Toledo will capitalize on this opportunity and not renew a significant number of posts. Instead he will try to incorporate political opponents into the cabinet in order to increase his popular support (Latin News Daily 24/06/03).

low but steady change in the way that the OAS sees and interacts with citizens of the hemisphere. The report highlights the 1999 adoption of the *Guidelines for Participation by Civil Society Organizations in OAS Activities* as a milestone in this relationship. To date the application of the *Guidelines* has proceeded fairly successfully, and they have proven useful at increasing the legitimacy of CSOs with the OAS, as well as opening up spaces previously closed to them. The more difficult work of building sustainable relationships, and cementing the true inclusion and tolerance of differing opinions is more difficult, and continues to develop.

Available online at:

http://www.focal.ca/images/pdf/civil_society.pdf

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