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## The Brazilian Elections

Philippe Faucher

The victory of Luiz Inácio (Lula) da Silva, candidate for the Worker's Party (PT), in the second round as President of Brazil is a clear demonstration that Brazilian democratic institutions are robust. This election, which coincided with the races for Governors, the Chamber of Deputies and two thirds of the Senate, has confirmed the continuous shift in support away from parties that have dominated Brazilian politics since the return of democracy in 1985. Now that economic stability has been restored, the fight against violence, corruption and social injustice should top the government's agenda, unless financial markets impose their own views.

### Is it Cardoso's defeat or Lula's victory?

With the exception of Cardoso's reelection in 1998, presidential elections have always been won by the candidate supported by a coalition of the opposition. Not that Cardoso's record is poor. Quite to the contrary; economic and social indicators show numerous important achievements. Extreme poverty was reduced, infant mortality and new cases of AIDS have declined, primary education now reaches all children, and new records were set in social housing, land reform, and basic infrastructure. Prices have remained stable for most of his two terms, and as a result of privatization, phone-lines are available and service is both affordable and reliable.

But as a result of low growth over the past 4 years, unemployment is on the rise, investment is falling, while inflation, pushed by devaluation, is increasing. Violence, insecurity, crime, corruption and widespread poverty remain among the world's highest, while taxes are rising. The urban middle-class obviously felt it was not getting its fair share, and their frustration, paradoxically, translated into votes for Lula.

Thus, it proved an insurmountable task for José Serra, Cardoso's designated successor, running for the Social-Democratic Party of Brazil (PSDB), to convince electors that his presidency would deliver the reforms that he and his allies (he was a very influential Minister of Planning and Minister of Health) could not implement over the last eight years.

More decisively, José Serra lost his bid for the Presidency when the Party of the Liberal Front (PFL) decided to leave the governing coalition in February of 2001 and present a candidate of their own. Their candidate Roseane Sarney, Governor of the Northern state of Maranhão and daughter of former President José Sarney (1985-1990), was expelled from the race when her husband and campaign manager were implicated in a corruption scandal early in the campaign. Personal conflicts opposing Serra to the leaders of the right and other strategic

considerations made it impossible to rebuild a center-right coalition, leaving Lula with the opportunity to make gains in the center-right, and as far to the right as to seal an alliance with the Liberal Party (PL) (a small party controlled by leaders of the Universal Church of the Kingdom of God, a neo-Pentecostal sect), and choosing its leader José Alencar, a textile magnate, as Lula's running-mate.

### Can Lula and the PT make a difference?

Much has been written about Lula moving his party towards the center. Indeed his new rhetoric, which included a commitment to honour the terms of the \$ 30 billion IMF loan of early September requiring strict fiscal and monetary policies, sounded serious enough to attract the pragmatic support of influential sectors of the business community. Also, records show that the states run by PT governments have been fiscally responsible and mostly exempt from scandals.

Brazilian presidential elections are as much a contest between parties of the left and parties of the right than a traditional competition between regions. For local elites it is of prime importance to be represented in the Federal administration and to play a strategic role in the governing coalition. This game of positioning gives them access to high-level positions in the Federal administration, and in the case of deputies and senators the chance to design programmes and channel resources to their constituencies. Therefore it is a tradition, once ballots are cast, for ideologies to be promptly dissolved in pragmatic if not opportunistic realignments.

Riding on Lula's coattails, the PT has made some important gains. It has won in 3 states (against 7 for the PSDB), but the major gains have occurred in the PT's representation in Congress. The party will form the largest delegation in the lower house with 91 deputies, which should give

the PT the prerogative to elect its candidate to the presidency of the chamber. With the party switching expected to take place among deputies, the PT and its allies should have a comfortable majority of over 300 votes out of a total of 513. In the Senate the party improved its position electing 14 senators and the Liberal Party (PL), its closest ally 3. Nonetheless, the right wing opposition will choose the Senate's president. Again the PT can expect a coalition majority of close to 50 votes out of 81. In both chambers the three-fifth (60%) majority required for approval of a constitutional amendment is within reach.

### What did the market say?

Financial markets have shown their concern over the PT's electoral success. Markets have been very turbulent before the first round, pushing the Brazilian currency close to R\$ 4,00 per US dollar, slightly lower than the Argentine peso. The premium on Brazilian bonds (EMBI+) reached a record of 2,440 basis points and Brazil's bonds declined to 49.13% of their face value. Inflation in August accumulated to 8% for the 12-month period.

Thus the message is very clear: the new government will have very little time to send all the appropriate messages of fiscal responsibility. Still, the forced devaluation has pushed the debt (of which 50% is tied to the US\$ exchange rate) to a staggering R\$ 850 billion, representing over 60% of GDP. Foreign investment has declined to US\$ 15 billion, less than half what it was in 2000. Unless the pressure from financial markets subsides a default may be forced on the country. However, markets have discounted Brazilian titles before the elections. The fact that a moderate rally took place at the São Paulo stock exchange before the second round, and the currency held its own afterwards, support this view. In any event, the Federal government will be locked in a fiscal straightjacket that will undoubtedly curtail the new administration's reform initiatives. The honeymoon may be short-lived.

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### Canada

On September 28<sup>th</sup>, Susan Whelan, Minister for International Cooperation in the Government of Canada announced a \$CAN 11.5 million contribution to development activities supported by the Organization of American States (OAS). The funding is allocated as follows: \$5 million to the OAS Inter-American Agency for Cooperation and Development (IACD); \$5 million for a Summit of the Americas Follow-up Fund; and \$1.5 million to the Justice Studies Centre of the Americas based in Santiago, Chile. This funding package reflects Canada's traditional preoccupation with exercising soft power through multilateral organizations, as well as the re-orientation of much of the Canadian International Development Agency's (CIDA) activities in the Americas towards projects related to the Summit of the Americas process and in particular towards implementing and following up on the agreements reached in Québec City in April 2001.

## Brazil: Lula's Challenge

W.A. Dymond

The election of Luiz Inacio "Lula" da Silva as the next president of Brazil is both a good news and a bad news story.

The good news is that Brazil is not about to lurch backwards into a socialist dreamland of repudiated debt, renationalized industry and a holiday getaway for cousin Fidel. The bad news is that nothing much will change in Brazil, a solid under-performer since the first days of European settlement 500 years ago. The Brazilian Congress, where the party composition has hardly changed as a result of the elections, will see to that.

Lula faces several imposing challenges. The first is to learn how to govern, which is unlikely to be easy for a person whose political career was built in

opposition to the military government in the 1970s and in three failed bids for the presidency. The second is to channel the high expectations that accompany his victory into an achievable programme without leaving his supporters bitterly disappointed. The third is assembling a sustainable coalition in the Congress for reform. Ferdinand Henrique Cardoso as president faced an uphill struggle in Congress throughout his eight years and Lula should not expect any more sympathetic treatment.

Although, Lula has already consigned to the waste bin much of the leftist rhetoric that sustained him and his followers through the long years in wilderness, investors, bankers and multinational companies both foreign and domestic will be watching him warily. One false step could plunge Brazil into a prolonged financial crisis.

More fundamentally, Lula will face the basic conundrum of governance in Brazil. In the south, there is a rapidly developing industrial society, vigorously democratic and ready to embrace far-reaching reforms. This is the part of the country where Brazilian economic reform over the last decade has taken root. It is also Lula's strongest base of political support. The rest of this vast country is stuck in a 19<sup>th</sup> century feudal-style governance of the many by the few and the powerful. Root and branch reforms to education, pensions, labour laws, and the balance of political and fiscal powers between the federal and state levels of government, are all urgently needed to move Brazil into the modern world, but pose direct challenges to traditional power holders. They will be no easier for Lula to accomplish than they were for Cardoso.

Brazil seems always to be the country of tomorrow. As a country it astounds the world for what it is not, a great political and economic power dominating its continent with a serious voice in global affairs, rather than what it has been, a middle-level developing country whose modest achievements belie its immense potential. Lula like all other Brazilian leaders before him will face a deeply entrenched political

### Chile

In October a human rights scandal prompted the resignation of General Patricio Ríos Ponce, the Commander-in-chief of the Chilean armed forces (FACH). Ríos Ponce had resigned amid a scandal in which Patricio Campos, the airforce general he had appointed to collect information about the fate of the disappeared, was alleged to have destroyed data about the disappearance of five individuals. Campos was supposed to report his findings to the "Table of Dialogue," a multi-sectoral dialogue, between the armed forces, the government and human rights groups, established in 1999 as a result of the increased pressure on the armed forces following the 1998 detention of General Pinochet in London.

*La Nación*, a Chilean newspaper, reported on September 8<sup>th</sup> in an interview with Otto Trujillo, a former member of the *Comando Conjunto* (Group Command), an elite military group that murdered leftist militants following the 1973 coup d'état, that Patricio Campos was married to a former operative in the *Comando Conjunto*. It was alleged that Campos destroyed information in his possession about the fate of some of those disappeared by the *Comando Conjunto* in order to protect his wife. Another chilling accusation emerging from this interview was the claim that the *Comando Conjunto* had been re-activated in order to intimidate those who might threaten the impunity of its members. (El Mercurio, 16/10/02; Nueva Mayoría, 26/09/02)

On October 21<sup>st</sup>, the president of Chile, Ricardo Lagos, announced the appointment of General Osvaldo Sarabia Vilches as Commander-in-Chief of the FACH following the resignation of Ríos.

culture hostile to radical reform, sustained by a population quiescent in the face of massive social inequalities and an elite comfortable with mediocre performance.

We should wish Lula good luck. He will need it.

W.A. Dymond is Executive Director of the Centre for Trade Policy and Law (CTPL) & former Ambassador of Canada to Brazil

## A View from Colombia: Uribe's Agenda

Fernando Cepeda Ulloa

The administration of Alvaro Uribe has started to fulfill its campaign promises. Following his electoral victory on May 26, 2002, president-elect Uribe announced before the UN Secretary General new measures intended to improve the relationship with the guerrillas. In a meeting with the Cuban foreign minister, Uribe established his interest in resuming the peace negotiations with the guerrillas, which had been broken by then president Andrés Pastrana on May 30, 2002. Uribe underlined this commitment by appointing Julio Londoño, one of the protagonists behind negotiations with the ELN (which Cuba had been mediating), as Colombian ambassador to Havana. These efforts reveal that Uribe was not the candidate of war as claimed by his critics.

President Uribe has established strict conditions to begin the peace process, including a ceasefire and end to hostilities verified by international observers. However, he has also demonstrated considerable interest in negotiation, demobilization and disarmament. It is also worth noting that on September 26th Uribe had his third meeting with the UN Secretary General, during which they discussed these issues.

The involvement of the international community in the Colombian peace process has been the object of criticism. While Colombians appreciate the interest of the international community, it is difficult to understand how these countries could get involved in a peace process that was widely recognized as lacking the rigour, methodology and clarity that would have made it viable. President Uribe is assuring that a future peace process is imbued with characteristics that make the participation of the international community useful.

Uribe has made progress on other promises. After his inauguration on August 7th, Uribe proposed a referendum to facilitate political reform and the battle against corruption. Although this does not cover all the issues relating to political reform, it includes some of the most controversial ones. Through a constitutional reform, which only needs congressional approval, other pending issues will be addressed, principally those regarding the electoral system, the organization and funding of political parties.

Similarly, Uribe has begun to deal with the problem of financing the Public Force (armed forces and police). Using article 213 of the Constitution, President Uribe declared a state of emergency and decreed a wealth tax that will allow the government to collect 2 billion pesos. In this way, the government has compensated for the increasing wealth of insurgent groups based on illegal drugs, extortion and kidnapping, and has met the US demand that Colombia commit more resources to the Public Force.

One of the most controversial issues of Uribe's proposals has been citizen participation in securing democracy. The government has been refining this concept and correcting errors, such as paying informants whose identity was concealed. There was a widespread rejection of this practice and the government quickly stopped these proceedings. This illustrates that the media and civil society organizations are watching over the functioning of these "networks of citizen cooperation" to ensure they are not misused by informants or armed groups. Uribe's goal is increasing citizen responsibility in the battle against the terrorist acts committed over the last year.

In terms of diplomacy, as president-elect, Uribe visited 11 countries, including Colombia's neighbours and Canada. President Uribe demonstrated his interest in Canada by reappointing the Ambassador and by being the first Colombian president to visit Ottawa as president-elect. Also, Uribe is pushing the idea of negotiating a free trade agreement between Canada and the Andean countries.

Not all will be a bed of roses. The fiscal situation is very difficult, the tax burden will increase appreciably, and there will be dismissals in many state entities as some are dismantled and others merged. In this respect, the points of conflict are many. The truth is that the difficult task before President Uribe is made even more complicated by his ambitious agenda and irrevocable determination to succeed.

Fernando Cepeda Ulloa is a political analyst and writer based in Colombia.

## At Last, An Electoral Victory for Trinidad and Tobago

José Zaragoza

On October 7 in Trinidad and Tobago, the general election put an end to the bitter political duel between Patrick Manning, leader of the *People's National Movement (PNM)* and Basdeo Panday, leader of the *United National Congress (UNC)*. This third election in the last three years achieved a new parliamentary majority, which the December 2001 election failed to do. In this sense, this last election was a success: the PNM played its cards well and snatched victory from the UNC by carrying off 20 of the 36 parliamentary seats. The other 16 were won by the UNC.

In the previous election of December 10, 2001, the two parties had each obtained 18 parliamentary seats. Faced with this impasse, Panday and Manning agreed to let the then president, A.N.R. Robinson, resolve this situation by choosing the next government. After Manning was chosen as

prime minister, Panday retracted and claimed that the new government was illegal. Demanding new elections, Panday and the UNC refused to cooperate with Manning in order to elect a new parliamentary president, thus creating a political deadlock. Without a parliamentary majority and without a president to settle parliamentary decisions, Manning was unable to adopt the budget (for which the deadline was the October 31, 2002) and was thus forced to call new elections for the October 7, 2002.

Moreover, behind this political battle was the ethnic reality of Trinidad and Tobago. The PNM is traditionally supported by the population of African origin while the political base of the UNC rests essentially on the population of Indian descent. Each of these ethnic groups represents 40% of the population of Trinidad and Tobago. The drawn out confrontation between Panday and Manning reinforced existing ethnic tensions, as well as the numerous concerns regarding the political stability of the country.

Fuelled by its wealth from natural gas and petroleum, Trinidad and Tobago is the largest economy in the Commonwealth Caribbean, outstripping even Jamaica (Economist, 10/10/2002). Foreign investors, especially those who have backed the massive investments in this coveted resource sector, have been concerned about the risk of political instability in the country. It goes without saying that the results of the October 7<sup>th</sup> election have reassured the business and investor community.

Nonetheless, Manning's new government will have to carefully avoid the multiple political pitfalls that remain following the victory of the PNM. One of these obstacles is Mr. Panday himself. Despite the fact that he had refused to admit defeat following the December 10, 2001 election, prior scandals had damaged the flamboyant and seasoned UNC leader's chances of being re-elected. A year ago, several members of his cabinet resigned and quit the party amongst allegations of corruption surrounding Panday. Also, he will soon have to

### Argentina

Uncertainty over the electoral calendar dominated the Argentine political scene for much of October. Caretaker president Eduardo Duhalde asked Congress to approve his plans to leave in late May, six months ahead of time, and to approve his schedule for early elections on March 30, 2003. Duhalde also asked for the suspension of the open primaries scheduled for December 15<sup>th</sup>. It is unclear when and how Congress will vote and how the decision will play out with a pending court decision on the constitutionality of Duhalde's call for elections.

The manipulation of the electoral calendar is part of the Peronist party infighting over the rules of the game and which candidate they benefit the most. It is also just another round in the decade-old power struggle between Duhalde and former president Carlos Saúl Menem, who harbours ambitions of returning to the presidency in 2003. Despite being highly fragmented and, many believe, in terminal crisis, the Peronist party is the only one that has a real chance to win the next elections. The two most favoured candidates, presidential frontrunner Adolfo Rodríguez Saá and former president Menem, both come from the ranks of Peronism.

Furthermore, none of the other parties appear capable of capitalizing on popular disgust at party politics nor persuading a disaffected electorate that it can tackle the country's problems of crime, unemployment and the worst economic crisis in Argentina's history.

appear before the courts for failing to declare \$US 1 million, which had been deposited into an account in London, England.

As the courts process Mr. Panday, Manning's government must tread carefully. Basdeo Panday is a man who loves confrontation and controversy. During his years in power, he never hesitated to make damning accusations against his adversaries. In the past, his sensational declarations have deepened ethnic divisions while the new government will need to promote national unity and reduce ethnic tensions. Thus, Manning will have to ensure that the justice system treats Panday's case with as much transparency as possible in order to guarantee that the process unfolds with an impartiality that is apparent to all.

José Zaragoza is the Caribbean Analyst at FOCAL.

## Haiti

A series of high profile events have underlined the deteriorating state of justice in Haiti and cast doubt on the ability of the Lavalas government to fulfill the obligations to the Organization of American States (OAS) undertaken in early September as conditions for the unfreezing of foreign aid to the country (see September issue of FOCALPOINT: Spotlight on the Americas).

On September 30<sup>th</sup>, Jean-Baptiste Brown, Haiti's Minister of Justice, resigned citing inadequate funding to fulfill the mandate of his department. On October 3<sup>rd</sup>, Louis Joinet, a UN expert who had been invited by the Haitian government to visit the island in September, expressed grave concerns over the impunity enjoyed by armed militias and the deterioration of freedom of expression. An additional problem is the case of former military dictator Prosper Avril. Despite the fact that a provincial court ruled his 17-months detention illegal, the Government Prosecutor, Riquet Brutus, has refused to release Avril on the grounds that the provincial court does not have jurisdiction over the capital of Port-au-Prince. (Miami Herald, 25/10/02)

By adopting Resolution 822 on September 4<sup>th</sup>, the OAS intended to strengthen democracy by asking development agencies to normalize their relations with Haiti provided that the Aristide government was able to respond and fulfill the 16-point resolution, which called for the restoration of a climate of security, reparations related to the attempted coup d'état of December 17<sup>th</sup>, 2001, and the implementation of a small-arms disarmament program. The failure of the Lavalas government to meet its international obligations threatens to undermine Resolution 822 and the flows of foreign aid on which the government depends.

## Concerns about Increasing US Sales to Cuba

Ana J. Faya

The increase of US food sales to Cuba has become a concern for Canadian, European and Latin American exporters. What started as an "exceptional" purchase of \$40 million to relieve the damage caused by Hurricane Michelle in November 2001, has grown to approximately \$US 200 million of US exports to Cuba and additional contracts signed for the future, by the end of the *Food and Agri-Business Exhibition (USFABE)*, held in Havana on September 26-30th of this year. The government of Fidel Castro has been able to take advantage of the *Trade Sanctions Reform and Export Enhancement Act (TSRA)*, which was approved two years ago by the US Congress and which allows Cuba to make cash purchases of food and medicine from the United States.

According to recent reports, the USFABE, which was organized in less than three months, brought together 288 companies from 33 states, including Puerto Rico and the District of Columbia. In spite of the opposition from the Bush Administration and some Cuban-American organizations, the USFABE demonstrated the increasing interest of the American agricultural and industrial sectors in both regaining a market that has been lost since 1959, and ending the embargo against Cuba.

At the closing dinner of the USFABE, President Castro addressed the increase in US sales to the island by saying that "such operations have not affected the economic and financial interests of our country's food suppliers during the hardest years of the special period. Their interests have always been taken into account." ([cubaminrex.cu](http://cubaminrex.cu), 9/28/02) Nevertheless, Cuban imports from Canada, Spain, France, Mexico and Brazil, which are important food suppliers to Cuba, have decreased as a result of lower cost competition originating from Florida or Louisiana ports that are only hours away from warehouses in Havana.

During the period over which US sales increased, Cuban imports of Canadian chicken dropped by 70 percent, while Cuban imports of French wheat decreased by 40 percent. This contrasts with 2000 and 2001, when Canadian exports to the island, in which food supplies were an important component, increased from \$CAN 332.4 million to \$CAN 394.5.

It is also worth noting that throughout this year there has been a general reduction in Cuban imports due to the difficult economic situation faced by the island. According to several sources, Cuba's total foreign debt currently reaches \$US 10.893 billion. Fidel Castro has paid special attention to the US market, paying cash and on time despite the lack of liquidity of the Cuban economy. It is, therefore, evident that Castro wants to draw the business sector towards the campaigns against the US embargo and the travel restrictions to Cuba. It is estimated that if the restrictions were lifted approximately one million American tourists would

travel to the island annually, thus reactivating the tourist industry, which is the most important sector of the Cuban economy. Moreover, in the context of the "war against terrorism," the accusations made by the Bush Administration about Cuba manufacturing biological weapons and its placement on the State Department's "black list" add a security component, of which Fidel Castro is undoubtedly cognisant. In these circumstances, Castro is using the TSRA to provoke business interest and influence public opinion in the United States in favour of trade with Cuba, despite the strong criticism the TSRA received from Cuban authorities when it was originally approved by the Clinton Administration.

## Ecuador

After the first round of the Ecuadorian presidential elections on October 20<sup>th</sup> Alvaro Noboa (Institutional Reform National Action Party - PRIAN) and Lucio Gutiérrez (Partido Sociedad Patriótica) advanced to the second round with 17.37% and 20.43% respectively. Voter turnout was a record low since the 1979 return to democracy. Only 66 percent of Ecuador's 8.2 million eligible voters cast their ballot, ten percent of which were spoiled or blank. (Financial Times, 10/21/02). The second round will be held on November 24<sup>th</sup>, 2002.

With these first-round results Ecuadorians appear to have rejected the traditional political parties (none of which placed among the top three), an emerging trend through the Andean region. Neither businessman and banana magnate Noboa, nor Gutiérrez, an ex-army colonel who played a role in the January 2000 coup that toppled Jamil Mahuad, are professional politicians. They drew their support from disparate segments of the population and neither have the support of an established political party nor a coherent political ideology.

As the candidates enter the second round they are being called on to expand upon their platforms. They will also need to garner the support of other parties not only to win in the second round but also to negotiate in Congress. The fragmentation of the Congress will make it difficult to pass urgent reforms, including the upcoming negotiations with the IMF for a \$US 240 million standby loan and the resulting budget cuts. Although Gutiérrez has begun to canvas for second round support, Noboa continues to resist any pact-making and most parties remain undecided as to which candidate, if any, they will lend their support.

Even though we cannot say that there is a trading relationship between Cuba and the United States because of the on-going embargo, it remains clear that the current steps taken by business groups, farmers and Congressmen (Republicans and Democrats) will make it difficult for President Bush to continue its current policy towards Cuba. Meanwhile, competition from US companies is a reality being confronted by Canadian companies trading with Cuba.

Ana J. Faya is the Cuba Researcher at FOCAL.

## Jamaica: The Elections Went Well, But...

John Graham

When the country with the third highest per capita murder rate in the world holds an election, there is a great deal of anxiety - especially when the gangs responsible for most of the bloodshed have a history of violence for political purposes. Death rates during election periods have been steadily declining since 1980 when over 700 people were killed. Nevertheless, the police painted a dark scenario in advance of the October 16<sup>th</sup> election in terms of what could happen and where.

By Jamaican standards, this election was quiet. Thirteen people were killed in a 24-hour period, but most of the murders were not directly attributable to politics. Blatant manipulation was remarkably low. Gunfire and assaults were confined to a very few constituencies and so despite some rough edges the election was relatively free and fair - a view confirmed by former president Jimmy Carter and his 60-person international observer delegation. The enlightened leadership of the Jamaican Election Office, (supported by the Carter Center and well-targeted contributions from USAID and CIDA) tightened procedures and closed most loopholes. The Jamaicans invested substantially in a largely foolproof voter ID and registration system. Canadian, US and EU funds were allocated to support CAFFE, a local volunteer observer organization that deployed over 2,000 Jamaican citizens to many of the island's polling stations. They, like the Carter observers, performed a significant deterrent role. The Jamaican Constabulary, often and at times with reason accused of favouring the ruling party, demonstrated a welcome neutrality and professionalism on the election day.

## Paraguay

The vice-president of Paraguay, Julio César "Yoyito" Franco resigned on October 16<sup>th</sup> in order to represent the opposition Liberal Radical Authentic Party (PLRA) in a bid for the presidency in the upcoming April 27<sup>th</sup> elections. The resignation could mean that unpopular president Luis González Macchi may be impeached before the end of his term in office.

Up until now, the fact that Yoyito was a member of the opposition party and the first in line to succeed the president had prevented the ruling Colorados (ANR) from impeaching or demanding the resignation of González Macchi (also from the Colorado Party). However, the resignation of Yoyito has opened the possibility that the ANR can get rid of González Macchi without losing the presidency to the opposition Liberals. Nicanor Duarte Frutos, president of the ANR and potential Colorado presidential candidate, hopes that removing González Macchi will be a popular move that will put the Colorado Party in a good position to win the April elections (ABC Color, 11/10/02).

As it currently stands, the unofficial frontrunner is former General Lino Oviedo, suspected of ordering the murder of former Vice-President Luis María Argaña in 1999 (ABC Color, 30/10/02). Oviedo is alleged to have been mobilizing his supporters and party vehicle Unace from his exile in Brazil. Oviedo is currently banned from running due to an outstanding 10-year prison term, which awaits him in Paraguay. However, recent media reports have suggested that the PLRA and Unace may form an alliance in order to defeat the Colorado Party.

The preceding paragraphs suggest that changes in the quality of the election process are more important than the result. This may be the case. Certainly the confidence of the electorate in the system has been greatly restored.

The results themselves were correctly forecast by most polls. Prime Minister P.J. Patterson of the People's National Party (PNP) was returned for a record fourth consecutive term, albeit with a much-reduced majority. Edward Seaga's Jamaican Labour Party (JLP) increased their standing to 26 in the 60-seat legislature. Third parties gained no seats in Jamaica's "first past the post"-system. However, many local pundits believe that if Mr. Seaga, a former PM and party leader since the 70's had stepped down, Mr. Patterson and his PNP would have been swept from office. Ideological differences, which have been important in past elections, vanished in a cloud of reciprocal smears. Traditionally, the JLP had been closer to the private sector and to the right of the PNP. Mr. Seaga's image has inevitably suffered after more than the 30 years in the hemisphere's second most violent political cockpit after Colombia. He has also been tarnished by accusations of scandal, alleged linkage to gangs and an unwillingness to anoint a successor. Mr. Patterson's image is not much shinier. His government has not been disastrous, but its inability to make much headway on the fundamental problems of unemployment, inequity, poverty, corruption and violence is reflected in the scale of PNP political casualties since the 1997 election. Ceding only 9 seats to the JLP in the 1997 election, a combination of subsequent by-election defeats and the loss of 13 constituencies in the October 2002 elections leaves him with a thin majority and his caucus with an appetite for change.

In Jamaica one issue towers over all others. Both leaders have failed prodigiously during their respective periods in office to deal with the monster of organized crime. No other problem casts such a dark shadow over the island, its political leadership, its appeal to investors and the quality of life of so many of its citizens. Bolstered with the additional authority that attaches to someone that has just won the Nobel

Peace Prize, former president Carter declared forthrightly to the Jamaican media that the scale of organized crime was a national disgrace. With roots as political enforcers and recipients of patronage in ghettos linked either to the JLP or the PNP, gangs became armed and lethal in the tumultuous 70's and 80's. The linkage with political parties continues, as demonstrated in the virtually solid partisan voting in polling areas under their control, but the flourishing narcotics trade has given them an independence that reduces the importance of political loyalties.

Jamaica's successful parliamentary elections represent an important step forward in building a robust democracy. Nevertheless, in many ways it is still an island in peril. It is not possible to overstate the need for determined and courageous bi-partisan leadership to surmount the continuing challenge of organized crime.

John W. Graham is the Chair of FOCAL and was an observer with the Carter Center delegation during the Jamaican elections.

## Guatemala

The successful conclusion of the proceedings of the Myrna Mack case on October 4<sup>th</sup> demonstrates that judges are willing to prosecute past abuses in Guatemala. Former Colonel Juan Valencia Osorio was sentenced to 30 years in prison for ordering the murder of Myrna Mack in September 1990.

Myrna Mack was a human rights defender who gained international recognition for her work in rural indigenous communities during the latter part of Guatemala's civil war. She was targeted by the military after she produced a report in 1990, in which she accused the government's anti-insurgency campaigns of killing hundreds of Mayan Indians. The prosecutor of the Mack case, Roberto Romero, explained to the court that Myrna's knowledge of the incidents during the civil war "turned her into an enemy of the state and an assassination target" (BBC News Online, 04/10/02).

Nonetheless, the human rights record in Guatemala has deteriorated. President Alfonso Portillo, since his election in 1999, has all but stopped implementing the 1996 peace accords, which ended the 36-year civil war. Instead, he has appointed retired officers to ministries, has doubled the defense budget and has broken the commitment of disbanding military intelligence or the presidential guard, who are accused for being behind past human right abuses. In addition, General Efraín Ríos Montt, who was president during the bloodiest phase of the war (1982-83) and who now heads the Congress, has faced accusations of genocide and crimes against humanity, but has remained "untouched" due to his legislative immunity.

## FOCAL Abstracts

### The Summit of the Americas Follow-Up Series:

## Access to Justice and Independence of the Judiciary in the Americas

Laurie Cole

In the first series of issue updates, FOCAL examines how governments across the hemisphere have fared in upholding the commitments made at the Quebec City Summit of the Americas in April 2001. This report focuses specifically on reforms relating to the independence of the judiciary and access to justice. Consulting the most recent data and information available we consider the progress made in this area since Quebec City and over the course of the last decade.

The report's findings are mixed. The success of reforms and their outcomes have been uneven between and within countries. In the area of independence of the judiciary, judicial councils and changes in the length and security of judges' tenure have laid the foundation for more autonomous judiciaries. However, problems of corruption, executive control and unlawful dismissal continue to plague courts throughout the hemisphere. It is argued that measures aimed at ensuring independence from other branches of government must be accompanied by a judicial code of ethics and standards of accountability that guarantee the professionalism of judges and court officials.

In terms of access to justice, research shows that while public defenders – state bodies that provide free legal council to low-income individuals – exist in countries across the hemisphere, they are in general understaffed, under-funded and have failed to evolve with the increase in demand for their services. The establishment of human rights ombudsmen (*defensoría del pueblo*) is highlighted as a

bright spot in efforts to guarantee citizens' access to mechanisms of justice. However, to significantly and permanently improve equal access governments must work to eradicate discrimination and prejudice and improve information and public education about citizens' legal and social rights.

To date reforms aimed at increasing the independence of the judiciary and improving access to justice have had positive impacts and spurred some valuable changes. More importantly, these efforts have allowed governments and reformers to gather much needed information on the nature of their justice systems and the challenges they face. It is hoped that with such knowledge, countries may take still larger strides in providing their citizens' with an independent and accessible justice system.

Laurie Cole is an Andean Region analyst at FOCAL.

Policy papers available at [www.focal.ca](http://www.focal.ca)

The Canadian Foundation for the Americas (FOCAL) is an independent policy institute based in Ottawa that fosters informed analysis and debate and dialogue on social political and economic issues facing the Americas. We support a greater understanding of these issues in Canada and throughout the region. FOCAL was founded in 1990 and has a full time staff of approximately 15 people. The Board of Directors provides a strategic guidance to the organization and its activities.

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