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Democracy in Latin America

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*Dennis Jett**

I was struck by a number of things Buddy MacKay said, but one in particular was when he talked about the immorality and the illegality back in the days of aid to the Contras. I was struck by the fact that many of those people are back in government now. I guess a felony is not an act that disqualifies one for public service in this administration. Although loyalty counts for more than integrity, these are the same people that claim to have brought moral clarity to our foreign policy.

But what I really wanted to say is to note the fact that great Latin American novelists like Mario Vargas Llosa always blend fact and fiction, and there is always this combination of reality and fantasy. I think it is the same way in Latin America when you talk about judicial systems. There is the oft-quoted statement that all of the countries in Latin America, with the exception of Cuba, are democracies. Yet you have the fact that while they are democracies because they have had free and fair elections, in many of them the basic institutions underpinning democracy are very weak. This is reflected in the public opinion polls like the ones that were frequently published when I was ambassador to Peru. The polls would ask which institutions the public respected and the Catholic Church would always come out as the most respected institution, somewhere in the seventieth percentile. The armed forces would receive about a forty-six percent approval rating; the presidency would do well, but much, much less than that; and the other institutions, the political parties, the Congress, and the judicial system, were all down in the teens. You have to ask yourself why that is, particularly given that functioning judicial and legislative branches are fundamental to democracy.

I think in part it is because people do not understand how these institutions work. They are not transparent or accountable enough to allow the public to understand how they function. The average citizen does not feel that or see what these institutions do to protect their rights and their privileges. That is why you have situations such as today in Peru, where in the popularity polls Fujimori, a disgraced former president who did much to undermine democracy before he had to go

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into exile, does better than the current freely-elected president Alejandro Toledo. I think in part it is also an attribute of societies under stress. When you have a problem of terrorism, when you have *narco-traffickers* that control forty percent of your territory, as in Colombia, then people worry about their security more and the fundamentals of democracy less. I think we have seen that post-September 11 in this country. The passage of the Patriot Act and the consideration of additional legislation beyond the Patriot Act reflects the fact that when people are afraid and worried about their security, they tend to throw away their rights and worry about security first and their liberty second. You see that throughout Latin America and I think you see it in our country today. In such times it is all the more important to strengthen those institutions that underpin democracy.

In talking about a reform of the judicial system it is helpful to remember there are at least three different levels of reform. The first is the administrative level, just making things work more efficiently in terms of paper flow. The selection, training, and supervision of judges is the second level. The third is the most fundamental level and deals with how you really change the system, how you make it transparent, and how you educate the people about how the system works and how it protects them. That is the one that is the most difficult to achieve, and it is the level where we can gain the most by sharing experiences, by having a center like the one that we have been discussing. Learning from what has happened in each of these different countries and exchanging that information and those experiences will go a long way to restoring the citizens' faith in their institutions and it may even help the political process.

Fujimori ran in 1990 with a constitution that said he could serve one term. He got a new constitution in 1992 that approved re-election and he ran in 1995 and was elected. Then in 1996 he had a law passed that said 1995 was the first election under the new constitution and therefore he could run in 2000. In fact, he ran in 2000. He stole the election and it was so egregious at that point that people finally took a stand. Now, Mr. Fujimori is in exile in Japan. But Peru's experience demonstrates the fact that Latin American presidents think that in power they are untouchable and out of power they are unprotected by the judicial system. So for them, as well as the common citizen, confidence in the judicial system is essential.

Another thing that is said increasingly about Latin America is that democracy has failed, or may be failing. I do not think that we can say that. We cannot say democracy has failed when its institutions have

never been made effective or enjoyed the confidence of the people. I think if democracy does not succeed in Latin America, it will not be because democracy failed, but because we have failed democracy. That is why I am a supporter of this center, which can make a great contribution to helping people have faith and confidence in their institutions.

