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## Direct democracy in Latin America: between delegation and participation<sup>1</sup>

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The objective of this paper is to analyze the inclusion of mechanisms of direct democracy in the constitutions of Latin America and identify its reasons and trends. To this end I studied the constitutional reforms of each Latin American country, describing the social and political context of the inclusion along two fundamental axes: the prerogative of the executive power and the powers of citizens. The hypothesis is that mechanisms of direct democracy, incorporated mostly in the 1990s, are political tools that may promote citizen participation and involvement in public life as well as expand the influence of the executive powers in detriment of representative tools (such as political parties) and therefore, foster delegation.

First of all it is imperative to explain that the concept of “direct democracy” admits a variety of definitions and gradations: ranging from “minimalists” conceptions that consider as direct democracy only a referendum, that is a popular consultation promoted by citizens with the purpose of approving or vetoing a law; others define direct democracy as any mechanism of civilian participation that involves voting (with the exception of elections) in other words popular consultation in their different juridical forms (referendum, plebiscite and recall). A broader definition includes legislative initiatives (i.e. the citizens’ right to propose a bill in parliament) and “maximalists” understand that direct democracy also comprises civilian participation in decisions on the use of fiscal resources (participative budget) and in the control of politics (as the ombudsman and public hearings).

Regardless of conceptual accuracy, what is undeniable is that in the 1990s direct democracy mechanisms began to be included in the constitutions of Latin America (Chart 1). In other studies I analyzed and

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1 This article is the product of the research work “Direct Democracy in Latin America: between delegation and participation”, financed by CLACSO (Lissidini, 2007). Previous versions were presented in the internal seminars of the School of Politics and Government (2006 and 2007), at the “Direct Democracy in Latin America” International Conference (March 13-14, 2007, Buenos Aires) and at the First Uruguayan Congress of Political Science (October 30-31, 2006, Montevideo). I appreciate the comments received in these meetings and also the suggestions made by Marcelo Cavarozzi, Fernando Errandonea, Steffan Gómez Campos, Flavia Freidenberg, Rodolfo González Rissoto and Aníbal Pérez-Liñan.

described these inclusions (Lissidini, 2007), yet here I only wish to mention two actors that can promote the use of direct democracy: the president and citizens.<sup>2</sup>

On one hand, the president has the authority to call for a popular consultation, generally called plebiscite<sup>3</sup>. This legal mechanism entails a series of risks for democracies. In recent years the use of this mechanism has increased in Latin America and many presidents and political candidates –some outsiders (such as Hugo Chávez in Venezuela, Rafael Correa in Ecuador and Carlos Mesa in Bolivia)– promote its use during populist campaigns. Motives for conducting a plebiscite are diverse (Morel, 2001): to consolidate or to legitimize the president's power, to grant the executive more power in detriment of the Legislative, to approve laws which otherwise would not be sanctioned or to resolve divisions within political parties. As Trimidas (2007) demonstrated by researching the European referenda of the last 20 years, occasionally leaders prefer a victory in a popular consultation than a victory in parliament (even at the risk of the proposal being rejected by the citizens, as what occurred with some referenda on joining the European Community). The weakening of the legislative power is one of the consequences that worries scholars the most (Hagen, 2002), as well as the authoritarian and populist use of this mechanism. Latin America risks promoting “delegative democracies.”<sup>4</sup> The basic idea of this concept (coined by O'Donnell) it is that voters see the president as the exclusive recipient of democratic legitimacy, and consequently, the one to whom they delegate the rights and obligations to solve domestic problems to the best of his or her ability. It follows that the president is located above political parties and organized interests (O'Donnell, 1994). In our vision, direct democracy in the hands of elected presidents as a consequence of their personal characteristics rather than their political proposals would motivate a type of majority and delegative democracy, with an adverse effect on political parties and parliaments. Plebiscites in these democracies would function as a runoff election does, lending

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<sup>2</sup>With the exception of the Uruguayan case that it begins to be used in 1917 and gradually it is extended.

<sup>3</sup> It should be noted that terms (plebiscite, referendum) vary among constitutions and researchers. Thus I prefer to speak of popular consultations (Lissidini, 2007)

<sup>4</sup> As mentioned in Chapter I of Lissidini (2007) and in the project that shaped the research (Lissidini, 2005), the concept of “delegative democracy” belongs to Guillermo O'Donnell (1994) and is not connected to the term “delegative democracy” used in the literature of the United States (Matsusaka, 2004). It should be noted that David Altman (2005) uses this concept and states that the approval of direct democracy mechanisms “seems the result of plebiscitary, self-claiming self-legitimizing, delegative attitudes of administrations and officials rather than the demands of citizens themselves” (:204)

support to the myth of legitimate delegation. In return, once the consultation is put forward, citizens can debate and possibly oppose the president's intentions. The defeats of authoritarian regimes Uruguay (1980) in plebiscites and in Chile (1988) have demonstrated that even within contexts of censorship and repression, citizens can vote against the proposed project.<sup>5</sup>

Since the nineties, citizens have had greater participation in developing, controlling and overturning policies as well as recalling politicians' mandate. Although direct democracy in the hands of citizens does entail certain risks, it is less hazardous than when promoted by presidents. Among the diverse juridical forms that the exercise of direct democracy takes on, we draw attention to legislative initiatives, popular initiatives, veto and recall. The first two are proactive mechanisms, i.e. citizens propose laws and constitutional reforms to parliament (legislative initiative) or directly to the citizenry (popular initiative). Veto and recall are reactive: they are mechanisms that endeavor to annul an already approved law and to remove an elected official from office (president, legislators, etc.). A legislative initiative can promote citizens' greater involvement in political decisions and the "democratization" of the political agenda, although it requires organization, knowledge and material resources –not always available to a group of citizens. In this sense, there is a risk of the initiative becoming a tool for interest groups seeking to obtain shared interests (as in some US states), in detriment of other social organizations with smaller capacity for mobilization and lobbying. In return, it may oblige legislators to define and debate their opinion on the topic openly, depending on the legal requirements of the initiative approved in each case. A popular initiative (i.e. the promotion of a direct consultation of citizens) also requires a capacity for mobilization, economic and human resources, but can simultaneously advance public debate and the empowerment of citizens. As in the case of initiatives promoted by the executive power, the context and qualities of society will decidedly influence the characteristics of the consultation. In apathetic societies, participation is generally low and therefore the decision can end up hands of a few (logically depending on the legal requirements). In politicized societies, the positions of political parties on a particular issue may have much bearing on the outcome, no matter what the topic for debate is, which may have negative effects – the purpose of voting is defeated if citizens solely express party positions –

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5 The opposition to the proposed constitutional reform was essential to bringing the authoritarian regime to an end and agree on the process for redemocratization. Approving the constitutional reforms proposed would have meant explicit support for military dictatorship (Lissidini, 1990).

or positive effects – it contributes to the reactivation of the political system and public deliberation.

Popular veto and recall elections are mechanisms that citizens possess to defend themselves from unpopular laws and leaders. Although the advantages of having these tools are evident, risks also exist because they can jeopardize the representative system, especially if abused or some regularly threaten to put them into use. Their effects will depend on both the juridical forms that direct democracy adopts (this not only includes the requirements to initiate and approve proposals, but also rules regarding funding and use of the media in promotional campaigns) and on the role of government intervention. According to Bowler and Donovan (2000), research tends to minimize the role of the elites in promoting tolerance, and in situations where their influence is weak, it is generally believed that public opinion is less tolerant of minority rights than that it truly is.

Below I analyze how plebiscites and other mechanisms that citizens can promote were included in the constitutions of South America and refer to the application of these mechanisms in recent years. Besides describing their juridical scope, I analyze the political context in which reforms are introduced, in particular the degree of institutional stability, the role of political parties and central actors in each constitutional reform. Lastly, I refer to the use of these mechanisms with the purpose of identifying trends, i.e. what can be expected in the future in terms of direct democracy.

### **The presidential initiative**

The presidents of Bolivia, Colombia, Ecuador, Paraguay and Venezuela have the power to call for a binding referendum or consult. Since 1994 in Argentina, the president has had the power to call for a non-binding consultation in which citizens are not obliged to vote. This type of instrument was only used once on November 25, 1984 when President Raúl Alfonsín carried out a popular consultation to ratify the “Treaty of Peace and Friendship” about the conflict over the Argentine-Chilean border, which in 1978 had nearly come to an armed confrontation between the two dictatorships<sup>6</sup>. As Daniel Sabsay has pointed out, there was some controversy about the juridical basis of the consultation. Some

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<sup>6</sup> The approval of this treaty compelled both nations to make an effort to find a solution to the conflict by means of direct negotiation, carried out in good faith and with a spirit of cooperation. If direct negotiation were not to produce a satisfactory result, either party could invite the other to channel the controversy towards a peaceful compromise. It established two successive mechanisms: reconciliation and arbitration (Marinello, 2004)

argued that Article 22 of the constitution impeded the initiative from taking place; others considered that since the plebiscite was not binding, the possibility of the electorate expressing itself on the issue in question was granted by Article 33 (implicit rights). Although the vote was not mandatory, turnout reached 70% and the proposal was voted in by 82%. This experience was cited later ten years to include the consultation within the constitutional reform (Sabsay, 2007).

The 1994 constitution was the product of an agreement –known as the *Pacto de Olivos*– among former President Raúl Alfonsín and the then president, Carlos Menem, who headed the Radical Party and Justicialist Party, respectively.<sup>7</sup> Regardless of the characteristics of the new constitution and Raúl Alfonsín's circumstantial role, this agreement brought about a deep crisis within the *Unión Cívica Radical* which had its first impact in the April, 1994 election of the *Convención Nacional Constituyente* (Constitution Framing Assembly). It also resulted in the party being displaced to third place in the 1995 presidential elections (16,6% of the votes), behind the FREPASO (a coalition of formerly Peronist sectors and traditional leftist groups) which almost reached 30%, while Menem was reelected with 47,4% of the votes. Although it attempted to mitigate the most extreme characteristics of presidentialism (at least in the opinion of some who participated in the reform debates), the new Argentine constitution<sup>8</sup> introduced modifications that ended up granting the executive power more special faculties (such as the ability to dictate presidential decrees of necessity). Reelection was the main objective of then President Carlos Menem and this reform enabled him to continue in power after another electoral victory. The Electoral College was eliminated and the presidential elections were changed to direct vote and runoff, in response to the radicals' demands. A particular system was established, tailor-made for the Menemists: a double round election which could be won in the first election by relative majority, i.e. the ballot that obtains over 45% of the vote, or 40% of the vote as long as there is a greater than 10% margin over the second-most voted ballot. Additionally, the position of Chief of Cabinet was created, which did not modify the presidential character of the régime.<sup>9</sup> Changes were

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<sup>7</sup> Two thorough analyses of the *Pacto de Olivos* and the reforms to the constitution can be found in Acuña, 1995 and Quiroga 2005.

<sup>8</sup> These changes were not, according to one of the participants of the agreement, the result of genuine consensus between main political forces that agreed to the reforms. Justicialism's only objective was to include a clause that would allow then president Menem to be reelected. Radicalism agreed to the reelection, but demanded a number of institutional reforms in exchange which Justicialism agreed to with little conviction (Gil Lavedra, 2005)

<sup>9</sup> On the contrary, Menem's administration focused the power on the executive and weakened the other powers, to the point that Marcelo Cavarozzi (2001) calls the hyperpresidentialism phenomenon.

introduced to the manner in which members of the judiciary were appointed (giving the Legislative more faculties). The Council of the Magistracy was created and the number of senators per province was increased, adding a third Senator for each province as a representative for the minority). Mechanisms of direct democracy –initiative and popular consultation– were included together with the so-called “third generation rights” (consumer and environmental rights) which elevated statutory protection and habeas corpus to constitutional degree and incorporated *habeas data*.

Some provincial constitutions incorporated mechanisms of semi-direct democracy quite early, (Mendoza in 1934 and Santa Fe in 1921), others in the fifties although most did so within the context of the *Pacto de Olivos* of 1993. Also, for the first time, the ethnic and cultural preexistence of Argentina’s indigenous peoples were recognized. The Argentine constitution was decidedly the result of a pact between two leaders who, although they had very different bargaining power and capacity, ascribed themselves the exclusive right to decide on fundamental rules to govern a country.<sup>10</sup> Menem's administration carried out tough neoliberal-style economic reforms, yet these measures did not generate major social protests.<sup>11</sup> There were no popular consultations of this type, besides the proposal mentioned above, which in fact occurred before its constitutional approval.

The executive power has the power to call for a binding referendum or plebiscite in Bolivia (2004) on any topic provided that it does not refer to fiscal matters, domestic and foreign security, and the political division of the Republic. The resolution is adopted by a simple majority of valid votes of the district in question and is valid if at least 50% of the electorate has participated. The constitutional reform of 2004 responded to the crisis of October 2003 (which culminated in the resignation of President Sánchez de Lozada), and introduced important changes in the political decision-making process and the representative system (Mayorga, 2004). The goals of the reform were fundamentally to end the monopoly the parties had on political representation and extend the civilian base by complementing traditional representative democracy with mechanisms of participative democracy (Mansilla, 2005). This reform modified the way deputies were elected –the election became uninominal. The new constitution encouraged local leaders to run for uninominal and plurinominal seats, and political groups of indigenous and

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<sup>10</sup> From different points of view, both Carlos Acuña (1995) and Hugo Quiroga (2005) point at the exclusion of the bulk of the debate on constitutional reform.

<sup>11</sup> “Highway blockades” began after 1996. As far as general strikes were concerned, the strikes of 1995 and 1996 garnered more support (Carrera and Cotarelo, 2000)



left-wing orientation received more votes. As a result, the nation was better represented in congress. Also created were the Ombudsman, an Independent Public Ministry, the Constitutional Tribunal and the Judicature Council (Barry, Pérez-Liñán and Seligson, 2004). Several political actors (including the Church) called for this figure to be included in the constitution and supported holding referenda in the context of political crisis (Cordero Carrafa, 2004). In this reform, Bolivia was also recognized as a multiethnic and multicultural nation, instead of the pretentious homogeneity reflected in the previous constitution.

After 2000, the Bolivian party system became more unstable, the crisis of party representation worsened and social and political demands grew in intensity and violence. Among the most important popular demonstrations that should be mentioned are: the “War For Water” (Cochabamba, February/April 2000); the “Rural Blockades” (Chapare, Cochabamba, and Achacachi, La Paz, September 2000); “Black February” (La Paz and El Alto, February of 2003); “Black October” (La Paz and El Alto, October 2003). The cocalero (coca farmers) organizations (one of whose expressions is Movement for Socialism- Political Instrument for Peoples’ Sovereignty) obtained renewed support which was reflected in the 2002 election and in the composition of congress. The MAS –with Evo Morales as a leader– obtained the support of 20% of the electorate; the Indigenous Movement Pachacuti, led by Felipe Quispe, attained 5%. Thus, the inclusion of direct democracy was characterized by disillusionment with traditional political parties –as well as by fatigue of so-called “*democracia pactada*”– and the emergence or renewal of political actors who supported including mechanisms of direct democracy and were critical toward representative democracy and its institutions.

The mobilization and turmoil that began in 2000 demonstrate the existence of two Bolivias. On one hand, there are the departments of the low lands, which have a diversified economy (other than gas and oil) populated mostly by mestizos and some Guarani, many who demand the autonomy which would allow them to self-manage the financial resources generated by the natural wealth in their area of influence. On the other hand, the departments in the north and west are impoverished, dominated by Quechuas and Aymaras who champion the recovery of natural resources, such as gas. Both the MAS and the group led by Quispe (*Movimiento Pachakutik*) arose in these areas, the former originating in the region of Chapare in Cochabamba and the latter in the city El Alto, La Paz. In 2003, President Sánchez de Lozada fell from power as a result of popular protests and the weakness typical of the coalition in the government (made up of the Revolutionary Nationalist Movement and the Revolutionary Left Movement). He was succeeded by Carlos Mesa who

unsuccessfully attempted to govern without the involvement of political parties. In 2004, a consultation was held which was the first –and so for the only consultation– summoned by a Bolivian president. The consultation put to consideration of the citizenry five questions on energy policy (gas) in Bolivia.<sup>12</sup> All five were approved. However, while the first three received an average of 68,5% of the vote, the last two were supported by an average of 41,9%. This difference was interpreted as a victory for MAS whose strategy promoted voting NO on Questions 4 and 5. The scope of the referendum's outcome and its subsequent conversion into legislation were problematic due to the multiple interpretations of the phrase “recovery of state property.” On May 6, 2004, a law was passed that stated that gas at the well was state property and established royalties at 18% and tax at 32%. Soon after, a new wave of protests caused Mesa to resign (June 6). On May 1, 2006, President Evo Morales resolved the issue by decree. In Bolivia, economic cutbacks and particularly privatizations intensified as of 1995 (after the Law of Capitalization was passed in March, 1994 which allowed national companies –*Yacimientos Petrolíferos Fiscales Bolivianos* (YPFB), *Empresa Nacional de Electricidad* (ENDE), *Empresa Nacional de Telecomunicaciones*, (ENTEL), *Empresa Nacional de Ferrocarriles* (ENFE) and *Empresa Metalúrgica Vinto*–<sup>13</sup> to be transformed into mixed-economy societies). As a result, the Mesa administration received strong albeit short-lived support; facing massive protests against him, Mesa was forced to resign in 2003.

In the case of Paraguay (1992), the executive power has the power to call for an consulting or binding referendum, although the summons must be approved by congress. According to the law that regulates it, the initiative for consultation by means of a referendum corresponds exclusively to the executive power (or five senators or ten deputies). Although the transition of authoritarianism in Paraguay began in 1989 and thereafter democratization and decentralization advanced slowly yet steadily, it cannot be said that the process has concluded. Although

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<sup>12</sup> The five questions of the referendum were as follows:

1. Do you agree that the current Hydrocarbons Law should be changed?
2. Do you agree that the Bolivian State should have rights to hydrocarbons once they reach the ground?
3. Do you agree that YFPB [the oil company privatized under Sánchez de Lozada] should be re-established in order to control hydrocarbon production?
4. Do you agree that Bolivian gas should be used to regain useful or sovereign access to the Pacific?
5. Do you agree that Bolivian gas should be exported, and that multinationals should pay 50% of projected profits for rights to exploit Bolivian gas, and that the government should invest in health, education, and infrastructure?

<sup>13</sup> Annex 2 of Lissidini (2008) describes all the legislative initiatives and consultations presented in Latin America in the 90s.

freedom of speech and association –together with free elections and a new constitution– amounted to advances in doing away with the inheritance of the dictatorship, President Raúl Cubas Grau's fall in 1999 exhibited the fragility of the régime and the enduring power of the military.<sup>14</sup> This power is strongly connected with Colorado Party, a dominating party that played a central role in the Stroessner dictatorship (as the “eyes and ears” of the General). This party is characterized by its durability in time (almost 60 years), its presence at the core of the country's politics and also its extraordinary fractionalization: within the same party diverse factions are cohabiting, fighting –often violently– for power.

Within the framework of political liberalization which began in 1989, the first democratic constitution of the country was passed. This constitutional reform was the result of a pact among different leaders of the *Colorado* Party. The Constitution Drafting National Convention established the division and autonomy of state powers, conscientious objection, recognition of Paraguay as a multicultural and multiethnic country, the reformulation of upholding public freedoms, in-service military being banned from political activity and the defense of human rights. At the same time it granted the president discretionary powers. Unlike Bolivia, there were no social organizations that demanded these mechanisms be approved. From the time when they were passed, no instances of direct democracy have been registered.

Since 1994 the president of Colombia has had the ability to consult the people on policies of the executive which do not require congressional approval, except those related with the state of exception and the exercise of relates powers. Approving reforms by a referendum requires a positive vote from over half the voters, and that the number exceed a

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<sup>14</sup> For the incomplete transition of Paraguay and the fall of Raúl Cubas Grau, see Abente-Brun (1999), Powers (2002) and Zagorski (2003). The assassination of Argaña triggered a crisis that had been developing in Paraguay. Argaña was the main opponent of President Raúl Cubas, especially when it came to his position on the case of former General Lino Oviedo. On March 28, 1999, on the eve of the Senate's impeachment ruling, Cubas Grau resigned as president of Paraguay. Moments before the president's resignation, retired General Lino Oviedo requested and obtained political asylum in Argentina. The day after resigning, Cubas Grau requested political asylum in Brazil. Due to the president's resignation and the vice-president's earlier assassination, the presidency of Paraguay was taken over by the president of congress, Luis González Macchi. The new constitutional President of the Republic of Paraguay formed a government in which the cabinet ministers are from political parties distinct from that of the new President, and he announced that his administration would be marked by respect for the Constitution and the institutional order, and, in general, democracy and the rule of law. In May 2000, there was an attempted coup d'etat (Inter-American Commission on Human Rights, OAS).

quarter of the total electorate. Political violence, which drug trafficking has caused to expand and become more complex, was one of the main political and social problems present when forming the Constitution Drafting National Assembly and amending the constitution in Colombia in 1991. Political “openness” constituted one of the constituents’ main concerns, a phenomenon that promoted policies that helped raise representativity by including ethnic minorities and insurgent groups in civilian life. For this purpose, a special Senate commission for indigenous communities was created, as well as a temporary, special commission in the House for black communities. Norms were dictated to encourage guerilla groups to put down their weapons. Peace was another of the objectives of this constitutional reform. Simultaneously, some lax regulations were approved to facilitate the political presence of all the collective actors of society, and for the creation of political parties and movements.

The Constitution Framing Assembly was summoned –in part– thanks to demonstrations of students and other sectors that promoted including the so-called “*Seventh Paper Ballot*” in the 1990 legislative elections<sup>15</sup>. Both the dynamics that were established in the Constitution Framing Assembly and the new institutional design significantly modified the organization and the operation of Colombia’s political parties (Bejarano and Pizarro, 2001).

According to Elizabeth Ungar Bleier (2004), the Colombian constitution of 1991 constituted an important milestone in determining the characteristics of the presidential régime in Colombia, not only for the changes that it introduced in order to strengthen Congress as compared to the executive and achieve better balance between the different branches of public power, but also for the direct and indirect effect that the reforms had in exacerbating many of the chronic weaknesses of Colombia’s political parties and the impact they have on the manner in which presidential power is exercised. Although the constitution failed to end the rationale of patronage present in Colombian parties, nor was it able to increase the representativity of these organizations, the Gaviria administration continued the process of demobilizing armed groups which

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<sup>15</sup> The matters covered by the other ballots were related to candidacies for the Senate, the House of Representatives, Department Assemblies, Town Council, Governor and Mayor. The initiative for popular consultation promoted by students from various universities was not provided for and even expressly prohibited in the Constitution of 1957. Due to the social support for the government initiative, the Gaviria administration gave the electoral organization the function to count the votes of the May 27 presidential election cast in support or rejection of summoning an Assembly to reform the constitution. The initiative obtained some 2 million votes.

culminated in the incorporation of guerilla groups to public life (among others, M-19 participation in the elections for the Constitution Framing Assembly). Third forces were growing at the polls, and so did the personalization of political representation and party fragmentation.<sup>16</sup> Including mechanisms of direct democracy was one component of a project that attempted to create a more participative democracy, amid political and electoral apathy (in fact the turnout for the Constitutional Assembly vote was 37.66% of eligible voters). It may be said that in the case of Colombia, including these mechanisms was promoted by the citizens, outside of political parties.

Colombian president Álvaro Uribe employed this option on October 25, 2005, holding a popular consultation of 15 questions on four major issue groups: establishing mechanisms and measures to punish corrupt practices in all three state powers; improving government finances; reforming some constitutional clauses to consolidate participative democracy. It also included modifications that would improve the finances of the social sector. Only one of them was approved (that banned by persons who had been convicted of crimes affecting the national patrimony from running for office) as it was the only one surpassed the threshold of 25% participation that the constitution demanded. This defeat did not damage the president's high popularity rating, although it did harm the government's reform proposals.

In Venezuela the President can summon the citizens for an advisory referendum for matters of "special national significance". Also subject to a binding referendum are treaties, pacts or international agreements that may affect national sovereignty or transfer competencies to supranational organisms. Additionally, the President can ask laws to be revoked in a Ministers Council and they can be repealed total or partially by means of a binding referendum. In this country, the context of constitutional reform was characterized by the collapse of a two-party system in which Democratic Action and COPEI alternated in office from 1958 to 1994. Caused by the emergence and consolidation of Hugo Chávez's leadership and the growing political and social polarization that still remains today, the crisis of the two-party system was demonstrated

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<sup>16</sup> According to the assessment of Elizabeth Ungar (2004) of the election results of 1991, 1994, 1998 and 2002, there was no change in the party composition in Congress, nor has the behavior of parties and political movements changed significantly in any way that would affect representativity and legitimacy of Congress. In the four congresses elected after 1991, the traditional parties –the Liberal Party and the Conservative Party- have kept most seats, in both the Senate and the House of Representatives, although in recent elections their majorities have tended to shrink. Nevertheless, it is evident that the arrival of different parties and movements would not have been possible in Congress before 1991.

in the 1994 election and ended the alternation between parties. When COPEI failed to propose him as the presidential candidate, Rafael Caldera resigned and created a new party –Convergence– under which he won the presidential election. As for the social context, road blocks and other forms of protests continued, some of them violent (a modality that was inaugurated in the *Caracazo*) executed by poorly organized actors (with the exception of student organizations and labor strikes). Hugo Chávez won the 1998 election and fulfilled his electoral promise of choosing a Constitution Framing Assembly whose objective was to redesign the Venezuelan political system. Hugo Chávez –a military officer who founded the Revolutionary Bolivarian Movement–200, or MBR–200, (in tribute to the 200 year anniversary of Simón Bolívar’s birth) and orchestrated a failed coup d’état in February 1992 that launched him onto the political scenario– may be described as outsider. Chávez was able to create a movement that was identified with him and the mottos and symbols he adopted, especially attracting marginal sectors of the population with his anti-elitist discourse, critical of the political class (Ellner, 2004). In every election between 1998 and 2006 (4 referenda and 3 presidential elections), Chávez received popular support. It should be stated that in several of these instances the number of abstentions was very high (in particular, in the referendum that approved the constitutional reform the abstention rate was 54.7%).

The new constitution –elaborated by a Constitution Framing commission and ratified in a referendum– changed the name of the country to the Bolivarian Republic of Venezuela. The new constitution was the target of strong controversy.<sup>17</sup> Its positive aspects referred to responsibilities, human rights and guarantees. In these topics, the Venezuelan reform followed the line of the constitutional amendments introduced in recent years in Latin America, by recognizing and expanding new rights such as those of indigenous peoples<sup>18</sup> and those connected to the environment. As in other countries, it followed recent trends in decentralization and transferring competencies of national power to the states and cities (although some analysts have pointed out that they have made little progress in this area). Other positive aspects refer to advances in judicial matters and mechanisms of political control.<sup>19</sup> The involvement of “the people” through the incorporation of direct democracy acquired key

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<sup>17</sup> Among several analyses of Venezuelan constitutional reform are Alvarez (2003), Brewster-Carías (2005), Lander and López Maya (200) and Maingon, Pérez Baralt and Sonntag (2001) and Norden (2003).

<sup>18</sup> Most Latin American constitutions recognized the rights of indigenous peoples for the first time in South America in the 90s: Argentina (1994), Bolivia (1994), Brazil (1988), Chile (1993), Columbia (1991), Ecuador (1993 and 1998), Paraguay (1992), Peru (1993) and Venezuela (1999).

<sup>19</sup> Its terms are also very generous to foreign residents.

relevance since the constitution was presented as a part of a broader project of participative democracy.

Among the most criticized aspects was the institutionalization of a new relationship between the military and civilians which entailed –among other things– a weakening of military subordination to civilian control, leaving promotions in the hands of the military force itself (except for the higher ranks, in which case the president takes part in the decision). The negotiation system among parties represented in the Senatorial Defense Committee, the Armed forces and the executive was replaced by another in which only the president had authority and responsibility to promote officers (Álvarez, 2003). Other articles questioned were the barring of political parties from obtaining public funding, as Lander and López Maya point out (2000): “If in order to function, parties depend exclusively on resources they can secure by means of their own effort, two explicit dangers exist. The equality of opportunities in political competition is weakened when the State is limited to its role as regulator. The second danger is that this disposition may be fostering illegal funding mechanisms” (:19). These authors also list as objectionable aspects the lengthening of the presidential term from five to six years and the allowance for immediate reelection for a second term, which undoubtedly weakens democratic alternation and increases the likelihood of authoritarian personalism.<sup>20</sup> As for the other powers of the state, the legislative power became unicameral, exercised by the National Assembly. Two more powers were instituted: Citizen Power (Office of the Prosecutor General, Office of the Defender of the People or General Ombudsman and Office of the Comptroller General) and Electoral Power (National Electoral Council and Electoral Court of the Supreme Justice Tribunal). Ultimately, the assessment of the addition of direct democracy mechanisms to the constitution is somewhat ambiguous. While they are approved jointly with the extension of other rights (i.e. human rights) and the so-called “third generation” rights, the president's powers are also extended in detriment of the legislative power. Recent experience with referenda and elections will confirm this ambiguity of the political process directed by Chávez. Direct democracy mechanisms proposed by Chávez follow a logic that does in fact promotes citizen participation, but this participation is driven and designed by the executive power. From the “Bolivarian circles” founded in 1999 (organizations created for the popularization of Bolivarian ideals), “street parliamentarianism” (popular consultations on legislative proposals), “committees of urban lands” (social participation in the process of land regulation), “water committees” (neighborhood groups that seek to generate alternatives to

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<sup>20</sup> The constitution has been criticized for reasons not mentioned in this chapter but which can be read in the references quoted above.

improve water and sewer services) to community councils approved in 2006, all aspire to channel the collective action of citizens. Like popular consultations, referenda and legislative initiatives –as well as labor cooperatives, co-management and “missions”– according to Chávez himself, these mechanisms attempt to empower the citizenry and give it involvement, reinforcing “participative democracy.”<sup>21</sup> However, controlled by the executive power, these instances are in many cases networks that reproduce old practices of patronage and corruption and operate as political activists' tools to recruit Chavez supporters. In the Venezuelan case, popular consultations promoted a direct relationship between citizens and the government, reinforcing his power, at the expense of other representation mechanisms such as political parties and independent social organizations.<sup>22</sup>

On August 15, 2007, Chávez presented a new proposal for reform which changed 33 out of 350 articles of the constitution passed in 1999). On November 2, the National Assembly approved the president's proposal and added others, which conjunctly proposed modifications to 69 constitutional articles. The proposal included the indefinite election of the president and extended the term from six years to seven, created new types of property to be administered by cooperatives and the communities, transformed the Armed forces into Bolivarian militias, universalized social security, lowered the voting age to 16, reduced the work day to six hours (down from eight), modified the territorial division, eliminated the right to information and due process during exceptional states. Also, the reform prohibited monopolies and *latifundios* (great landed estates) and left monetary policy in hands of the government (which ultimately meant a loss of autonomy for the Central Bank). On December 2, 2007, for the first time since he took office, Chávez was rejected by civil society when his proposed constitutional reform was not approved. The reform was divided into two blocks. Block A was made up of the articles corresponding to the Chávez-proposed reform and

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<sup>21</sup> The promotion of the new model for the State, that of justice and equity, through the construction of active democracy, where citizen participation plays a vital role in the new relationships of power. In this sense, reform of street parliamentarianism and community councils need to be strengthened.” (Exposition of reasons for the budget bill for 2007 fiscal year, Bolivarian Republic of Venezuela in <http://www.presupuestoygenero.net/unfpa2/documentos/exposicion.pdf>)

<sup>22</sup> Between 1999 and 2007 there were five popular consultations, two were “mandatory” because they were constitutional reforms that had to be ratified or rejected by the citizenry (1999 and 2007), two were summoned by President Hugo Chávez (1999 and 2000), and one by the citizens (2004). Each case displayed Chávez’s authoritarianism as well as the opposition’s intolerance. An analysis of these experiences can be found in “La democracia directa en una sociedad polarizada: el caso de Venezuela” (Direct democracy in a polarized society: the case of Venezuela) (Lissidini, 2007).



obtained 49.36% of positive votes (as opposed to 50.7%), and Block B, made up of modifications proposed by the National Assembly, obtained 48.94% against 51.05% (CNE data). It is fitting to remark that in both constitutional consultations electoral abstention was high: 54.7% in 1999, and 44.11% in 2007<sup>23</sup>. As in other Venezuelan experiences of direct democracy, this consultation acted as a plebiscite on Chávez and his political project.

The president of Ecuador is able to promote a consultation on questions considered of importance to the country. The executive is the only power that can call for a consultation to promote constitutional reforms (although previously congress must qualify it as urgent). The Ecuadorian constitution of 1998 establishes on the other hand that indigenous peoples must be consulted on prospecting plans and programs as well as the exploitation of nonrenewable resources that would take place on their lands and may affect them environmentally or culturally. The constitution of 1967 had already established that the president should promote a popular consultation in certain cases<sup>24</sup> and the constitution of 1978 extended it. Ecuador's most recent constitutional reform –which included the procedure of recall, the creation of the office of public defender and the protection of constitutional rights– was preceded by a deep political crisis, one of many in a country whose fundamental characteristic is political instability.

Another constant in the country is permanent political reform which seeks, among other intents, to overcome the conflict between the executive and the legislative powers.<sup>25</sup> Since 1983, reforms have been made to the mechanisms of laws that regulate elections and political parties, as well as those that determine the structure and functioning of congress. Finally in 1997 a Constitution Framing Assembly was formed.

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<sup>23</sup> In the other referenda, abstentions reached 62.1% in April 1999 (called for by the National Constitutional Assembly), 75.5% in December 2000 (for the renewal of union authorities), and 30.08% in the vote to recall Chávez.

<sup>24</sup> Specifically, the constitution of 1967 established a plebiscite in case of: a) Constitutional reform, proposed by the Executive and rejected, either totally or partially by the Legislative ; b) Constitutional reform in the case of Article 258, Subsection 3 ("when the veto of the President of the Republic was totally or partially opposed to the reform, the president could submit to plebiscite the part or parts with which he or she disagrees"); c) Bills of fundamental importance for the progress of the nation or for objectives of social justice provided for in the Constitution, as long as these bills are not considered in two consecutive session periods, or were thrown out by either Congress or the Permanent Legislative Committee; d) Transcendental decisions for the Nation's interests.

<sup>25</sup> Simón Pachano (2004) speaks of "incoherent institutionality" when referring to this process of change of rules, often with no clear objective. The final result is a lack of internal cohesion which ends up harming democratic consolidation and governance.

It completed a new political charter which introduced significant changes in parties and elections. The constitution of 1998 eliminated national deputies, making them all provincial deputies. Deputies were thereafter chosen using a mixed proportional system, and open ballot lists (Pachano, 2004). Despite the low popularity of political parties in general and of legislators in particular, the reform increased the number of representatives elected from 82 to 121; congress remained unicameral and the régime type continued presidential.

Besides these changes, in response to demands of society –and in particular those of Movement Pachakutik– the constitution recognized the multicultural character of Ecuador –explicitly including the rights of the indigenous and African–Ecuadorian people– and incorporated social and gender rights (among other changes, it set a quota for female candidates).<sup>26</sup>

The party system of Ecuador is highly volatile (seen in the lack of regularity in party support, and more generically in its ambiguous ideological traits) and fragmented (the clearest indicator of this is the great number of parties that participate in each election and obtain legislative seats), weak institutionalization, dispersion and poor capacity of representation. No one party is able to reach the majority alone, whether the governing party or the opposition, whether in the Congress or in the first presidential vote. Another element that defines Ecuador is the constant modification or intents to reform the constitutional and electoral rules, which increases the instability of the system.<sup>27</sup> The latest reforms –which met with little success– aimed to reduce the multi-party system and to put a stop to personalism and the *caudillismo* in Ecuadorian politics and at the same time attempted to break the parties' monopoly of representation. Yet we must recall that unlike Peru and Venezuela –where the party system collapsed– political parties still subsist in Ecuador.

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<sup>26</sup> Although the CONAIE recognizes the Constitution Framing Assembly of 1998 as a key political moment, it comprehends that the political system reduced the entire reach of the indigenous political project to the approval of "collective rights": "The paradoxes of power: the approval of collective rights that otherwise would have constituted one of the most important political triumphs of the indigenous movement, in the conjuncture of 1998 actually expresses the beginning of a political defeat of the historical project of the indigenous movement." (2005)

<sup>27</sup> Simón Pachano (2004) speaks of "incoherent institutionalism" when referring to the process of rule change, often with no clear objective. The final result is a lack of internal cohesion which has a negative effect of democratic consolidation and governance.

After 1996, indigenous organizations of Quechua origin<sup>28</sup> entered the electoral and political scenario and regional and provincial parties<sup>29</sup> attained their highest point. The social mobilizations were decisive in the fall of presidents Abdalá Bucaram (1997), Jamil Mahuad (2000) and Lucio Gutiérrez (2005). In each case, the presidents had imposed (or tried to impose) reforms and economic cutbacks.

The cycle of maximum crisis and instability was renewed in 1997. In four years, from January, 1996 to January, 2000, Ecuador had five presidents: Durán Ballén who completed his presidential period in August 1996, an 180-day administration (Bucaram) succeeded by another (Alarcón) that lasted 544 days, which was replaced by a third (Mahuad) that only remained 529 days in office. On average, the last four administrations have not endured for more than 313 days. In January of 2000, an indigenous revolt terminated Mahuad's administration, which culminated in a triumvirate and Vice-president Gustavo Noboa being restored to power.<sup>30</sup> Amidst an intense economic crisis, protests intensified and their tone became increasingly political, characterized by ambiguous political orientation regarding democracy. The cycle of political instability continued; in April 2005 President Lucio Gutiérrez was illegally removed from power by congress, amid intense mobilizations against him. In 2006, the elections were won by Rafael Correa, an outsider who ran under the PAIS Alliance, and whose speech centered on the homeland, against neoliberal policies and corruption. In these elections, the party organizations that finished in the top places were: PRIAN (*Partido Revolucionario Institucional de Acción Nacional*) headed by Álvaro Novoa (obtaining 26.83% of the votes in the first round and 43.33% in the second), *Movimiento Alianza PAIS/PS-FA* led by Rafael Correa (which received 22.84% of the vote in the first round and 56.67% in the second), and the PSP (*Partido Sociedad Patriótica*) –to which former president Gutiérrez belongs– which was voted by 17.42% of the citizens.

Ecuadorians were summoned by presidents in office on several occasions. Sixto Durán called for two non binding popular consultations

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<sup>28</sup> There are no official figures, nor consent on how to census the indigenous population (Sánchez, 1996). The CONAIE (Confederation of National Indigenous people of Ecuador) was created in 1986 and acquired more and more political presence to become a key political actor in Ecuador. The Pachakutik Movement appeared in 1995, when there were regional and personal differences when defining leaderships among indigenous organizations.

<sup>29</sup> According to Flavia Freidenberg and Manuel Alcántara (2001) the regional conflict in Ecuadorian political life has deepened in the last 20 years to the point that it is no longer possible to speak of national political parties. There are parties that only have regional presence and the ones that do obtain votes throughout the whole territory are too weak.

<sup>30</sup> On the fall of Mahuad, see Asensio (2002) and Fontaine (2002).

in 1994 and 1995. The first asked 7 questions (6 of which were approved) and the second had 11 questions, all of which were rejected. If with the first he had achieved legitimacy –partially because it captured the civic dissatisfaction with political parties by supporting independent candidacies– the second, promoted within a context of economic and political crisis, failed to garner support. In the first consultation, the only question that was rejected referred to giving more power to legislators – allowing them to handle funds for the state budget. In contrast, the question that permitted presidential reelection was approved. In the second consultation there was an explicit rejection to measures which included a partial privatization of the Social Security Institute (IESS) and increased the faculties of the executive power.

In 1997 it was the turn of interim president Fabián Alarcón who, with a plebiscite of 14 questions, sought to legitimize the removal of Abdalá Bucaram from the presidency and form a constituent assembly that would write a new constitution. In 2006, Alfredo Palacios promoted a non binding popular consultation around three topics: health, education and resource allocation for social policy. All three questions were accepted by the citizenry by a wide margin, although the concrete effects of this approval are far from evident. Additionally, since it was carried out jointly with the election of a new president, it cannot be interpreted as a plebiscite of the exiting administration.

In the end, the direct democracy mechanisms of the Ecuadorian case were political tools used by presidents in office who consulted the population on multiple topics (within the same election) with clearly plebiscitarian purposes. In all the aforementioned cases, the summons was based on an article in the constitution that enables the executive power to call for a summons “When, in his/her judgment, it regards issues of great importance for the nation” (Article 79 Subsection 0 of the 1993 constitution, Article 58, Subsection B of the 1997 reform and Article 102, Subsection 2 of the 1998 Constitution). Although all were binding, as Juan Pablo Morales has stated (in a personal communiqué of 2007), “beyond the juridical aspect, the binding effect of popular consultations greatly depends on the degree of politization with which the issue is approached as well as on how the outcome is applied.”

The latest consultation was promoted by President Rafael Correa. Correa called for a popular consultation on the formation of a Constitution Framing Assembly that would reform the constitution (the question asked was *Do you approve that a Constitution Framing Assembly be formed, with full power to transform the institutional framework of the State, and to compose a new Constitution?*) within a discourse adverse to political

parties and congressional representatives. The presidential initiative was supported by a wide margin (78%) and paved the way for the formation of a Constitution Framing Assembly that will be working in 2008 to approve a new constitution.<sup>31</sup> The popular consultation acted as a plebiscite on the presidential figure and as a “punishment vote” to Ecuadorian politics.

In Chile, the president has the power to call for a plebiscite in the case of a disagreement with Congress about a project for constitutional reform.<sup>32</sup> In 1925 the plebiscite was added to the Chilean constitution in connection with two key political changes: a return to a presidentialist system (for the period between 1891 and 1925 Chilean historiography labels it a “Parliamentary Republic”) and the separation of Church and State. After the 1932 elections and until 1973, Chile regularly elected constitutional presidents. In the succeeding constitutional reforms there were no significant modifications regarding direct democracy, being the Chilean constitution one of the most restrictive in this topic in Latin America at the time. The last plebiscite in Chile took place in 1989 during military dictatorship and in the midst of the agreement process on the transition to democracy. Most citizens –85,7%– approved the agreement reached between the government, the Covenant, RN and the UDI. Among those not supporting the reform were the PC and the MIR and small groups of the extreme right that called to annul the vote (null and blank votes were at 6,1%)

### Civilian initiatives

In 1996 Argentina regulated civilian initiatives, included for the first time in the constitution of 1994. Law #24.747 set the minimum at 1.5% of electorate representing at least six electoral districts can present bills before congress. When the concern of the initiative is regional the percentage requirement will consider only the electoral roster of the

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<sup>31</sup> One of the intentions of President Rafael Correa is to include the recall for president and vice-president and change the system of representation in Congress in the new constitution (Interview with Rafael Correa, *Clarín* Newspaper, September 21, 2007)

<sup>32</sup> The constitution specifically states that “if the President of the Republic were to totally reject a reform project passed by both Chambers and if the Chambers insisted by two thirds of the valid members of each Chamber, the President must pass the project, unless the citizenry is consulted via a plebiscite.” Or “in the event that the Chambers do not pass all or some of the presidents observations, there will be no constitutional reform on the points of the discrepancy, unless both Chambers insist on the part of the project approved by them by two thirds of their valid members. In the latter case, the president will be returned the part of the project that was the object of the insistence for its promulgation, unless the president consults the citizenry via a plebiscite for a decision on the matters under discussion.”

provinces that make up the region in question. Citizens must present a bill to the Presidency of the House of Representatives, which then must pass it on to the Committee on Constitutional Matters which must state its decision on the formal questions within a term of 20 business days. In the event of accepting it, the House will treat the topic in the next 12 months. The object of initiative may not be constitutional reform, international treaties, taxes, the budget and penal issues. The proposal should be formulated in clear terms, enumerating reasons and describing expenses and the source for the necessary resources, accompanied by the signatures and personal information of the promoters and supporters of the initiative.

Critics of this law have centered around the difficulty to obtain the signatures required (the number of both signatures and districts), as the procedure itself (it cannot be done via the Internet), budgetary restrictions, and the lack of sanctions when the House of Representatives does not give its verdict in the appointed time of 12 months. On the other hand, the constitution does not contemplate the popular initiative nor popular veto (that is, citizens cannot call for a referendum or plebiscite to propose a reform or overturn a law), nor is a national recall contemplated. Many Argentine provinces have incorporated the right to make a legislative initiative, although proposals for constitutional reform or amendments are generally excluded explicitly (in Buenos Aires, Chaco, City of Buenos Aires, Córdoba, Salta, Santiago del Estero). Only in La Rioja and Tierra del Fuego are citizens able to promote a reform or an amendment to the constitution. In Corrientes, Entre Ríos, Formosa, La Pampa, Mendoza, Misiones, San Juan, San Luis, Santa Fe and Tucumán, constitutions do not contemplate legislative initiatives. As for the right to a recall, it is contemplated in Chaco, Chubut, City of Buenos Aires, La Rioja and Tierra del Fuego (in the latter the recall proposal needs be approved by the legislature). The right to a popular initiative is only recognized in the City of Buenos Aires and La Rioja, and only in the event that the legislature fails to deal with a legislative initiative within the timeframe established. Neither is the right to veto frequent, contemplated only in Córdoba, La Rioja and Río Negro. However, several of the provinces that lack the provision for the provincial level, do have one for the municipal level. Such is the case of the legislative initiative and recall in Catamarca, Chaco, Chubut, Córdoba, Corrientes, Entre Ríos, La Rioja, Mendoza, Río Negro, San Juan. In Salta, Santa Cruz, Santiago del Estero and Tierra del Fuego, only the inclusion of the right to an initiative is mandatory. Provincial constitutions have incorporated mechanisms of democracy at different times: some have done so quite early (Mendoza in 1934 and Santa Fe in 1921), others in the 50s, yet most did so within the context of the *Pacto de Olivos* (1993).

The legislative initiative has been used by Argentines since 2001: one law was approved ("*Against The Most Urgent Hunger*") and another was partially approved by Congress (the law against "privileged" retirement). Other proposals were presented and their consideration by parliament is pending. This type of initiative is mostly put forward in the city of Buenos Aires.<sup>33</sup>

Unlike in Argentina, in Bolivia citizens have been entitled to call for a nationwide, binding referendum since 2004. Support is required to be at least 6% of the signatures of the electoral roster. For issues that belong exclusively to the domain and competence of a certain department or a municipal locale, a referendum is adopted by popular initiative, supported by 8% of district's roster and 10% of the municipality's electoral roster. These requirements must be verified by the corresponding Department Electoral Court. Issues related to fiscal matters, domestic and foreign security, and the political division of the Republic are excluded. On the other hand referenda are not allowed 120 days before or 120 days after national or municipal elections. The resolution of the referendum is decided by the simple majority of valid votes of the district in question and is valid only in the case of a minimum turnout of 50%.

The legal background of popular initiatives in Bolivia can be traced back to several laws that allow for local consultations, participation and control of civil society (promoting the country's municipalization): Popular Participation Law (1994) and Administrative Decentralization Law (1995) and National Dialogue Law (2000). These compilations of law were approved in a context where modernization of the state and decentralization are associated, together with the application of neoliberal policies. Functions that were formerly in the hands of the national state are reduced and reordered territorially, promoting effectiveness and efficiency in state services.

The laws of Popular Participation and Bolivian Administrative Decentralization created conditions to strengthen municipalities and meet new challenges, including new actors and relations between society and state (Blanes, 1999). Particularly, the Law of Popular Participation led to: a) an extension of the municipality's territorial base; b) the state's formal legal recognition of existing organizations in civil society, established by territory, as valid interlocutors in local environments, recognizing their

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<sup>33</sup> About this topic see [www.iniciativapopular.org](http://www.iniciativapopular.org). The Blumberg foundation has presented several petitions with hundreds of signatures before the Legislative Power, some of which became laws. ("*Juntar firmas, el método para ser oído*" [Gathering Signatures, A Method To Be Heard], *La Nación* Newspaper, March 4, 2007).

representatives were elected by means of “customs and traditions”; c) the even distribution of economic resources to all municipal governments according to number of inhabitants; d) granting territorially based organizations (OTBs) the right to participate in local administration; e) the creation of a Surveillance Committee, an organization formed with OTB representatives to oversee and cooperate with municipal governments and f) transferring the infrastructure of health, education, micro-irrigation and local roads to municipal governments, as well as the responsibility of maintaining and promoting the development of services (Moreno Morales, 1999). On the other hand, the National Dialogue Law establishes a permanent mechanism by which the government consults social organizations and local governments on how to invest funds attained from the pardon of the country’s bilateral and multilateral debt.<sup>34</sup> Besides the formal difficulties that presenting a law implies, there is the question of the lack of trust in institutions and the legal roads of driving reforms this way. On occasion, social organizations collect signatures to obtain exposure for their claims and get the issue treated in Parliament.

Regardless of the political intentions of those who promoted the approval of these laws and of the financial and technical limitations that limit their application, these reforms are democratizing in nature, fostering civilian participation and strengthening municipalities. The context of inclusion of these laws, in particular after 2000, was marked by the presence of social protests with the massive participation of citizens who on several occasions achieved the objectives they intended, forcing the government to change course on their plans, e.g. the water privatization of 2000.<sup>35</sup> The first (binding) popular consultation was carried out on July 2, 2006 and promoted by the citizenry: an “autonomous referendum.” Proposing its realization was the Civilian Committee of Santa Cruz, an grouping of unions, industrialists and other civilian organizations of the region. With a high turnout of 80%, the consultation on departmental autonomies received a negative vote of 56% (and a positive vote of 42.4%) and confirmed the division between west and east (the positive vote won in Santa Cruz, Arija, Beni and Pando). The ruling party (MAS) and most indigenous organizations promoted the vote against autonomies, while the civilian group PODEMOS and other organizations made up of

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<sup>34</sup> The so-called “National Dialog”, inaugurated in the Banzer administration (1997) was the first consultation process that sought to lay down the basis for the model of Bolivian growth, with the participation of civilian society and the international community. In 2001 it was institutionalized by means of a law whose pillars were: to increase opportunities for employment and income, develop capabilities, increase social networks of protection, promote social integration and several issues (gender equality, environmental protection, support for indigenous communities).

<sup>35</sup> For further information on the so-called “Water War” in which peasants opposed the law that promoted the privatization of water use, see Peredo, Crespo and Fernández (2003).



industrialists were in favor of autonomies in four departments. Although this was not a plebiscite on the administration of Evo Morales, the electoral result –and the summoning for a Constitution Framing Assembly that followed– confirmed that MAS is the main political force in the country and the only party with national presence (Mayorga, 2007).

In Brazil, both the constitution of 1988 and the law that regulates it (1988) establishes that popular initiatives consist of the presentation of a bill, supported by a minimum of 1% of the national electorate, distributed among a minimum of 5 states with no less than 3% in each. The Chamber of Representatives must accept it and the law must be on a single topic.<sup>36</sup> As in Argentina, the initiative is legislative: i.e. a process intended to promote the passing of a law. Also similar to Argentina is the fact that in Brazil this norm is questioned because of the number of signatures required. Alternative proposals to the law have been made. One percent nationwide amounts to 1,151,841 electors; there are also deficiencies with regard to the obligation and time limit the National Congress has for voting on the popular initiative (Auad, 2005). The legislation is unclear as to whether citizens can use the popular initiative to propose constitutional reform, although apparently it is not contemplated.<sup>37</sup> As occurs in other federal countries, various states of Brazil contemplate different mechanisms of direct democracy, most of which were passed between 1989 and 1990 (Lissidini, 2007). The Brazilian constitution also grants citizens the power to audit: any citizen, political party, association or union is a legitimate part to put forward denunciations of unlawful or unduly action before the Government Auditing Board (TCU, Tribunal de Contas da União), but is limited to the power of denouncing the irregularities detected before the Board. In Brazil, civil society –led by Conferência Nacional dos Bispos do Brasil, the Ordem dos Advogados do Brasil and the *Associação de Juízes para a Democracia*– through a popular initiative successfully promoted its first bill by collecting signatures. Law #9840 was passed in parliament and established punishment for the candidate who, with the purpose of securing the elector's vote, should offer, promote, promise or furnish goods or personal gains of any nature, including a job appointment or public position, from the moment the candidate is registered to the day of the election". Other, more informal, consultations were put forward, such as that of 2000 in which the Brazilians were asked about the government's agreement with the International Monetary Fund.

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<sup>36</sup> On the interpretation of the law on the initiative (Law 9.770/98) there is controversy. See Lesqueves Galante, 2004 and Benaventes, 1991.

<sup>37</sup> This issue was also the axis of the debate between jurists and politicians (Lesqueves Galante, 2004).

Chile contemplates no nationwide citizen initiatives, although there are various organizations and political actors that promote the incorporation of mechanisms of direct citizen participation. Several bills have been proposed that would allow popular initiatives.<sup>38</sup> One of the conclusions of the report “*Mas Democracia*” (FLACSO, 2005) is that it is necessary to establish new modalities of initiatives and citizen control over the representation and exercise of representative power” (:99). At the local level, the Organic Constitutional Law of Municipalities (2002) included popular consultations –plebiscites– whether by the initiative of either the mayor (with the agreement of the Council), the council itself (by two thirds) or a minimum of 10% of the citizens.

In contrast, Colombia is one of the most inclusive constitutions in terms of direct democracy mechanisms, although its instruments are very limited in their use. The constitution of 1991 promoted extensive constitutional reform, which among other aspects, advanced the process of decentralization (which had started in the 1980s) through the extension of regional autonomies and the increase of public participation, brought about by the inclusion of popular and legislative initiatives, referendums, plebiscites, town council meeting, and the recall of officials.<sup>39</sup> The inclusion of mechanisms of direct democracy and in particular the law that regulates it (Law 134, passed in 1994) were the result of a debate among a large number of organizations and networks of civil organizations that proposed a bill to the pertinent public organisms for them to study and revise. Columbians may propose that a law either be passed or annulled. In order to present a popular initiative of a legislative act or law, ordinance, agreement or local resolution before the respective public corporation, it must have the support of 5% of the citizens recorded in the electoral registry. A popular veto requires the signature of a number of citizens equivalent to one tenth of the electoral registry (the law may be annulled if half plus one of the voters who concur to the consultation cast their vote in favor of annulment, as long as one fourth of the registry turn out to vote). Laws on international treaties, the budget, fiscal matters or taxation cannot be annulled this way. Citizens may also promote constitutional reform via a referendum. The law contemplates mandate recall: a number no smaller than 40% of

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<sup>38</sup> One of the organizations is “Movement for Consultations and Citizen Rights”. Regarding which proposals were made, see Ramírez Arrayás (2007).

<sup>39</sup> Regarding the modifications to the Colombian constitution connected to citizen participation, they are, according to Carlo Lleras de la Fuente the fundamental basis of the constitutional reform of 1991: a measure to increase the power of citizens against political caciques and a way of controlling corruption, “on it depends changes in society and the political regime that leads to corruption, and will continue to do so if we do not have a mechanism for citizens themselves to control the activities of the administration and the handling of the State” (1994: 155)

the number of valid votes in the election of the sitting official may request a vote for the recall of a governor or mayor (this can only be requested by those who participated in the election of the corresponding official). The mandate recall will proceed as long as at least a year has passed since the official took office.

Despite the legal leeway, Columbians have only used “informal” popular consultations: on October 26, 1997, the REDEPAZ (National Network of Citizen Initiatives against War and for Peace), UNICEF and País Libre promoted a consultation which, although approved (it would have received 10 million votes), turned out no concrete results, besides excluding minors under 18 years of age from military service –one of the requested points– although it did strengthen the Permanent Civil Society Assembly –summoned by the National Reconciliation Commission and the Colombian Archdiocese. As of May 2007 the National Defense Committee for Water and Life (CNDV) has promoted a referendum to make access to drinking water a fundamental right stated in the constitution, with a free vital minimum; with state and community aqueducts having the sole, intransferable obligation to provide the service, with no intent to gain profit, in both cases incorporating civilian participation, social control and transparency; and finally the special, effective protection of strategic ecosystems for the hydrological cycle. The initiative was able to complete the first step (gathering the signatures of 0,5% of the total electoral roll), once the validity of the signatures are certified by the National Registrar of the Civil State, non-government entities must obtain the support of 5% of the citizenry (some 1,500,000 people) within 6 months. In the event of fulfilling this requirement, the legislative congress will summon a national referendum for the electorate to adopt or reject the proposal (Law 134).

Since the constitution of 1979, it is contemplated that citizens of Ecuador (8% of the electorate) may request a popular consultation on issues of “transcendental importance for the country”. Additionally, 20% of the electors may carry out the same petition within their own district. Matters of taxation may not be the subject of consultations. Ecuadorians also have the power to propose bills (with the support of one fourth of one percent of those registered in the electoral roll) on any topic that does not refer to penal matters nor if its initiative belongs exclusively to the president. Mandate recall is also contemplated in the Ecuadorian constitution and is applicable to elected mayors, prefects, and representatives. The initiative may be exercised by a number of citizens that represent no less than 30% of the registered voters in the corresponding electoral district. None of these mechanisms have been used by citizens at the national level despite a high level of popular

mobilization in Ecuador (there were several non-binding consultations at the provincial level<sup>40</sup>) Perhaps the scarce institutionalization of Ecuadorian politics constitutes one of the reasons for this, in addition to the high degree of fragmentation which in many cases combines social turbulence and anomie.

In the case of Paraguay (1992) electors have the right to propose bills to congress. To this end they must present an articulate text, with the corresponding exposition of motives and signed by no less than 2% of electors registered in the Civic Registry. Matters of department or municipal legislation, the approval of international treaties and agreements, issues regarding property, national defense, the banking and monetary system or the general budget cannot be the object of the proposal. The constitution states that 30,000 electors may request the reform of the constitution, but the law does not regulate this. Although several initiatives for a law have been proposed, none have been debated in Parliament.

In Peru (1993), citizens have the right to a legislative initiative (a number of citizens equivalent to 0.3% of the electoral population may promote a bill before congress). Congress must determine and vote the bill before 90 days. A bill that is rejected in congress may be submitted to referendum, as long as it has the support of no less than two fifths of the votes of its members. Peruvians may also promote constitutional reform (although not regarding matters of human rights, taxation and international treaties). As with legislative initiatives, at least 0.3% of the voters' signatures must be presented. The law of the Citizens' Rights to Participation and Control (1994) confers the right to recall mayors, council members, regional authorities and magistrates that were elected by popular vote. The consultation takes place if 25% of the corresponding electors make the request; the recall becomes effective when approved by half plus one of the voters. Finally, the law also contemplates that with 10% of the signatures, citizens may call for a popular consultation.

Peruvian citizens have promoted legislative initiatives several times (and as a result, 4 laws were passed and 2 were rejected) and they also successfully exercised their right to the recall of authorities at the local level. The approved legislative initiatives were: law No. 28244 which

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<sup>40</sup> During the administration of Gustavo Novoa, five regional, non-binding consultations were carried out. In each of them the citizens of each region overwhelmingly approved the decision of autonomy and administration of their own resources but Congress did not pass the laws. In Manabi, there was a consultation in 2000 (presidency of Mahuad) with identical results (*"National Congress ignores mandate of popular consultations"*, *El Diario*, April 22, 2007)

excluded the company PetroPerú from the list of companies to be privatized (also authorizing it to negotiate contracts with PERUPETRO for the hydrocarbon exploration and exploitation) approved on June 2, 2004 (the initiative was presented in 2001); Law No. 28278 on Radio and Television (June 23, 2004) which prohibited radio and television from being monopolized by the State or private companies as well as forced the holders of broadcasting services to establish a 30% programming minimum of national productions, among other matters. On February 13, 2002, Law No. 27677 was approved, resolving that the use of resources originating from the liquidation of the National Housing Fund (FONAVI) must be used by the Ministry of Economy and Finance to pay for the construction of housing of social interest. Lastly, Law No. 27396, passed on December 14, 2000, prevented the privatization of ports and declared the port infrastructure untouchable (pending approval of a new ports law).

In Uruguay (1967) 25% of registered voters can file for an appeal referendum against a law, within one year of its being passed. This recourse is not applicable in the case of laws that govern taxes, nor when the initiative is exclusive of the executive power. Uruguayans can also propose constitutional reform (with the signature of 10% of the citizenry) which must be submitted to popular consultation simultaneously with the elections. With the first referendum against laws in 1989 (utilized in an unsuccessful attempt to annul a law that would grant amnesty to military officers accused of violating human rights during the military dictatorship), the use of referenda was regulated. Regulation took place within the same context of debate around the topic of the “amnesty” and, as a result, its discussion was colored by this political controversy (although this regulation was in effect for recourses filed after the 1989 referendum)<sup>41</sup>. After regulation, the law underwent several changes, the last in 2000. At that time, (without detriment to what was established, that 25% of the citizens could file a recourse) Law No 17.244 established that they could file a notice to veto a law –as long as turnout was equal to no less than 2% of the registered voters– within 150 days from the day after the law is passed. If at least 25% of the eligible voters agree to file the notice, a popular consultation is

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<sup>41</sup> During a parliamentary debate, one of the authors of the regulation described the atmosphere at the time: “since voting for the Law of Expiration, there has been a divide in this country, which was not encouraged by us, which we had to overcome in voting. (...) It seems that since we voted for Law of Expiration, the country has been divided into two sides: the just, those who know how to defend the values of justice, which are the enemies of the Law of Expiration, and the reprobates who are in favor of the military, or rather of the excesses committed during the dictatorship” (Chamber of Senators, Senator Gonzalo Aguirre, debate on Law No. 16.017, January 4, 1989: 58)

summoned to ratify or annul the law in question. Ultimately, Uruguayans are able to propose constitutional reform, which must be put to the consideration of the citizenry and file for the annulment of a law through a referendum. A popular initiative presented to the legislative power by 25% of those eligible to vote is also contemplated. This recourse has the same restrictions than those established for initiatives on constitutional reform, but was never employed. At the municipal level, there is also a referendum against ordinances of the Department Councils (popular veto) and an initiative before the Departmental Government agencies in matters of this jurisdiction. As analyzed in other studies (Lissidini, 2001 and 2007), Uruguayans have been using mechanisms to exercise direct democracy since 1917; however, 1989 saw the beginnings of a new stage characterized by the participation of the citizens who attempted to not only annul laws passed in parliament (*referendum*), but also propose constitutional reform (which must be submitted to popular consultation, *plebiscite*). The last experience was put forward by the National Commission for the Defense of Water and Life which resulted in access to drinking water and sewerage being declared as a fundamental human right, and the privatization of these services be prohibited. The initiative for constitutional reform was supported by 65% of the voters in October 2004.

As mentioned earlier, the constitution of Venezuela (1999) includes several mechanisms of direct democracy. Venezuelans may call for a consulting referendum on issues of “special national importance” if requested by a number no less than 10% of the electorate (whether local or national level). Referendums against laws or decrees that the president dictates may be requested by 10% of the electors. In order for an abolishment referendum to become valid, 40% of the electors registered in the civil and electoral registry must participate. Laws that cannot be abolished by a referendum are those related to the budget, taxation, public credit, and amnesties, as well as those that protect, guarantee, or develop human rights in addition to laws that approve international treaties. The constitution also allows for the recall of all officials and magistrates elected by popular vote, by a number no smaller than 20% of the electors registered in the corresponding district. The recall becomes valid when a number of electors equal to or greater than that of electors who voted for the official vote in favor of the recall and 25% or more of the electorate turned out at the referendum. Venezuelans have the right to a legislative and popular initiative. The required percentage of signatures –that of 0.1% – is habitual among constitutions that contain this mechanism (although many federal countries also demand a minimum percentage of signatures for each state or province). There are two notable differences regarding most Latin American

constitutions that contemplate this mechanism. In the Venezuelan constitution, there are no limitations or restrictions established for the use of this initiative (in most constitutions, citizens cannot propose laws referred to taxation and the state budget); additionally, it establishes that the debate of proposals presented by citizens must be initiated no later than the ordinary sessions immediately after that in which they were presented, otherwise the project undergoes an approval referendum (i.e., discussion on the initiative is not left up to legislators). Venezuelans can also promote constitutional reform if requested by a number of registered voters no lower than 15%.

The only civic initiative that became a referendum was the attempt to recall Chávez's mandate. As I analyzed in detail in another article (Lissidini, 2008), after collecting the required signatures (and after a long process of marches and countermarches starting in 2002) on December 15, 2004 the population was consulted on Chávez's continuity as president (the question was *Do you agree to annul the popular mandate obtained by means of legitimate democratic elections by citizen Hugo Rafael Chávez Frías as president of the Republic Bolivariana of Venezuela for the current presidential term?*). Revoking Chávez was supported by 40.6% versus 59% which voted against. The result reproduced and intensified the deep differences that divided the citizenry around the president. Although the OAS endorsed the referendum (Resolution 869) and the Carter Center recognized the legality of the process, the opposition did not accept its defeat. Chávez himself did not make any effort to bridge opposing positions.

### **Direct Democracy: more delegation and participation**

The analysis of constitutional reforms shows that most of the constitutions of South America incorporated or extended direct democracy mechanisms in the 1990s (exceptions are Chile and Uruguay). As Garretón has expressed (2007), many of these constitutional reforms were an institutional response to the process of democratization which was characteristic of countries that had lived under authoritarian regimes (such as the constitutions of Brazil of 1988, Ecuador of 1978 and Paraguay of 1992); others sought to set up pacts around the succession to the presidency (as the Argentine constitution of 1994) or clearly to increase the executive's power (Peru, 1993); others promoted the participation and resolution of problems in representation, as the constitutions of Colombia 1991 and Bolivia 2004. On the other hand, the constitution of Venezuela (1999) propelled an institutional "re-founding", after the party collapse and the rise of Chávez to the presidency.

Regarding the social conjunctures in which these mechanisms are approved (Chart 2), there are countries which are noted for their extreme social conflicts (Bolivia and Ecuador) and others for their scarce social mobilization (Argentina and Peru). Other contexts register a high degree of institutional instability (Ecuador and Peru), others a medium degree (Argentina, Bolivia and Venezuela) and low degree (Columbia). In each case, although to a different extent, there has been some deterioration of the state and delegitimization of representatives. Political parties have lost centrality, if not collapsed altogether (as in Peru or Venezuela) and outsiders have emerged, who promised more direct citizen participation at the expense of the legislative power (as Chavez in Venezuela and Correa in Ecuador).

As far as who promotes constitutional inclusions is concerned, Bolivia is the only country where the inclusion of direct democracy was clearly the product of social demand. In Colombia, some petitions were made although on a smaller scale. In both cases the reforms attempted to channel discontent and political motivation towards political participation beyond the electoral vote, yet within institutional frameworks. The mentioned reforms sought –in varying degrees– to improve the quality of democracy, correcting the mechanisms of representative democracy and including institutes of direct democracy and democracy of participation as well as control in the hands of the citizens and social groups (for example, ombudsman and advocacy democracy). In other words, the object was to redesign the democratic process and to modify the relation between citizens and their representatives (as expressed by Cain, Dalton and Scarrow, 2003).

In the remaining countries, (particularly Ecuador, Paraguay, Peru and Venezuela) there were no indications of social demands. We can speculate, however, that reforms sought mostly to reinforce the delegation of the executive power's decisions (overriding the legislative) and promote a direct relationship between the president and the citizens, in detriment to political parties and other mechanisms of representation and intermediation. Most of these countries are unstable and have been governed by outsiders. If to this context we add the presence of demands that take the shape of social violence and turbulence which political parties are unable to represent or guide (as is the case of Ecuador), then the risk of the plebiscite use of consultations rises. The same occurs in countries with strong executive powers, such as Venezuela (a society which is also very polarized around the figure of Chavez). Or in Paraguay, with its political history imbued with the dominance of the Colorado party, political oppression and



authoritarianism. In these countries there is a high risk of promoting delegative democracies.

Yet the political intentions of those who promote the approval of these mechanisms tell us nothing of their use and effects. Even within dictatorial contexts –as in Uruguay in 1980 and Chile in 1988– citizens may oppose projects proposed by their presidents and undermine the intentions of government leaders (the defeat of Chávez’s project of reforming the constitution in 2007, is yet another example). Additionally, citizens may use these tools to endeavor to annul unpopular measures taken by democratic governments (Uruguay has had several experiences of that nature) or attempt to recall elected officials (as in the case of Chavez in Venezuela or various mayors in Peru).

There is significant diversity in the instruments incorporated. While some countries have approved various mechanisms in one single reform, simultaneously granting powers to the executive and citizens (as in the case of Venezuela and Columbia) others included more restrictive rules as in Argentina, Brazil and Peru (Chart 1). In Bolivia, Columbia, Ecuador, Paraguay and Venezuela, presidents can call for popular consultations with binding effects (in Argentina consultations are non-binding). In Bolivia and Ecuador, citizens can call for a referendum; in Uruguay, they have the power to promote constitutional reform (which must be submitted to popular consultation for its ratification or rejection). Citizens of Argentina, Bolivia, Brazil, Columbia, Paraguay, Peru, Uruguay and Venezuela can promote a legislative initiative. The annulment referendum or popular veto is a recourse of citizens that seek to annul laws passed by parliament. Columbia, Uruguay and Venezuela all have this instrument, yet only Uruguay has used it –with dissimilar results (in 1989, 1994 and 2003).

Finally, the recall referendum is a tool that enables citizens to recall the mandate of elected persons who were elected by popular vote (an instrument similar to impeachment, only exercised by citizens). Of the countries presented here, only Venezuela contemplates a presidential recall (and of all other elected positions). At the local level, it is contemplated in some Argentine provinces as well as in Columbia, Ecuador, Peru, and Venezuela.

Regarding the exercise of direct democracy since the 1990s, whether because consultation was mandatory (in order to ratify constitutional reform) or due to the will of the executive power, what is certain is that citizens were in fact consulted at least in Bolivia (2004), Brazil (1993 and 2005), Colombia (2003), Ecuador (1994, 1995, 1997, 2006 and 2007),

Peru (1993), Uruguay (three times in 1994, 1996, twice in 1999 and in 2004); in Venezuela (twice in 1999, 2000, 2002 and 2007). In the case of civic initiatives (popular and legislative) they have been presented in Argentina (2002), Brazil (1999), Bolivia (2006), Peru (2000, 2002 and 2004), Uruguay (1992 and 2003) and Venezuela (2004). (See Chart 3).

The ambiguities in the exercise of direct democracy in these countries cannot be separated from the tensions and problems of politics in Latin America. The Uruguayan case illustrates that direct democracy contributed to energizing politics and blocked laws for the privatization of companies and services. Although the confrontation often led to the caricaturization of the opposition and their positions, it contributed to the debate on a multiplicity of issues such as the role of the state, human rights, social security and public corporations (Lissidini, 2007). In Venezuela, although popular consultations originally legitimized the incumbent president, the referendum of 2007 put a limit on Chávez's intentions of being reelected indefinitely (and alerted other presidents with designs on indefinite reelection, like Evo Morales in Bolivia). The exercises and their results tended to reinforce the ambiguity of the Venezuelan political process and the social polarization around the president. In the case of Ecuador, it was characterized by an "plebiscitarian" use of consultations because in most of them the proposals themselves were at stake rather than the figure of the president.

Indeed, direct democracy can contribute to the transformation of democracy (as proposed by Dalton, Scarrow and Cain, 2003), by democratizing the political agenda and promoting citizen participation or fostering a rise in power and the discretion of the executive, in detriment of other mechanisms of intermediation and representation. It therefore promotes a delegative type of democracy (in the sense used by O'Donnell). In order to analyze the effects of the exercise of direct democracy, the legal design of the mechanisms, the characteristics of the actors that make use of it and the political and social context must be taken into consideration.

The ambiguities in the exercise of direct democracy in these countries are inseparable from the tensions and problems of Latin American politics. The analysis of the Uruguayan case illustrates that the exercise of direct democracy contributed to making politics more dynamic and blocked laws that promoted the privatization of public services and companies. Quite the reverse occurred in Venezuela, where public consultations –even when exercised by citizens– reinforced the

president in his functions and did not resolve the preexisting social polarization.

The rise in the inclusion, debate and exercise of direct democracy shows that its use is likely to intensify and remain over time. Presidents, as well as citizens, will continue to use mechanisms of direct democracy with the object of influencing the design of policies –and politics in general. A rise in citizen and government initiatives at the local level is also expected, similarly to what occurs in developed countries.

The presidential appeal on the IMF agreement in Costa Rica on October 7, 2007, the Evo's proposals for referendums in Bolivia, the mandatory nature of the popular consultation for another constitutional reform in Venezuela, the different popular and legislative initiatives at the local level (in Argentina, inhabitants of Esquel continue to produce legislative initiatives to avoid open pit mining<sup>42</sup> and citizens of Cordoba have done the same concerning the administration of water) – all these instances confirm the trend. Hence greater citizen participation as well as more political delegation are to be expected.

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<sup>42</sup> <http://www.noalamina.org>

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## CHARTS

**Chart 1: Direct Democracy in the Constitutions of South America**

	Argentina 1994	Bolivia 2004	Brazil 1988	Chile 1989	Colombia 1991	Ecuador 1998	Paraguay 1994	Peru 1993	Uruguay	Venezuela 1999
Mandatory Consultations	No	No	Only when modifying the political and administrative organization of the nation	No	Only when modifying the political and administrative organization of the nation	Yes, when congress qualifies a project presented by the president as urgent or when congress has not approved or rejected projects proposed by a number of deputies equivalent to 20%	No	Yes, to ratify constitutional reform, unless the proposal is approved in congress by two successive legislatures	Yes, to reject or endorse any constitutional reform.	Yes, to reject or endorse any constitutional reform

	Argentina 1994	Bolivia 2004	Brazil 1988	Chile 1989	Colombia 1991	Ecuador 1998	Paraguay 1994	Peru 1993	Uruguay 1967	Venezuela 1999
Faculties of the executive power or president	Non binding popular consultations	Binding popular consultations.	No	Binding popular consultations in the event of discrepancies with congress regarding constitutional reform	Binding popular consultations (with the agreement of the Ministers and Senate)	Binding popular consultations	Binding and non binding popular consultations (prior authorization from congress)	No	No	Binding and non binding popular consultations Recall referendum.
Faculties of the legislative power or congress	Binding and non binding popular consultations.	Binding popular consultations, two thirds of members in congress	Congress has the exclusive power of “authorizing a referendum and calling for a plebiscite” with a third of the vote from members of either Chamber.	No	No	Binding Popular consultations, with the vote of 5 senators or 10 deputies. Congress has the exclusive power to authorize popular consultations	Binding and non binding popular consultations	No	(General Assembly may formulate projects for constitutional reform that will be subjected to plebiscitary decision) <sup>43</sup>	Advisory Referendum and binding referendum
Powers of the citizens 1) Legislative initiatives (presented to Parliament)	Legislative initiative (1.5% of the electoral census)	Legislative initiative (not regulated)	Legislative initiative before the Chamber of Deputies (1% of the electorate, distributed in	No mechanisms are stipulated at the national level	Legislative initiative (5% of the census)	Legislative initiative (one quarter of 1% of those registered in the electoral census) and for constitutional	Legislative initiative before congress, with 2% of the registered in the Civic Register.	Legislative initiative, for Constitutional Reform, with 0.3% of the Census.	Legislative initiative, with 25% of the Civic Register. For proposals of Constitutional Reform 10% of the Civic Registry is required	Legislative initiative, 0,1% of voters in the Registry. Initiatives for constitutional reform 15% of the registered electorate.

<sup>43</sup> In Uruguay all constitutional reforms must be ratified by citizens by means of binding popular consultations.

			at least five States, with a minimum of 0.3% of voters in each)			reform (1% of the census)	To propose reforms or amendments to the Constitution, 30.000 signatures must be presented.			
2) Popular initiative	No	National Referendum for 6% of the electoral census. Excluded from the referendum mechanism are fiscal matters, domestic and foreign security, and the political division of the Republic	No	At municipal level, binding popular consultations with signatures of 10% of registered voters	No	Binding popular consultations, with signatures of 8% of the Census.	No	No	No	No
3) Mandate recall	Stipulated in some provinces but not at national level	No	No	No	Yes. Consultation is carried out when signatures equivalent to 40% of the votes obtained by the official are presented, and never within the first year of being elected	Yes, for Mayors, Prefects and deputies. Consultation is carried out if requested by 30% of the census corresponding to the moment of the election.	No	Yes, recall of authorities, carrying out the consultation requires 25% of the signatures of the corresponding district	No	All elected positions and magistrates are eligible for recall. The initiative must be presented by no fewer than 20% of the voters.
4) Popular veto	No	No	No	No	Referendum recall, with	No	No	No	Referendum recall through	Referendum recall (requested

(referendum against laws)					10% of the census				two channels: 25% (of eligible voters' signatures or if that percentage turns up at the rally in support of the referendum, in this case 2% of signatures is required to summon the rally) (also at municipal level)	by no less than 10% of citizens)
5) other mechanisms of direct democracy and civil control	Ombudsman, statutory protection. Participative budget at the local level (Buenos Aires and Rosario) and public hearings (Buenos Aires and other cities)	Ombudsman, statutory protection.	Participative budget at the local level (Porto Alegre and all the states of River Grande do Sul, Belem and Belo Horizonte)	At municipal level, public hearings	Ombudsman town hall meetings (at local level)	Ombudsman, statutory protection.	Ombudsman.	Recall of elected officials and demand for accountability	Referendum at the local level	Ombudsman, statutory protection town hall meetings and citizen assemblies

Source: Lissidini (2007)

Chart 2: Socio-Political Context of Constitutional Reform in the Nineties

	ARGENTINA 1994	BOLIVIA 2004	BRAZIL 1988	COLOMBIA 1991	ECUADOR 1998	PARAGUAY 1993	PERÚ 1993	VENEZUELA 1999
<b>Party System<sup>44</sup> of Electoral results</b> (with simultaneous or upcoming presidential elections in terms of percents)	Moderate Multiparty <sup>45</sup>  Elections 1995: PJ 47.4 UCR 16.6 FREPASO 27.83	Moderate Multiparty, emergence of new political groups <sup>46</sup>  Elections 2002 MNR 22.46 (1 <sup>st</sup> round) 84 (2 <sup>nd</sup> round) MAS 20.94 (1 <sup>st</sup> round) 43 (2 <sup>nd</sup> round) NFR 20 (1 <sup>st</sup> round)	Extreme Multiparty <sup>47</sup>  Elections 1989 PRN 30.5 (1 <sup>st</sup> round) 53.03 (2 <sup>nd</sup> ) PT 17.2 (1 <sup>st</sup> round) 46.97 (2 <sup>nd</sup> ) PDT 16.51 PSDB	Two party system. (fragmented) <sup>48</sup>  1990 Elections PL 60.43 MSN (including PCC) 23.71	Fragmented Multiparty (sub-national parties) <sup>49</sup>  1998 Elections DP 35.3 (1 <sup>st</sup> round) 51.3 (2 <sup>nd</sup> round) PRE 26.9 (1 <sup>st</sup> round) 48.7 (2 <sup>nd</sup> round) ID 15.9	Two party system (highly fragmented) <sup>50</sup>  Elections 1993: ANR 39.91 PLRA 32.13 AEN 23.14 (election was denounced as fraudulent)	Collapse of the party system, Multiparty. <sup>51</sup>  1990 Elections FREDEMO 27.6 (1st round) 33.9 (2 <sup>nd</sup> round) CAMBIO 90 24.7 (1 <sup>st</sup> round) 56.5 (2 <sup>nd</sup> round) PAP 19.2 IU 7	Collapse of the two party system <sup>52</sup>  1998 Elections MVR-MAS-PT-PCV and others 48.11 PRVZL-AD-COPEI-PQAC 39.97

<sup>44</sup> This characterization is merely descriptive, simply numbering the parties with certain electoral presence. The intention is not to debate on the type of party system.

<sup>45</sup> Partido Justicialista, Unión Cívica Radical and Frente para un País Solidario.

<sup>46</sup> Movimiento Nacional Revolucionario, Movimiento al Socialismo, Nueva Fuerza Republicana, Movimiento Indígena Pachacuti

<sup>47</sup> Partido da Reconstrução Nacional, Partido da Trabalhadores, Partido Democrático Trabalhista, Partido da Social Democracia Brasileira

<sup>48</sup> Partido Liberal and Partido Conservador Colombiano

<sup>49</sup> Partido Democracia Popular - Unión Demócrata Cristiana (DP-UDC), Partido Izquierda Democrática (ID) Partido Demócrata (PD), Partido Roldosista Ecuatoriano (PRE)

<sup>50</sup> Asociación Nac. Republicana -Partido Colorado and Partido Liberal Radical Auténtico

<sup>51</sup> Partido Aprista Peruano (PAP), Unión por el Perú, Cambio 90 (a political group founded by Alberto Fujimori). FREDEMO (Frente Democrático, a coalition of Acción Popular and PPC), Partido Popular Cristiano (PPC) Izquierda Unida (IU)

<sup>52</sup> Acción Democrática (AD), Comité de Organización Política Electoral Independiente (COPEI) Movimiento V República, Movimiento al Socialismo, Partido Comunista de Venezuela, La Causa "R".





<b>Electoral results</b> <b>Alternation /</b> <b>Non-alternation of the</b> <b>ruling party</b>	Non-alternation President Carlos Menem reelected, (Partido Justicialista)	Alternation. President Gonzalo Sánchez de Lozada (Movimiento Nacional Revolucionario)	Alternation. President Fernando Collor de Melo (Partido da Reconstrução Nacional)	Non-alternation. President César Gaviria (Partido Liberal)	Alternation. President Jamil Mahuad Witt (Partido Democracia Popular)	Non-alternation. President Juan Carlos Wasmosy (Asociación Nacional Republicana – Partido Colorado)	Alternation. President Alberto Fujimori (CAMBIO 90)	Alternation. President Hugo Chávez (MVR- MAS-PPT-PCV and others)
<b>Social protests against</b> <b>the administration</b> <b>(high/medium/low)</b> <sup>53</sup>	Low After the mid nineties demonstrations become more present. In 2001 there was a series of social explosions.	High Various demonstrations, especially after 2000: the “water war” (against privatization, Cochabamba, 2000); farmer blockades” (Chapare, Cochabamba, and Achacachi, La Paz, 2000); “Black February” (La Paz and El Alto, 2003): “black October” (La Paz and El Alto, 2003)	Medium. In the eighties there were demonstrations in favor of direct elections and later against Plan Cruzado. In the nineties against the Collor administration, in favor of his impeachment. Peasant demonstrations. In particular of the Movement of the Landless (MST), Union of Rural Workers (MSTR) and the National Confederation of Agricultural Workers (Contag). (Shout from the Earth of Brazil 1996)	Medium. Student demonstrations (supported by diverse social sectors) for constitutional reform (“Movement for the seventh ticket”).	High. Social demonstrations, especially of peasants and indigenous peoples to remove Buckram and later for the formation of a National Assembly to reform the constitution. Indigenous demonstrations against economic cutbacks.	Medium They are beginning to see peasant demonstrations, and unions are reorganizing.	Low Although after the mid-nineties, they grew in intensity.	Medium. They have seen strikes yet mostly street or highway blockades. Central actors of the protests were students and labor unions who promoted strikes (particularly in 2000).

<sup>53</sup> Classification as high, moderate or low is relative to each country and does not intend to be an exact measurement, merely an approximation.

<b>New social and political actors</b>	Groups calling themselves picketers began to appear. Mostly made up of unemployed persons that blockaded roads in demand for work, government subsidies and food. The FREPASO –a coalition of sectors that separated from Peronism and socialist parties– was created.	Indigenous leaders and peasants acquire protagonism, most notably Evo Morales (MAS), Felipe Quispe (MIP). Parties created: <i>Conciencia de Patria</i> (CONDEPA) founded in 1988 and disappearing in 2002; <i>Unidad Cívica Solidaridad</i> (UCS) founded in 1989; and <i>Nueva Fuerza Republicana</i> (NFR) founded in 1996 and obtaining third place in the 2002 general elections.	Growing presence of peasant movements, in particular of the “Landless.” Electoral growth of the PT	Growth of non-traditional political parties: <i>Nueva Fuerza Democrática</i> (NFD); <i>Alianza Democrática M-19</i> (ADM-19). Protagonism of leaders that run as independents, though within traditional party structures.	Growing protagonism of the indigenous organizations of Quechua origin; upsurge of regional and provincial parties. Organizations of note, among others: Confederation of Indigenous Nationalities of Ecuador CONAE Creation of the political party in 1995 of the <i>Pachacutik</i> – <i>Nuevo País</i> Movement for Pluri-national Unity	AEN ( <i>Alianza Encuentro Nacional</i> ) was founded in 1991 – a center-leftist party of political importance particularly from 1993 to 1998.	Emergence of the political group <i>Cambio 90</i> (founded by Alberto Fujimori).	Growing protagonism of the Movement <i>Quinta Republica</i> (MVR) and other political groups supporting Chávez. Increase in the political presence of some social organizations (COFAVIC, <i>Queremos Elegir</i> , among others)
<b>Leader is an outsider (Yes/No)</b>	No	Yes, Carlos Mesa (took office in 2003)	Yes, the Fernando Collor de Melo administration	No	Yes, the Abdalá Buckram administration (1996–1997) and Rafael Correa (2007–)	No	Yes Alberto Fujimori	Yes, Hugo Chávez
<b>Degree of political stability High/medium/low<sup>54</sup></b>	Medium In 1989, Raúl Alfonsín left office early, Fernando de la	Medium Gonzalo Sánchez de Lozada resigned as president in	Medium. Collor de Melo was impeached in 1992 on charges of corruption.	High	Low Abdalá Bucarám was recalled in 1997 and Jamil Mahuad was	Medium Vice-President Argaña was murdered and Carlos Grau	Low President Alberto Fujimori carried out a “self-coup” in 1992.	Low. Before Chávez took office, there were two coup attempts in 1992.

<sup>54</sup> A country is considered to have a high degree of instability when there are (attempted) coups d'état and a medium degree when the president is removed or resigns from office.

	Rua did the same in 2001. Military uprisings in 1987 and 1989.	October 2003 and Carlos Mesa resigned in 2005			overthrown in 2000. There was an attempt to establish a de facto military government in 2000.	subsequently resigned as president in 1999.		President Carlos Andrés Pérez was removed from office in 1993. In 2002, there was a coup d'etat , however Chávez was restored to power.
<b>Political violence (presence of organized armed groups)</b> <sup>55</sup>	No	No.	No	Yes, guerrilla (specifically FARC and the <i>Ejercito de Liberación Nacional</i> ) and paramilitary.	No	No	Yes, specifically Shining Path and MRTA (both groups were dismantled during the Fujimori administration)	No

Source: Lissidini (2007)

<sup>55</sup> In this class, only the presence of armed (guerrilla) groups are considered, and not specific actions of violence.