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Disappointing Democracy

Before talking about the disappointments of democracy I have to warn against the disappointments of my lecture. Asked to speak about the multifarious limits of democratic performance, I ended up preparing something more narrow: a small handful of reflections on the rule of lawlessness and the limits of democratic legitimacy. In addition, I was asked to talk about new democracies in general. But I ended up thinking more and more about the country I care most about (and know most of) at present: Mexico, my country of residence. These, then, will be veiled reflections on Mexico, with occasional references to Latin America, accompanied by the vague expectation that they may be relevant, too, to unspecified similar cases of recent democratization.

Qualified democracy

Disappointment with democracy has been with us since the early days of the famous "third wave" of global democratization.¹ Since the early transitions in South America, it was clear that the new democracies in the "South" did not live up to our ideas and standards of advanced liberal democracies. From the very beginning, they have displayed multifarious shortcomings. They have lacked democratic features we cherish and take for granted in the "Northwestern" quadrant of the world.

In response to this mismatch between new democratic realities and our ideas of liberal democracy, scholars have been trying to save con-

ceptual precision by adding adjectives to democracy – adjectives that express such democratic deficiencies. Examples are tutelary democracy; low intensity democracy, delegative democracy, illiberal democracy, exclusionary democracy, frozen democracy, populist democracy, and clientelist democracy.

The list is endless. Actually, in their seminal 1987 article on "democracy with adjectives," David Collier and Steven Levitsky stopped counting when arriving at around 600 "diminished subtypes" of democracy circulating in the literature at that point.² Disappointing democracy then is no more than another addition to a long catalogue of disappointments.

Quantified democracy

Over the past three decades, the number of democratic regimes worldwide has significantly increased. Yet, we should not be overly optimistic about the current state of affairs. At present, only about two fifths of all regimes in the so-called developing world should actually be classified as democracies. We find most of those democratic regimes in Latin America and Eastern Europe, and to a lesser degree in Sub-Saharan Africa and Asia. Only about half of them are liberal democracies, the other half some kind of deficient "electoral democracies."

The remaining majority of regimes are authoritarian. Roughly a third of them are fully closed dictatorships (personal dictatorships, military regimes, or one-party states). All others qualify as electoral autocracies that hold regular multiparty elections but fall short of democratic minimum standards.³

Thus, when talking about democracy, be it delighting or disappointing democracy, we should keep in mind that it is less than forty percent of all countries in the so-called Third World we are talking about. And we should be aware, too, that the most disappointing ones are not full-fledged liberal democracies, but electoral democracies. They are democracies “with adjectives,” regimes that get their electoral fundamentals right, but fail to construct other building blocks that sustain modern constitutional democracy.

Modest expectations

Since the early days of the third wave, democratic actors have been concerned about a possible “revolution of expectations.” They have been worried about impatient citizens who would be demanding and expecting too much and too quickly from the new democratic regimes. Naturally, to avoid disappointments, there is nothing better than lowering our standards. Both politicians and scholars thus preached, with didactic passion, the modesty of democratic expectations. Over and over they repeated a common theme: democracy does not resolve all our problems. Democracy is no magical device. It is a value in itself, not an instrument to achieve anything. By itself, democracy does not resolve any problems or conflicts that afflict a country. It is no more than an institutional framework to address our societal problems, and to process our conflicts, in a peaceful and hopefully rational way. By itself, democracy does not bring neither economic affluence, nor socioeconomic equality, nor public tranquility. It may do so in the long run. But meanwhile, in the short run, things sometimes look a bit gloomier.

Modest performance

The revolution of expectations, as it turned out, has not been the problem. The problem has not been irrational, myopic, impatient citizens expecting to do democracy the magic trick of transforming their lives over night. The problem has not been that citizens fail to appreciate the limits

of reality. The problem has not been that citizens are hard to convince that they should accept only modest and incremental improvements of their live conditions.

The problem has been that citizens’ conditions, rather than improving gradually, have often worsened dramatically. The problem has been that citizens are hard to convince that a democracy that deserves its name—rule by the people, the sovereign—that such a system of popular government should push people themselves into even deeper conditions of misery, physical insecurity, and state abuse.

Much has been written on the economic failure of democratic governments, on the unhappy coincidence between democratization and democratic crisis in many countries, especially in Latin America, the former communist countries, and Sub-Saharan Africa. Much has been written, too, on democratic governments aggravating, instead of resolving, deep-seated problems of poverty and social inequality. Here, I would like to briefly reflect on a different (even if related) phenomenon: the failure of democratic states, the failure of democracy as a legal system.

Democracy without legality

Over the past years, we have been rediscovering that democracy is more than elections. We have been rediscovering, too, that democracy is more than a democratic government, and more than a democratic regime. Democracy requires, presupposes, builds upon, a democratic state. This involves the obvious, a capable public bureaucracy. But it also demands a legislature and a court system willing and capable to guarantee the *rule of law*.⁴

The historical sequence, back in good old Europe, has been different. Think of England, Germany, or France. There, first came bureaucratization and the rule of law. It was only then that democracy was (gradually) introduced. Today, the order of things has been inverted. We have democracies without “usable” states,⁵ democracies without the rule of law. To be precise, those democratic regimes are not entirely law-

less. If they were, we would not recognize them as democratic. Yet, they are able to guarantee the rule of law only in a very partial and uneven way.

In countries like Mexico and Brazil, the rule of law is socially uneven (some groups are more likely to seeing their rights violated than others). It is spatially uneven (some rural regions and urban districts are virtual extraterritorial areas with close-to nil presence of the state). The rule of law is furthermore temporarily uneven (rules are enforced at times and violated at other times). And it is substantively uneven (some fields of the law, like civic law, often work better than others, like criminal law).

The overall result is something less than the rule of lawlessness. It is a fluid state of uncertainty that combines arbitrariness with legalism.⁶ Even where rule abidance is weak, legal rules are not simply absent. They are present as background resources, as means of control, punishment, and extortion. Where rules are open to negotiation, and where enforcement is contingent on luck or shifting correlations of force, they turn into instruments of arbitrary power.

Democracy against legality

The weakness of the state as legal system implies, among other things, that democracy is not even able to fulfill its minimal promise of protecting civil liberties and political rights. Deplorably, at times, really existing democracies have not just been incapable of preventing the erosion of legality. They have been actively (even if indirectly) contributing to aggravate problems of public insecurity. I would like to give three examples.

In the Philippines, election campaigns have become terribly expensive. One of the reasons reads electoral clientelism. Candidates think they have to hand out money to individual voters to win them over; and the financial pressures created by such vote buying activities make them resort to unconventional sources of campaign financing. They kidnap wealthy foreigners or business people to cover their soaring campaign expenses.

In Mexico, numerous former police officers, dismissed for corruption or other forms of misbehavior, have been involved in organized crime, kidnapping, or drug trafficking. In part, their criminal career may be traced back to recent processes of police reform. In Mexico as in many other countries, democratic police reforms seem to aggravate problems of public security, at least in the short run. Cleansing police corps puts many experts in violence out of job. It forces them to look for alternative sources of income that are in accordance with their professional expertise.

Of course, not to reform the security apparatus is not an option either. In São Paulo, Brazil, members of the police, in or off duty, kill an average of 680 civilians per annum, outside "legitimate" exchanges of fire. Just rest a moment and digest the figure: six hundred and eighty. We are speaking of the democratic 1990s. This is "a number of casualties that many countries in the midst of a civil war do not experience."⁷ In one year alone (1992), the city police killed more citizens than Brazil's military dictatorship in its whole period, from 1964 to 1985.

States without legitimacy

Failing, faltering, democratic states are unable to control either of the classical problems of physical security. They are unable to bring crime — "horizontal" violence between citizens — under control. And they are incapable of bringing repression — "vertical" violence of the state against citizens — under control.

Unfortunately, the erosion of the rule of law in countries like Brazil or Mexico goes beyond the twin problems of crime and repression. The state is unable to *control* factual violence. But, in addition, and perhaps not less dramatically, it is often unable to *exercise* legitimate violence. It is a state out of control, and a state without legitimacy.

As we know from Max Weber, the modern state is characterized not by its goals, not by its dedication to realize (some version of) the common-good or any other historical mission. It is defined instrumentally, by its claim to the mo-

nopoly of legitimate physical violence. In countries like Mexico, this monopolistic claim is, to say the least, shaky, fragile, contested. For the purpose of illustration, I wish to give two polemical examples.

First, consider the Zapatistas. They are armed rebels in the name of a just cause. They have occupied a large piece of land in Chiapas, Southern Mexico. They sit there protected by a special law, armed with automatic pistols, the Internet, and a resonating discourse on justice and liberation. And they demand that Mexico should be shaped according to their visions, before laying down their arms and accepting to enter the democratic game. Many of you may sympathize with their cause, which is alright. But it is difficult to sympathize with their means if we consider that Mexico is not an authoritarian regime anymore, but has turned into a "normal" Latin American democracy.

A substantial part of the Mexican left moves within the parameters of what Max Weber called *Gesinnungsethik*, the ethic of good intentions (as distinct from *Verantwortungsethik*, the ethical calculus of consequences). In Mexico, it often seems to be enough to invoke a good cause in order to claim the right to break the law and resort to violence, to expect immunity from legal persecution, and to count with a protective measure of public sympathy. As it seems, formal procedures fail to generate political legitimacy. Whether to follow the law or not turns into a matter of expediency. Law is a playing ball of power and interests.

My second example draws from a more recent case: the failed efforts of the present democratic government to build a new airport near Mexico City. The Fox administration, in a very technocratic, ignorant, and insensitive fashion, announced its construction plans in the Spring of 2001. The airport was to be the biggest public infrastructure project during Vicente Fox's six-year presidency. Last summer the administration saw itself forced to withdraw the project, as it had come under heavy pressure by an uncivil protest movement by peasants. The protesters, a minority of residents in the area where the airport was to be built, made it a habit to march into Mexico City and confront the police with their

machetes. In a dramatic escalation of events in Summer 2002, the protesters wounded some police officers and took hostage a group of bystanders. At the height of the crisis, President Fox announced that the government was seeking a "political solution." We are not and will never be a *repressive* government, the president affirmed. Weeks later, his administration officially abandoned the airport project.

Here we have, on the one hand, expressions of an uncivil society that insists on its right to be above the law (mind the ironic formulation) and to defend its interests through violence "if necessary". On the other hand, we have a government that has lost belief in the legitimacy of using public force (in the form of court orders and police action) to back the rule of law. As a short-term political calculus trashing the airport project may have been a wise decision. As a precedent of conflict resolution it may turn out disastrous. And as a statement on state of law in Mexico it was depressing. It was the public testimony of a democratic state abandoning its claim to the monopoly of legitimate violence.

A choice of perspective

Of course, the state of democracy in Mexico as well as in quite some other new democracies may be read in a more optimistic light as well. Instead of lamenting administrative failures and democratic deficits, we may identify elements of progress in the fields of public management reform, corruption control, police reform, the fight against organized crime, or the restructuring of the judicial system. Much of what we see in Mexico and other places depends on the classical choice of perspective: Is the democratic glass half empty or half full?

If we would shift towards a more optimistic assessment we could easily admit that in the long run democracy may actually make a difference. In the long run, the inner logic of democratic politics may allow the gradual construction of something resembling working judicial systems and public bureaucracies. Yet, unhappily, in the long run, as John Maynard Keynes used to say, in the long run, we are all dead.

I apologize for making my optimistic note last so little. But, after all, I was asked to talk not about democratic achievements, but about the limits of democracy.

Democratic disenchantment

Well, what we see then in the short run, what we see now, are citizens who are profoundly disappointed with the way democracy works, or fails to work. There is nothing so corrosive of the legitimacy of governments, regimes, and states as the erosion of citizens' basic securities in ordinary life. Citizens, actually, have good reasons to turn their back to democratic politics if it proves unable to prevent the disruption of their everyday lives. Or worse, if it is politics itself, as over the past year in Argentina, which provokes, or is seen to provoke, profound dislocations of everyday life.

At least in Latin America, democratic disenchantment, anti-politics, a resentment against the political establishment, are carrying the day. Even where citizen describe themselves as democrats, they are profoundly cynical of democracy as it exists in their respective countries. Mexico, for instance, seems to suffer something like a syndrome of premature anti-partisanship. In qualitative interviews conducted after the 2000 presidential elections, respondent after respondent portrayed elections as endless cycles, endless circuses, of politicians making and breaking promises. All parties are equal, they affirm, it doesn't make a difference whether one rules or the other. This lingering anti-party sentiment is ironically premature. It has been emerging only a few years after the gradual introduction of competitive party politics – much before either parties or voters have had a chance to learn how to play the game of party alternation in government.

Institutional illusions

Which might be possible cures of the democratic disease? One standard answer we get both from the academic community and from the international donor community reads: institutional re-

form. To make democracy work, we have to get institutional fundamentals right. In part, this sounds like a good idea. For example, criminal laws are often cumbersome and outdated, and electoral laws are often imbalanced; they either weaken or strengthen parties too much. But in part the recipe of institutional reform may be a chimera.

Thailand, for example, with enduring faith in the "salvation powers" of constitutional rules, rewrites its constitution about once in a decade without being able to resolve the political problems those constitutions are designed to address.⁸ In contemporary Argentina, to cite another instructive case, numerous political observers and civic associations bet all their hopes on a combination between personal renewal (*¡Que se vayan todos!*) and institutional reform. Comprehensive constitutional reform shall guarantee that present disasters are not repeated in the future. I find such confidence in the power of legal changes utterly unconvincing. In Argentine democracy, on the one hand, previous institutions have been extraordinarily weak. On the other hand, the evidence of personal political failure (of former president de la Rúa and his coalition partners) has been overwhelming, dramatic, depressing.

Rediscovering politics

It may be time then to abandon the illusion of finding legal solutions to political problems. It may be time to rediscover the importance of politics. And it may be time, too, to rediscover the dignity of politics.

Bringing politics back in seems to be worthy enterprises, for a political scientist anyway. What we cannot guarantee, though, is that democracy will turn into a less disappointing enterprise. Perhaps, democracy is always and intrinsically disappointing. Liberal democracy, at any rate, is an exercise so constrained by design and so self-constrained by principle that it looks more like plot to leave everybody unhappy than like a proposal to make anybody happy.

Of course, as we said right at the beginning, whether democracy is a disappointing exercise

or not depends as much on the level of democratic performance as on the level of our expectations. We might be well advised, though, never to lower our democratic demands and expectations to a point at which we actually feel contented with really existing democracies. Our disappointment may be a driving force to keep democracy developing.

Democracy is always a moving target, not an achievement for eternity. Without at least a measure of disappointment, it may petrify, impoverish, deteriorate, turn into shallow routine. Contentment thus may be something of a democratic danger. Long live our democratic disappointment!

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Notes

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1. Samuel P. Huntington, *The Third Wave: Democratization in the Late Twentieth Century* (Norman and London: University of Oklahoma Press, 1991).

2. David Collier and Steven Levitsky, "Democracy with Adjectives: Conceptual Innovation in Comparative Research." *World Politics* 49 (April 1997): 430–51.

3. See Larry Diamond, "Elections without Democracy: Thinking About Hybrid Regimes," *Journal of Democracy* 13/2 (April 2002): 21–35; Andreas Schedler, "Elections Without Democracy: The Menu of Manipulation," *Journal of Democracy* 13/2 (April 2002): 36–50.

4. See Guillermo O'Donnell, "Democracy, Law, and Comparative Politics," *Studies in Comparative International Development* 36/1 (Spring 2001): 7–36.

5. Juan J. Linz and Alfred Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America, and Post-Communist Europe* (Baltimore and London: Johns Hopkins University Press, 1996), pp. 10–11.

6. On the ideology of "legalism," see Judith N. Shklar, *Legalism* (Cambridge, Mass.: Harvard University Press, 1964).

7. Daniel Brinks, "Informal Institutions and the Rule of Law: The Judicial Response to State Killings in Buenos Aires and São Paulo in the 1990s," *Comparative Politics* (forthcoming).

8. William A. Callahan, "The ideology of vote buying and the democratic deferral of political reform," paper prepared for presentation at the conference "The Comparative Politics of Vote Buying," Massachusetts Institute of Technology (MIT), Center for International Studies, Cambridge, Massachusetts, 26–27 September 2002.