

Inter-American regime for promotion and consolidation of democracy: Peru's role

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The effects of the end of the Cold War, the deepening of interdependencies, the simultaneity of communications, economic globalization, the worsening of social and economic inequalities between and within States, the consolidation of regional blocs, the promotion of democracy and human rights, the establishment of universal jurisdiction, the growing importance of non-State actors and transnational relations, as well as the collective treatment of contemporary global challenges are often considered as the main trends shaping the international system in transition.

The adjective "in transition" used to qualify the current international system is not gratuitous, given that the aforementioned trends of change are coming to question fundamental principles that have underpinned the modern international system since the Treaty of Westphalia of 1648, namely sovereignty and the principle of non-intervention. (Kissinger 2002: 21)

In this context, September 11, 2001 is a date that is often highlighted in the study of the international system because it is associated with the concrete impact of non-conventional threats to global security and, more generally, with the growing relevance of non-state actors in the current dynamics of international relations. On that day, two imposing skyscrapers in New York, the so-called Twin Towers, were the targets of a brutal and tragic terrorist attack, in what has been considered the worst attack on U.S. territory since Pearl Harbor. This event generated a change in the priorities of the international agenda, which was led by important actors, most notably the United States of America, resulting in the current preeminence of the security issue and the leadership of a global alliance to confront transnational terrorism.¹

But on that same date, representatives of 34 hemispheric states met in Lima

¹ On September 28, 2001, the United Nations Security Council adopted resolution 1373 (2001) obliging all member states to take concrete measures to combat terrorism, in accordance with Chapter VII of the United Nations Charter.

to approve the Inter-American Democratic Charter (IDC) within the framework of the XXVIII Special Session of the General Assembly of the Organization of American States (OAS). It is less usual to associate September 11, 2001 with this event, which should not diminish its importance, given that we are dealing with an event in which two of the main trends that are shaping the current international system in transition intersect. On the one hand, the collective action of state actors to establish various international regimes aimed at improving international governance; and, on the other hand, the promotion of democracy. In this specific case, it is the inter-American regime for the promotion and consolidation of democracy.

How is it explained that the adoption of democracy in the political systems of states is perceived as a general interest of the international system? Attin argues that there are essentially two general arguments to justify the promotion of democracy. First, the existence of an alleged direct relationship between internal democracy and peaceful external relations, which has its roots in Kantian thought. According to this school of thought, democracies are more predictable and more permeable to international pressures. Hence, the establishment of democratic governments is crucial for making the international system more predictable. Second, it is believed that democratic governments take into account the interests of their citizens, which makes them more effective and, therefore, transmit fewer problems to the international system (e.g. irregular migration, criminality). Democracies are also considered to be more willing to address such global problems through international cooperation. Therefore, the diffusion of democracies would also be of interest to the international system (Attin 2001: 228).

This essay asserts that the adoption of the Inter-American Democratic Charter constitutes the consecration of a regime for the promotion and consolidation of democracy in the Americas. In turn, the Inter-American Democratic Charter is but the most recent stage of a process towards the establishment of an inter-American regime for the promotion and consolidation of democracy, whose manifestations can be seen in the formulation of principles, proposals and/or approval of resolutions, declarations, norms, mechanisms, legal-diplomatic instruments and even state practice over the years (Perina 2000: 3).

The initiative to draft the Inter-American Democratic Charter was Peruvian. The then

President of the Council of Ministers and Minister of Foreign Affairs of the Transitional Government, Ambassador Javier Pérez de Cuéllar, during his presentation before the Congress of the Republic on December 11, 2000, announced that as part of the foreign policy he was going to promote "an Inter-American Democratic Charter that would give a legally binding nature to all instruments and mechanisms for the preservation of democracy, as well as more timely and effective means of action". In less than a year, this Peruvian initiative would become a reality.

In this context, this essay studies the process of formation of the Inter-American regime for the promotion and consolidation of democracy, proposing five defined historical stages, trying to identify in each one of them the eventual contributions and tensions, as well as the role of Peru in such evolution, which concludes with the approval of the Inter-American Democratic Charter.

Definition and typology

From the academic point of view, the dynamics of international relations are usually explained either on the basis of the characteristics and intentional actions of state actors - statocentric paradigm, in which the realist theory stands out; or, emphasizing the functioning of rules and organizational institutions of the system - systemic paradigm, in which the theory of the world economy is included. (Attinà 2001: 39).

We believe that the complex dynamics of international relations can be better explained with an alternative approach. This is what some authors call the structuration theory², according to which such dynamics are the result of both the intentional actions of states and the functioning of the rules and principles that regulate the international system. In this scenario, two attributes of States influence each other: legal equality and factual inequality.

² Anthony Giddens published in 1984 his work *The constitution of society*, in which he formulates the structuration theory, oriented to reconcile the deterministic extremes of the agent and the structure, without giving primacy to any of them. This theory has been taken to the international relations field. See, for example, ATTINÀ, Fulvio (2001) *El sistema político global. Introducción a las Relaciones Internacionales*. Barcelona: Ediciones Paidós Ibérica. 272 p.

For the purposes of introducing the concept of international regimes, we are interested in highlighting the existence of such "organizational rules and institutions" as a fundamental component of the organization of the international system. Over the years, States, making use of their sovereignty, have been establishing a set of sectoral rules and patterns of behavior with respect to issues of global, regional or even bilateral concern. In the absence of a world government, such arrangements are necessary to organize and enable the international community to function and to find shared solutions to common problems. Such arrangements are the regimes, which enable "governance without government" in the international system (Pearson and Rochester 2002: 372).

Examples of international regimes are: the bilateral agreement for the administration of a border lake such as Titicaca, the Amazon Cooperation Treaty Organization, the United Nations Convention on the Law of the Sea, the General Agreement on Tariffs and Trade (GATT), or the International Monetary Fund (IMF). From this perspective, the international action of a State or of any actor in the international system will be conditioned or impacted - to a greater or lesser extent - by the creation, validity, operation and improvement of such international regimes, regardless of whether the State is a Party to them or not.

There are several definitions of international regime, but we are interested in highlighting two. First, a rather broad one is formulated by Richard Little, who considers that the term regime refers to "specific areas of rule-governed activity in the international system" (Baylis and Smith 1999: 232). Second, the definition more widely used in the academy, proposed by Stephen Krasner, for whom the international regime constitutes a "set of principles, norms, rules and decision-making procedures - implicit or explicit - around which the expectations of actors in a given area of international relations converge". Krasner specifies the four constituent elements of his definition of regime by indicating that principles are beliefs about fact, cause and rightness. Norms refer to standards of behavior defined in terms of rights and obligations. Rules are prescriptions or proscriptions for concrete action. Decision-making procedures are the prevailing practices for deciding and applying measures collectively (Krasner 1983: 2).

These definitions are useful for the following study of the inter-American regime for the promotion and consolidation of democracy. While Little's

definition provides a broad and flexible approach to the study of regime formation and validity, Krasner's allows for a more refined analysis of the regimes, by allowing the individualization and evaluation of their constitutive elements.

In addition to the definition of regime, it is relevant for the present study to consider the typology of international regimes. Levy, Young and Zurn propose a useful typology using two criteria: the degree of formality of the regime and the expectation of compliance. Within the formality of the regime, one can find from regimes associated with a highly formalized agreement and even linked to the creation of an international organization, to a regime whose existence is not based on any formal agreement. Within the expectation of compliance, one can find from regimes that generate a high degree of compliance and observance by States, to regimes that do not inspire a complete convergence of compliance expectations.

In this sense, the aforementioned authors identify four types of regimes:

i) no regime, when there are no formal agreements and there is no expectation that its rules will be complied with by the actors; ii) tacit regime, when despite the absence of formal agreements, its informal rules can be expected to be complied with by the actors; iii) dead letter regime, when despite the existence of highly formalized agreements, there is no expectation that the actors will comply with its rules; iv) vigorous regime, when there are high expectations that the actors will comply with the rules established in highly formalized agreements. (Baylis and Smith 1999: 234-235).

Towards the inter-American regime

We consider that from 1907 - the year in which the Tobar doctrine on non-recognition of de facto governments was formulated - it is possible to distinguish five successive stages in the process of formation of the regime for the promotion and consolidation of democracy in the Americas, culminating in the adoption of the Inter-American Democratic Charter. These stages are marked by the following milestones: i) the antecedents prior to the OAS Charter; ii) the OAS Charter of 1948; iii) the Cartagena Protocol of 1985; iv) Resolution 1080 adopted in Santiago de Chile in 1991; and, v) the Inter-American Democratic

Charter adopted in Lima in 2001.

As will be seen below, these stages did not imply a uniform, progressive or inevitable evolution. Contradictions, tensions and setbacks were present throughout the process. It could not be otherwise if we take into account that the historical developments in favor of democracy promotion in the Americas took place in the broader context of the expansion of democracy in the world, a process that was not linear. Indeed, at the global level, it is often said that the most marked waves of democratization occurred in the periods immediately following the end of the First and Second World Wars, and again in the 1980s and 1990s, but with waves in the opposite direction to democracy in the 1930s, 1960s and 1970s. At the regional level, in Latin America the tendency towards authoritarianism was quite notorious in the 60's, with a strong democratizing wave in the 80's. (Gwyne, Klak and Shaw 2003: 213).

A detailed historical review of each of the five stages proposed in the process of establishing the regime for the promotion and consolidation of democracy in the Americas is beyond the scope of this essay. Instead, I wish to identify specific events in each of these stages that are relevant to illustrate and analyze the construction of the aforementioned regime. Likewise, we will try to identify concrete facts of Peruvian foreign policy vis-à-vis its contribution to the establishment of this inter-American regime.

Democracy before 1948

Hobsbawm argues that the list of consistently constitutional and non-authoritarian states was short in the hemisphere since it included only Canada, Colombia, Costa Rica, the United States and Uruguay (Hobsbawm 1994: 111). However, this did not prevent concern for democracy in the Americas from being expressed in various forms.

In this context, two types of manifestations of the affirmation of democracy in the Americas, prior to the adoption of the OAS Charter in 1948, are worth highlighting. On the one hand, there are the declarations and instruments of a multilateral nature approved by the States of the Americas. On the other hand, there are the doctrines developed unilaterally in Latin America on the non-recognition of de facto governments, which are relevant insofar as they - and

their practical application - shed light on the importance given to the democratic origin of a government in inter-American relations.

Three declarations and instruments of a multilateral nature refer expressly to democracy in this period. The first is the "Declaration of Principles on Inter-American Solidarity and Cooperation" approved on the occasion of the Inter-American Peacebuilding Conference held in Buenos Aires, Argentina, in 1936. In this document, the governments of the republics of the Americas declared: "That the nations of the Americas, faithful to their republican institutions, proclaim their absolute juridical freedom, unrestricted respect for their sovereignty and the existence of a democracy of solidarity in the Americas". The second was the resolution on the Teaching of Democracy, approved at the Eighth International Conference of American States, held in Lima, Peru in 1938, which states: "That it is necessary to disseminate knowledge of the democratic principles on which the political, social and economic institutions of the nations of America are based". The third appears in the seventh preambular paragraph of the Inter-American Treaty of Reciprocal Assistance of 1947, which states: "That the American regional community affirms as a manifest truth that juridical organization is a necessary condition for security and peace, and that peace is founded on justice and moral order and, therefore, on the international recognition and protection of the rights and freedoms of the human person, on the indispensable welfare of peoples and the effectiveness of democracy, for the international realization of justice and security" (OAS 2000: 1).

In other words, through these instruments, the States of the Americas proclaim the existence of a democracy in solidarity in the hemisphere; they recognize the need to disseminate knowledge of democratic principles; and they **affirm** that the effectiveness of democracy is fundamental for peace. These are the first three strong ideas on democracy adopted multilaterally in the Americas.

As for the doctrines developed unilaterally in Latin America on the non-recognition of de facto governments, three are worth mentioning: the Tobar doctrine, the Estrada doctrine and the Rodríguez Larreta doctrine. All of them were formulated during this period and refer to governments that come to power through any procedure not provided for in the respective national legal system, i.e., de facto, non-democratic governments.

In a note sent by the then Minister of Foreign Affairs of Ecuador, Carlos R. Tobar, to the Bolivian consul in Brussels, dated March 15, 1927, the Ecuadorian Foreign Minister pointed out that: "The most effective way to put an end to violent changes of government inspired by ambition is for the States to refuse to recognize transitory governments born of revolutions" (Novak and García-Corrochano 2001: 116). It should be noted that Tobar conditioned the recognition of a revolutionary government to its validation by means of popular suffrage (Novak and García-Corrochano 2001: 116). We consider that this doctrine implies a promotion of democracy insofar as, in order to maintain diplomatic relations, it requires governments to have the legitimacy of origin, which is conferred by popular election, in accordance with the constitutional order.

Subsequently, such questioning of governments whose origin was different from the ballot box was considered an affront to the sovereignty of countries. Even the recognition of governments was considered a "denigrating practice", insofar as it implied "leaving it to the discretion of foreign governments to pronounce on the legitimacy or illegitimacy of another regime". This reaction to the Tobar doctrine was contained in the public statement made by the then Mexican Minister of Foreign Affairs, Genaro Estrada, on September 27, 1930, on the occasion of announcing the Mexican policy on the subject of government recognition (Novak and García-Corrochano 2001: 121-123).

In the aftermath of World War II, the then Foreign Minister of Uruguay, Eduardo Rodríguez Larreta, sent a note to the governments of the Americas, dated November 21, 1945, in which he proposed a collective multilateral action to defend democracy and human rights in the face of the danger of Nazi-Fascist activities in the hemisphere. In this note, after recognizing and highlighting the direct relationship between democracy and peace, Rodríguez Larreta stated that: "The Principle of Non-Intervention does not unlimitedly protect the notorious and repeated violation by any Republic of the elementary rights of man and citizen and the breach of the commitments freely contracted regarding the internal and external duties of the State that accredit it to act in international coexistence". Therefore, Rodríguez Larreta advocated multilateral, unarmed and unilateral intervention in the internal and external affairs of another State in defense of democracy (Novak and García Corrochano 2001: 118-119).

These positions and guidelines for external action with respect to de facto governments, made known by the then foreign ministers of Ecuador (1927), Mexico (1930) and Uruguay (1945), are very relevant because they will raise two tensions that will be present throughout the following stages in the construction of the inter-American regime for the promotion and consolidation of democracy.

The first is the tension between the promotion of democracy (supported by the Tobar and Rodríguez Larreta doctrines) and respect for sovereignty and the principle of non-intervention (supported by the Estrada doctrine). For Tobar, and more explicitly for Rodríguez Larreta, the principle of non-intervention cannot be a shield to prevent the promotion of democracy.

The second tension refers to the way to promote and consolidate democracy, either through a passive and unilateral defense (advocated by the Tobar doctrine) or through an active and multilateral defense (proposed by Rodríguez Larreta).

An international event that clearly illustrates the tension between the promotion of democracy and the principle of non-intervention, even at this stage, took place at the Inter-American Conference of 1945, held in Mexico. On that occasion, the Guatemalan delegation proposed a draft resolution entitled "Defense and Preservation of the Democracy of the Americas in the Face of the Eventual Installation of Anti-democratic Regimes in the Continent". This draft recommended that the republics of the Americas refrain from "recognizing and maintaining relations with anti-democratic regimes which, in the future, could be established in any of the countries of the continent and, in particular, with regimes which could arise from a coup d'état against legitimately constituted governments with a democratic structure.

By means of Resolution XXXVIII, the Inter-American Conference of Mexico sent this Guatemalan project to the Inter-American Juridical Committee (IJC) for its examination. The CJI's opinion supported the rejection by the American States of the Guatemalan project, considering it contrary to the principle of non-intervention. In effect, the CJI was of the opinion that "the power granted in the draft to each State to freely assess whether the new government is democratic, clearly leads to an intervention in the internal affairs of another State". In this sense, the IJC considered that "opening the way to any form of intervention

would be a serious mistake" (Vio Grossi 1994: 129).

Did these multilateral declarations and the unilaterally developed doctrines on the recognition of *de facto* governments constitute some kind of democracy promotion regime in the Americas? To answer this question, we must analyze the geographic and conceptual scope of such manifestations for democracy.

While it could be accepted that the multilateral declarations mentioned *ut supra* had an inter-American geographic scope, their content did not establish a regime in the terms defined by Krasner. Instead, such declarations laid the initial foundations of certain principles -one of the four constitutive elements of any regime- which would later become some of the pillars on which the inter-American regime would rest.

Indeed, the 1947 Inter American Treaty for Reciprocal Assistance (TIAR Treaty) contains an initial formulation of the principle of democratic security: the conviction that the objective of peace is better served and guaranteed as long as there are democratic governments in the continent. The note sent by Uruguayan Foreign Minister Rodríguez Larreta to his counterparts in the region in 1945 also highlighted this causal relationship between democratic rule and international peace. For its part, the "Declaration of Principles on Solidarity and Inter-American Cooperation" approved in Buenos Aires, Argentina, in 1936, proclaims the existence of a democracy of solidarity in the continent, laying the initial foundations for reflecting on solidarity actions in favor of democracy.

In the case of the unilaterally elaborated doctrines on the non-recognition of *de facto* governments, the concrete application of their respective prescriptions did not cover all the countries of the continent. In practice, the Tobar and Estrada doctrines generated only a number of third countries that tried to implement their prescriptions in their respective foreign policies. In other words, at this stage there was no regime understood as a homogeneous set of principles, norms, rules and decision-making procedures on the promotion of democracy in the region. What there were were two competing sets of principles: one favored the promotion of democracy, and the other advocated respect for sovereignty and the principle of non-intervention.

For example, the Tobar doctrine inspired Costa Rica, Guatemala, Honduras,

Nicaragua and El Salvador to sign two treaties: on December 20, 1907, with a ten-year term, and on February 7, 1923. By virtue of these treaties, the Central American countries established that "the governments of the contracting parties will not recognize anyone who arises in any of the five republics by a coup d'état or revolution against a recognized government, as long as the freely elected representation of the people has not reorganized the country in a constitutional manner". The 1923 Treaty went further, by adding the additional requirement that once the country had been constitutionally reorganized, none "of the persons elected President, Vice President or Designate" had been coup leaders or had family ties with them, or formed part of the cabinet or had a high military command at the time of the revolution or election (Vio Grossi 1994: 128).

In contrast, in 1931 Peru was the first country to apply the Estrada doctrine. In fact, the Government Junta then headed by Ricardo Elíaz did not seek or wait for the recognition of foreign governments to establish relations with them (Novak and García-Corrochano 2001: 123).

This Peruvian defense of the principle of non-intervention was reiterated in response to the note from Uruguayan Foreign Minister Rodríguez Larreta, which proposed the implementation of a multilateral defense of democracy and human rights. Indeed, the Peruvian Government's reply to Rodríguez Larreta's note, dated December 31, 1945, stated in this regard: "My Government considers that the conclusion reached by Your Excellency's note, in advocating multilateral collective action in defense of democracy and human rights, raises a problem of grave importance which deserves to be considered with the most prudent attention, so that the recognition and protection of a principle as important as that of the juridical condition of man, subject of International Law, does not cause detriment to that of non-intervention which, after several decades of laborious efforts, has achieved broad consecration in the inter-American regional system. This principle...must remain intact as a guarantee of the independence of the American States within the spirit of unity that must reign among them as a free expression of their sovereignty..." (OAS 1962a: 14).

In short, we can affirm that in this first stage there was no inter-American regime for the promotion and consolidation of democracy. In the case of the

multilateral declarations, although their geographical scope was inter-American, they only initiated the development of the principles of democratic security and democracy in solidarity. But no consensus was reached on the other constituent elements that any regime must exhibit in the terms formulated by S. Krasner: norms, rules and decision-making processes.

For their part, the doctrines on the non-recognition of de facto governments generated a struggle in the establishment of priorities in concrete foreign policy action among the countries of the region, whether to promote democracy or to defend the principle of non-intervention. None of them managed to cover the entire continent, nor did they acquire the preeminence to form the basis of an inter-American regime for the promotion of democracy. At most, using the broad definition of regime proposed by R. Little, in the sense of "specific areas of rule-governed activity in the international system," it could eventually be argued that there was an incipient subregional regime in Central America for the promotion of democracy, by virtue of the aforementioned treaties of 1907 and 1923.

The OAS Charter of 1948

The Ninth Inter-American Conference held in Bogotá was the framework for the approval of the founding Charter of the Organization of American States (Charter of Bogotá of 1948), which constituted the first international intergovernmental organization of a regional nature, created within the scope of Chapter VIII of the United Nations Charter. At the same conference, the so-called Pact of Bogotá on the peaceful settlement of disputes was approved. Thus, the institutional framework of the inter-American system was consolidated, as expressed in the tripod constituted by the Inter American Treaty for Reciprocal Assistance (TIAR, 1947); the establishment of the international political organization in the Americas (OAS Charter, 1948); and the procedures for the peaceful settlement of disputes (Pact of Bogotá, 1948).

It is worth bearing in mind that the institutional strengthening of the inter-American system was led by the United States of America, in what is interpreted as an action aimed at deepening the commitment to solidarity of a political-military nature in the continent. The importance of the approval of the aforementioned inter-American instruments in 1947 and 1948 must be weighed in

the light of the growing rivalry between the two superpowers in a bipolar world and the competition that was unleashed in terms of security and political influence between the United States of America and the Soviet Union after the Second World War. (Bákula 2002: 1462).

In this context, the 1948 OAS Charter addresses the issue of democracy in two parts. First, the third preambular paragraph reads: "Confident that the true significance of American solidarity and good neighborliness can only mean the consolidation on this continent, within the framework of democratic institutions, of a system of individual liberty and social justice based on respect for the essential rights of man". It is interesting to note how innovative this preambular phrase is, given that it links the issue of democratic institutions to respect for the essential rights of man. Moreover, the emphasis or purpose of this paragraph seems to be on respect for human rights, with democratic institutions being a sort of condition or means for guaranteeing the validity of human rights. Therefore, there is no lack of authors who use this concept of "regime of individual freedom and social justice" from the preamble of the 1948 OAS Charter to relate it to the origins of the inter-American regime for the promotion and defense of human rights, rather than to the promotion of democracy (OAS 2000: 2). (OAS 2000: 2).

Second, Article 5(d) of the OAS Charter of 1948, referring to the principles, states: "The solidarity of the American States and the high aims which are sought through require the political organization of those States on the basis of the effective exercise of representative democracy.³ This article establishes a standard of behavior in terms of obligations for the member states: to organize themselves politically according to the model of representative democracy, with the understanding that this model constitutes the prerequisite for achieving inter-American solidarity and the objectives agreed upon.

However, neither the OAS Charter of 1948 nor the minutes of the Ninth International Conference of the States of the Americas specified what is meant by representative democracy⁴. (Vio Grossi 1994: 108).

³ Corresponds to Article 3d) of the current OAS Charter.

⁴ It should be noted, however, that in the meetings that preceded the adoption of the OAS Charter in 1948, the Brazilian delegation proposed that membership in the Organization be subject to the fulfillment of two preconditions by the States: ratification of the Charter of Bogotá and the adoption

It is interesting to note that, along with these two mentions of democratic institutions and representative democracy, the 1948 OAS Charter also included Article 15 to reaffirm the validity of the principle of nonintervention, in the following terms: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State, or against its political, economic and cultural elements".⁵

Based on this, the elements were present to maintain, also in this period, as we will see below, the struggle between the promotion of democracy, on the one hand, and the validity of the principle of non-intervention, on the other, which we had already identified in the preceding period.

What are the implications and scope of these provisions on democracy in the OAS Charter? Could it be argued that, by virtue of these two mentions of democracy in the founding Charter of the OAS, the Member States established a regime for the promotion and consolidation of democracy and conferred on the Organization the appropriate powers to oversee this eventual regime?

I consider that, from the point of view of the definition of regime formulated by S. Krasner, the 1948 OAS Charter did not strictly establish a regime as such, but advanced in the consecration of certain principles and norms, that is, only two of the four constituent elements of a regime.

If principles are beliefs about facts, cause and rectitude, the 1948 OAS Charter formalized two: the conviction that democratic institutions are a condition or presupposition for the observance and respect of human rights (third preambular paragraph); and that representative democracy is a condition or presupposition for inter-American cooperation and for achieving the stated objectives (Article 5d). Likewise, if the norms allude to standards of behavior defined in terms of rights and obligations, the OAS Charter established one: the obligation of the States to organize themselves politically according to the

of a democratic form of government, which implied freedom to vote, freedom of private enterprise, political pluralism and the guarantee of fundamental human rights. This Brazilian proposal did not prosper.

⁵ Corresponds to Article 19 of the current OAS Charter.

model of representative democracy (Article 5d).

However, it did not establish rules as prescriptions or proscriptions for concrete action, nor did it establish decision-making procedures for implementing measures. No collective mechanisms were envisaged to ensure compliance with the principles and norms. Nor were any competencies or powers conferred on the Organization itself to supervise compliance with *the* principles and norms agreed upon by the member states.

Based on these considerations, I can agree with Villagran-Kramer and Rubin who maintain that at this stage "the strengthening of democracy was, in the opinion of the States, the responsibility of the States and not of the Organization, so that it was up to them and not to the Organization to strengthen democracy in each of the countries. At first glance, this seems a contradiction to what was set forth in the Charter of Bogota. However, the issue was not the subject of legal approaches but of political ones". (Villagrán-Kramer and Rubin 1992: 11).

In this regard, Resolution No. XXXII on the Preservation and Defense of Democracy adopted by the same Ninth Inter-American Conference that also approved the OAS Charter is illustrative. This resolution requested the States to adopt, within their territories and in accordance with their respective constitutional precepts, the "measures necessary to uproot and prevent activities directed, assisted and instigated by foreign governments, organizations or individuals, which tend to subvert, by violence, the institutions of said Republics".

This interpretation is also supported by the Declaration of Santiago, adopted in August 1959, in the framework of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, held in Chile. Indeed, while this instrument declared, on the one hand, that "... the existence of anti-democratic regimes constitutes a violation of the principles on which the Organization of American States is founded and a danger to the solidarity and peaceful coexistence of the Hemisphere..."; it also stated that: "...there is no organ of the Organization that has the competence to sanction in any way a member state whose political regime is not entirely adequate to the ideal scheme of representative democracy..." and that "...the Charter of Bogotá leaves it entirely to the good faith of the member states to ensure that their conduct

conforms to the high ideals that inspire it".

In this regard, the 1959 Report of the Inter-American Juridical Committee on Human Rights and the Exercise of Democracy, approved by a majority, expressed that: "in the regime of the Charter of Bogotá there is no place for collective action in defense or restoration of democracy", other than that foreseen for the "cases listed exhaustively in the Inter-American Treaty of Reciprocal Assistance" (Vío Grossi 1994: 114).

The practice generally followed by the Member States and the Organization during this period seems to confirm that the task of promoting and consolidating democracy was considered a task of the States, and that the specific assessment of cases adopted political rather than legal criteria.

In fact, a passing review of the minutes of the OAS Council during this period indicates that the general rule was not to pronounce on or deal with cases of coups d'état in the Organization. For example, in Argentina, a military junta headed by Jorge Rafael Videla overthrew Isabel Martínez, widow of Perón, on March 24, 1976. The delegation of Argentina assumed the chairmanship of the Permanent Council of the OAS on April 2, 1976, a position it held until June 30, 1976, during which time the issue of the coup led by General Videla was not addressed. Similar treatment was given in the OAS to coups d'état carried out by civilians. Following the Argentine case, in November 1962, the President of the Senate, José María Guido overthrew President Arturo Frondizi, establishing a de facto civilian government, without the OAS addressing the issue either (Bazán 2005: 1-15).

As with any general rule, there are exceptions. Indeed, on certain occasions, the OAS has dealt with cases of governments that had come to power by mechanisms other than those contemplated in the respective national legislations: de facto governments. In this regard, because of the conceptual richness of the deliberations among the member states and the way in which the tension between the promotion of democracy and the principle of non-intervention is graphed, it is quite illustrative to study how the OAS dealt with two events that occurred in 1962: the situation of Cuba within the inter-American system, and the coup d'état that occurred in Peru.

On November 9, 1961, Colombia presented a note requesting the convocation of a meeting of consultation of Ministers of Foreign Affairs, in accordance with Article 6 of the Inter-American Treaty of Reciprocal Assistance, "to consider the threats to the peace and political independence of the American States that may arise from the intervention of extra-continental powers aimed at breaking the American solidarity". Therefore, from January 22 to 31, 1962, the Eighth Meeting of Consultation of Ministers of Foreign Affairs was held in Punta del Este, Uruguay, to serve as the Organ of Consultation in application of the Inter-American Treaty of Reciprocal Assistance (TIAR).

The basic document of the meeting was a report prepared by the Inter-American Peace Commission on the denunciations formulated against the government of Cuba for the violation of the fundamental rights of the inter-American system, for its aggressive intervention in the internal affairs of other States, for its alliance with extra-continental totalitarian powers, for its failure to comply with the norms of representative democracy, and for the violation of human rights inside Cuba (TIAR 1962: 118). It should be pointed out that the Cuban delegation disqualified this report because its preparation was entrusted to a group of five countries, four of which⁶ were countries that had broken diplomatic relations with Cuba, and which, in their opinion, were enemy governments of Cuba. (TIAR 1962: 177)

For the purposes of this essay, it is of interest to identify the elements of the Peruvian position at this meeting. The then Peruvian Foreign Minister, Luis Alvarado Garrido, clearly presented the Peruvian position in the following terms:

- According to the report prepared by the Inter-American Peace Commission, it was evident that the Cuban government had violated and is violating the instruments and agreements of the Inter-American system in a way that constituted a threat to the peace and security of the continent.
- Cuba violated the principle of non-intervention in collusion with extra-continental totalitarian powers such as China and the Soviet Union.
- Furthermore, the Cuban government violated the principle of self-determination because the Cuban people could not express themselves

⁶ Colombia, Venezuela, El Salvador and the United States of America.

through elections.

-In such circumstances, Peru advocated collective action by the American States, considering that Article 19 of the OAS Charter provides that collective action measures do not constitute illegal intervention in the affairs of an American State.⁷ Literally, Alvarado Garrido stated: "The concerted action of the American States for the defense of peace and of their own security, in compliance with pacts agreed upon by all of them and which consequently bind them inescapably, is something entirely different from the arbitrary interference of one government in the internal affairs of another". (sic) (TIAR 1962: 121)

-It was appropriate to apply Article 6 of TIAR, which authorizes defensive measures in the face of "any event or situation that endangers the peace of the Americas". In this sense "the invocation of Article 6 in case of violation of human rights and representative democracy is not an extension of the scope of its validity, but constitutes an application of it as foreseen from the moment of its approval" (sic) (TIAR 1962: 121-122).

-For Peru, the inter-American system was incompatible with a Marxist-Leninist regime, so that the incompatibility "between the Organization of American States and the present government of Cuba should be declared, in order to be able to exclude the latter from our community" (TIAR 1962: 122)

In other words, in this specific case, Peru was openly in favor of collective action for the defense of inter-American peace and security, which - in its opinion - were being endangered by the Cuban government through the violation of human rights and representative democracy, as well as of the principle of non-intervention in association with China and the Soviet Union.

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⁷ Article 19 of the 1948 OAS Charter reads: "Measures adopted in accordance with treaties in force for the maintenance of peace and security do not constitute a violation of the principles set forth in Articles 15 and 17". The aforementioned articles refer to the principles of non-intervention and inviolability of territory.

⁸ This Peruvian position contrasts with that brilliantly defended by Foreign Minister Raúl Porras Barrenechea at the VII Meeting of Consultation, held from August 22 to 29, 1960, in San José, Costa Rica. The Final Declaration of the VII Meeting of Consultation did not mention Cuba and limited itself to condemning Sino-Soviet intervention in the hemisphere. In this regard, see Carlos ALZAMORA (2000) "La agonía del visionario. La lección final de Raúl Porras". Lima: Ediciones El Virrey.

It should also be noted that Peru considered that the collective action taken against Cuba did not imply an infringement of the principle of non-intervention, but rather its defense against the Cuban government. The foundations of this Peruvian position had already been advanced by President Manuel Prado in his speech before the Council of the Organization that had received him in Washington D.C. on September 20, 1961, in which he stated: "Principles should not be applied to destroy themselves, so that if a State interferes in the progress of others, it would be absurd for that State to invoke the rule of non-intervention precisely to continue violating it; joint action then becomes necessary to put a stop to this violation of the law" (TIAR 1962: 119).

From this perspective, a peculiar element of the position taken by Peru in the Cuban case should be noted. Unlike other situations analyzed above in which the Peruvian position of defending the principle of non-intervention was in tension with that of the promotion of democracy (e.g., applying the Estrada doctrine in 1931, or the response to the note of Rodríguez Larreta in 1945), in the case of Cuba, the defense of the principle of non-intervention was not in tension but rather coincided with the defense of the promotion of democracy.

For his part, in his speech of order, the Cuban Foreign Minister, Osvaldo Dorticos, pointed out that the meeting had been convened not to prevent the spread of international communism in the continent, but to prevent the national liberation and anti-imperialist movements of many Latin American peoples. He recalled that other delegations that abstained from voting in favor of the meeting had already demonstrated that it lacked a legal basis. He questioned the singling out of Cuba on the issue of democracy when the same could be said of countries such as Paraguay or Nicaragua. The same could be said about the violation of human rights. He did not deny the socialist character of his revolution, in the understanding that, in the exercise of their sovereignty and self-determination,⁹ the Cuban people could choose the development route of their preference. In this sense, the Cuban Foreign Minister pointed out that his country did not accept that the socialist content of its revolution could serve as a basis *or* justification for limiting its rights as a sovereign state. For Cuba, differences in political regimes could not be

⁹ Article 13 of the 1948 OAS Charter reads: "Each State has the right to develop its cultural, political and economic life freely and naturally. In this free development the State shall respect the rights of the individual and the principles of universal morality".

obstacles to coexistence in regional organizations. (TIAR 1962: 175-194).

It is paradoxical to note that both Cuba and most of the other member states, including Peru, considered that the legal and principled basis for their respective positions was respect for the principle of non-intervention and self-determination. The paradoxical fact is that, despite having identical foundations, these positions led to divergent conclusions. For Cuba, the validity of the principle of non-intervention, self-determination and sovereignty implied respecting its internal political process and allowing the coexistence of heterogeneous regimes within the OAS. For most of the other member states, including Peru, the defense of the principle of non-intervention implied excluding Cuba from the inter-American system.

At the conclusion of this Eighth Meeting of Consultation, Resolution VI "Exclusion of the current government of Cuba from participation in the inter-American system" was approved.¹⁰ It should be noted that this decision was a clear reversal of what the foreign ministers of the Americas had agreed upon three years earlier with respect to the collective defense of representative democracy. Let us recall that the Declaration of Santiago, approved in August 1959, in the framework of the Fifth Meeting of Consultation of Ministers of Foreign Affairs, held in Chile, had stated that "... no organ of the Organization has the competence to sanction in any way a member state whose political regime is not entirely adequate to the ideal scheme of representative democracy..." and that "...the Charter of Bogotá leaves entirely to the good faith of the member states the conformity of their conduct with the high ideals that inspire it".

Did this decision adopted at the Eighth Meeting of Consultation of Foreign Ministers vis-à-vis Cuba mean the implementation of a collective mechanism agreed upon by consensus for the future defense of representative democracy and, therefore, a definitive overcoming of what was agreed upon in the 1959 Santiago Declaration?

In my opinion, the answer is no. In the first place, it should be taken into account

¹⁰ This project was co-sponsored by the delegations of Panama, Paraguay, Nicaragua, Honduras, El Salvador, Peru, Colombia, Costa Rica, Venezuela, Haiti, Guatemala, the Dominican Republic, the United States of America and Uruguay.

that such decision was not adopted by consensus but by majority vote.¹¹ That is to say, there was no consensus on the legal appropriateness of acting collectively in defense of representative democracy. On this same point, the treatment given by the OAS to the coup d'état in Peru a few months later is relevant. As we shall see below, the Cuban case did not serve as a precedent since there was no collective action by the OAS in defense of democracy in Peru.

On July 18, 1962, when the Peruvian Congress was preparing, in accordance with the Political Constitution, to elect the President of the Republic among the three candidates who had achieved the highest votes in that year's elections, including the APRA leader, Víctor Raúl Haya de la Torre, the armed forces led by General Pérez Godoy staged a coup d'état, deposing President Manuel Prado.

A few days later, on July 27, 1962, the governments of the Dominican Republic, Venezuela, Honduras and Costa Rica sent a note to the Chairman of the Council of the Organization requesting, in accordance with Article 39 of the OAS Charter, that "a Meeting of Consultation of Ministers of Foreign Affairs be convened as soon as possible to consider the attitude to be adopted by the governments of the member states in the face of regimes resulting from coups d'état" (OAS 1962; 2). Although it is true that this note made no mention of Peru, it was interpreted that the aforementioned initiative arose "as an international reaction to the recent political events in Peru", as the Permanent Representative of Paraguay would say (1962a: 60).

Indeed, Peru felt that it had been alluded to, to the point that, at the session of August 8, 1962, its Permanent Representative, Ambassador Juan Bautista de Laval, described as inappropriate the request to convene the Meeting of Consultation of Ministers of Foreign Affairs, demanding respect for the principle of non-intervention (OAS 1962 a: 10). (OAS 1962 a: 10).

The starting point of the Peruvian delegation was that the fundamental objective of the OAS was to safeguard the sovereignty and independence of States. From

¹¹ The delegations of Argentina, Bolivia, Brazil, Ecuador and Mexico did not co-sponsor the resolution that excluded Cuba from the inter-American system. Moreover, from the point of view of Ecuador and Mexico, the exclusion of a member state was not legally possible without a prior reform of the OAS Charter.

this perspective, Peru considered that the request made by the governments of the Dominican Republic, Venezuela, Honduras and Costa Rica, revealed "a manifest interventionist sense, in that it tends to promote a collective attitude towards events of a political nature that occur within the internal jurisdiction of sovereign, equal and independent States". He recalled that Resolution II approved at the Fifth Meeting of Consultation held in Santiago de Chile in 1959 recommended to the Member States "strict observance of the principle of non-intervention and rigorous compliance with the obligations arising from the legal instruments of American international law in force, aimed at preserving the independence and sovereignty of the States". In addition, Ambassador Bautista de Lavalle observed that there was "no inter-American instrument in force establishing procedures or collective measures applicable to matters of this nature" (OAS 1962a: 10).

With respect to the principle of non-intervention, the delegation of Peru referred to the categorical defense of this principle contained in the notes of reply that in 1945 the foreign ministries of Brazil, Chile, Peru and the United States of America sent to the then Uruguayan Foreign Minister Rodríguez Larreta, who had proposed a collective multilateral action to defend democracy and human rights in the face of the danger of Nazi-Fascist activities in the hemisphere. The Peruvian delegation also recalled that the notes of reply from Colombia, Ecuador, El Salvador, Honduras, Nicaragua, Panama and Paraguay also contained important observations based on the principle of non-intervention (OAS 1962 a: 14-17). (OAS 1962 a: 14-17).

In conclusion, Peru demanded respect for Article 15 of the OAS Charter of 1948, which states: "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State, or against its political, economic and cultural elements".¹² Peru considered that the only exception to this principle was enshrined in Article 19 of the OAS Charter of 1948: measures for the maintenance of peace and security, a situation that was not applicable to this case.¹³ (OAS 1962 a: 17-18). In this regard,

¹² Corresponds to Article 19 of the current OAS Charter.

¹³ Article 19 of the 1948 OAS Charter reads: "Measures adopted in accordance with existing treaties for the maintenance of peace and security do not constitute a violation of the principles set forth in

the Peruvian delegation had indicated that the Government Junta headed by General Pérez Godoy had "proclaimed its firm anticommunist position and is determined, in compliance with Peru's international commitments, to collaborate in the collective continental action against any form of communist penetration" (OAS 1962 a: 10). (OAS 1962 a: 10).

It could be argued that, in taking this position, Peru was implicitly interpreting Article 5(d) of the 1948 OAS Charter, which reads: "the solidarity of the American States and the high aims pursued thereby require their political organization on the basis of the effective exercise of representative democracy¹⁴, as a request to the States, a duty of the States without there being a mechanism for the OAS to supervise it. In short, it was a matter that fell within the domestic jurisdiction of each State. In this way, Peru reiterated its traditional position of defending the principle of non-intervention, a position that this time again placed it in tension with the principle of democracy promotion.

On the contrary, the delegations of the Dominican Republic, Venezuela, Honduras and Costa Rica, supported by Ecuador and Bolivia, considered that, by virtue of the OAS Charter and subsequent instruments on democracy, all American governments had "acquired the inter-American commitment to respect and ensure respect for the fundamental norms of the representative democratic system. Consequently, as pointed out by the President of Ecuador, quoted by the Costa Rican delegation, "the exercise of representative democracy and respect for human rights have ceased to be an internal matter, exclusive to each State, and have become an inter-American obligation" (OAS 1962: 16). The delegation of the United States of America expressed its sympathy for the reasons behind the request formulated by the Dominican Republic, Venezuela, Honduras and Costa Rica, to consider the attitude that the governments of the member states should adopt in the face of regimes arising from coups d'état (OAS 1962: 34).

The divergence of views on the scope of Article 5d) of the 1948 OAS Charter¹⁵ and the possibility of taking collective action in defense of democracy was

Articles 15 and 17. These articles refer to the principles of non-intervention and inviolability of territory.

¹⁴ Corresponds to Article 3d) of the current OAS Charter.

¹⁵ Corresponds to Article 3d) of the current OAS Charter.

evident. In this context, at the session of August 10, 1962, a vote was taken on the draft resolution calling for a Meeting of Consultation of Ministers of Foreign Affairs of the American Republics to consider the attitude to be adopted by the governments of the member states in the face of regimes arising from coups d'état. The result of the vote was: 7 votes in favor¹⁶, 5 votes against¹⁷, and 8 abstentions¹⁸. The draft resolution was rejected.

This reaction of the OAS to the 1962 coup d'état in Peru gives rise to two comments. On the one hand, this outcome is striking considering that months earlier the inter-American system had taken collective action against Cuba in defense of democratic security. As the delegation of the Dominican Republic put it directly, "Why should we be wary of communist militarism and not of all militarism? Why is a communist coup d'état bad and not another type of coup d'état?" (OAS 1962: 9).

On the other hand, this outcome in the OAS in dealing with the 1962 coup d'état in Peru only reinforces the thesis advanced above that during this stage the promotion and consolidation of democracy was considered a task of the States, and that the specific assessment of the cases adopted political rather than legal criteria. The context of the Cold War helps to explain the interpretative scope of Article 5(d) of the OAS Charter of 1948¹⁹ on the effective exercise of democracy. In addition, such an interpretation seemed to better accommodate a continent where there was a heterogeneity of dictatorial, military, authoritarian, semi-democratic and democratic regimes.

In short, in this period, which had as its world historical context the East-West ideological confrontation, the promotion of the political principles and values of democratic institutionality reflected in the OAS Charter were subordinated to strategic security interests. As we have seen, the silence of the OAS in the face of coups d'état and de facto governments in the region was the general rule during this period.

¹⁶ Colombia, Honduras, Dominican Republic, Venezuela, Bolivia, Ecuador.

¹⁷ Paraguay, Peru, Uruguay, Argentina, Haiti.

¹⁸ Mexico, Nicaragua, Panama, Brazil, Chile, El Salvador, the United States of America and Guatemala.

¹⁹ Corresponds to Article 3d) of the current OAS Charter.

The struggle between unilateral defense and multilateral defense of democracy was also present in this stage. The difference with the previous period is that unilateral defense ceased to be passive (as advocated by the Tobar doctrine) and became active unilateral defense.

Indeed, in the absence of a predictable and permanent mechanism of collective action for the promotion of democracy, a number of member states adopted unilateral measures aimed at preserving democracy. Unilateral actions and sanctions against dictators such as Somoza, Duvalier or Trujillo are often cited (Perina 2000: 5), although there were others. For example, as a reaction to the coup d'état of the Junta headed by General Pérez Godoy, the United States of America broke diplomatic relations with Peru on July 18, 1962 and described the overthrow as "a setback for the Alliance for Progress" (St. John 1999: 188). It should be noted that, in the Declaration to the Peoples of the Americas, the leaders of the hemisphere meeting in Punta del Este in 1962, referring to the Alliance for Progress, had stated: "This Alliance is based on the principle that under the protection of freedom and through the institutions of representative democracy, is the best way to satisfy, among other desires, those of work, housing and land, schooling and health" (OAS 1962: 28).

However, it should be noted that during this period the promotion of multilateral action to defend democracy was not absent: there were concrete proposals aimed at the collective defense of democracy in the hemisphere. In this regard, it is relevant for this essay to highlight the formulation of the so-called "Betancourt doctrine". On February 20, 1963, the then President of Venezuela, Rómulo Betancourt, addressed a note to the OAS, in which he stated: "We consider that diplomatic recognition should be denied to self-elected Boards or Heads of State, after a political order of things of electoral origin has been overthrown by force. The procedure of that Agreement established for the diplomatic recognition of de facto governments would need to be complemented with a punitive clause. The de facto government that fails to comply with its obligations to call for free elections within a specified period of time and to respect human rights should be excluded from the regional legal community and subjected to a diplomatic and commercial boycott".

Both President Betancourt and his successor President Raúl Leoni implemented this doctrine in their foreign policy. However, it was set aside by

President Rafael Caldera in 1968 "when he realized that the only thing that was achieved with the application of this doctrine was to isolate Venezuela from the rest of the countries in the region, which mostly had de facto governments" (Novak and García Corrochano 2001: 120).

As a political assessment of this period in the OAS, it is worth quoting former Secretary General César Gaviria, who, referring to this period, said: "Global confrontation, with its repercussions of dictatorships, civil wars and unilateral interventionism, paralyzed collective hemispheric action, minimized the possibilities of cooperation and greatly weakened solidarity. The OAS was undoubtedly a victim of the consequences of a world divided into irreconcilable blocs. Democracy and respect for human rights, and even the sovereignty of nations and the validity of international law, were often sacrificed and subordinated to the East-West confrontation. The bilateral approach occupied, almost exclusively, inter-American relations". (Gaviria 2004: 4)

1985 Cartagena Protocol

The 1985 Cartagena Protocol had as its historical context what Samuel Huntington has called "the third wave of democratization. The beginning of this wave is usually placed in the mid-1970s when democracy was consolidated in Greece, Spain and Portugal, since the establishment of democracy was considered necessary to access the economic benefits of the European Community (EC) integration scheme. In 1981 Greece acceded to the EC and five years later Spain and Portugal followed (Huntington 1996: 5).

This democratizing wave was quite visible in Latin America as well. Let us recall that at the same time the trend was to replace the de facto military governments, which were then in power, with democratically elected governments. In the Peruvian case, Fernando Belaúnde Terry, winner of the 1980 elections, assumed the presidency on July 28, 1980, putting an end to the military government headed by General Francisco Morales Bermúdez.

Another element to take into account when characterizing the historical context of this period is the circumstances and background of the preparatory work leading to the reform of the OAS Charter, which materialized with the Cartagena Protocol of 1985. Aware of the changes taking place on the

international scene, the Member States agreed on the need to update the Organization. The reform introduced by the 1967 Buenos Aires Protocol had been insufficient. In addition to the security priorities emphasized by the United States of America in a cold war scenario, Latin American countries began to demand attention to economic security priorities. (Bákula 2002: 1465)

In this context, at Peru's initiative, the III OAS General Assembly, meeting in Washington D.C., in April 1973, approved Resolution 127 creating a Special Commission to "study the inter-American system and propose measures for its restructuring". As Ambassador Bákula points out, this Special Commission was installed in Lima on June 20, 1973, under the leadership of Ambassador Carlos García Bedoya, and its final report was submitted to the governments of the Americas in February 1975. Ten years later, the Protocol of Reforms to the OAS Charter was approved in Cartagena de Indias, which introduced substantial modifications as a result of that initiative and the work of the aforementioned Special Commission, which entered into force on November 16, 1988 (Bákula 2002: 1468).

The 1985 Cartagena Protocol clears up any doubts and legal ambiguities that might exist with respect to the commitment of the states and the Organization to promote and consolidate democracy in the hemisphere. Indeed, at the initiative of the Argentine delegation, the following was added as the third paragraph of the Preamble: "Convinced that representative democracy is an indispensable condition for the stability, peace and development of the region" (OAS 1988: 524). In the same vein, at the proposal of Argentina, the following was approved as an essential purpose of the Organization (Article 2b): "To promote and consolidate representative democracy with due respect for the principle of non-intervention." (OAS 1988: 470).

Thus, it is clearly established that the promotion of democracy is not only a task of the States, as we had identified in the preceding period, but also of the Organization as such, to the extent that it is incorporated into the Charter as an essential purpose of the Organization.

The struggle between democracy promotion and the principle of non-intervention is also present at this phase. Indeed, in parallel with the strengthening of

democracy promotion, a number of delegations, including Peru's, took care to ensure that the fundamental objective of promoting and consolidating representative democracy could not support, in practice, an extensive interpretation of the principle of non-intervention.

In this regard, Article 3e) was introduced among the principles of the OAS, which reads as follows: "Every State has the right to choose, without external interference, its political, economic, and social system, and to organize itself in the way best suited to it; and has the duty to abstain from intervening in the affairs of another State. Subject to the foregoing, the American States shall cooperate fully among themselves and independently of the nature of their political, economic and social systems." In the words of Bákula "the institutional consecration of this principle, tenaciously pursued by the Peruvian government, known as "respect for political pluralism", was an achievement worth remembering". (Bákula 2002: 1469).

In addition, in this same direction, at the proposal of Mexico, the principle of non-intervention was strengthened through the incorporation into the OAS Charter of the second paragraph of Article 1, which reads: "The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the domestic jurisdiction of the Member States", which was inspired by Article 2.7 of the Charter of the United Nations.

Another important modification introduced by the Cartagena Protocol was Article 110, which gives the Secretary General the power to bring to the attention of the Permanent Council or the General Assembly of the Organization any matter that, in his opinion, affects or threatens the peace, security or development of a member state. It should be noted that in the debate that led to the approval of this article, the Peruvian delegation stated that this power should not imply an intervention in the internal affairs of the States (OAS 1988: 455).

In addition to the defense of the principle of non-intervention vis-à-vis the promotion of democracy described above, Peru's interest in development issues was evident. It is recorded in the minutes that "the Peruvian delegation stated that the concepts of collective economic security for development and

cooperation for integral development should be included in the OAS Charter, given their great importance for the member countries" (OAS 1988: 518- 519).

A sign of this new period, in which the promotion and consolidation of democracy is taken on as a joint task of the states and the Organization, is resolution AG/RES. 835 (XVI/O/86), adopted by the General Assembly in 1986. This resolution stipulated: "To reiterate to those governments that have not yet reestablished the democratic representative regime of government the urgent need to implement the appropriate institutional mechanisms to restore that regime as soon as possible, through free and open elections by secret ballot, since democracy is the best guarantee for the observance of human rights and is the firm basis for solidarity among the states of the Hemisphere".

However, reality, through the Panamanian crisis of 1989 and the reaction of the OAS, will tell us that the means for the promotion of democracy in the Americas had to be perfected. In Panama, presidential elections were scheduled for May 7, 1989, and the elected government was to take office on September 1 of the same year. According to impartial sources, the elections were won by the opposition to General Noriega's regime. However, the Electoral Tribunal proceeded to annul the elections "due to a set of factual limitations derived from the alteration of the normal development of the elections by the obstructionist action of many foreigners". In view of the exaggerated governmental repression that deepened the political crisis in Panama, the XXI Meeting of Consultation of Ministers of Foreign Affairs resolved to appoint a mission composed of the Ministers of Foreign Affairs of Ecuador, Guatemala, and Trinidad and Tobago, assisted by the Secretary General of the Organization, to collaborate with the parties in conflict in Panama in order to find compromise formulas to overcome the existing problems. (IACHR 1989: 1).

For the purposes of this essay, the collective action taken by the OAS in defense of democracy and expressed in the sending of a Special Mission to Panama should be emphasized. The reaction of the OAS was to promote a scheme of internal negotiations in Panama that would lead to a consensual solution, compatible with the principles of self-determination of the peoples, legitimacy of the government to be constituted and non-intervention. The OAS urged states to refrain from "unilateral actions that would hinder a just and

negotiated solution" to the crisis (Villagrán-Kramer and Rubin 1992: 20).

The OAS exhortation had no effect. The tension between active multilateral defense of democracy and active unilateral defense was to be brutally expressed. In the midst of these multilateral efforts, US troops invaded Panama on December 20, 1989 to "protect US lives and property, fulfill US obligations to operate and defend the Canal, assist the Panamanian people in restoring democracy, and bring Noriega to justice". Having fulfilled the objectives, from the US point of view, US troops began to withdraw from Panama on December 27, 1989, the date on which the Panamanian Electoral Tribunal validated the results of the May 1989 elections, confirming the victory of the opposition led by Guillermo Endara, who would assume the Presidency. General Noriega was transferred to Miami where he is serving a 40-year prison sentence for drug trafficking crimes (US Department of State 2006). Reactions to the invasion were not long in coming. For example, the Peruvian government called its ambassador in Washington to Lima and "denounced what it considered an affront to Latin America" (St. John 1999: 205).

Panama is an illustrative case of the fact that the process towards the establishment of the inter-American regime for the promotion and consolidation of democracy was not always progressive or linear. In this case, based on the individual commitment of each State and the multilateral commitment of the OAS to promote democracy, it was agreed to deploy a collective action by sending an OAS Special Mission to Panama that sought a negotiated solution through dialogue with the country's political actors. However, another mechanism was interposed, not multilateral but unilateral, in violation of international law, which made evident the need to improve the means of democracy promotion.

As has been pointed out, the Panamanian case "accelerated the discussion and analysis of possible mechanisms for the defense and promotion of democracy that could avoid or prevent abusive and repressive behavior on the part of governments in the region, on the one hand, and unilateral interventionist obsession, on the other" (Perina 2000: 18).

In sum, the promotion and consolidation of democracy in the Americas had principles and norms, but specific rules for concrete action were still needed, as well

as a decision-making procedure, previously established by consensus, in order to complete a proper inter-American regime for the promotion and consolidation of democracy. These pending tasks would be addressed in the next stage.

Res.1080, Declaration of Santiago and Protocol of Washington

Coinciding with the end of the Cold War, the beginning of the 1990s found Latin America governed by a majority of democratic regimes born of the ballot box and optimistic about the future. As has been noted, once the bipolar international system was overcome, "the peoples found a national and international environment more conducive to the realization of their democratic aspirations" (Rodríguez Cuadros 2001: 79).

A clear example of this is the Central American Peace Process. The dynamic stimulated by the Esquipulas II Agreement, signed on August 7, 1987 by the presidents of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, was finally bringing peace and reconciliation to Central America, after a long period of violence framed in a bipolar world of East-West ideological confrontation. As Luis Padilla recalls, between 1980 and 1990, the military confrontation in the region "was expressed mainly from the internal conflicts in countries such as Guatemala and El Salvador, and also of course in Nicaragua, although with a different design than in those two cases, since in these two cases it was in opposition of Marxist signs that oppose the governments, and in the case of Nicaragua it is an opposition of a conservative sign, which opposes a government of nationalist revolutionary idea." (Padilla, 1995).

Esquipulas II aimed at putting an end to the armed conflicts in the region through negotiation and dialogue, an approach that has been interpreted as a challenge to the foreign policy of the United States of America in that region "because the North Americans were betting at that time on the solution and military triumph in those conflicts" (Padilla, 1995). Within the framework of Esquipulas II, negotiations for the peace process in Guatemala began, agreements were reached for the peace process in Nicaragua, elections were held in that country in 1990, and in 1991 the peace agreement in El Salvador was signed. The United Nations played an important role in the supervision and verification of the agreements, through the United Nations Observation Group for Central

America and the United Nations Observation Mission for El Salvador (ONUSAL). The Organization of American States (OAS), on the other hand, remained on the sidelines because its capacity for collective action on issues of its competence, such as security and promotion of democracy and human rights, was often subordinated to specific interests in the East-West confrontation.

It is relevant for this essay to highlight two aspects of this peace process. First, the principle of democratic security, initially enshrined in the Inter-American system through the 1948 TIAR, was taken up again and constituted a fundamental component in the Esquipulas II Agreement. Indeed, this treaty provides in the paragraph on free elections that: "Once the conditions inherent to any democracy have been created, free, pluralistic and honest elections shall be held as a joint expression of the Central American States to find reconciliation and lasting peace for their peoples". Second, the agreement not only enshrines the commitment of the five countries to promote the democratization process, but also establishes criteria to verify the progress of this democratization process. Namely: freedom of television, radio and the press; full political pluralism; and the rule of law with full respect for constitutional guarantees.²⁰

²⁰ The paragraph of the Esquipulas II Agreement on Democratization reads: "The Governments undertake to promote an authentic democratic process that is pluralistic and participatory, which entails the promotion of social justice and respect for human rights, the sovereignty and territorial integrity of States and the right of every nation to choose, freely and without outside interference of any kind, its own economic political and social system. They shall adopt, in a way that can be verified, measures conducive to the establishment and, where appropriate, improvement of democratic, representative and pluralistic systems that will guarantee the organization of political parties and effective popular participation in the decision-making process and ensure that the various currents of opinion have free access to fair and regular elections based on the full observance of citizens' rights. In order to ensure good faith in the implementation of this process of democratization, it shall be understood that There must be complete freedom of television, radio and the press. This complete freedom shall include freedom for all ideological groups to launch and operate communication media and to operate them without prior censorship.

Complete pluralism of political parties must be established. Political groupings shall, in this connection, have broad access to the communication media and full enjoyment of the rights of association and the power to hold public demonstrations in unrestricted exercise of the right to publicize their ideas orally, in writing and on television, and members of political parties shall enjoy freedom of movement in campaigning for political support. Likewise, those Central American Governments which are currently imposing a state of siege or emergency shall revoke it, ensuring that a state of law exists in which all constitutional guarantees are fully enforced."

In this context, the XXI Regular Session of the OAS General Assembly was held in Santiago, Chile, from June 3 to 8, 1991. At this meeting, three key instruments were approved, to the extent that, based on them, we can affirm that the inter-American regime for the promotion and consolidation of democracy is configured. The first is the Santiago Commitment to Democracy and the renewal of the inter-American system. The second is Resolution AG/RES 1080 (XXI-O/91) entitled "Representative Democracy". The third is Resolution AG/RES 1124 (XXI-O/91) on the "Unit for the Promotion of Democracy".

Through these instruments, and the Protocol of Washington of 1992, rules are established as prescriptions or proscriptions for concrete action, as well as decision-making procedures for implementing measures. If we add to them the principles and norms advanced in the previous periods on democracy, we can affirm that in this stage the inter-American regime for the promotion and consolidation of democracy is fully configured, insofar as it exhibits the four constitutive elements of any regime, in the terms defined by S. Krasner.

On June 4, 1991, the foreign ministers of the Americas approved the "Santiago Commitment to Democracy and the Renewal of the Inter-American System"²¹. For the purposes of this essay, three aspects should be highlighted. First, the States "declare their firm political commitment to the promotion and protection of human rights and representative democracy, an indispensable condition for the stability, peace and development of the region, as well as for the success of the process of change and renewal required by the inter-American system on the threshold of the 21st century". Second, they reiterate that "representative democracy is the form of government of the region and that its effective exercise, consolidation and improvement are shared priorities". Third, the States announce their "determination to adopt a set of effective, timely and expeditious procedures to ensure the promotion and defense of representative democracy, in accordance with the Charter of the OAS".

In other words, from the standpoint of shaping the inter-American regime for the promotion and consolidation of democracy, the States not only reiterate the

²¹ Document OEA/Ser.P AG/RES. (XXI-O/91)

enshrinement of principles and norms, but also announce their intention to go further: to adopt effective, timely and expeditious procedures to that end. This is the added value of this period through these documents.

In this regard, on June 5, 1991, the OAS General Assembly approved Resolution AG/RES. 1080 (XXI-O/91) "Representative Democracy," the operative part of which establishes specific rules for concrete action, as well as a decision-making procedure, established by consensus, to deal with situations involving "an abrupt or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by a democratically elected government in any of the Member States of the Organization."²² As has been noted, in this case, there is a hierarchical assignment of responsibilities: the Secretary General must convene the Permanent Council "which is responsible for examining the situation, deciding and convening either the Ad-Hoc Meeting of Ministers of Foreign Affairs or a special session of the General Assembly, all within a period of 10 days" (Vio Grossi 1994: 121).

It is also relevant resolution AG/RES. 1124 (XXI-O/91), entitled "Unit for the Promotion of Democracy," adopted at this General Assembly held in Santiago, Chile, in which the states welcomed the creation of the Unit by the Secretary General. As background, it should be recalled that, through AG/RES. 1063 (XX-O/90), approved by the XX Session of the General Assembly on June 8, 1990, the Secretary General was requested to establish a Unit for the Promotion of

²² The three operative paragraphs of this document read:

1. To instruct the Secretary General to call for the immediate convocation of a meeting of the Permanent Council in the event of any occurrences giving rise to the sudden or irregular interruption of the democratic political institutional process or of the legitimate exercise of power by the democratically elected government in any of the Organization's member states, in order, within the framework of the Charter, to examine the situation, decide on and convene and ad hoc meeting of the Ministers of Foreign Affairs, or a special session of the General Assembly, all of which must take place within a ten-day period.
2. To state that the purpose of the ad hoc meeting of Ministers of Foreign Affairs or the special session of the General Assembly shall be to look into the events collectively and adopt any decisions deemed appropriate, in accordance with the Charter and international law.
3. To instruct the Permanent Council to devise a set of proposals that will serve as incentives to preserve and strengthen democratic systems, based on international solidarity and cooperation, and to apprise the General Assembly thereof at its twenty-second regular session.

Democracy in the General Secretariat, with the purpose of offering "a support program for the promotion of democracy that can respond promptly and efficiently to member states that, in the full exercise of their sovereignty, request advice or assistance to preserve or strengthen their political institutions and democratic procedures". In other words, we are dealing with a body created within the General Secretariat itself, at the request of the member states, to deal with matters related to the promotion of democracy, guaranteeing the institutional framework for the supervision of the regime.

Based on Article 2(b) introduced into the OAS Charter by the 1985 Cartagena Protocol, which establishes as an essential purpose of the Organization "to promote and consolidate representative democracy while respecting the principle of nonintervention," we can affirm that these documents emanating from the XXI Session of the General Assembly in 1991 complete the inter-American regime for the promotion and consolidation of democracy.

It is possible to distinguish a sort of division of functions within the regime. On the one hand, the task of promotion is mainly the responsibility of the General Secretariat through the Unit for the Promotion of Democracy (UPD), which acts at the request and with the consent of the State concerned. On the other hand, the task of preservation (defense) of democracy is done through the mechanism established by the member states in Resolution 1080 "which operates without and even against the will of the State concerned" (Vio Grossi 1994: 121). Perina adds that while Resolution 1080 and similar instruments are oriented "to resolve crises that threaten democracy in the immediate term, and have a dissuasive and reactive character, the activities of the UPD are aimed more at actions developed in a medium and long-term perspective, to strengthen democratic institutions -which ultimately constitutes a preventive task" (Perina 2000: 20).

The establishment of this inter-American regime for the promotion and consolidation of democracy must not lose sight, however, of the fact that the "main and indispensable responsibility for the defense of the democratic regime lies with the citizens of each country, with their political parties, their media, and their civil societies" (Valdés 2000: 3).

In its address to the plenary, the Peruvian delegation underscored the

interdependence between democracy and socio-economic development. Recognizing the importance of expanding the regime of representative democracy in the hemisphere, Peru warned that its consolidation would require not only the strengthening of elections as a means of access to power, but also the permanent exercise of government in favor of the interests of the majorities. In this sense, it pointed out that "our democratic institutions can be weakened if clear perspectives are not established to solve and attend to the most indispensable economic needs of the population" (OAS 1992: 86). This link between the democratic regime and the fight against poverty would be taken up again later, on the occasion of the negotiations aimed at the approval of the Inter-American Democratic Charter.

A fourth instrument should be added that contributed to shaping the inter-American regime for the promotion and consolidation of democracy at this stage. This is the Protocol of Amendments to the OAS Charter, known as the "Protocol of Washington", adopted in Washington, D.C., on December 14, 1992, in the framework of the XVI Special Session of the General Assembly. It is worth highlighting the introduction of Article 9, which establishes a mechanism for suspending the participation in the various bodies of the Organization of American States that do not respect democratic institutions: a punitive clause.²³

²³ Article 9 reads:

"A Member of the Organization whose democratically constituted government has been overthrown by force may be suspended from the exercise of the right to participate in the sessions of the General Assembly, the Meeting of Consultation, the Councils of the Organization and the Specialized Conferences as well as in the commissions, working groups and any other bodies established.

- a) The power to suspend shall be exercised only when such diplomatic initiatives undertaken by the Organization for the purpose of promoting the restoration of representative democracy in the affected Member State have been unsuccessful;
- b) The decision to suspend shall be adopted at a special session of the General Assembly by an affirmative vote of two-thirds of the Member States;
- c) The suspension shall take effect immediately following its approval by the General Assembly;
- d) The suspension notwithstanding, the Organization shall endeavor to undertake additional diplomatic initiatives to contribute to the re-establishment of representative democracy in the affected Member State;
- e) The Member which has been subject to suspension shall continue to fulfill its obligations to the Organization;
- f) The General Assembly may lift the suspension by a decision adopted with the approval of two-thirds of the Member States;

What does the practical application tell us? How did the inter-American regime for the promotion and consolidation of democracy act during this period? Resolution 1080 was applied on four occasions, in response to the crisis in Haiti (1991), Peru (1992), Guatemala (1993) and Paraguay (1996). On the other hand, Article 9, as amended by the Washington Protocol, which entered into force on September 25, 1997, has not yet been applied.

The majority opinion is that, in the cases of Haiti and Guatemala, the regime was effective insofar as its collective action was oriented towards the re-institutionalization of the democratic order (Rodríguez Cuadros 2001: 84). On the other hand, in the case of the Peruvian crisis, originated by Alberto Fujimori's self-coup on April 5, 1992 with the dissolution of Congress and the progressive elimination of the separation of powers, the regime was less effective. The former Secretary General, César Gaviria, recognized that "the OAS confronted Fujimori's abuses, but did not do enough to suspend the authoritarian actions, and did not follow up on the decisions taken on this matter at the Assembly in the Bahamas" (Gaviria 2004: 14). Therefore, Tickner affirms that the OAS was functional to the legalization of the "self-coup" in Peru and to the international validation of a parliament tailored to the needs of a non-democratic government (Rodríguez Cuadros 2001: 85).

In the case of Paraguay, the crisis originated in the request for resignation made on April 22, 1996 by President Juan Carlos Wasmosy to the Chief of the Army, General Lino Oviedo, who refused to resign and led a veiled coup d'état attempt. On April 23, the Permanent Council approved Resolution CP/RES. 680 (1071/96) "Support for the Democratic Government of Paraguay". Finally, the crisis culminated with the resignation of General Oviedo, on April 24, in a public ceremony attended by the Secretary General of the OAS, together with President Wasmosy (Perina 2000: 12-13). Despite the success of the inter-American regime that acted quickly, this case revealed some limitations "in particular, the difficulty of acting only in a reactive and not preventive manner" (Gaviria 2004: 15).

It is worth noting that the "democratic clause" of MERCOSUR, the regional

g) The powers referred to in this article shall be exercised in accordance with this Charter."

integration scheme to which Paraguay belongs, was equally important in resolving the 1996 Paraguayan crisis. This leads us to note that, parallel to the development of the inter-American regime for the promotion and consolidation of democracy, initiatives and actions arose at the regional and subregional levels in the Americas aimed at enshrining democratic clauses. For example, in the Andean Community²⁴, MERCOSUR²⁵ and SICA²⁶.

Inter-American Democratic Charter

The limitations of the inter-American regime were not only related to the lack of preventive action, as former Secretary General César Gaviria had identified in the wake of the 1996 Paraguayan crisis. There were also certain limitations in its instrumental capacity, given that, in practice, it was limited to convening the Permanent Council to decide whether to convene an Ad-hoc meeting of Foreign Ministers or a Special Session of the General Assembly to "adopt such measures as it deems appropriate in accordance with the Charter and international law". As Ambassador Humberto de la Calle rightly observes, this set of possible measures had not been specifically mentioned (OAS 2003: 280).

In addition, Resolution 1080 did not contain a definition of democracy. Under these conditions, timely action could not always be taken because States were very careful not to violate two other fundamental principles of the Organization: respect for sovereignty and non-intervention. (Spehar 2002: 186).

But the greatest challenge facing the inter-American regime for the promotion and consolidation of democracy was how to confront what Ambassador Humberto de la Calle calls subtle deformations of democracy that "acted from the centers of power, aimed at annihilating the validity of freedoms, silencing the press, altering judicial powers, using corruption to annihilate the role of the opposition and, finally, actually changing electoral results through profound

²⁴ See the Additional Protocol to the Cartagena Agreement "Andean Community Commitment to Democracy" of October 17, 1998, signed by the Foreign Ministers on June 10, 2000.

²⁵ See the Ushuaia Protocol on Democratic Commitment in MERCOSUR, the Republic of Bolivia and the Republic of Chile, of July 24, 1998.

²⁶ See the Framework Treaty on Democratic Security in Central America, signed on December 15, 1995, and in force since December 26, 1997.

violations of freedom of suffrage, altering judicial powers, using corruption to annihilate the role of the opposition and, in short, actually changing electoral results by means of profound violations of the freedom of suffrage, even though they apparently reflected the formalities and procedural requirements of the electoral laws" (OAS 2003: 280).

The association of that quote with the government of Alberto Fujimori is inevitable and well-founded. In this regard, the way the OAS Electoral Observation Mission described the political framework of the 2000 general elections in Peru is illustrative: "In synthesis, the opposition forces denounced the different means used by the government majority in the legislature and alleged controls and influences of the Executive in other branches of government, in order to continue holding political and institutional power of the State. According to their interpretation, the continuous adaptation of the legal system to an instrument of the will of the power of the eventual government majority, undermined the bases of credibility and adhesion of the citizenry to an open and pluralistic system of political competition, through periodic elections" (OAS 2001: 12).

The official election results showed Alberto Fujimori as the winner in the ballottage held on May 28, 2000, with 52% of the valid votes. But days before, the candidate Alejandro Toledo had withdrawn from the second ballot, arguing that the conditions for a free and fair electoral process did not exist. Even, as David Scott Palmer notes, some national and international officials declined to observe the runoff under these circumstances (Palmer 2007:250). The OAS Electoral Observation Mission, after three months of continuous work in Peru, concluded that, "according to international standards, the Peruvian electoral process is far from being considered free and fair" (OAS 2001: 113).

What was remarkable from the point of view of collective action in defense of democracy was that, based on the report of the OAS Electoral Observation Mission to Peru, the OAS General Assembly meeting in Windsor, Canada, decided to send a Mission to Peru "with the purpose of exploring, with the Government of Peru and other sectors of the political community, options and recommendations aimed at further strengthening democracy in that country, in particular measures to reform the electoral process, including the reform of the judicial and constitutional courts and the strengthening of

freedom of the press".²⁷

The series of events that characterized the process of recovery of democracy in Peru, with the participation of the OAS in the establishment of the Dialogue Table and the holding of elections in 2001, showed that it was not enough to promote and defend the legitimacy of the origin of a government through electoral democracy. Democratically elected governments were no guarantee of a democratic government, nor did they necessarily lead to the generation of welfare and social justice demanded by the general public. To the original legitimacy of a democratic regime, it was necessary to add the legitimacy of the exercise of government and the legitimacy maintained by its results. These reflections arising from the Peruvian political experience were the basis for proposing, at the time, the drafting and approval of the Inter-American Democratic Charter.

Therefore, Rodríguez Cuadros is right when he points out that "the midwife (of the Inter-American Democratic Charter) was the crisis of democracy in Peru and the struggles of the Peruvian people, its political leaders, social movements and the free press to force the resignation of Alberto Fujimori and reestablish constitutionality, respect for human rights and democratic institutionality". (OAS 2003: 314)

The Peruvian delegation played a fundamental role in this process of adapting the inter-American regime for the promotion and consolidation of democracy to the challenges of a new era. This is how it was perceived by observers and academics. In the words of Elizabeth Spehar: "It was no coincidence from this perspective that the government of Peru, after the lessons learned from the regime of President Fujimori, proposed the elaboration of the Charter and was one of the most active promoters of it, thus trying to avoid a repetition of its experience" (Spehar 2002: 186). In this regard, unlike the previous periods in which the Peruvian position emphasized the principle of non-intervention, it should be underlined that in this one the Peruvian position in favor of the promotion and consolidation of representative democracy was manifest.

²⁷ Operative paragraph 1 of Resolution AG/RES. 1753 (XXX-O/00), of June 5, 2000.

In this context, on the occasion of the Third Summit of the Americas, held in Quebec City, Canada, April 20-22, 2001, the Heads of State and Government of the Americas adopted the Declaration of Quebec City, whose fifth paragraph enshrines the democracy clause in the following terms: "We acknowledge that the values and practices of democracy are fundamental to the advancement of all our objectives. The maintenance and strengthening of the rule of law and strict respect for the democratic system are, at the same time, a goal and a shared commitment, and are an essential condition of our presence at this and future Summits. Consequently, any unconstitutional alteration or interruption of the democratic order in a state of the Hemisphere constitutes an insurmountable obstacle to the participation of that State's government in the Summits of the Americas process. Having due regard for existing hemispheric, regional and sub-regional mechanisms, we agree to conduct consultations in the event of a disruption of the democratic system of a country that participates in the Summits process."

Furthermore, supporting an initiative of the Peruvian delegation, in the sixth paragraph of this same document, the Heads of State and Government instructed the Foreign Ministers to "prepare, within the framework of the next General Assembly of the OAS, an Inter-American Democratic Charter to reinforce OAS instruments for the active defense of representative democracy". In other words, the approval of the Inter-American democratic clause was followed by the approval of the Peruvian initiative to develop the democratic parameters by which the governments of the hemisphere would be governed. (Spehar 2002: 187).

In order to contribute to the fulfillment of the Quebec mandate, on April 25, 2001, the Mission of Peru to the OAS, headed by Ambassador Manuel Rodríguez Cuadros, presented a draft Inter-American Democratic Charter, for whose discussion the Permanent Council formed a Working Group chaired by the Permanent Representative of Colombia, Ambassador Humberto de la Calle. The work culminated successfully on September 11, 2001, with the approval of the Inter-American Democratic Charter (IDC) at the XXVIII Special Session of the General Assembly, held in Lima.

The IDC is rightly considered the Organization's most significant achievement in contemporary times. It has the virtue of systematizing and

harmonizing several previously existing OAS instruments and adding new ones to become the Organization's fundamental tool for the promotion and consolidation of representative democracy in the hemisphere.

Comments on the 28 articles that make up the IDC are beyond the scope of this paper. For the purposes of this essay, I am interested in highlighting those aspects of the IDC that imply an improvement of the Inter-American regime. From this perspective, I must stress three points.

First, IDC moves towards a definition of democracy that goes beyond electoral democracy. Article 3 reads: "Essential elements of representative democracy include, inter alia, respect for human rights and fundamental freedoms; access to and the exercise of power in accordance with the rule of law; the holding of periodic, free and fair elections based on secret and universal suffrage as an expression of the sovereignty of the people; the pluralistic system of political parties and organizations; and the separation and independence of the branches of government". And its article 4 adds: "Transparency in government activities, probity, responsible public administration on the part of governments, respect for social rights, and freedom of expression and of the press are essential components of the exercise of democracy. The constitutional subordination of all state institutions to the legally constituted civilian authority and respect for the rule of law on the part of all institutions and sectors of society are equally essential to democracy."

Second, the procedures and mechanisms for collective action in defense of democracy are strengthened and clarified by the provisions of Chapter IV of the IDC. In this way, the regime can no longer only react, a posteriori, to an interruption or rupture of the democratic order in a country, but there is room for broader action on the basis of article 20, which introduces the factual assumption of "alteration of the constitutional order". In the same sense, the means and actions that can be applied by the intergovernmental bodies of the Organization and the General Secretariat itself to defend the validity of democracy are broadened, including the use of "diplomatic initiatives" and "good offices".

Third, the IDC establishes a link between the inter-American regime for the

promotion and defense of democracy and those for the promotion of human rights (Chapter II), and integral development and the fight against poverty (Chapter III).

In this way, the inter-American regime for the promotion and consolidation of democracy is accomplished. In order to substantiate that the IDC implies the improvement of said regime, the following table has been prepared, which lists - in an illustrative and non-exhaustive manner - provisions of the IDC that are related to the four constitutive elements that any international regime must exhibit to be considered as such, according to the definition formulated by Krasner:

CONSTITUENT ELEMENT OF THE REGIME	ILLUSTRATIVE EXAMPLE
Principles (beliefs about facts, cause and righteousness)	- Representative democracy is indispensable for the stability, peace and development of the region (OAS Charter, third preambular paragraph and IDC, first preambular paragraph).
Standards (standards of behavior defined in terms of rights and obligations)	- The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it (IDC Art. 1).
Rules (prescriptions or proscriptions for concrete action)	- When the government of a Member State considers that its democratic political institutional process or its legitimate exercise of power is at risk, it may turn to the Secretary General or the Permanent Council to request assistance for the strengthening and preservation of democratic institutions. (IDC Art. 18).
Decision-making procedures (prevailing practices for deciding and implementing measures collectively)	- In the event of an unconstitutional alteration of the constitutional regime in a member state that seriously impairs its democratic order, any member state or the Secretary General may request the immediate convocation of the Permanent Council to undertake a collective assessment of the situation and to take such decisions as it deems appropriate. The Permanent Council, depending on the

	situation, may undertake the necessary diplomatic initiatives, including good offices, to foster the restoration of democracy. If diplomatic efforts are unsuccessful or if the urgency of the case so requires, the Permanent Council shall immediately convene a special session of the General Assembly to adopt such decisions as it deems appropriate, including diplomatic efforts, in accordance with the Charter of the Organization, international law, and the provisions of this Democratic Charter. During the process, the necessary diplomatic efforts, including good offices, shall be undertaken to promote the normalization of democratic institutions. (IDC Art. 20)
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Finally, it should be noted that the IDC is a resolution adopted by the General Assembly (AG/RES.1 XXVIII-E/01). It is an international instrument of a politically and legally binding nature, in that it constitutes an authentic interpretation of the inter-American documents on democracy that preceded it. It is not, therefore, a simple declaration, advice or exhortation. In the words of the then Uruguayan Foreign Minister Didier Opertti, "in the feelings and thoughts of those who approved it, the idea was always present to give birth to a binding document that all member states of the region must observe" (Opertti 2002: 16). (Opertti 2002: 16).

From this perspective, we can affirm that the inter-American regime for the promotion and consolidation of democracy is a vigorous regime, according to the classification of Levy, Young and Zum explained ut supra, in as much as there are high expectations that the actors comply with the rules established in highly formalized agreements. In this regard, it should be noted that both Resolution 1080 and the IDC have been applied to concrete cases, without major objections from the States, constituting an accepted mode of international conduct. (Bazán and Silva-Santisteban 2004: 132).

Conclusions

One way of analyzing the process of formation and establishment of the inter-American regime for the promotion and consolidation of democracy is to situate it within two dynamics. The first is the clash between the passive unilateral defense of democracy (starting with the Tobar doctrine) and the active

multilateral defense (starting with the Rodríguez Larreta doctrine). The second is manifested in the counterposition between the principle of democracy promotion, on the one hand, and, on the other hand, the validity of the principle of non-intervention and self-determination (Estrada doctrine).

At the level of the Organization of American States, it can be seen that each introduction in its Charter of a provision referring to the promotion of democracy was accompanied by another provision aimed at reinforcing the principle of non-intervention and self-determination. For example, in the period called "democracy as a duty of States" (1948 to 1985) this counterpoint is illustrated between Article 5(d) on the effective exercise of representative democracy and Article 15 of the 1948 OAS Charter on non-intervention.

Likewise, in the period from 1985 to 1991, it is possible to find this normative tension given that while Article 2(b) is introduced to establish as the purpose of the OAS the "promotion and consolidation of representative democracy with respect for the principle of nonintervention", the principle of nonintervention of the Organization is reinforced at the same time through the inclusion of a new second paragraph of Article 1 which reads: "The Organization of American States has no powers other than those expressly conferred upon it by this Charter, none of whose provisions authorizes it to intervene in matters that are within the internal jurisdiction of the member states."

In a historical context characterized by East-West ideological confrontation, the application of the principles and norms in favor of the promotion of democracy and human rights contemplated in the OAS Charter were subordinated to strategic security interests. In this sense, the coexistence of norms in favor of democracy and in favor of the principle of non-intervention provided grounds for member states to maintain that democracy was an internal matter. In practice, it was assumed that the effective exercise of representative democracy was only a duty of the states, without the OAS being able to intervene collectively in its defense. This was especially true in the period from 1948 to 1985. The general rule was the silence of the OAS in the face of coups d'état and de facto governments.

In that same period, continuing almost until the early 1990s, the struggle

between passive unilateral defense of democracy (Tobar doctrine) and active multilateral defense (Rodríguez Larreta doctrine, taken up again by the Betancourt doctrine) manifested itself more in actions of active unilateral defense of democracy by some States through the breaking of diplomatic relations, economic sanctions, blockades and even invasion of territory, contrary to international law. The exception was the collective action that culminated in the exclusion of the government of Cuba from participation in the Inter-American system, a controversial event that was not exempt from legal questioning within the Organization itself.

The 1985 Cartagena Protocol cleared up any possible ambiguity by establishing as an essential purpose of the OAS the promotion and consolidation of representative democracy while respecting the principle of non-intervention. However, there were no specific rules or agreed procedures for concrete collective action in defense of democracy. In other words, from the perspective of the definition of international regime formulated by Krasner, there was still no regime in the strict sense. These shortcomings began to be overcome in 1991, especially with Resolution 1080 on "Representative Democracy", the year in which the regime for the promotion and consolidation of democracy was established, which was accomplished with the approval of the Inter-American Democratic Charter (IDC) in 2001.

The end of the Cold War, the process of globalization and the international system in transition largely explain why the tension between the promotion of democracy and the principle of non-intervention is currently expressed in different ways.

Increasingly, developments in the international system indicate that today, the concept of sovereignty "clearly entails the obligation of States to protect the well-being of their populations and to fulfill their obligations to the international community at large. (UN 2004: 23). In this sense, the adoption of the IDC indicates that the principle of non-intervention no longer constitutes an insurmountable barrier and that international action in favor of the democratic cause is acceptable and legitimate in a number of cases and circumstances provided for in the relevant international instruments, agreed by consensus.

Likewise, the IDC theoretically puts an end to the clash that existed between, on the one hand, passive/active unilateral defense and, on the other hand, active multilateral defense by enshrining an inter-American regime that contemplates rules and procedures for multilateral collective action to consolidate democracy.

In terms of Peru's role and contributions in this process, there are two quite distinct moments. During the Cold War, it is possible to affirm that Peru's actions emphasized the defense of the principle of non-intervention and self-determination, which, in general, put it in tension with the principle of democracy promotion, without our country necessarily expressing its opposition to it.

In fact, we saw how our country was the first to implement the Estrada doctrine in 1931. This position was maintained over the years, including the no support to the proposal of Uruguayan Foreign Minister Rodríguez Larreta in 1945, and the defense of the principle of non-intervention on the occasion of the coup d'état of the Military Junta headed by Pérez Godoy in 1962, for example. In the debates that led to the approval of the Cartagena Protocol of 1985, our country successfully advocated the defense of political pluralism, in addition to ensuring that the fundamental objective of promoting and consolidating representative democracy of the Cartagena Protocol of 1985 did not become, in practice, an extensive interpretation of the principle of non-intervention. Likewise, when discussing the introduction of the new Article 110 of the OAS Charter, which grants the Secretary General the power to bring to the attention of the Permanent Council or the General Assembly of the Organization any matter that, in his opinion, affects or threatens the peace, security or development of a member state, the delegation of Peru stated that this power should not mean intervention in the internal affairs of the states.

There is a second moment marked by Fujimori's self-coup on April 5, 1992. Peru appears as an actor that violates the principles and norms of the Inter-American regime for the promotion and consolidation of democracy that had been established in 1991. This became even more evident when the OAS Electoral Observation Mission concluded that the 2000 general elections were neither fair nor free according to international standards, and the OAS General Assembly, meeting in Windsor, Canada, decided to send a Mission to Peru. Subsequently,

based on its particular political experience in the recovery of democracy, Peru took the lead in favor of improving the aforementioned regime, as demonstrated by the proposal and negotiation of the Inter-American Democratic Charter approved in Lima on September 11, 2001.

The countries of the hemisphere face the challenge of making their democracies capable of sustaining economic and social growth and distributing those benefits equitably, so that equality at the ballot box translates into equality of opportunity. This is an enormous challenge. Having an inter-American regime for the promotion and consolidation of democracy provides a tool whose usefulness and effectiveness in helping to address this task depends on the political will and cooperation of all member states.

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