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Held to Account: Experiences of Social Accountability in Latin America

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Introduction

Important changes in civil society and the media have followed the last wave of democratization in Latin America. On the one hand, new civic associations and non-governmental organizations (NGOs) have sprouted throughout the region, such as human rights organizations, civic networks that monitor elections to prevent fraud, social movements against police abuse and violence, and citizen's organizations that demand clearance of public information. On the other hand, the region has witnessed the emergence of a more inquisitive type of journalism that is playing an important watchdog role in relation to public authorities.

Both developments are vivid examples of the growth of an innovative type of politics in the region organized around demands for rights and accountability (Smulovitz and Peruzzotti, 2000; Peruzzotti and Smulovitz, 2002). Citizen and media actions aimed at overseeing political authorities are becoming an established aspect of Latin American political life and are contributing to re-define traditional links between civil society, media and public authorities. Civic associations and NGOs organized around demands for due process and the rule of law, and a watchdog journalism that has uncovered numerous cases of governmental wrong-doing, represent two paradigmatic examples of the way in which struggles for accountability are taking place.

It is our contention that these struggles are crucial both at fostering more accountable democratic regimes and at expanding the scope of citizen's rights. The present paper does not attempt to analyze the overall state of democracy in Latin America. Rather, it focuses on the new emerging mechanisms that could help to consolidate democracy in Latin America. In the following pages, we shall briefly analyze how these two key actors have evolved and analyze the kind of accountability issues they have addressed.

We begin by reviewing the concept of societal accountability and its relationship with other mechanisms for making governments accountable. We then discuss the appearance of two actors that greatly contributed to

shaping the agenda of accountability in the region: civic associations and movements organized around demands for due process, and a new form of investigative or watchdog journalism. The present paper provides an analysis of the workings and achievements of this politics of accountability, as well as of the methods and strategies employed to make public officials accountable.

Societal accountability and its relation to other types of accountability

One of the elements that distinguish liberal representative democracies from other type of regimes is their combination of an institutional framework of authorization of political power with one oriented to ensure the responsiveness and accountability of those authorized agents. In so far as representative democracy implies the existence of a fundamental gap between political representatives and citizens, it requires the existence of institutional mechanisms to ensure that such separation does not result in unresponsive or illegal governments. The central question addressed by the concept of accountability is precisely how to regulate and reduce the gap between representatives and represented, while simultaneously preserving the distance between political authorities and citizenry that characterizes the relations of representation.

Accountability refers to the ability to ensure that public officials are answerable for their behaviour, in the sense of being forced to justify and report their decisions, and of being eventually sanctioned for those decisions. The accountability of political power can be established on legal or on political grounds. The notion of legal accountability refers to a set of institutional mechanisms aimed at ensuring that the actions of public officials are legally and constitutionally framed.¹ As March and Olsen (1995) argue, this form of accountability is guided by a logic of appropriateness: political actors are judged according to what is considered proper procedure. Through the separation of powers, the recognition of fundamental rights and the system of check and balances, modern constitutionalism establishes the institutions that enable one to curb the arbitrariness of state power.

The constitutionalization of state institutions by public law parcels state power into judicial, legislative and executive branches, and delimits state activity into rigorously circumscribed competencies. In addition, fundamental rights provide institutional safeguards against unlawful encroachments by state officials against citizens. In summary, to hold government legally accountable implies being able to ensure that governmental actions do not infringe the law and due process. For mechanisms of legal accountability to function effectively, a legal system with the capability to enforce the law and to make the rulers obey the law must exist. Without such a pre-requisite, there cannot be enforcement of legal accountability. There seems to be a widespread agreement among Latin American political analysts on the absence of such a pre-requisite in most of the region.

The concept of political accountability refers instead to the responsiveness of governmental policies to the preferences of the electorate. Political accountability is intimately intertwined with the concept of democratic representation. A government is politically accountable if citizens have the means for punishing unresponsive or irresponsible administrations. It is usually assumed that elections are the central institution for this type of control (Przeworski *et al.*, 1999). They provide a regular mechanism for citizens to hold governments responsible for their actions, forcing out of office those incumbents who did not act in the best interest of voters, or re-electing those who did.

According to Guillermo O'Donnell (1999a), accountability has two dimensions: horizontal and vertical. The horizontal dimension is largely concerned with the effective operation of the system of checks and balances, and with due process in governmental decision-making. The vertical dimension focuses instead on elections and other mechanisms that citizens use to control their government.

Pursuing O'Donnell's metaphor, we would like to draw attention to another type of vertical mechanism that has been largely overlooked by current debates on accountability and that we believe can play a crucial role at fostering legal accountability. Recent debates concerning the effectiveness of vertical mechanisms of accountability have focused exclusively on elections. The notion of societal accountability aims at highlighting the existence of social initiatives organized around demands for legal accountability. In contrast to elections, which aim to make authorities politically accountable, societal accountability is a vertical mechanism that aims to make public authorities legally accountable by denouncing administrative corruption, wrong-doings, violations of rights or of due procedure. By exposing cases of governmental wrong-doing, activating horizontal agencies of control and monitoring the operation of those agencies, societal mechanisms can make a crucial contribution to the enforcement of the rule of law.

Societal accountability rests on the actions of a multiple array of citizens' associations, NGOs, social movements and on the media that: (a) monitor the behaviour of public officials and agencies to make sure they abide by the law; (b) expose cases of governmental wrong-doing; and (c) activate, in many instances, the operation of horizontal agencies, such as the judiciary or legislative investigative commissions, that otherwise would not be activated. In this sense, the concept of societal accountability underscores a series of initiatives guided by demands of legal accountability that take place in society (i.e. are not part of the intra-state system of checks and balances described by O'Donnell (1999a)). The monitoring activities of many NGOs and the workings of a wide array of social movements, civic associations, and media organizations organized around demands for legality and due process add new resources to the classic repertoire of electoral, legal and constitutional institutions for controlling government. Some of these resources may compensate for many of the built-in deficits of traditional mechanisms.

The next section describes the range of actors that have emerged in Latin America, and some of the issues they seek to address.

Societal accountability: actors and issues

The emergence of a new type of civic association in Latin America

One of the forerunners of innovative civil society-based politics is the network of human rights organizations that emerged under authoritarian rule in several countries of the region, such as Argentina, Brazil, Chile, Mexico and Peru. The significance of this social actor for political life is that it inaugurated a new form of rights-oriented politics aimed at drawing clear institutional boundaries between state and civil society, and at restricting the discretionary use of state power.² A major contribution of the politics of human rights was the establishment of a permanent associative network composed of human rights groups, legal aid associations, movements and organizations against police violence, and so on, that play a crucial watchdog role in the defence of societal autonomy.

Human rights organizations are not the only form of civil society-based initiatives organized around demands for rights and accountability. In recent years, many civic associations, NGOs and social movements organized around issues of accountability have flourished in many regions of Latin America. While the agenda has been broad, ranging from environmental to consumers rights, there are four main areas that have been tackled by this social politics of accountability: (a) citizen security, (b) judicial autonomy and access to justice, (c) electoral fraud, and (d) government corruption.

- Security issues were prominent on the public agenda of the past decade, particularly those that relate to acts of police violence over disadvantaged groups. There have been numerous episodes of state violence involving sectors of poor and marginal populations that sparked a wave of social mobilizations in demand for justice and police reforms. We find many such cases in countries like Argentina and Brazil, where a series of unrelated incidents of police violence led to the organization of local social movements, and to the establishment of permanent society-based monitoring associations. In Argentina, Chile, and Peru, scandals, popular responses and debates led to questioning and/or end of the military draft.
- Demands for *judicial autonomy* have also ranked high in the agenda of the media and of civil society organizations. There are two distinct types of demands and initiatives: (a) movements organized around cases in which the provision of impartial justice seems to be jeopardized due to the control exerted by political authorities over the judiciary; and (b) initiatives by NGOs and civic organizations to reform the judiciary and to promote access to justice by disadvantaged groups. The first group of initiatives has been mostly supported by mobilizations of sectors of the population that find themselves in a disadvantaged position as a result of operating in geographical areas where legal guarantees are virtually absent or frequently violated (see O'Donnell, 1999b). Generally, these movements are organized around specific cases and around a single claim: a fair trial. In many cases, their efforts concentrate on monitoring police investigations and judicial

proceedings to prevent political authorities from tampering the evidence or influencing the proceedings.

- The second group of initiatives has targeted the judiciary and the problem of judicial autonomy. In some countries, groups have organized campaigns for the legal education of the citizenry and established programs that deal with different aspects of judicial performance and reform. Problems of access to justice have occupied a prominent place in the agenda of many of these organizations, some of which have played an important role at developing new legal instruments that could improve the defence of rights and the access to justice of ordinary citizens. The incorporation in recent constitutional reforms of several of those instruments has resulted in an increase of legal mobilization. In addition, public interest law is being promoted by several organizations in the region.³
- *Electoral observation* is the third area of active societal initiatives. Civic initiatives against electoral fraud played a crucial democratizing role in Mexico and Peru. In both cases, we witness the emergence and expansion of a network of organizations oriented at monitoring the electoral process to ensure fair elections.
- Finally, the issue of *governmental corruption* has received wide attention by both the media and civil society. In this terrain, the media played a central role at exposing governmental wrong-doing. The region has been shaken by numerous media scandals of governmental corruption at all levels of the public administration: from low-ranking civil servants up to the presidential office. Civic initiatives have also been important and have developed innovative tools for controlling governments. For instance, some civic organizations in Argentina and Mexico have developed programmes to monitor the financial assets of public officials. In Colombia, the Constitution established a sort of *ad hoc* civic committee to oversee governmental actions and procedures.

The media as agent of accountability

Important developments in the post-authoritarian era brought new conditions for the operation of the media. First, the consolidation of democratic regimes has drastically re-defined the environment in which the media operates. The re-establishment of constitutional guarantees and the end of state violence and censorship greatly contributed to the practice of critical reporting. Second, in many countries, the media underwent a process of privatization, deregulation and conglomerization that greatly changed the structure of media industries (see Mastrini and Bolaño, 1999; Barbero and Ray, 1999). Such policies led to a transition from family-controlled media organizations to the emergence of large and diversified multimedia corporations. Media concentration conspires against democratization of media access. As Waisbord (2000) argues, civil society and citizens have little influence “in the ongoing process by which substantial media resources change hands, officials reap sizable gains and commercial interests become

further entrenched”. Moreover, in some cases, powerful political families and entrenched political parties control the media and influence coverage.

In spite of all the new obstacles and problems it creates, the shift to a market system has nevertheless generated a more independent journalism. The decoupling of media industries from the state opened up the possibility of a critical journalism that contributes to political accountability. In fact, during the past decade, the media has played a central role both in exposing official wrong-doing and corruption, and as a source of free and alternative information for the monitoring of governmental activities.⁴ Watchdog reporting is no longer the realm of alternative publications but has gone mainstream. The emergence and consolidation of investigative journalism have established the media as a key actor in the political dynamics of Latin American societies. By unravelling numerous cases of governmental corruption and generating conspicuous political scandals, the media has attained high levels of legitimacy in large sectors of the population.

Watchdog journalism has been the main ally of the politics of social accountability. Many of the civic claims for equal treatment under the law, due process or judicial independence began to exert considerable pressure on the political system only after they attained significant media coverage and visibility. Thanks to the media, local cases attracted the attention of the whole nation. But the role of the media was not limited to supporting the cause of civic movements and associations. In many cases, the media itself was the denouncing actor, and the activity of independent journalists was crucial in uncovering important cases of human rights violations.

The methods and strategies used by the actors already described to exercise societal accountability are laid out in the next section.

The exercise of societal accountability: an overview of methods and strategies

The exercise of societal accountability in Latin America is taking place through three main strategies: judicial strategy, social mobilization, and media. In this section, we shall analyze how each of these strategies operate, how they control public officials and how they influence each other. The section also includes examples illustrating the operation of the different strategies as well as an assessment of their actual impact in the exercise of control.

The three strategies of societal strategies can be distinguished by the main resources on which they are based.

- The *judicial strategy* entails the submission by individuals or social actors of legal claims or of legally framed petitions to the courts or to other control agencies. It is an instrument individual citizens and social actors use to force the state to intervene in those political and social disputes public officials want to avoid or ignore (Smulovitz, 2002a). The transformation of societal demands into legal claims serves two purposes: (a) it provides a ‘seal’ of legitimacy for the petitions; and (b) it forces the state

to take a stand on the claims advanced. The use of the judicial strategy by civil society is part of the broader process of what can be termed a 'judicialization of politics' that is taking place globally.⁵

- Social mobilization is the second strategy employed in the exercise of societal accountability. Traditionally, the study of social movements has concentrated on the impact that social mobilization may have on the satisfaction or defence of material needs or on the achievement of particularistic goals. In this case, control is achieved when organized social actors are able to call attention to a particular problem or to claims related to a perceived public wrong-doing. The new civic associations described earlier are using social mobilization to organize around demands for due process and 'proper' procedures.
- The third strategy for the exercise of societal accountability relies on the use of the *media*. Societal accountability requires visibility, and the media is the most important instrument to achieve this goal. It works because, as happens with the mobilizational strategy, visibility imposes reputational costs to public agents that need to protect their reputation to hold public office. It can be activated by individual journalists, by media enterprises, or by citizens and civil society associations.

Let us consider, then, how these different societal accountability strategies have been used in different Latin American countries, and the dominance of one or another of these strategies in different countries.

Judicial strategies

In some cases, the development of judicial strategies is related to specific institutional and constitutional modifications that have changed the requirements needed by citizens and collective actors to claim and petition for rights as well as the number and type of rights that can be claimed. In other cases, the relevance of the judicial strategy is related to changes in the perception about the benefits of law that came about as a consequence of the political struggles related to the treatment of past human rights violations.

In Colombia, for example, the Constitution created an institution, the 'Acción de Tutela', that allows citizens to demand the protection of fundamental rights. A study conducted by the Unidad de Tutela de la Secretaría General del Consejo Superior de la Judicatura established that, between 1991 and 1999, Colombian courts sent 213,404 *acciones de tutelas* to the Constitutional Courts.⁶ According to some studies, the 'Acciones de Tutela' advanced in Colombia have mainly concentrated on the petition of payments of pension funds, of salaries or in disputes regarding quotas for access to educational institutions.

Other mechanisms included in the Colombian constitution that allow citizen participation include the citizen *veedurías*, the popular consultation and the recall of elected officials (Monsalve, 1999, pp. 546–584). Although some authors have mentioned that most of these institutions have been rarely used (Monsalve, 1999, p. 57), others have pointed out that, in their

first 5 years, popular consultations have taken place in Medellín and Pereira where their municipal administrations have been defeated,⁷ and that successful recalls took place in Mogotes and Cartagena where their mayors were replaced. Perhaps the most famous *veeduría* was that established to monitor the impeachment of the then President, Ernesto Samper, on corruption charges. The *veeduría* was highly critical of the works of the parliamentary body in charge of the impeachment procedures, and published a detailed document denouncing irregularities.⁸ Other *veedurías* have been constituted with the aim of supervising public bids and the process of privatization of Bogotá's public phone company.

A similar trend can be observed in Brazil, where the 1988 constitution also incorporated institutions intended to facilitate citizen participation and control of public affairs (Paoli and da Silva Telles, 1998), such as popular initiative, plebiscite, referendum, public mandatory meetings and expansion of the number of legitimate actors that can make use of 'Ação Direta de Inconstitucionalidade' (Bastos Arantes, 1997). In addition, the constitutional transformation of the office of the Public Prosecutor created a space where constitutional rights can be demanded (Bastos Arantes, 1999; Calvancanti, 1999). Indeed, the percentage of actions initiated by this institution shows its newly acquired relevance as an office for demanding rights (e.g. 96% of civil demands regarding the environment have been initiated with the intervention of this office).

According to Brazilian experts, the Public Prosecutor's office is performing a similar role on issues related to the defence of health rights and the rights of street children (Calvancanti, 1999). In the state of Paraná, for example, the State Office of the Public Prosecutor has created a special body dedicated to the promotion of the use of legal procedures by lower income sectors of the population. Thus, while this particular body of the Public Prosecutor's office allows the diffusion of the operative resources needed to make demands for rights and accountability, the Public Prosecutor's Office decides whether the demands advanced by this population can be transformed into judicial claims. An article published by the weekly *Veja* shows the impact achieved by the Public Prosecutor's office in controlling the legality of public affairs. According to the article, 195 *prefectos* and *ex prefectos* had been sentenced to prison for administrative wrong-doing as a consequence of actions initiated by the Public Prosecutor in the past 5 years.⁹ The example illustrates the capacity of the office of the Public Prosecutor to exercise control as a result of actions initiated by citizens, civic organizations and the Public Prosecutor's Office.

Another manifestation of the relevance of the judicial strategy for the exercise of societal accountability in the region can be observed in the increased use of Ombudsman Offices and Ouvidorias. In recent years, National Ombudsman Offices have been created in Argentina, Peru, Brazil, Colombia, and Mexico. Regardless of their actual achievements, the proliferation of these agencies and the increased use of this particular type of institutions introduces an alternative avenue of control.

The Argentinean case witnessed the increase in the number of legal and

'quasi'-legal claims in agencies such as the Defensoría of del Pueblo de la Nación and in the Controladuría General Comunal, as well as in the regulatory agencies of the recently privatized public utilities enterprises (Smulovitz, 1997). In Peru, the Defensoría del Pueblo created by the 1993 Constitution monitors the performance of the public administration and defends citizens' rights. It has been activated mainly by citizens' demands and complaints.¹⁰ During the Fujimori years, the Defensoría showed impressive degrees of institutional autonomy. It had an important role in the protection of human rights responding to demands advanced by relatives of victims. Among its important achievements are the resolutions that led to the liberation of individuals that have been unjustly sentenced for terrorist-related crimes. Specifically, it exerted considerable pressure to end the so-called system of 'judges without face' implemented in 1992 to deal with terrorism. And the office also achieved the presidential pardon of 418 individuals that had been unjustly sentenced.

Another event that shows the relevance of the rhetoric of rights and of legally based instruments in the actions pursued by citizens and social movements is the increased presence of advocacy NGOs, such as Asociación por los Derechos Civiles, Poder Ciudadano, and Centro de Estudios Legales y Sociales (CELS) in Argentina, Fundación para la Defensa del Interés Público (Fundepublico) in Colombia, or Forja in Chile (McClymont and Stephen, 2000). These associations are employing existing and new institutional tools to demand the application of the rule of law. Coordinadora contra la Represión Policial e Institucional (Correpi) in Argentina is demanding justice for victims of police abuse. The Asociación por los Derechos Civiles, also in Argentina is campaigning against discriminatory practices; Forja and Terram in Chile and Fundepublico in Colombia are campaigning for the right to live in a safe environment (See Lo Errazuriz or La Renca cases in Chile, or cases against mining interests in Colombia) (Morales, 1997). These cases are just a few examples of way in which civil society organizations are using legal resources. In each of these cases, the resource used to exercise control is a legal claim, while public officials and policies are the objects of control. The results have been diverse. In some of the Correpi cases, there have been indictments, trials and sentences of public officials. In those pursued by the Asociación por los Derechos Civiles, judicial decisions reversed discriminatory practice. In the Lo Errazuriz case in Chile, the case was won at lower level courts but lost at the Supreme Court. Although, not all cases were successful, it has to be emphasized that through these actions some citizen's organizations are becoming agents of control and surveillance of public policy.

Social mobilization

'Soft' resources such as social mobilization are also being used to control policy outcomes and the performance of public officials. Although social mobilization can take place together with a legal strategy, this has not always been the case. Indeed, campaigns demanding information about the assets of

public officials, or denouncing electoral frauds or violations of environmental rights, did not always intend to bring about legal claims. In other cases, social mobilization denouncing police abuse had both legal and political goals. Police abuse, corruption of public officials, electoral frauds and the way social programs are implemented are now issues under surveillance because NGOs like Viva Rio in Brazil, CELS and Correpí in Argentina, Alianza Cívica in Mexico or Grupo Iniciativa in Chile have been able to document their existence and to mobilize the support of active groups around their public relevance. These organizations have been able to place topics on the public agenda and they have also established themselves as credible and authoritative watchdog voices.

As was the case with the use of the judicial strategy, the scope and effectiveness of the social mobilization strategy also has an uneven development in the region due to contextual and historical reasons. In the Argentinean case, for example, human rights organizations that had an extremely important role during the transition years have preserved their central position, re-orienting their missions to incorporate questions related to violations of human rights in democracy. Thus, a pre-existing organization like CELS is now dedicated to the surveillance of police abuses and of the way the state is implementing social programs. Others, like Movimiento Ecueménico de Derechos Humanos, focus mostly on prisoners' rights.

In recent years, new specialized NGOs and local grass-roots organizations with single issue claims have also developed. In Argentina, responses and protests against police violence locally organized by friends and relatives of victims have led to the emergence of national organizations such as the Comisión de Familiares de Víctimas Inocentes and Correpí, and to local organizations such as El Agora in Córdoba. The actions have been decisive in placing illegal behaviour of police officials in the spotlight, in denouncing numerous cases of police misbehaviour and violence, and in demanding justice and institutional reforms. Today, police misconduct is being monitored and followed by an array of organizations that have the capacity to garner public visibility for their revelations and criticisms. The actions of these organizations have had different outcomes.¹¹ Besides being successful at placing the issue of police violence and corruption on the public agenda, these organizations have been instrumental in forcing 'horizontal agencies' to review both existing legislation and their position on issues such as the adequacy of the existing institutional structure of police agencies, or the effectiveness of existing mechanisms of political control on the institution (Smulovitz, 2002b).

In addition to the police violence cases, the social mobilization strategy has been critical in the resolution of three other incidents that shook the Argentinean political scenario: the María Soledad, the Carrasco and the Cabezas cases. In all three cases, a murder gave rise to a claim of justice and to an extensive social mobilization demanding guarantees by the authorities for proper police investigation and proper judicial procedures. In all three cases, mobilization was initiated locally and promoted by relatives of the victims, and extended afterwards to a wider population involving local and

national NGOs. In all three cases, there were trials, and indictments of the accused and in the three, the media and the population followed on a daily basis the evolution of the investigation and of the judicial process.¹²

At the end of the period of military government, Brazil witnessed the awakening, diversification and institutionalization of associative organizations. The awakening and diversification of the civil society gave rise to different associative forms that included changes in union organizations, the activation of grass-roots church movements, the emergence of new urban social movements such as the *favelado* movement or the association of urban renters, and the activation of some professional associations such as the Orden de Abogados (Lawyers) and the Associação Brasileira de Imprensa (Journalists) (Murilo de Cavalho, 1995; Avritzer, 1997). After democratic transition, many of these movements saw their mobilization capacities trimmed and became more institutionalized. However, as Murilo de Carvalho (1995) has noted, these changes implied that “perhaps, for the first time, the word ‘citizen’ is employed in a positive sense” (p. 146).

As in other countries of the region, Brazil witnessed the emergence of a series of organizations with the goal of controlling and denouncing police violence and the social and political situations that facilitate increasing criminal activities. Their practice include campaigns in favour of the prohibition of arms sales and the support of community development programs. Nucleo de Estudos da Violencia from the Sao Paulo University and Viva Rio are some of the organizations associated with these practices. Viva Rio, for example, was created in 1993, after a series of violent acts took place in the city (a police massacre of eight boys at the doorsteps of a church, the killing of 21 people in a *favela*, and a violent fight among youthful bands in the beaches of Ipanema). This organization has been able to place the problem of violence as an issue of the public agenda, and at the same time has developed actions that include the creation of *ouvidorias* for monitoring police behaviour, municipal councils that deal with issues of public insecurity, and has been very active in the organization of community policing programs (Gaspar Pereira, 1996).

In the Chilean case, the mobilization strategy presents some particular features. On the one hand, the fear of a breakdown of the political coalition that led the democratic transition and the existence of certain legal restrictions from the authoritarian period resulted in the demobilization of organizations that had been particularly active during the final years of the military regime. On the other, the persistence of the neo-liberal policies has resulted in an increase in the fragmentation of different social actors. Movements of settlers, women, and human rights that in former years had achieved high visibility and political clout were weakened, some disappeared, and others lost activists (Taylor, 1998). In Chile, as is the case in Argentina and Brazil, new movements have emerged and others were transformed after transition took place. Among the new ones, it is worthwhile noting Grupo Iniciativa, an association of eight NGOs with the purpose of overseeing the implementation of the Beijing Platform and the inclusion of its recommendations in state regulations. The activities of this particular group illustrate some of the ways

in which formerly strong social organizations have re-oriented, institutionalized and specialized their practices

In Colombia, between 1995 and 1996, the mobilization strategy was used to oversee and control the Congressional procedures dealing with the impeachment of President Ernesto Samper Pizano due to possible use of drug moneys in the finance of his electoral campaign. More than 50 NGOs participated in this task (Fundepúblico, Viva la Ciudadanía, Fundación Social, etc.) In the 1990s, the mobilization strategy was also used to foster and oversee the peace process.¹³ Civic organizations have been very active in organizing campaigns in favour of peace and against kidnappings. Their efforts have led to popular mobilizations with massive levels of participation.

Until a few months ago, the Mexican institutional context was not particularly favourable for the oversight of governmental activities. However, in recent years, campaigns carried out by different citizens organizations to control electoral frauds and to establish institutional conditions warranting free and competitive elections have been critical in fostering the democratization of the Mexican state. Social movements and NGOs have concentrated their efforts in electoral monitoring, in human rights oversight, in campaigns demanding transparency and access to public information, and in monitoring public policy implementation. In the 1990s, citizens' actions denouncing electoral frauds, purchase of votes, and partisan use of public agencies and funds have been constant, and constitute the most salient and successful manifestation of the social accountability practices that have taken place in the country.

This type of mobilization has had a clear institutional impact, resulting in the modification of the traditional electoral practices of the Partido Revolucionario Institucional regime. In 1994, a number of NGOs and civic associations united and formed a new organization, Alianza Cívica,¹⁴ to monitor the presidential elections. On election day, Alianza Cívica mobilized 37,000 citizens across the country. Although the electoral observation was not able to demonstrate the existence of generalized electoral fraud, it was able to denounce several irregular situations, particularly at the local level, the lack of equal opportunities for access to public funds for parties, as well as unequal opportunities for access to the media. The 1996 electoral code incorporated most of the demands of the movement and led to the establishment of an impartial electoral authority that made it possible to hold fair and competitive elections. Access to information, a key resource for the oversight of governmental actions, was also a salient dispute in the Mexican context. In this regard, Alianza Cívica developed a campaign to monitor the use of the media by political parties, and another campaign named 'Adopt a Public Official', which required clearance of public information to oversee his actions.

Media strategies

As we have already noted, to be effective, societal accountability requires media visibility. In several of these countries, the media is playing a central role in exposing and controlling governments. Many of the civic and social

claims for legal equality, due process and judicial independence start to exert considerable pressure on political society only after attaining significant media coverage. In some cases, journalists have uncovered situations involving high-ranking public officials; in others, media investigators have used 'secret cameras' to denounce bribes received by low level bureaucrats such as employees of a pension fund agency (see Waisbord, 2001). Social movements, in an acknowledgement of the expanding effect of media interventions, sometimes take their case to the press to get public attention to their claims.

The use of the media as a control mechanism has raised certain concerns that media accusations can often automatically become public sentences. Media strategies rely on a soft form of punishment. Public disclosure of wrong-doing imposes social sanctions that can destroy a crucial resource for public officials: their symbolic capital or public reputation (Thompson, 1997). Experience shows that scandals have not only forced officials out of office, but have also led to a drastic end of their political careers. In a democratic context, where the fate of political careers depends on electoral performance and public recognition, the threat of being socially stigmatized becomes a deterrent against illegal behaviour. However, the use of the media as a mechanism of control and accountability carries potential risks of individual rights: when the media draws attention to a case and 'punishes' a suspect of wrong-doing, the steps of the legal process are inverted (Smulovitz, 1995). Finally, it has to be remembered that media strategies have proven to be more effective as mechanisms of social accountability when they jointly interact with the other two mechanisms described.

Media strategies can be activated by: (a) social movements, organizations or by individuals that decide to use the media as an additional resource in the making of claims; or (b) journalists themselves. In the first type of cases, the interaction between social movements and the media results in the public discussion of a particular wrong-doing and in institutional outcomes such as a fair trial or changes in legislation. In these cases, the media gives visibility to a claim that is taking place in civil society or is approached by these organizations that want the media to expand the visibility of their demands. In the second type of cases, the media itself decides to give public exposure to an illegal act and becomes an autonomous actor for the exercise of control. Examples of both can be found in most countries of the region.

The case of María Soledad mentioned earlier is a good example of the way in which, in Argentina, social actors interact with the media in making claims. The case started with a social mobilization that included the 'marches of silence' (*marchas de silencio*) to the city's main square to press for a speedy investigation and a fair trial. Between 1990 and 1996, 82 marches of silence were organized in Catamarca. The marches drew large numbers, eventually reaching 30,000 people in a province whose total population was 210,000 habitants. When the media took the case to the national level, 25 marches took place nationwide.¹⁵ When the trial finally started, the media also played a crucial and unexpected role as a guarantor of due process. The fact that the trial proceedings were aired on open TV enabled the audience

to recognize that the judges' decisions were favouring the indicted. Public exposure of these gestures led to massive demonstrations demanding a fair trial. After a few days, the trial was suspended and a new trial with new judges had to be organized for a future date.

President Collor's impeachment and the workings of the different Comissoes de Inquerito in Brazil are examples of some of the other cases in which interaction between social mobilization and the media can be observed. The political scandal that led to President Collor's resignation started when his brother told the weekly *Veja* that the president was involved in a corruption scheme together with his former campaign manager, P.C. Farias. In the following months, new accusations appeared in *Veja* and in the *Folha de Sao Paulo*. President Collor responded by inviting the population to show support for its administration. The media responded, in turn, by calling on the population to show its discontent with Collor's request. In September 1992, massive demonstrations against Collor took place. In this context of high social and media mobilization, an Investigative Parliamentary Commission decided to impeach the president, who ended up resigning in October 1992.

The Comissoes Parlamentares de Inquerito are another example of the interaction between the media and the mobilization of specific social groups in the Brazilian case. In many cases, these Investigative Commissions on issues such as drug traffic and corruption had to be organized because social groups took their claim to the media, who gave them wide visibility, forcing legislators to consider those questions that concerned the population. It has been noted, however, that the media appropriation of these hot topics might have a paradoxical result. On the one hand, it might help to activate some horizontal mechanisms of control such as the parliamentary commissions; on the other hand, media appropriation of these demands might end up fostering social demobilization.

Another example of the interaction between the social mobilization and media strategies for the exercise of control is the recent case involving the tapes of Vladimiro Montesinos that led to the fall of the Fujimori government in Perú. In September 2000, TV station *Channel N* aired a tape, obtained by the opposition, showing Montesinos, head of the National Intelligence Service, handing US\$15,000 to an opposition congressman to switch sides to give the government a majority in parliament. After the airing of the incriminating videotape, a dramatic change in the political atmosphere took place. Fujimori called for new elections and also announced that he was not going to be a candidate. In the following days, 2500 new videos showing Montesinos in similar situations with other senior political figures were found at the National Intelligence Service.¹⁶ Some of them were also aired on open TV. Severely weakened by press denunciations and by the massive popular demonstrations against the government triggered as a result, Fujimori was unable to stay in power until the new elections took place. On 19 November 2000, Fujimori resigned the presidency while he was in Japan and decided to extend his stay there indefinitely.

In Peru, journalists have also taken the initiative to expose violations,

such as the massacres of *Barrios Altos* and of *La Cantuta*, and the murder of Mariela Barreto, the torture of Leonor La Rosa, the corruption at the National Institute of Civil Defense and the existence of illegal telephone tapping. For example, in 1993, the press exposed the Cantuta massacre by a clandestine group related to the National Intelligence Office of 10 individuals at the University Enrique Guzmán. The newspaper *La República* gave wide coverage to the case. The Armed Forces officially condemned the newspaper, and pro-governmental members of congress ended up acquitting the Armed Forces from all responsibility. However, an investigative team of the weekly magazine *Si* discovered the place where the victims were buried. The culprits were then charged and condemned in 1994, to be later released by a presidential pardon (Conaghan, 1996; Rúa, 1996).

In many cases, the reports led to open and hostile conflicts between the media and government. The most salient example of this type of confrontation originated as a consequence of several exposes made by the TV program *Contrapunto* regarding Montesinos. The dispute led to the withdrawal of the citizenship rights of Baruch Ivcher, owner of the TV station, and to legal actions that made him lose control of Channel 2.

An indicator of media's new role in giving public exposure to illegal acts is the growth in the prestige of investigative journalism and the increase in the number of journals and TV programmes that include special investigative sections. Examples are *Página 12*, *Telenoche Investiga*, *Revista XXI* in Argentina, *Si* and *Channel N* in Peru, and *Veja* and *Istoe* in Brazil. In Argentina, for example, since the early 1990s, the newspaper *Página 12* has published investigations like 'Swiftgate' or 'Yomagate', which implicated high level public officials and that led to the resignation of the discredited public agents.

The newspaper *Página 12* is a special case. Although it has a relatively small reach when compared with the main Argentinean newspapers, its regular exposés of corruption cases involving governmental agents, has helped to establish its reputation among the traditional press. Cases such as 'Swiftgate', 'Yomagate' or 'school children apron' or 'bad milk sales' were initially exposed by this publication and later taken up by other dailies.

In spite of the criticisms about the way in which the media selects and arranges the cases it chooses to expose, the impact that these exposés are having in controlling public behaviour cannot be underestimated. At the beginning of the year 2000, the Court of the Buenos Aires province accepted a video recorded with a hidden camera by *Telenoche Investiga* as valid legal evidence. The video became the main legal evidence in a trial against the chief of a Police chief accused of demanding bribes from a local salesman.¹⁷

Also in Argentina, a newspaper investigation about an illegal sell of weapons to Ecuador during the Ecuador-Peru war by the Argentine government led to the house arrest of former president Carlos Saúl Menem and to the arrest of the former Armed Forces Chief of Staff. An editorial by a prestigious journalist, suggesting that the passing of the labor reform law in the Senate was the result of bribes, triggered a series of resignations that greatly affected the political capital of the De la Rúa administration. The

political crisis generated by the scandal eventually led to the breakdown of the governing coalition and to the resignation of vice-president Carlos Alvarez, who disagreed with the way De la Rúa handled the situation.

Changes in the relationship between political power and journalism have also taken place in Colombia. In recent years, a series of processes contributed to re-defining and changing the profile of the media as a social and political actor, and opening it to new alliances with sectors of civil society. First, there was a transition from family management to company management that deeply transformed the structure of media property (Rey, 1998). Second, there was a surge of a powerful investigative journalism throughout the 1980s. The success of the investigative journalism department of *El Tiempo* led to the development of similar ones in *El Espectador* and in *El Colombiano* of Medellín. These departments were later dismantled when journalists ended up being kidnapped or killed by the accused drug dealers. In the 1990s, some of these departments were re-organized, revitalizing the local boom of investigative journalism (see Rey, 1998).

There have been exposés of corruption cases and regarding human rights violations of displaced populations. Many of these cases (Dragacol, Colpuertos) have achieved great public repercussion, but the most well-known case was undoubtedly Process 8000 (see VVAA., 1997). It involved accusations and an investigation regarding the contributions made by the Cali Cartel to the 1994 Liberal electoral campaign. Two days after the election, the TV programme *24 hours* aired conversations between one Cali Cartel boss and a presidential aide dealing with contributions to Samper's campaign. Pastrana, his opponent, urged the elected president to resign if the charges were proven true. After the first exposés, new tapes were found and other journals and periodicals such as *Cambio 16* ran new stories containing additional evidence linking the Cali cartel with politicians and military personnel. The judicial investigation received an important push in August 1994 when the Public Prosecutor was changed and the case move from Cali to Bogotá. The Public Prosecutor presented official denunciations against the President, and impeachment procedures were initiated in 1995 and again in 1996. However, on both occasions, the House of Representatives voted against impeachment.

In Chile, although there are also some signs of active investigative journalism, specific institutional restrictions and property concentration have limited the scope of its impact. Three features characterize the media performance in Chile: the persistence of legal obstacles, the high concentration of its property, and the conservative ideological orientation of most the media that has managed to survive the property concentration process. These characteristics have limited the capacities of the press and have resulted in the virtual disappearance of an alternative press. A recent report of Human Rights Watch (1998) asserts that freedom of expression in Chile is subject to restrictions that have no parallel with Western democracies. These restrictions derive from legislation dating from the pre-military period even though its more restrictive aspects were exacerbated during the authoritarian regime.¹⁸ In 1998, these restrictions gave rise to a defamation

trial against Alejandra Matus, a journalist accused by a Supreme Court Judge who considered he had been negatively mentioned in her book (Matus, 1999). A sales interdiction was placed on the book and the journalist had to leave the country to avoid being put on trial. The property concentration process has also reduced the vitality and diversity of Chilean mass media. In the 1980s, respectable magazines such as *Cauce*, *Análisis* and *Hoy* were in circulation. They and the newspaper *La Epoca* have stopped circulating due to financial difficulties. This concentration process has also taken place in the TV market. Drake and Jaksic (1999) have mentioned that the result of media property concentration has been the reduction of spaces and alternative communications.

Nevertheless, Chile also registers some cases of investigative journalism in the exercise of control. In addition to the book by Alejandra Matus (1999) dealing with the operation of the judicial system, other books such as *Los Zarpazos del Puma* by Patricia Verdugo (1989), about a massacre carried out by military personnel, and *La Extraña Muerte de un Soldado en los Tiempos de Paz* by Ramos and De Luigi (1998), regarding the murder of private Soto Tapia, have been published.

Unlike the Argentinean and the Brazilian cases where the explosion of journalistic investigations is resulting in 'scandals fatigue', in Chile the shortage of investigative reporting means that those who manage to become known are likely to have high impact and public visibility.

Conclusions

In recent years, actions initiated by a wide array of citizen associations, movements, and the media contributed to improve the accountability of Latin American public authorities. By exposing governmental wrong-doing, bringing new issues to the public agenda, and influencing and reversing decisions implemented by public officials, civil society and the media were able to place the problem of accountability as a major issue on the public agenda of the new democracies.

Different political and institutional contexts have directly affected the scope and relevance achieved by each of the societal accountability mechanisms. Under democratic regimes, and in spite of the institutional deficits mentioned in the literature,¹⁹ the politics of societal accountability is expanding its presence. There are, however, important differences in the way in which societal mechanisms are developing in diverse democratic contexts. The type of transition has conditioned the spread and intensity of the use of the judicial and mobilization strategies. In transitions involving political pacts, such as that of Chile, the development of these mechanisms was less important than other transitions, such as Argentina, where no previous pacts took place. Colombia, on the contrary, has some characteristics that distinguishes it from the new democracies. In this case, a political context characterized by widespread violence and high levels of contestation of the state authority has restricted the expansion of the politics of accountability.

The politics of societal accountability has also taken place under authoritarian contexts. In these cases, its development encountered greater difficulties: the legitimacy of the right to petition was usually questioned, and actors willing to oversee governmental actions or policies faced additional difficulties due to the secret nature of the exercise of authoritarian power. This explains why demands for the right to information dominated the actions and discourse of societal actors in Mexico and Peru before regime transition took place. Under authoritarianism, the struggle for access to information becomes a pre-condition for any initiative oriented at controlling governmental behaviour. Authoritarianism also weakens the politics of societal accountability in so far as it reduces the repertoire of institutional tools available to the citizenry for the exercise of control.

Although the development of societal accountability is a regional phenomenon, there are national differences in regard to its strength and evolution in the different countries of the region. In some countries, such as in Argentina, a significant use of the three strategies (judicial, mobilizations, and the media) can be found. In others, the use of the three strategies has been uneven (e.g. Mexico). There are also differences regarding the specific evolution of each of the strategies. While in Peru judicial strategies have mainly involved the use of new institutions such as the Defensoría, in other countries such as Colombia, Argentina and Brazil, the legal strategy has encompassed both traditional and ordinary legal procedures as well as institutional innovations such as the use of Defensoría, Acciones de Tutela, Acciones Populares or Amparo Colectivo.

The cases analyzed also show that success of societal mechanisms in the exercise of control is related to the type of interaction that takes place among different strategies. Societal accountability appears to achieve its goals when citizens not only initiate legal action, but also when they support those actions with some kind of social mobilization and some sort of media exposure. There does not appear to be a sequential relationship among these three strategies. It is their joint activation that determines their ability to bring public attention to a problem and to make evident the costs that public authorities should accept or avoid. In contexts in which claims are backed with mobilization and media exposure, the likelihood of postponing or ignoring legal demands is reduced. In those cases, the exercise of societal accountability is likely to be successful because the task of control is distributed among different agencies with autonomous interests, and because the number of 'external eyes' overseeing the problem increases. The media observes and reports on the organization and mobilization of civil society, while the organized actions of the civil society impels the media and forces horizontal agencies, such as the judiciary or the parliament, to acknowledge and give some kind of answer to these claims. The ability of societal actors to 'construct' their claims as public issues that need to be addressed expands the number of actors involved and blocks attempts to convert their demands into 'non-issues'. The actions of these movements denounce specific wrong-doing, failures in the performance of horizontal mechanisms of accountability, and demand for their proper operation. Societal mechanisms proved to be not only

successful at setting public agenda and drawing support of public opinion, but also as a necessary condition for the activation of horizontal agencies.

Is the politics of societal accountability effective at strengthening accountability or is it just a noisy but toothless mechanism? This question is critical in so far as the notion of accountability is usually associated with the capacity to enforce decisions. We have already mentioned that the intensity and visibility of 'voice' (Hirschman, 1970) is the main resource available for societal control. Many of the described initiatives consisted of exposing wrong-doings but lacked mandatory effects. For these reasons, some authors have regarded societal mechanisms as window-dressing rather than as real checks on power (Schedler, 1999). However, the fact that most societal mechanisms do not have mandatory effects does not mean that they cannot have important 'material consequences'. As we have shown, societal mechanisms impose reputational costs that may have very damaging political consequences. In contexts where political survival rests on the extension of support, public officials cannot easily disregard threats to their reputation. It could make a difference in their survival. Furthermore, societal initiatives are in many cases a necessary condition for the activation of mechanisms that have 'teeth', such as the judiciary or congressional investigative commissions. Indeed, as is the case in many poorly institutionalized Latin American democracies, unless societal mechanisms 'turn on the alarm' (McCubbins and Schwartz, 1984), vertical electoral and horizontal mechanisms are not activated.

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Notes

- 1 In most constitutional democracies, there are various mechanisms available to ensure that governments abide the law and due procedure, such as courts, ombudsman, inspectorates, auditors, special appeals tribunals, complaint procedures, committees of parliament, and so on. For a general overview of some of those institutions and mechanisms, see Galligan (2000).
- 2 This argument is developed in Peruzzotti (2001, 2002).
- 3 For an overview of those initiatives, see Fundación Ford (2001).
- 4 Needless to say, the actual market structure of the media necessarily limits this watchdog role: the activities of Latin American watchdog journalists rarely expose private cases of wrong-doing that could affect the organization's commercial interests. Yet, this observation should not diminish the watchdog role that the media is playing in relation to governmental wrong-doing. See Waisbord (2001).
- 5 See Tate and Vallinder (1995). This process is characterized by: (a) the increase in the number of regular legal claims; (b) the appearance of new legal institutions that expand the ways to petition for rights; and (c) the expansion of the number of actors authorized to make claims.

- 6 It has to be emphasized that only individual citizens can activate the 'acción de tutela', an institution that allows any citizen, and without any formal requirements, to demand direct protection against threats or violations of fundamental rights. See Mora (1997).
- 7 Interview with Pedro Santana Rodriguez.
- 8 See *Poder, Justicia e Indignidad. El Juicio al Presidente de la República Ernesto Samper Pizano*, Informe de la Comisión Ciudadana de Seguimiento, Bogotá, Utopía Ediciones.
- 9 See *Veja*, 6 October 1999. It should be emphasized that *Veja* itself uses the word warning to call the *prefectos*' attention regarding the fact that the office of the Public Prosecution is being used to control their actions.
- 10 Comisión Andina de Juristas. *Servicios Públicos: Privatización, Regulación y Protección al Usuario en Chile, Colombia y Perú*, Lima, 1996.
- 11 In some cases, as in the Ingeniero Budge case in Argentina, a very long judicial process led to the indictment of the policemen that participated in the killings. In others, like the Bulacio case, the case is still open. According to a Correpi document, in 1997 the organization intervened in 11 judicial cases. Of them, five led to prosecutions, four led to criminal trials of policemen, in one there was a mistrial and the case has been appealed, and the remaining case is still in a preliminary stage. Correpi has also brought a case to the Inter-American Commission of Human Rights.
- 12 For a specific analysis of these cases, see Smulovitz and Peruzzotti (2002) and Behrend (2001).
- 13 For an analysis of the different peace social initiatives, see Romero (2002).
- 14 An analysis of Alianza Civica can be found in Olvera (2002). See also Gil (1998) and Aguayo Quezada (1994).
- 15 'Movilizaciones: Reacción en Cadena', *Revista Noticias*, Edición Especial #18, 2 April 1996.
- 16 Information regarding the actual number of videos varies. Some sources report the existence of 2700 videos, while others have quoted Montesinos saying that he has taped 30,000. In March 2002, *El Comercio* reported that the judicial power was reviewing 760 videos officially reported.
- 17 See *La Nación*, 16 February 2000.
- 18 The State Interior Security Law establishes important punishments for those that defame the President, Ministers, Senators, Representative, members of the Supreme Court or Commanders of the Armed Forces.
- 19 See the publications of O'Donnell (1993, 1994, 1995, 1998), Shifter (1997), Weffort (1993), *Qual Democracia?* (1992), Whitehead (1993) and Zakaria (1997). For a critical overview of the delegative argument, see Peruzzotti (2001).

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