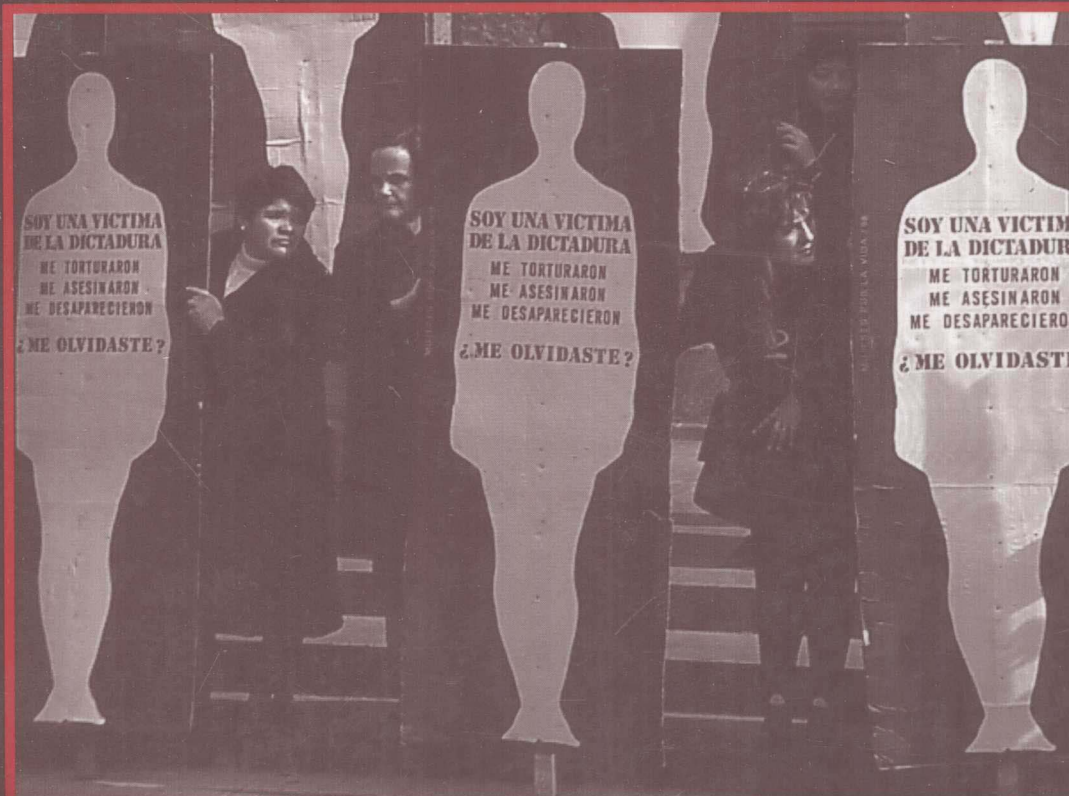


# CONSTRUCTING DEMOCRACY

Human Rights, Citizenship,  
and Society in Latin America



edited by  
Elizabeth Jelin and Eric Hershberg

# CONSTRUCTING DEMOCRACY

*Human Rights, Citizenship, and  
Society in Latin America*



WestviewPress

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Published in 1996 in the United States of America by Westview Press, Inc., 5500 Central Avenue, Boulder, Colorado 80301-2877, and in the United Kingdom by Westview Press, 12 Hid's Copse Road, Cumnor Hill, Oxford OX2 9JJ

Library of Congress Cataloging-in-Publication Data

Constructing democracy : human rights, citizenship, and society in

Latin America / edited by Elizabeth Jelin and Eric Hershberg.

p. cm.

Includes bibliographical references and index.

ISBN 0-8133-2438-6. — ISBN 0-8133-2439-4 (pbk.)

1. Human rights—Latin America. 2. Civil rights—Latin America.

3. Citizenship—Latin America. 4. Democracy—Latin America.

I. Jelin, Elizabeth, 1941–. II. Hershberg, Eric.

JC599.L3C66 1996

323'.098—dc20

95-50932

CIP

The paper used in this publication meets the requirements of the American National Standard for Permanence of Paper for Printed Library Materials Z39.48-1984.

10 9 8 7 6 5 4 3 2

## *Acknowledgments*

This book is the result of several years of work in the Joint Committee on Latin American Studies (JCLAS) of the Social Science Research Council (SSRC) and the American Council of Learned Societies. Beginning in 1989, a series of brainstorming discussions in the JCLAS underscored our sense that social scientific thinking about human rights-related issues in Latin America was at a crossroads and that the JCLAS might usefully stimulate interdisciplinary dialogue about the appropriate directions for the field. These in-depth and thoughtful discussions were crucial to giving the ensuing project focus, depth, and conceptual clarity. The support and guidance of the Committee made the entire venture possible.

A group of nearly twenty researchers and practitioners gathered following the 1991 meeting of the Latin American Studies Association in Washington, D.C., to exchange ideas about the proper dimensions of the field of human rights research during the remainder of the 1990s. Ideas generated during that meeting led the JCLAS to convene a conference in Buenos Aires at which initial versions of the chapters published in this volume were presented. The Buenos Aires meeting was made possible through the generous support provided to the JCLAS by the Ford Foundation. It is no exaggeration to say that without such support this project would not have come about.

We are grateful to our colleagues at the Centro de Estudios de Estado y Sociedad (CEDES) for hosting that seminar in October 1992. We are also indebted to the other participants of that meeting. Many of their ideas have been incorporated into the chapters of this book; indeed, their collective deliberations shaped our own thinking about the state of the field and the challenges that exist for the future. In particular, we appreciate the insights of Nancy Cardia, Margaret Crahan, Laura Gingold, Mario Lungo, Enrique Mayer, Juan Méndez, Emilio Mignone, Carina Perelli, Fernando Rojas, and Hilda Sabato.

Meanwhile, it has been a pleasure working with Barbara Ellington of Westview Press. From the outset, Barbara and her colleagues have provided encouragement as well as invaluable guidance concerning the structure and final revisions of the manuscript.

Finally, the project has benefited from the capable administrative support of several people on the staffs at the SSRC and CEDES, including Alexandra Cordero, Susana Espasa, Patricia Murillo, Liliana Petroni, and Jennifer Raskin.

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## *Constructing Democracy*

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# Introduction: Human Rights and the Construction of Democracy

ELIZABETH JELIN AND ERIC HERSHBERG

Profound changes swept Latin America during the 1980s. From an economic perspective these years may have been a “lost decade” for most countries; but in the political arena during this period, the basic institutional framework of democracy was established across most of the region. The politics of democratization and the political economy of adjustment and liberalization, as well as the relationship between the two processes, understandably galvanized the attention of scholars and public opinion alike. In contrast, transformations at the societal level attracted relatively little attention during the initial stages of Latin American transitions to democratic regimes. Of course, societal processes tend to evolve slowly, are more blurred and ambiguous than institutional changes, and often seem contradictory. However, with democratic mechanisms more or less in place in most Latin American countries, at least at a procedural level, the time has come to assess the implications of democracy at the level of society. We know a great deal about the institutional dimensions of such transitions, but how does the process of regime change and its aftermath shape the life chances of individual citizens and social groups? What factors will determine the prospects for constructing democracies in Latin America in which citizenship rights become extended beyond the formally political sphere?

## MAJOR THEMES OF THE BOOK

This book moves beyond analyses of the process of transition itself to explore issues that are critical for understanding changing relationships between society and the political system in Latin America. Our principal concern is with the quest for human rights and the demand for justice, aspirations that are central not only to the moment of transition but also to the period when democratic institutions

have supplanted those of the dictatorships they replaced. In their explorations of contemporary struggles around issues of individual and collective rights, and in their examinations of competing claims about justice and citizenship, the chapters in this volume exhibit a common concern with the character of democratic life in Latin America, today as well as in the future.

By the 1990s, social scientific studies of transitions from authoritarianism were facing increased criticism for their failure to grapple sufficiently with the societal dimension of democratization (e.g., Fox, 1990; Waylen, 1994). In hindsight it is apparent that the previous decade's preoccupation with issues of institution building did indeed come at the expense of considerations of the composition and role of collective actors in democratic societies, particularly those collective actors representing the so-called popular sectors. The political science literature was concerned principally with interactions among elites and with specific types of institutional arrangements conducive to stable democratic governance. Connections between democratization at the regime level and societal democratization were largely overlooked. To the extent that these matters entered the discussion at all, it was in the context of the potential that regime change opened up for the subsequent democratization of other spheres of social life (Kaufman, 1986; Przeworski, 1986).

But criticism of the transitions literature for overlooking the multiple dimensions of democratization must be tempered by a recognition of the circumstances facing observers of Latin American societies during the period in question. The pernicious effect of the dictatorships on the possibility of securing the most basic human rights—those associated with life and with the physical integrity of the individual—amply justified the preoccupation with identifying strategies for overcoming these regimes and inaugurating more open and competitive political orders in which civilian authority would be ensured. It is nonetheless striking that the classic studies of democratization in Latin America have made no mention of authoritarian relations based on differences of gender, ethnicity, or race in a region characterized by vast inequalities along these and many other dimensions.

Experience of the past several years underscores the commonsensical observation that transitions to democracy entail much more than the (re)construction of institutions and the dismantling of nondemocratic forms of exercising power, whether authoritarian, corporatist, or coercive in nature.<sup>1</sup> Democratization involves changes not only in society but also in political institutions: It requires the emergence of new sets of rules governing the distribution of power, respect for individual rights, and recognition of social actors. People have to adopt beliefs and practices embedded in the notion of democracy and, at the same time, must learn how to act within the new institutional framework. For their part, political leaders and dominant classes have to acknowledge the rights and identities of diverse social actors. The fundamental challenge during the posttransition period is to combine formal institutional changes with the expansion of democratic practices and to create a culture of citizenship encompassing individual and collective actors

across the entire spectrum of the diverse social and cultural landscape of contemporary Latin American societies.

There is ample precedent for observers of Latin America to turn their attention to social questions. Until the 1980s, analyses of the region frequently focused on expansion of the rights associated with the idea of social citizenship. Concern with the development of social rights guided the enlargement of the public sector during populist and postpopulist regimes at the same time that it fostered the development of social movements and popular demands upon the state by a wide range of groups. Composed of peasants and workers initially, and of women, neighborhood residents, or youth later on, these movements remind us that the expansion of social citizenship in Latin America was a historical process marked by highly contradictory features: The expansion was driven in part by deeply rooted patterns of clientelism and political patronage characteristic of populism, but the top-down social relationships associated with such patterns coexisted with pressures exerted from below toward both a more democratic distribution of power and for greater participation. These pressures grew stronger over the years as the region witnessed the development of new and more autonomous social actors.

The expansion of social citizenship was a central theme in the analytical perspectives that predominated in Latin America throughout the 1970s. Adherents of these perspectives exhibited relatively little concern for expanding the basic rights of the individual—rights they at times dismissed as merely formal, “liberal,” or “bourgeois.” They also attached little importance to the collective rights of ethnic and indigenous groups, often dismissing them outright with the ideological justification that the quest for equality needed to overshadow all other considerations. Yet the harshness of human rights violations by the military dictatorships that ruled much of the region during the 1970s, and that persisted in some countries well into the following decade, gave rise both to a significant human rights movement and to the revalorization of “formal” democracy. Rooted in struggles against dictatorships, these movements stimulated unprecedented activism around issues of human and civil rights.

The ensuing shift in focus affected both the content of societal demands and the perspectives of social scientists who analyzed processes of democratic transition. Whereas it was once commonplace to differentiate among civil, political, and social rights, and to conceptualize citizenship primarily in terms of social rights, in the 1980s basic human and civil rights could no longer be dismissed or taken for granted. Instead, they became the center of political activism and intellectual preoccupation. Calling on the state to guarantee and protect individual rights, and insisting that public officials be held accountable for their actions, social actors articulated new demands that were pivotal to the process of rebuilding democratic institutions or, in some countries, of constructing such institutions for the very first time.<sup>2</sup>

Particularly in the Southern Cone, these developments are best understood when we recall that the impact of human rights violations was not limited to the

popular classes. Indeed, the middle and upper classes were victimized as well. The popular sectors had always been targets of violence from above; it was an inescapable feature of everyday life, one to which they had somehow grown accustomed, though by no means always acquiescent. The middle and upper classes, in contrast, had rarely needed to insist that the state acknowledge their citizenship rights, since historically their civil, social, and political rights had largely been assured. This scenario changed during the 1970s, as the rights of relatively privileged groups became increasingly less immune to the predations of authoritarian rulers. To an extent unprecedented in many countries, these groups were compelled to express their grievances and to articulate demands against the state. The fact that rights violations cut across all segments of the social structure, albeit to varying degrees, implied a widened social basis for concern about rights, for demands that they be respected, and for solidarity among the diverse victims of abuses by the state.

The transition to democracy in much of Latin America thus coincided with, and was partly stimulated by, a significant increase in the scope and variety of popular mobilization around issues of individual and collective rights. At the same time, the transition to democracy took place under conditions of profound social change. Particularly noteworthy was the trend toward growing inequality that prevailed throughout the region in the 1980s and has continued in most countries to the present. These circumstances suggest a need to examine the linkages between the characteristics of the political system and the evolving concerns of citizens in their everyday lives.

Conceptually, the societal issues raised by the process of democratization can be approached from at least three perspectives: first, in terms of equity and social inequalities; second, in terms of the nature of social struggles seeking to define the contents of democracy; and third, in terms of the process by which individual and collective actors are formed, particularly through the emergence and consolidation of citizenship. Let us consider each of these briefly.

The first perspective, concerning equity and social inequalities in the democratic process, pertains to the distributive effects of economic adjustment policies that have been implemented throughout Latin America in recent years. Most analyses of the topic stress the social costs of adjustment and the deepening of social inequality that accompanies it, and highlight the limitations of social policies that serve as mechanisms to compensate for the differential effects of economic changes. The burden the crisis places on women, the old, and the young, as well as the increase in social polarization, entailing the endangerment of working and living conditions at one extreme of the social hierarchy and income concentration at the other—these are two of the key issues raised by such an approach.

An alternative way to analyze the relationship between democracy and equity is to look into the effects of poverty, marginalization, and violence on respect for human rights. Violations of human rights do not cease automatically at the moment of democratic transition: The weaknesses of nascent democracy are accentuated when large sectors of the population live in poverty and marginality. As

Paulo Sergio Pinheiro, Malak Poppovic, and Tulio Kahn (1993: 3) concluded after reviewing worldwide quantitative and qualitative data, "Political democracy is fragile as long as basic economic rights cannot be guaranteed." Indeed, it comes as no surprise that social demands based on inequality and exclusion, which persisted in a subdued and hidden way during the moment of political transition, have reemerged as fundamental issues of protest and mobilization during the 1990s.<sup>3</sup>

The second theme perspective concerns social struggles around competing definitions of democracy and its contents. Emphasis here is on the contrast between the optimistic expectations placed on the process of transition to democracy and the often frustrating reality of the workings of the institutional system. The resulting disenchantment reflects difficulties inherent in the democratic process, but also specific obstacles derived from the context in which processes of transitions have taken place in Latin America. Under current circumstances of economic globalization, the relationship between political and economic systems involves complexities that are beyond the scope of this chapter. Yet the deep tensions that exist between capitalism and democracy—or more generally, between markets and states—are evident in a wide range of social conflicts. These tensions will have to be eased through the design of democratic institutional mechanisms, but this is no easy task given that secular trends are fostering ever greater inequalities.

Whatever initial expectations might have been regarding the connections between political democratization and social democratization, we now know that there exists no automatic or linear relationship between the formal functioning of democracy and the democratization of society, whether defined in terms of equity, participation and citizen control, or expansion of individual and collective rights. Nor does a democratic system ensure that actors and practices will in fact be democratic, or that democratic ideologies will prevail. Relationships among the relevant variables, as well as their sequencing and timing, turn out to be contingent and often erratic; change takes place slowly and is rarely unidirectional. In short, democratic outcomes are inherently provisional and uncertain (Przeworski, 1986), insofar as they are the result of a continuous social struggle about the distribution of socially valued resources and about the design (and redesign) of institutions intended to channel social conflict.

The third perspective centers on the social and cultural bases or components of a democratic society. To become active and responsible citizens, people require opportunities to develop special skills. Such opportunities, in turn, depend on access to public spaces and institutions. Hence we see the relevance of analyzing the notion of citizenship as well as the societal processes and mechanisms that foster the skills associated with it.

#### ORGANIZATION OF THE BOOK

This book takes as its point of departure the transition from military dictatorships to democratic political regimes that occurred in most Latin American countries at

various times during the 1980s. Part 1, devoted to the political dimensions of transition processes, focuses on the processes by which issues of human rights and accountability for rights violations shaped relationships between civilian and military actors. The new regimes implemented a variety of strategies designed to confront these issues and thereby permit a return to "normal" politics. To ensure that the crimes carried out during the dictatorships would never be repeated, civilian supremacy over the armed forces had to be reasserted as a basic principle of the new institutional order. As demonstrated by Carlos Acuña and Catalina Smulovitz in Chapter 2 and by Manuel Antonio Garretón in Chapter 3, the ways in which this aim was accomplished in various countries had enduring consequences for the relative strength of competing actors in the new political system. In this sense, coming to grips with the past constitutes not only an obligatory moment in the transitional process itself but also a critical juncture in establishing the contours of the sociopolitical order. Some actors are empowered in the process, whereas others find their resources diminished. Prospects for extending the momentum of democratization beyond the sphere of political institutions—that is, for building a more robust democratic citizenship—are inevitably conditioned by the strategies chosen to deal with the past as well as by the distribution of political resources they engender.

It is well known that the centrality of human rights issues in these transitions, and for that matter the timing of the transitions themselves, was largely a function of the international context, including the network of nongovernmental solidarity organizations, the actions of governments, and the role of international organizations. This international dimension, which has received little systematic attention in the literature on human rights and transitions, is taken up in Part 2 of the book. Once again, we find that international pressures have influenced not only the timing and extent of transition from authoritarian rule but also the nature of governance in the aftermath of regime change. Accordingly, in Chapter 4, Kathryn Sikkink traces the evolution of the international human rights network and assesses its impact on particular countries in various periods. In turn, Jennifer Schirmer, in Chapter 5, offers a case study of one instance in which international factors promoted a transition of sorts; yet human rights abuses persist as a result of the capacity of the Guatemalan military to appropriate the discourse of democracy articulated by outside actors. Both of these authors recognize that outside pressure cannot guarantee respect for human rights, though it may provide powerful incentives for dictators to alter their behavior and, in some instances, to cease their violations of human rights. The authors also concur in their emphasis on the challenges that the present conjuncture poses for the international human rights network and for the governments and nonstate actors that constitute it. The network gathered strength during a phase in which it could target its efforts directly toward openly authoritarian states engaged in rights abuses. Today, in contrast, obstacles to the exercise of citizenship rights are more ambiguous and complex, and require new strategies of pressure and encouragement from advocates of the expansion of rights, whether located domestically or abroad.

The third and fourth parts of the book deal primarily with societal issues, connecting the discussion of human rights during processes of transition to the ensuing challenges of extending citizenship rights across all segments of the population. Racism, ethnic and gender discrimination, and nonpolitical violence are dimensions of the social landscape with deep historical roots. Rethinking these phenomena from the perspective of human rights implies a need to reconsider the very notion of what constitutes human rights; it also brings forth the imperative to incorporate more fully the collective dimensions of rights and their structural underpinnings.

Accordingly, the two chapters in Part 3 confront the theoretical challenges of linking issues of human rights with democracy and citizenship, on the one hand, and with markets and capitalism, on the other. In chapter 6, Elizabeth Jelin analyzes the construction of citizenship from below in order to illuminate the meaning of democracy as people experience it in everyday life. In particular, she explores the means by which individuals who are formally defined as citizens put their citizenship into practice. Jelin recognizes the vast distance separating the formal sphere of law and the ways in which social subjects actually perceive and act according to their rights. But if citizenship is about rights, it necessarily entails responsibilities and civic commitments as well; thus Jelin analyzes the institutional and sociopsychological foundations upon which socially responsible practices are most likely to flourish.

In turn, Fábio Wanderley Reis argues in Chapter 7 that there is an underlying affinity between democracy and capitalism to the extent that the former can attenuate conflicts inherent in the latter; but he also suggests that Latin American democracies will meet this challenge only if the states in the region are endowed with the capacity to regulate the market. Despite the underlying egalitarianism of the market, Reis cautions that the oligopolistic relations of power that prevail in contemporary Latin America could prevent the smooth functioning of markets, thereby generating virtually insurmountable barriers to the exercise of citizenship rights by individuals and groups who find themselves excluded from the market. He argues that it is only through the construction of a decidedly "nonminimalist" democratic state that this adverse outcome can be avoided.

The chapters in Part 4 of the book are concerned with the structural dimensions of rights and citizenship. Whereas traditional conceptualizations of human rights reflected an individualistic notion of rights, these chapters situate the discussion of human rights in the challenges faced by communities of people in contemporary Latin American societies. To speak of *cultural* rights is to refer inevitably to groups and communities: the rights of various peoples to live as they choose, speak their own languages, wear their own clothes, pursue their own objectives, and receive fair treatment from the laws of the nation-state in which they happen to make their residence (almost invariably as "minorities").

As Rodolfo Stavenhagen shows in Chapter 8 in his analysis of the rights of indigenous peoples, individual rights may sometimes enter into conflict with collective rights. Respect for universal human rights does not guarantee satisfaction



of people's collective rights, nor does the right of a people to pursue the lifestyle it chooses ensure that the individual rights of some of its members will not themselves be denied in the process. How is it possible to escape this dilemma? Contemplation of an agenda for the advancement of ethnic rights implies a profound departure from the original notion of human rights, conceptualized historically in an abstract way and with a bias toward universality and individual subjects. The statement that indigenous peoples and minorities have rights specific to their ethnic identity, then, suggests that the very notion of "human rights" can acquire meaning only in specific cultural circumstances, which themselves become preconditions for, and constitutive of, human rights.

Discussions about the human rights of traditionally oppressed or marginalized groups of the population—namely, indigenous peoples, racially or ethnically defined "minorities," and women—signal recognition of a history of discrimination and oppression and call for proactive measures to reverse situations of injustice. Such discussions also share an underlying critique of the individualistic and universalistic definitions of human rights and their identification with Western and masculine values. Beyond this initial commonality, however, the paths diverge. In the ethnic context, the critical task is to interrogate the individual or collective nature of rights. The Brazilian myth of racial harmony, debunked by Carlos Hasenbalg in Chapter 9, fits neatly into this category as well. In contrast, as Jelin argues in Chapter 10, the analysis of women's rights requires an approach in which rights are (re)conceptualized in the context of both gender relations and the tension between public and private spheres.

In Chapter 11, Teresa P.R. Caldeira analyzes a human rights problem that is growing not only in Brazil but across much of Latin America, despite the widespread trend toward political democratization. The extralegal violence visited upon common criminals, as well as upon those the public perceives as potentially criminal, highlights the degree to which the most basic human right—the right to life—remains unprotected for significant sectors of society. Accordingly, Caldeira reintroduces the theme of state violence, which was at the core of human rights activism under conditions of dictatorship. The victims are not political dissidents now but common criminals, whose rights are easily forgotten and who elicit scant sympathy from populations plagued by fear of violent crime. Indeed, the widespread association that Caldeira has discovered between criminality and marginality underscores the human rights implications of the increasing social and economic polarization that has beset most Latin American countries in recent years.

All of the chapters in this volume engage contemporary debates stemming from shared concerns about the continued obstacles to the practical realization of citizenship rights and, hence, to the extension and deepening of human rights to all peoples, in Latin America and beyond. In so doing, they actively explore both existing and potential paths toward the emergence of civil societies based on more robust conceptions of human rights and more inclusive conceptions of citi-