Inequality and Social Inclusion in the Americas

14 Essays

Second Edition

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The challenges remain immense. But, the opportunity to overcome them is there, as is the optimism that many demonstrate in the face of the current situation. The coming years will tell whether this was indeed the decade for Latin America and the Caribbean or whether the progress will be short-lived once more, and instead, the social conflicts rooted in poverty, unemployment, crime, and inequality will grow.

José Miguel Insulza
The Latin-American Decade:
Visions of Development and Global Insertion, Flacso
April 26, 2011 , San Jose, Costa Rica

INTRODUCTION

Inequality, Democracy and Social Inclusion

José Miguel Insulza*

T he decision of the Government of Paraguay to focus on the issues of development and social inclusion at the 44th regular session of the OAS General Assembly 2014 could not have been more propitious as it contributed to a debate that is being rekindled throughout the world, most notably in the Americas.

Growth in the Latin America has been substantial, despite years of crisis in the north of the continent, all the more so as it has been coupled with considerable strengthening of democracy. In that context, the lag in fully including all citizens in the benefits of development has become of the utmost importance. For many years now, we have been contending that, in addition to the weaknesses that still exist in our institutions and political practices, the full exercise of democracy in the Americas suffers from severe inequality, which is not only undermining democratic coexistence but also preventing sound growth.

Our region is not the same it was three decades ago. Higher economic growth has made it possible to reduce poverty and enlarge the prospects for a better life of many of the continent's inhabitants. The levels of achievement of the Millennium Development Goals (MDGs) have been positive in almost all countries. Our approach to the problem must include these considerations but must also recognize that these

achievements have not, by themselves, had the virtuous effect of making our societies more egalitarian.

We are long past the time when it was thought that the interaction between democracy and the market economy would reduce inequalities. On the contrary, the huge injustice prevailing in our countries in terms of the distribution of wealth and access to social assets does grievous harm to the democratic fabric.

Poverty and inequality are even more unacceptable in a continent that is not poor, but indeed deeply unfair. Although over the past decade the number of poor people has declined substantially, many of those who have taken this important step out of poverty still must tackle, along with others who were poor before, extremely precarious conditions. A recent study[1] estimates that one third of Latin America's entire population lives in households with incomes ranging from 4 to 10 dollars a day. These strugglers have already left behind the poverty that still afflicts more than 167 million Latin Americans, but to call them "middle-income" sectors, as some do, makes no sense either. In fact, there are many millions of "non-poor" people who are in an income range that still makes them extremely vulnerable.

Furthermore, inequality is no longer a Latin American issue, but rather a hemispheric issue, because the region's most developed countries are also facing growing conditions of inequality and the accumulation of wealth in the hands of a few households, while large sectors of their society are being excluded.

As we shall see below, a large part of the recent alarm about inequality has focused on its economic aspects, especially income distribution. Although it cannot be denied that the way in which material resources are being distributed is at the heart of inequality and exclusion, it must be pointed out that these issues also encompass other areas of social activities, whose origins oftentimes do not lie in the economic

1   Nancy Birdsall, Nora Lustig, Christian J. Mayer, "The Strugglers: the New Poor in Latin America," Centre for Global Development, Working Paper 337, August 2013. It will be published in *World Development,* vol. 60, August 2014.

disparities. Social subordination and exclusion of the indigenous peoples in our continent, for example, did not arise from any prior economic backwardness, but were the result of the violent appropriation of their wealth and the use of force to dominate them.

Inequality is therefore not simply evident in the huge diversity in the purchasing power of persons, but also stems from discrimination for reasons of social class, race, gender, geographical origin, different physical capacities, etc., which when practiced systematically (that is, excluding all or almost all members of a group), transforms them into a multidimensional phenomenon and makes it incompatible with our democratic ideals.

In short, economic vulnerability, resulting from insufficient and unstable income, is compounded by other permanent inequalities, separating different categories of individuals in society and which are not always tied, at least in the beginning, to economic issues.

Being a woman, poor, indigenous, Afro-descendant, migrant, disabled, or informal worker means having a disadvantaged position in society at the start compared to those who do not have that gender, economic conditions, race, migratory status, physical features or working status. As a rule, these categories entail various economic conditions, access to services, public protection, education, or employment opportunities. Their development as social categories may have had different origins, as indicated above, but the major impact shall be to make them more vulnerable to abuse, exclusion, and discrimination.

1.   THE NEW DEBATE ABOUT INEQUALITY

"The Time for Equality" was the title given by the UN Economic Commission for Latin America and the Caribbean (ECLAC) to its 2010 Annual Report, at a time when the global economy seemed to be emerging from the Great Recession. Of course, with this title ECLAC did not intend to promote a radical change in the political and economic system, but

rather to highlight the need to supplement the period of economic growth being experienced by the region, with public policies aimed at enabling all citizens of the region to enjoy equally the benefits of development. Today, when the crisis seems to be on its way to being surmounted in the developed world, other institutions must also engage in the debate about inequality.

The 2014 Spring meetings of the Governors of the World Bank and International Monetary Fund held in Washington, D.C., in April, were far from routine. The evidence that has already accumulated over the first quarter of the year, indicating that a period of slow growth of the world economy was approaching, created an environment mainly marked by concern that the achievements in reducing poverty in vast areas of the developing world shall not be sustainable with lower growth rates.

In the discussion about the future of the global economy, inequality became a core issue. And rightly so if it is considered that, although in statistical terms poverty abatement over the past decade has been substantial in the developing world, those who have "recently stepped out of poverty" are still too close to the poverty line to be soundly deemed "middle class." It is estimated that, between 1990 and 2010, the number of persons living in poverty in the world fell from 1.9 billion to 1.2 billion. In view of the high increase in the world's population over that same period, this means that poverty, afflicting more than one third of the world's population in 1990, dropped to less than one fifth only two decades later. This is an achievement that we must not dismiss.

But the world's more than 0.7 billion persons who left poverty behind continue to be, for the most part, highly vulnerable to the ups and downs of the economy. Inequality has not fallen enough in the developing world and has increased even in the developed world. According to a report published by OECD in 2008, in two thirds of the market economies represented in OECD, inequality had been rising since 1980, with this rise especially steep in the United States,[2] where the share of GDP taken by

2   In 1977, the wealthiest 1% of citizens accounted for 9% of national income (before taxes). In 2008, this share had risen to close to 24%. Robert Reich, *Aftershock: the Next Economy & America's Future.*

the wealthiest 1% of the population is the highest in the entire developed world.[3] While this country has been recovering from the crisis in terms of aggregate figures, it is also clear that almost all of the wealth stemming from this recovery has been boosting the earnings of higher-income sectors.

As for the developing world, the case of China is paradoxical, as it is the country that accounted for a very large share of poverty abatement over the past decades. Nevertheless, although hundreds of millions of Chinese have left poverty behind over the past 25 years, in terms of inequality the story is different as the Gini coefficient for China rose from 0.217 in 1985 to 0.303 in 1999.[4] In short, as almost everywhere in the world, there is less poverty but greater inequality, as well as a larger accumulation of wealth in the highest-income sectors and a very large sector of the population that is highly vulnerable.[5]

It is a major novelty in the International Monetary Fund's discourse that inequality, in its current proportions, has stopped being simply a matter of social justice to become as well an obstacle to growth. It seems that the historical divide in official economic thinking, which had usually segregated the overarching issues of economic growth from the "social" issues of inequality and poverty, has now been bridged.

Indeed, although over the past years, interest in wealth distribution issues had ostensibly increased, the Fund's discussion, even after the crisis, focused on monetary and fiscal equilibrium required of the countries to manage the crisis and get back on the path to growth in the best of ways without establishing any linkage between both variables. Now it

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3   Timothy Noah, *The Great Divergence,* Bloomsbury Press, 2013. The Gini coefficient of the United States was better than only 3 of the 30 countries consulted, but the accumulation of wealth of the country's wealthiest 1% was the greatest of the entire sample.

4   In Latin America, the world's most unequal region, the Gini coefficient amounts to 0.54 and improves very slightly after taxes. OECD, *Latin American Economic Outlook 2009*.

5   Amartya Sen even contends that, although China accounts for most of the reduction in poverty, the rise in inequality in this country greatly explains the world's rise in the Gini coefficient.

is proposed that inequality be dealt with as a variable that affects growth and it is admitted that it would be an error to focus on simply growth, not only because it would be an ethical mistake but also because excessive inequality leads to sluggish growth. This was explicitly recognized by Olivier Blanchard, IMF Economic Counsellor, in the Introduction to the 2014 official report: *"Finally, as the effects of the financial crisis slowly diminish, another trend may come to dominate the scene, namely, increased income inequality. Though inequality has always been perceived to be a central issue, until recently it was not believed to have major implications for macroeconomic developments. This belief is increasingly called into question. How inequality affects both the macroeconomy and the design of macroeconomic policy will likely be increasingly important items on our agenda."*[6]

Why is it that the issue of distribution, specifically inequality, has come to hold such a central place in the debate on the global economy?

First of all, in no case is it completely new, it means rather that an assessment that was already being made is now being accepted. For a long time, think tanks, academics and international organizations have been warning us about the gravity of the huge gap that was opening up, in the midst of sound democracies, inside societies, regardless of their lesser or greater level of development. Many of them even sounded a clear note of warning about the risk that this inequality entailed not only for democratic coexistence but also for economic growth.[7]

6   IMF, *World Economic Outlook,* April 2014, Introduction, page xiii.
     It is interesting to compare the final text of the Introduction to the 2013 *WEO* with the above-mentioned quote to see how the approach has changed from just one year to the next.

7   Among the institutions, without neglecting the major contributions made by all of them, the annual, global and regional reports of the Organisation for Economic Co-operation and Development (OECD) and those of the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) are especially noteworthy. Among authors, Joseph Stiglitz, **The Price of Inequality (**Norton Ed. 2013)**,** Robert Reich in his work previously referenced, and Paul Krugman in various articles of opinion, have oftentimes referred to the negative impact of inequality on growth. Thomas Piketty, along with other authors, especially Emmanuel Saez, has made substantive contributions by providing disaggregated estimates of wealth

Second, the financial crisis of 2008 and 2009 also played a major role, heightened by the widespread visibility of the crisis and its players, which could only be compared to the Great Depression of 1929. Although several years before there had been ill omens, the virulence of the crisis took many by surprise, but in addition it highlighted that phenomena beyond the purely economic sphere were also involved, with politics and the legal framework at the forefront. The irresponsibility with which public faith had been toyed triggered outcries of indignation, also fueled by evidence of numerous frauds and the claim that the alleged perpetrators of these irregularities had to be "bailed out" in order to prevent the system from collapsing altogether.

Because of that, public outrage, widely broadcast in the media, did not merely focus on the situation of the victims of the crisis but also on those privileged few who not only managed to escape facing the consequences of their actions, but also emerged as the main beneficiaries of the bailout. The widespread image is that, although at the beginning all incurred losses as a result of the destruction of wealth that the crisis triggered, in the recovery the benefits were once again poorly distributed.

As a result, throughout the world, there has been rise in the number of studies focusing on inequality, which no longer simply deal with the negative extremes of extreme poverty, but rather increasingly address the magnitude, causes, and impact of extreme wealth.

Third, the quality of available data is substantially superior to that of data from a few decades back. This availability makes it possible to shine a light on a much more dramatic reality by examining more exclusive groups of privilege. The quintiles that were traditionally analyzed have now been replaced by much thinner slices of the population, capable of zeroing in on the wealth of individuals and much smaller groups of society.

over the past decade. Piketty's book **Capital in the Twenty-First Century** (Harvard University Press, 2014), whose English edition has become a best-seller overnight, summarizes this research. This recent success is probably owing to the quality of work, but also because it was published at the right time.

These categories show a much more dramatic reality: the wealthiest 1% of the planet's citizens have more than doubled their wealth over the past decade, accounting for an increasingly greater share of their countries' domestic income. According to recent studies, this 1% has managed to take control of 39% of the world's GDP and the wealthiest 10% account for 83% of GDP, while 2.7 billion persons are living on less than 2 dollars a day. Information provided by *The Economist* is even more dramatic: in the United States alone, in 1980, 0.01% of the population (16,000 families) accounted for 1% of the country's income, whereas today this same percentage accounts for 5%.

Fourth, all of this is happening, as we said at the beginning, when the world economy is going through a difficult period: the countries that were in a crisis are recovering more slowly than expected; emerging powers (BRICS and others) are not growing at the same pace as before; and those regions, such as South America, that benefited from the rise in volume and prices for their commodity exports are witnessing that demand decline or come to a standstill, with the resulting decline in their growth rate and without having implemented, in general, the structural reforms that would have enabled them to tackle the immediate future with greater diversification.

A fifth factor involved in the new concerns is the political impact that all of the above might eventually have. As indicated, all in general were hit by the destruction of wealth during the crisis, but now it is evident that the most long-lasting damage is not being borne by all equally. The possibility that those who have emerged from poverty with expectations for a better life may lapse back into poverty or simply not continue to advance is a source of discontent that could lead to political instability. Many still recall, for example, that the income tax emerged in the United States at a time of steep inequality, when 1% of the population was benefiting from 18% of the wealth, and this triggered social unrest of magnitude. By 2007, this share had already reached 24%, with higher levels of information and media available to all. And although the social

unrest has been on this occasion much milder, the underlying political consequences and distrust of politics are still very much alive. Recent protests calling for better education, better public transportation, or more democratic participation have made many headlines in the world and shall surely continue to do so in the future.

Ultimately, the debate is no longer a purely economic one; it now fully involves the sphere of public policymaking. It is true that, in the economic process, factors of a virtuous nature come together (knowledge and acquired sills, investment in science and technology) to trigger a better distribution of income. But the highest incidence comes from political decisions on distribution adopted by the authorities of democratic governments, for the benefit of certain categories of people and to the detriment of others.

Capitalism has been very successful in creating wealth, there is no doubt. But it does not necessarily ensure a good distribution of the benefits of growth. Keynes had stated as much in the often-quoted opening sentence of Chapter 24 of his *General Theory*: *"The outstanding faults of the economic society in which we live are its failure to provide for full employment and its arbitrary and inequitable distribution of wealth and incomes."*[8] Far from what had been expected by several major authors who had written in the only period in which inequality declined dramatically (the three decades after the Second World War), the income distribution curve in 2007 recorded figures similar to those appearing in 1928 on the eve of the Great Depression. The market economy saw the economy grow, but it did not have the virtuous effect of improving income distribution as many had dreamed it would.

Politics was in charge of that task and, for several decades after the Second World War, the world economy continued to grow in the midst of major measures for income distribution, among which progressive taxation on wealth and the State's increasingly important role in providing health, education, and other public services.

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8   John Maynard Keynes, **The General Theory of Employment, Interest and Money**, Chapter 4.

That cycle came to end at the end of the seventies, replaced by another that trumpeted the preeminence of the market, the end of regulation, the substantial reduction in taxation on the highest incomes and the greatest wealth, the rejection of collective bargaining for higher wages and the State's participation in providing social services. Neo-liberalism was imposed on the developed world's principal economies, submissively followed in other parts of the world, including Latin America.

The economic advantages that the new model might have brought or the measures that were applied to reduce excessive deficits, currency volatility, and trade protectionism are arguable, but it is indeed clear that the new policy failed completely in the matter of distribution. If anyone sincerely believed that reducing taxation, eliminating labor protection laws, eliminating or cutting public spending in the social sector, and deregulating companies would pave the way for a period of growth from which all would benefit equally, reality made sure that this belief was refuted. The world economy has continued to grow at a pace relatively similar to the previous one, but the share of capital (including highly charged speculative capital) has reported average earnings far superior to the economy's growth rate, to the detriment of wage-earners regardless of their status and whose share in global income is increasingly lower.

When the causes of this growing inequality are explained, it is usual to impute it to "positive" factors of economic growth, such as greater demand and the high salaries of qualified professionals, rewards for talent, risk and innovation, the shift to global competitiveness arising from greater access to markets, etc. All of this may well be true, but it must also be considered that, in most of the world, there really are no equal opportunities but rather a transfer of privileged positions via family and social groups, where wealth is explained by one's belonging to a wealthy family or at least a well-to-do family or a family capable of providing a good education. There is much less social mobility than what many countries might indicate, limited precisely by factors involving quality of education and access, which are at the root of inequality.

Although it is accepted that inequality is triggered by changing market conditions, it is clear that it is not in this market that we shall find the solutions to tackle inequality. The steady rise in inequality has taken place over the past four decades, when it was being proclaimed that "the State is part of the problem not the solution." In 1970, 1% of Americans held 9% of the country's income, whereas in 2007 the figure had risen to 23.5%. There is no need to deliver a speech against neo-liberalism to conclude that the free market does not ensure a fair distribution of income and that is why it is indispensable to have adequate public policies.

Certainly the most important role is not that of the economy, but that of politics, or to say it in another manner, state policy. Today we better understand that the market does not concern itself with distribution and that political decisions taken by states to improve distribution are what make a market economy compatible with democracy. However, there is a risk of stifling investment and thus economic growth with a glut of public policies. The task of politics is to find the best balance, within the rule of law, between economic growth and the reduction of inequality.

2.   DURABLE INEQUALITY

Naturally, inequality among human beings in a democratic society is not in itself negative. Human society is comprised of diverse beings, with different cultures, tastes, and customs and who have different beliefs and ways of living. Challenging this goes against the values of freedom and diversity on which democratic coexistence is based.

When we speak negatively about inequality we are referring to a limited notion based on two standpoints. First, there is inequality between categories of citizens and not individuals. A case of abuse of a person may be seen as a violation of his/her rights, but not as a case of inequality, unless all or a majority of the members of that same category are victims of a similar discrimination. There is social inequality when individuals who belong to different categories receive, as a result, a treatment and benefits that are legally or materially different, over very long periods of

social life. Inequality is therefore category-based as it affects one category of human beings and is long lasting rather than transitory or incidental.[9] A second requirement for inequality to be identified is that there must be an important verifiable discrimination affecting the target category in its material well-being, opportunities, or exercise of its rights.

If this definition is accepted, it seems evident that material inequality now affecting many citizens of our world and our region constitutes a severe form of inequality. If we look at the figures over the past few years, the goal of finally eliminating poverty in almost everywhere in the world seems within reach, but the income gap between the wealthiest and the poorest of society shall remain unchanged or shall become wider. In a democratic society, accepting the existence of extreme poverty when the means for eliminating it are available is clearly discriminatory.

As a rule, economic inequality seems to fit the definition of the existence of two categories of income which are treated differently in society: those who earn income for their work and those who receive income from the capital they own. Thomas Piketty has defined this situation as follows: "*Actually, income consists of two components: income earned from work (wages, salaries, bonuses, earnings from unsalaried work and other payments legally qualified as labor-related) and income from capital (unearned income, dividends, interest earnings, capital gains, royalties, and any other income stemming from the mere fact of owning capital in the form of land, real estate, securities, industrial equipment, etc.). Once again, regardless of the precise legal status.*"[10]

Piketty afterwards confirms that, over several decades, growth in income from capital has amounted to 4% and 5% whereas the economy has tended to grow at an average of about 1.5%. This obviously means that the other category, those who live from their work, receives a total

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9   Charles Tilly, *Durable Inequality,* University of California Press, 1998. See also, by the same author, *Democracy,* Cambridge University Press, 2007, especially on the incompatibility between democracy and category-based inequality.

10   Thomas Piketty, op. cit.

remuneration that is increasingly lower. This trend seems to be long lasting, especially when the same author and others forecast that, over the coming years, income inequality shall tend to be wider. Furthermore, it seems that this has always been the natural trend in history, only interrupted in the years extending from after the Second World War to the early 1980s, as a result of public policies for the redistribution of wealth, not as a result of market movements.

As we pointed out at the beginning, in our societies there is another series of inequalities that meet the same requirements to be considered category-based and long lasting. Among others, these inequalities stem from the following:

- Unequal access to basic public services, such as education, health, clean water, housing, security, public transportation.
- Discrimination still affecting women, indigenous and Afro-descendent populations, migrants, persons with disabilities and other socially vulnerable groups.
- Insufficient conditions for the exercise of human rights, such as access to justice and the freedom of expression.
- Labor informality, which places a large number of workers in precarious conditions in terms of employment and income, depriving them of the protection they are entitled to.
- Unequal possibilities for political participation, both in exercising voting rights and exerting an effective impact on the actions of public institutions.

There are some general data on Latin America and the Caribbean that are useful to confirm the magnitude of the problems that we are encountering in terms of inequality.

- Although our region has managed to substantially reduce poverty over the past years, this major achievement has been coupled only very marginally with a reduction in the gap between the lowest and highest incomes of society. Latin American countries, in particular, have kept the world's worst Gini coefficients, although

it must also be said that there has been a marginal improvement over the past few years.

- Although poverty has declined to 30% of the population of Latin America and the Caribbean, the figure is still high for a region with our level of development. Among the population groups that live in poverty, there are the indigenous peoples, Afro-descendants, and rural dwellers.
- Gender-based discrimination is also widespread. This highlights that poverty and social exclusion affects to a greater extent those populations living in a situation of vulnerability, where inequity and inequality are deeper.
- Informal employment accounts for 50% of the labor force, especially affecting women and young people. Structural diversity is marked because those sectors with high output account for an increasingly lower share of formal employment, heightening the persistent wage gaps in the region between the most skilled and the least skilled and depending on the work sector where they work.
- To all of this must be added the inequity in terms of access and quality of basic social services. Inequality is therefore not only a matter of distribution: today there are huge inequalities in the quality of education, access to health, the quality of housing and even public safety, which is a social service that is increasingly required because in many countries there are more private security guards than police officers and state security agents.
- Only 46% of the employed population is affiliated to social security, and the poorest quintile of the population has affiliation levels close to 20% whereas the percentage for the wealthiest quintile is 58%. There are 36% of households that do not have any kind of social security (not even non-contributory).
- The region has education gaps at various levels of schooling, as well as a stratification of the quality of supply. The share of young people from the poorest quintile who complete secondary school is 24%, whereas 83% of students from the wealthiest quintile

complete secondary school. In addition, there is a certain degree of inheritance of the educational capital.

- More than 250 million persons in the Americas do not have any health insurance, and 100 million have geographical or economic impediments to accessing health coverage.

Category-based inequality (or long-lasting inequality), when it reaches substantial levels leading to excessive differences in wealth, the accumulation of opportunities for the benefit of one category to the detriment of another or the arbitrary use of power to uphold the conditions of inequality, is incompatible with democracy and its rise over coming years could have destabilizing impacts.

The trend that is playing a role in buffering category-based inequalities in our societies is that the rights given to citizens have grown substantially in them. Although inequalities persist, this effort must be acknowledged.

From all of the above, the important link between inequality and governance in our countries needs to be underscored. According to ECLAC: "*In 2011, 79% of Latin Americans taking part in the survey considered income distribution unfair or very unfair.*"[11] The perception of injustice in distribution and mistrust in government power has grown over the past decade. It would seem to indicate *"profound, persistent citizen dissatisfaction with how these institutions work and how economic, social and political goods are distributed in the countries. The correlation between objectively measured inequality and dissatisfaction with these institutions also suggests that these high levels of wealth concentration and social differences are or could become conflictive."*[12]

The problem is not easy to resolve, because, as we have seen, greater equality is not secured as a result of economic growth. As Larry Summers has recently shown, it is not that the middle classes come to a standstill while their economies grow; on the contrary, they also grow but

11   ECLAC, *Compacts for Equality: Towards a Sustainable Future,* April 2014.
12   ECLAC, *Social Panorama of Latin America 2012,* Briefing Paper, 2012

at a lower rate (in fact, a much lower rate) than the higher-income sectors. As a result, the gap continues to grow, although everybody's standard of living is improving. In a market economy, it is difficult to create a situation where the increases in the lower-income sectors are greater and faster than in those sectors that control the output process and hold the most competitive jobs.

To reduce inequality, therefore, public policies are required to reduce the inequality in opportunities, increasing social mobility rather through better education, health, access to loans with equal conditions, housing and transportation services, and public security.

Nevertheless, it is important to recall that the process of steadily growing inequality started a bit more than 40 years ago, when taxes on the most powerful sectors of the population were systematically cut, under the pretext that investment rates would increase, along with policies combating trade unions and opposing collective bargaining, aimed at boosting competitiveness and reducing labor costs.

The challenge of achieving a fairer distribution can be addressed by drawing up public policies that include a set of effective social policies and that also re-examine labor and tax adjustments compatible with economic growth but defending the interests of the most vulnerable sectors.

Development of these policies today must also face an additional obstacle that complicates the tasks of experts. This obstacle consists of the loss of trust in institutions, which is affecting many of our countries, a loss of trust that makes it difficult to make changes that entail increasing resources to fund public policies and strengthen institutions. Restoring this confidence by deeply reforming our institutions is the major challenge of our Hemisphere's political class.

The OAS and Inequality

Inequality, which at its most extreme leads to social exclusion, has been the target of a special focus by the Organization of the American States. Addressing this issue encompasses all the key pillars of our work: integral development, democracy, human rights and public security.

This publication is aimed at concisely exposing the principal problems of inequality and exclusion being faced by the Americas today, examining how it might be possible to tackle them and informing about the work that the OAS is contributing or can contribute to this effort.

The articles comprising the present publication have been written by professionals that are at the helm of our work in each one of these areas and this is what gives them their unique value. They are not formal statements of official OAS policy. Rather they are the outcome of their many years of thought and experience in this field. Because of this, we wanted them to be signed by their authors.

In her article **Inequality and Social Inclusion in the Americas: Key Drivers, Recent Trends, Way Forward,** Maryse Robert introduces us to the conceptual universe of inequality and social exclusion, illustrating the current situation of these phenomena in our continent with a rigorous statistical description. Kevin Casas-Zamora, Betilde Muñoz-Pogossian and Marian Vidaurri, in their **Reflections on Political Inequality in the Americas**, examine the manifestations of the phenomenon in politics and democracy, establishing that, in the Hemisphere and especially in Latin America, what we find are democratic systems that have made huge strides in broadening political citizenship, but only to a limited extent in ensuring effective enjoyment of social and economic rights. As for Emilio Álvarez Icaza, Norma Colledani and Imelda González, they have closely examined the relationship between inequality, social exclusion, and human rights in their article **Discrimination and Exclusion.** The inter-relation between these phenomena and access to justice is dealt with by Dante Negro in his article **Poverty, Inequality, Vulnerable Groups and Access to Justice**, whereas Adam Blackwell and Paulina Duarte, in their article **Violence,**

Crime, and Social Exclusion, closely examine the impacts of inequality and exclusion on crime and public insecurity in the continent. Cletus Springer addresses the subject from the standpoint of sustainable development, describing in particular the inequalities in access to water and energy in the Hemisphere in his article **Addressing Inequality through Sustainable Development.** In the article **Gender and Social Inclusion,** Carmen Moreno and Hillary Anderson undertake a close examination of the origins and current situation of inequality and exclusion that women are victims of and show possible ways of acting to contribute to solving the problem. Marie Levens, in turn, highlights the manifestations of the phenomenon in the realm of access to education in her article **Inequality and Education in the Americas: Working to Create Educational Opportunities for All,** and Catalina Botero does the same with respect to freedom of expression in her article **Universal Access to Information and the Media.** Marcia Bebianno and Juan Manuel Jiménez, in their article **Migration and Inequality in the Americas,** exhaustively examine the reciprocal ties between these two phenomena, and María Claudia Camacho analyzes the relationship between work, employment and inequality in her article **Inequality in Labor and Employment.** Jean Michel Arrighi explains the manifestations of contemporary inequality between nations and inside multilateral organizations and institutions, as well as the efforts that States have made to overcome it in their international activities in his article **On Certain Inequalities in Inter-American Law.** Finally, Paul E. Simons, José L. Vazquez and Victor Martinez in their article S**ocial Inclusion and Drugs in the Americas**, analyze the diversity of the drug problem in the region, its social determinants, risk factors and possible approaches. as well as social inclusion strategies in the context of the drug problem.

We hope that reading them will contribute to the efforts that the states of the Americas are making to address the ever-pressing issue of inequality and social exclusion in our continent.

*Secretary General
Organization of American States

Inequality and Social Inclusion in the Americas: Key Drivers, Recent Trends, Way Forward

Maryse Robert*

T he issue of inequality is at the forefront of the policy and research agenda in the Americas. Policymakers are focusing on the inequality-poverty nexus, while economists are studying the interrelationships between inequality, redistribution, and growth. In Latin America, the world's most unequal region, more inclusive social policies helped 61 million people escape poverty and contributed, along with high growth and macroeconomic stability, to reducing income inequality during the past decade. Since 1990 the region's poverty rate has fallen from 48% to approximately 28% currently. Extreme poverty has also fallen significantly to 11%.[1] The size of the Latin American middle class has grown and is now equal –for the first time—to the number of people living in poverty. But much remains to be done to achieve inclusive and sustainable development, as four in 10 people live in what the London-based Financial Times has called the "fragile middle." They are neither poor nor economically secure. They earn between four and ten dollars a day. They are very vulnerable and prone to slipping back into poverty as a result of economic or household shocks.

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1   U.N. Economic Commission for Latin America and the Caribbean (ECLAC), *Social Panorama of Latin America 2013* (Santiago, Chile: ECLAC, 2013), 15.

While income distribution has shown improvement in Latin America over the last decade with the poorest quintile seeing its share of total income increase by at least one percentage point in eight countries and the relative share of the richest quintile declined by five or more percentage points in nine countries, inequality remains a serious problem.[2] But income inequality is not a phenomenon unique to Latin America in our Hemisphere. Both the United States and Canada, as other developed countries, have experienced a rise in inequality in the past 30 years.

But what does inequality mean? Does inequality really matter? This article will present a conceptual framework for inequality and social inclusion and discuss the key drivers of inequality and recent trends in our region. It will also address how we can close the inequality gap and the role the OAS can play in promoting inclusive and sustainable development.

1. Inequality and Social Inclusion: A Conceptual Framework

Inequality is essentially a relative measure. It does not provide information in terms of how people are faring in absolute terms. Rather, as Claire Melamed and Emma Samman have highlighted, it is a "relational concept," which can be approached on multiple levels. Inequality affects the distribution between individuals within countries, among countries and among generations. It affects people's relationships with one another and with societal institutions. While inequality is generally discussed as differences between individuals within a country, it can also be considered among countries and generations. In the latter case, scholars often prefer to use the term "inequity" rather than "inequality." The issue of inequity among generations received considerable attention at the two Rio Summits on sustainable development. The proposal for Sustainable Development Goals in the post-2015 framework offers an opportunity to secure political consensus for the benefit of future generations.[3]

2   Ibid., 21.
3   C. Melamed, C. and E. Samman, "Equity, Inequality and Human Development in a Post-2015 Framework" (New York, NY: United Nations Development

1.1. Vertical and Horizontal Inequality

Inequality can be further defined by its two dimensions. Individual (or vertical) inequality refers to inequality between persons notwithstanding where they live or whether they belong to a particular social group. It occurs between individuals on the basis of access to resources, both tangible and intangible. By contrast, horizontal inequality is the result of inequality between groups of individuals or households, as a result of race, gender, sexual orientation, birthplace, or other factors. The two dimensions of inequality are often mutually reinforcing and may create and perpetuate cycles of poverty over generations.[4]

1.2. Measuring Inequality: Outcomes versus Opportunities

The discussion on inequality usually focuses on inequality in outcomes based on incomes (earnings and capital, for example) because it is typically more easily observed. Income distribution can be measured by its functional distribution, that is how income is shared among the basic factors of production, land, labor and capital, and the returns they generate, rents, wages and profits. It can also be measured by how income is distributed among individuals and households.

But income is an imperfect measure of inequality. A substantial component of inequality in outcomes –and therefore income-- may reflect inequality of opportunity as well as differences in talent and efforts. Scholars have noted that "income metrics are concerned with what people have rather than what they can do or be—what Amartya Sen has called their capabilities or ability to advanced reasoned goals."[5] Sen's capability approach is based on the notion of freedom. Capabilities "are notions of freedom in the positive sense: what real opportunities you have regarding the life you may lead."[6] The 2011 Human Development Report concluded

Programme, 2013), 12.

4   Beyond 2015 Campaign, "A Holistic and Human Rights-Based Approach for Addressing Inequality in the Post-2015 Development Agenda," (2012), 3.

5   Melamed and Samman, "Equity, Inequality and Human Development in a Post-2015 Framework," 4.

6   A. Sen. with J. Muelbauer, R. Kanbur, K. Hart, and B. Williams; G. Hawthorne, ed., *The Standard of Living* (Cambridge, London and New York: Cambridge

that "inequalities in outcomes are largely the product of unequal access to capabilities."[7] Therefore we are aiming for societies that provide equality of capabilities and opportunity but not necessarily equality of outcomes (income, including earnings and wealth) given that people have different preferences and values. Melamed and Samman note that "if people within a society had equal capabilities, we would not necessarily expect equal outcomes (...) [b]ut we could be confident that those outcomes arose because of differences in people's choices rather than constraints on their abilities to exercise their choice."[8]

1.3. *Equality of Opportunity, Social Inclusion, and Social Cohesion*

Equality of opportunity and social inclusion are related concepts. Social inclusion is the process of empowering individuals and groups, particularly the poor and marginalized, to take part in society and take advantage of opportunities. It gives people a voice in decisions which affect their lives so that "they can enjoy equal access to markets, services and political, social and physical spaces."[9] The U.N. Economic Commission for Latin America and the Caribbean (ECLAC) defines inclusion as the process by which equality is reached, and a process to close the gaps in terms of productivity, skills (education) and employment, labor market segmentation, and informality, who happen to be the main causes of inequality.[10]

Social inclusion is not the same as equality of resources (outcomes). Even people at the higher end of the income distribution may face social exclusion through discrimination based on race, gender, sexual orientation, or disability. So exclusion can be horizontal, affecting

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University Press, 1987), 36.

7   United Nations Development Programme (UNDP), *Human Development Report 2011* (New York: UNDP), 19.

8   Melamed and Samman,, "Equity, Inequality and Human Development in a Post-2015 Framework," 2.

9   World Bank, *Social Gains in the Balance: A Fiscal Policy Challenge for Latin America and the Caribbean* (Washington, D.C. World Bank, 2014) . http://www.worldbank.org/en/topic/socialdevelopment/brief/social-inclusion.

10   Alicia Bárcena, "Equality and Social Inclusion," (February 2014).

several members of a group, whether poor or rich. It is a process, of which inequality of resources is sometimes, but not always, an outcome.

Equality is often used as a proxy for social cohesion albeit the two concepts are related but different. Social cohesion relates to perceptions of solidarity and trustworthiness. A "cohesive society" works towards the well-being of its members, fights exclusion and marginalization (social inclusion), creates a sense of belonging and promotes trust (social capital), and offers members the opportunity of upward social mobility.[11]

2. EQUALITY OF OPPORTUNITY AND SOCIAL INCLUSION IN OAS BASIC INSTRUMENTS

The member states of the Organization of American States (OAS) have committed themselves to the principles of equality of opportunity and social inclusion, as well as to a related concept, the elimination of poverty and, in particular, extreme poverty in their basic instruments: the OAS Charter, the Inter-American Democratic Charter, and the Social Charter of the Americas.

2.1. *The OAS Charter*

The *OAS Charter[12]* includes as one of its essential purposes "the eradication of extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere" (article 2g). OAS member states reaffirm that "the elimination of extreme poverty is an essential part of the promotion and consolidation of representative democracy and is the[ir] common and shared responsibility…." (article 3f). Member states also refer to equality of opportunity by proclaiming "the fundamental rights of the individual without distinction as to race, nationality, creed, or sex" (article 3l), and in article 34 they specifically discuss equality of opportunity and social

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11   Organisation for Economic Cooperation and Development (OECD), *Perspectives on Global Development 2012: Social Cohesion in a Shifting World (*Paris: OECD, 2011)

12   See http://www.oas.org/dil/treaties_A-41_Charter_of_the_Organization_of_American_States.htm

inclusion. They "agree that equality of opportunity, the elimination of extreme poverty, equitable distribution of wealth and income and the full participation of their peoples in decisions relating to their own development are, among others, basic objectives of integral development." To achieve these objectives, they agree to devote their utmost efforts to accomplishing a number of basic goals, including equitable distribution of national income, adequate and equitable systems of taxation, and rapid eradication of illiteracy and expansion of educational opportunities for all.

In article 45, they refer again to equality of opportunity when they agree to dedicate every effort to the application of the following principle "All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security" (article 45a). They also agree to "the incorporation and increasing participation of the marginal sectors of the population, in both rural and urban areas, in the economic, social, civic, cultural, and political life of the nation, in order to achieve the full integration of the national community, acceleration of the process of social mobility, and the consolidation of the democratic system…." (article 45 f).

2.2. *The Inter-American Democratic Charter*

Article 9 of the *Inter-American Democratic Charter[13]* links equality of opportunity (elimination of all forms of discrimination) and social inclusion (citizen participation) by stating that "the elimination of all forms of discrimination, especially gender, ethnic and race discrimination, as well as diverse forms of intolerance, the promotion and protection of human rights of indigenous peoples and migrants, and respect for ethnic, cultural and religious diversity in the Americas contribute to strengthening democracy and citizen participation." In article 12, OAS member states affirm their commitment "to adopting and implementing all those actions required to generate productive employment, reduce poverty, and eradicate extreme poverty (…). This shared commitment regarding the

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13   See http://www.oas.org/OASpage/eng/Documents/Democractic_Charter. htm

problems associated with development and poverty also underscores (…) the obligation to strengthen social cohesion and democracy."

2.3.   *The Social Charter of the Americas*

Although OAS member states are rightly proud of their economic success during the last decade, they have recognized that they still have to grapple with the issue of how to achieve more inclusive societies. On this, the Hemisphere has shown leadership with the adoption of the *Social Charter of the Americas* in 2012,[14] the only such instrument at the regional level in the world. The theme of the 2014 OAS General Assembly "Development with Social Inclusion" provided an opportunity to complete and approve the Plan of Action of the Charter and made this instrument a powerful tool for sustainable and inclusive development.

The Charter addresses the issues of equality of opportunity, social inclusion and social cohesion. It is based on the recognition that "the peoples of the Americas legitimately aspire to social justice and their governments have a responsibility to promote it. Development with equity strengthens and consolidates democracy, since the two are interdependent and mutually reinforcing."[15] Article 1 states that "the peoples of the Americas have the right to development in the framework of solidarity, equity, peace, and freedom, and member states have the responsibility to promote it with a view to eliminating poverty, especially extreme poverty, and achieving a decent standard of living for all." Article 3 affirms that "Member states, determined and committed to combating the serious problems of poverty, social exclusion, and inequity and to address their underlying causes and their consequences, have the responsibility to create favorable conditions for achieving development with social justice for their peoples, thus contributing to strengthening democratic governance."

In chapter II on "inclusive and equitable economic development," member states agree in article 6 that "the formulation and implementation of sound and transparent economic and social policies (…) will further economic

14   See http://www.oas.org/en/information_center/default.asp
15   OAS Press Release June 4, 2012. https://www.oas.org/en/media_center/ press_release.asp?sCodigo=E-206/12

development, fostering investment and the generation of employment in all sectors, and reducing income inequalities. Important goals of these policies include the fight against poverty, reduction of social inequalities, promotion of equal opportunities, and improvements in standards of living." In article 9, member states commit to "foster and implement public policies aimed at economic development with social justice, recognizing the importance of programs that contribute to social inclusion and cohesion and generate income and employment." In article 10, member states "recognize that public and private investment in human capacity building, in physical infrastructure, and in scientific and technological research and innovation are fundamental to reducing inequalities and to promoting inclusive, just, and equitable economic development."

In chapter III on "social development, equal opportunity, and non-discrimination," member states affirm in article 12 that they "have the responsibility to promote and achieve social development with equality and social inclusion for all," while in article 14 they state that they "have a responsibility to develop and implement comprehensive social protection policies and programs, based on the principles of universality, solidarity, equality, non-discrimination, and equity that give priority to persons living in conditions of poverty and vulnerability, taking into account their national circumstances." In article 15, member states further "recognize the need to adopt policies to promote inclusion and to prevent, combat, and eliminate all forms of intolerance and discrimination, especially gender, ethnic, and race discrimination, in order to safeguard equal rights and opportunities and strengthen democratic values."

In articles 16 to 23 of the Social Charter of the Americas, OAS member states address their commitment to equality of opportunity and social inclusion in specific sectors: basic services, health, hunger and malnutrition, education, water, use of natural resources, man-made disasters, and science and technology. In article 16, member states underscore that "Fair, equitable, and non-discriminatory access to basic public services is essential for integral development." In article 17, member states affirm that "health is an essential condition for social inclusion and

cohesion, integral development, and economic growth with equity." Article 19 states that "Access to quality education at all levels and modalities is vital to achieving greater equity, improving standards of living, fostering sustainable development, developing human capital, reducing poverty, strengthening democratic institutions, transmitting civic and social values, creating responsible citizens committed to society, and promoting social inclusion." In article 20, "Member states recognize that water is fundamental for life and central to socioeconomic development and environmental sustainability and that non-discriminatory access by the population to safe drinking water and sanitation services (…) contributes to the objective of combating poverty," while article 21 underscores that "Fighting poverty, reducing inequities, promoting social inclusion, and conservation and sustainable use of natural resources are fundamental and interrelated challenges facing the Hemisphere, and overcoming these challenges is essential to achieving sustainable development." Finally, article 23 states that "scientific and technological development helps to reduce poverty, improve living standards, and achieve integral development."

Chapter IV of the Social Charter covers "cultural development, diversity and pluralism." Article 24 states that "Cultural development is a key element for social and economic development of peoples that fosters creativity and innovation as well as inclusion and social cohesion." In article 25, member states agree to "promote the participation of people in cultural life, in a framework of pluralism and respect for cultural expressions, social inclusion, better quality of life for all peoples, the strengthening of their identity and dignity, and the preservation and dissemination of cultural heritage in partnership with other stakeholders and social sectors." In article 27 they state that "Recognition of equality of people within diversity is a central premise for the democracies of the region." In article 34, member states affirm that "Hemispheric cooperation contributes to the integral development of individual; to the elimination of poverty, social exclusion, and inequity; to the consolidation of democracy; and to prosperity for all peoples in the Americas."

3.   Key Drivers of Inequality and Recent Trends in the Americas

As previously mentioned, the measurement of inequality is made difficult by the lack of data, especially as it relates to equality of opportunity, which may affect, outcomes or what we call income distribution. The measurement of inequality is also subject to the various statistical problems that relate to the data used, generally household income, consumption or expenditure surveys. A special mention should be made here about CARICOM countries. Although the region accounts for half of the OAS member states, it is usually absent in research papers and policy notes on inequality. The main culprit is –once again-- the lack of available data. Efforts should therefore be devoted to remedy this gap.

Income distribution improved in Latin America during the last decade. As noted by ECLAC, the poorest quintile captures on average five percent of total income, "with the figure varying between 4% (in the Dominican Republic, Honduras and Paraguay) and 10% (in Uruguay)," while the share of total income in the richest quintile averages 47%, ranging from 35% (in Uruguay) to 55% (in Brazil) (see Table 1).[16]

ECLAC also highlights that "the changes noted in the top and bottom quintiles' share of total income are also reflected in variations in the inequality indexes."[17] Twelve of the 13 countries with information available in 2011 or 2012 reported a fall in their Gini coefficient. The only exception is Costa Rica which recorded an overall increase for the 2002-2012 period. Inequality declined by more than 1% per year in Argentina, the Bolivarian Republic of Venezuela, Brazil, Peru and Uruguay, and by at least 0.5% per year in Chile, Colombia, Ecuador and Panama.[18]

Scholars have identified two key drivers explaining declining income inequality in Latin America during the last decade. First, a reduction in hourly labor income inequality driven by a falling skills premium, that is the returns to primary, secondary and tertiary education vs. no schooling

16   ECLAC, *Social Panorama of Latin America 2013*, 20.
17   Ibid., 21.
18   Ibid.

or incomplete primary schooling. As Nora Lustig, Luis F. López-Calva and Eduardo Ortiz-Juárez have indicated, "the causes behind the decline in returns to schooling, however, have not been unambiguously established. Some studies find that returns fell because of an increase in the supply of workers with more educational attainment; others, because of a shift in demand away from skilled-labor."[19] The second driver of declining income inequality is the increase and expansion in progressive social transfers, leading to a rise in non-labor income, particularly for the poorest.

In the United States, the share of national income going to the top one percent has followed a great U-shaped arc.[20] It stood at 22.46% in 2012, the highest percentage since 1928 (23.94%) and up from its lowest point at 8.86% in 1976. The richest 10% of Americans now take 48% (2012) of the country's income share. And half of that is owned by the top one percent. In Canada, the top one percent captured 13.62% of the national income in 2010, down from 15.46% in 2006 but up from 8.3% in 1982. The top 10% collected 33.19% of the income share including capital gains, net of income tax in 2010.[21] The French economist Thomas Piketty explains that it is income from capital, not earnings, which is the prime driver of inequality in North America.[22]

19   N. Lustig, L. F. Lopez-Calva, and E. Ortiz-Juarez, "Deconstructing the Decline in Income Inequality in Latin America," *Tulane Economics Working Paper Series, No 1314,* April 2013, 1.

20   P. Krugman, "We're in a New Gilded Age," *The New York Review of Books*, May 8, 2014.

21   F. Alvaredo, A. B. Atkinson, T. Piketty and E. Saez, *The World Top Incomes Database* (Paris: Paris School of Economics). 4http://topincomes.g-mond.parisschoolofeconomics.eu/ consulted on April 20, 2014.

22   T. Piketty, *Capital in the Twenty-First Century* (Cambridge, MA: Belknap Press/Harvard University Press, 2014).

Table 1

Latin America (18 countries): Distribution of Household Income by Extreme Quintile, around 2002 and 2012

		Around 2002				Around 2012		
		Share in total income (*percentages*)		Ratio of average per capita income		Share in total income (*percentages*)		Ratio of average per capita income
	Year				Year			
		Poorest quintile (QI)	Richest quintile (QV)	QV/QI		Poorest quintile (QI)	Richest quintile (QV)	QV/QI
Argentina	2002	5.1	55.0	20.6	2012	6.9	43.6	13.2
Bolivia	2002	2.2	57.7	44.2	2012	4.4	42.6	15.9
Brazil	2002	3.4	62.3	34.4	2012	4.5	55.1	22.5
Chile	2002	4.9	55.1	18.4	2012	5.5	52.5	15.0
Colombia	2002	4.2	53.3	24.1	2012	4.6	49.8	19.8
Costa Rica	2002	4.2	47.3	17.0	2012	4.7	49.3	16.5
Ecuador	2002	5.1	48.8	16.8	2012	6.4	43.0	10.9
El Salvador	2002	4.1	49.6	20.2	2012	6.9	41.9	10.3
Dominican Republic	2002	3.9	53.4	20.7	2012	3.9	50.8	19.4
Guatemala	2002	4.8	51.8	19.3	2012	4.3	54.7	23.9
Honduras	2002	3.8	55.2	26.3	2012	3.5	53.7	25.2
Mexico	2002	5.9	49.1	15.5	2012	6.6	46.2	14.0
Nicaragua	2002	3.7	55.5	27.3	2012	5.6	46.0	14.5
Panama	2002	3.6	52.2	25.8	2012	4.4	48.3	20.3
Paraguay	2002	4.2	51.8	23.2	2012	3.8	52.7	21.3
Peru	2002	4.5	49.6	19.3	2012	5.0	43.7	12.7
Uruguay	2002	8.8	41.8	10.2	2012	10.0	34.8	7.3
Venezuela	2002	4.3	48.2	18.1	2012	6.8	39.0	9.4

Source: ECLAC. Social Panorama of Latin America 2013. Table 3, p. 20

4.   CLOSING THE INEQUALITY GAP: DOES INEQUALITY MATTER?

Does inequality really matter? Yes, it does. It matters when income gaps arise from factors related to inequality of opportunity such as race, ethnicity, sexual orientation, location of birth, gender, or family background, which are all factors beyond an individual's choice. It also matters for social cohesion and social inclusion. It matters when inequalities arise not from free market processes but from what Acemoglu and Robinson call extractive institutions- the ability of the rich to use political power to extract wealth for themselves.[23] Inequality also matters for growth. Recent research conducted by the staff of the International Monetary Fund (IMF) has shown that inequality reduces growth. The IMF study entitled "Redistribution, Inequality, and Growth" states that the direct impact of redistributive policies is negligibly negative on growth while the indirect impact of redistribution, through reduced inequality, is beneficial to growth. The findings suggest that inequality damages growth and that redistribution does not harm growth.[24]

4.1   Closing the Productivity Gap

ECLAC has estimated that economic advances in Latin America and the Caribbean over the past decade have not resulted in changes to the region's production structure and play a role in reproducing inequality. Two thirds of the gross domestic product (GDP) of the region's countries (66.9%) is generated by the high-productivity sector, 22.5% by the intermediate sector and 10.6% by the low-productivity sector. This distribution is reversed for employment: the high-productivity sector (mainly related to natural resource exploitation and commodity production) generates just 19.8% of jobs, while the medium-productivity

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23   D. Acemoglu and J. Robinson, *Why Nations Fail: The Origins of Power, Prosperity, and Poverty (*New York, NY: Crown Publishers, 2012).

24   J. D. Ostry, A. Berg and C.G. Tsangarides, "Redistribution, Inequality and Growth," *IMF Staff Discussion Note, SDN14/02* (Washington, D.C.: IMF, February 2014).

sector employs 30% of workers and the low-productivity sector accounts for 50.2% of the workforce. Consideration must be given to targeted industrial, technological and small and medium enterprise (SME) support policies to help tackle inequalities of productivity in Latin America.[25]

4.2   Closing the Social Policy Gaps

Social spending grew as a share of GDP (18.6%) and overall public spending (62.6%) in Latin America over the past decade. The expansion of conditional cash transfer programs (CCTs) took place in all countries of the region and played a significant role in reducing inequality in Latin America. There are now 113 million people benefiting from these programs. They cover 19% of the total population and 47% of the poor.

While more CCTs provide incentives for parents to invest in the human capital of their children by making the transfers conditional on certain behaviors like attending school, more remains to be done to improve access to quality education, a key driver for reducing inequality. As noted in the article on education, a better educated population will be able to take advantage of new technology and become more productive and competitive. Education is a powerful tool to empower people and reduce inequality. ECLAC has highlighted that "learning that is less segmented by socio-economic level, gender, territory and ethnic origin will (…) prepare new generations to take their place productively in the labor market and it will offer them greater opportunities for social and occupational mobility throughout their lives."[26]

4.3   Closing the Fiscal Policy Gaps

Fiscal policy does not have the same progressive impact on equality in Latin America as in the United States and the countries of the Organization for Economic Cooperation and Development (OECD). Indirect taxes account for 52% of the tax burden in Latin America, whereas

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25   ECLAC, *Time for Equality: Closing Gaps, Opening Trails* (Santiago, Chile: ECLAC, 2010).
26   Ibid., 206-07.

it is only 17.6% in the United States and 31.6% in OECD countries.[27] The Commitment for Equity (CEQ),[28] a joint project of Tulane University and the Inter-American Dialogue, provides a cross-country comparison of the efficacy of taxation and government spending in six Latin American countries (Argentina, Bolivia, Brazil, Mexico, Peru, and Uruguay). Its findings are instructive: Direct taxes and transfers generated reductions in income inequality during the last decade, while indirect taxes (such as value added taxes) and subsidies either had minimal effect on inequality or undermined some of these gains. Of all the fiscal tools, it is in-kind government transfers for public schooling and health that have had the largest impact on inequality. These results suggest that, although Latin America is the most unequal region in the world, fiscal policy remains a largely unexploited instrument to reduce inequality. [29]

5.   The Role of the OAS in Closing the Inequality Gap and Promoting Inclusive and Sustainable Development

The need to reduce poverty and inequity, to provide equality of opportunity, and to eradicate extreme poverty continues to pose a daunting challenge to the Hemisphere. To address these issues, the OAS promotes a *Partnership for Development* which embraces all member states, regardless of their levels of development. It offers an opportunity to OAS member states "to provide technical assistance and share experiences and best practices in mutually beneficial relationships that spur sustainable social and economic development."[30] In that context the OAS-SEDI[31] "designs

27   Ibid.
28   See http://www.commitmentoequity.org/
29   World Bank, *Social Gains in the Balance*.
30   OAS-SEDI, "Presentation by the Executive Secretariat for Integral Development on the Development Agenda within the OAS: Growth, Sustainability and Inclusion," Document prepared for the XXXVII Regular Meeting of CIDI, April 14, 2014). OEA/Ser.W, CIDI/doc.89/14/Rev.1, April 7, 2014, 1.
31   OAS-SEDI is the Executive Secretariat for Integral Development in the General Secretariat of the OAS.

programming to capitalize on three key areas of strength in which the Organization positions itself differently from other institutions and in which it can show real deliverables, namely policy dialogue, development cooperation and capacity building."[32]

Inequality and poverty are two concepts that are by definition multidimensional and therefore require a comprehensive and holistic approach. The OAS, as the only inter-American organization with an "all-of-government" approach,[33] provides a unique space "for the formulation and implementation of an integrated development agenda that is not limited by a single issue but rather benefits from having inter-sectorial and cross-disciplinary input. No other institution in the Americas has the same broad policy reach, working simultaneously with Ministries of Foreign Affairs, Labor, Education, Tourism, Social Development, Sustainable Development, and Science and Technology while at the same time maintaining a relationship of trust with civil society, the private sector and academia."[34] Essentially, "policy dialogue forms the core of the OAS development approach and informs the initiatives and actions of the General Secretariat that (...) revolve around: capacity building and institutional strengthening, and the broadening and deepening of strategic partnerships for cooperation."[35] Recent examples include the April 2014 Conference "Partnerships for Financial Inclusion in Latin America and the Caribbean: A Catalyst for Inclusive Growth" of the OAS Inter-American Social Protection Network (IASPN) which provided an opportunity for government officials from OAS member states to share successful experiences of inclusive financial training programs, products and services, and begin building public-private partnerships with financial service providers and foundations.[36] Another example is

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32   OAS-SEDI, "Presentation by the Executive Secretariat for Integral Development on the Development Agenda within the OAS," 2.
33   Ibid., 3.
34   Ibid.
35   Ibid.
36   The conference was held on April 29-30, 2014 and was jointly organized by the OAS Executive Secretariat for Integral Development, the U.S. Department of State, the Cities for Financial Empowerment (CFE) Fund and the New

the Inter-American Competitiveness Network (RIAC) which has become a well-established and recognized hemispheric platform to facilitate public policy dialogue and implement valuable cooperation initiatives, which contribute to helping countries reduce the productivity gaps and move forward their development agendas.

*Director, Department of Economic and Social Development
Executive Secretariat for Integral Development (SEDI)

York City Department of Consumer Affairs Office of Financial Empowerment (OFE).

Reflections on Political Inequality in the Americas

Kevin Casas-Zamora*
Betilde Muñoz-Pogossian**
Marian Vidaurri***

Democracy tends to perform two key functions for any human community. First, as Schattschneider puts it, "it provides the public with ... an alternative power system, which can be used to counterbalance the economic power."[1] The equality of citizenship sphere seeks to offset social and economic inequalities, which are manifestations of unequal power. Excessive concentration of economic resources militates against democracy's express objective, particularly in the liberal sense of the term, of distributing power and avoiding its concentration in any form.[2] Thus democracy is, secondly, a mechanism for distributing power. The best illustration of that function is universal suffrage, that is to say, the existence of distribution among all citizens, on an equal basis, of the right to take part, directly or indirectly, in the major decisions of the *polis*. The performance of any democratic system should, therefore, be measured by two yardsticks: on the one hand, its ability to guarantee the effectiveness of a sphere of equal rights, capable of offsetting other forms of inequality, and, on the other, its ability to dismantle large concentrations of power.

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1 Elmer E. Schattschneider, *The Semisovereign People* (Fort Worth: Harcourt, 2006), p.119.

2 Samuel P. Huntington, "The modest meaning of democracy," en *Democracy in the Americas: Stopping the Pendulum,* ed. Robert Pastor. (New York: Holmes & Meier, 1989), pp.19 and 25.

All these considerations are especially important in the Western Hemisphere and particularly so in Latin America and the Caribbean (LAC): a region shaped by a long history of inequalities and multiple forms of exclusion based on socio-economic status, gender, and ethnic origin. The last decade marked, in fact, the first time ever that LAC managed to make a small dent in the inequality of income distribution. According to the data available the region's Gini coefficient[3] fell from .55 in 1995 to .52 in 2010.[4] It fell, over the past decade, in 14 of the 17 countries in the region for which comparable statistics are available.[5] Nevertheless, LAC continues to be the most unequal region on Earth. The most equitable countries in the region (Uruguay and Argentina) have worse inequality indicators than the most inequitable countries of Western and Eastern Europe and all the non-Latin American members of the Organisation for Economic Cooperation and Development (OECD).[6] Such deeply rooted inequality translates into an acute and widespread sense of injustice: 7 out of every 10 Latin Americans consider that income distribution in their country is unjust.[7]

More clearly than for any other part of the world, LAC is as democratic as it is highly unequal. What does the coexistence of those two realities tell us about the effective realization of the democratic ideal in the region? The following pages are an attempt to answer that question. They seek to substantiate the following four assertions:

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3   An indicator used to calculate income distribution inequality. It ranges from 0 (perfect equality) to 1 (total inequality).

4   Joao Pedro Azevedo, Gabriela Inchaust, and Viviane Sanfelice, "Decomposing the Recent Inequality Decline in Latin America", World Bank Policy Research Working Paper 6715 December 2013).

5   Luis F. López-Calva, and Nora Lustig, "Explaining the Decline in Inequality in Latin America: Technological Change, Educational Upgrading, and Democracy," en *Declining Inequality in Latin America: A decade of progress?* L.F. López-Calva, and N. Lustig, eds. (Washington, D.C., Brookings Institution Press, 2010).

6   World Bank, "Shifting Gears to Accelerate Shared Prosperity in Latin America and the Caribbean," World Bank Document 78507 (June 2013).

7   Corporación Latinobarómetro, *Informe 2013* (Santiago: Corporación Latinobarómetro, 2013).

1. In recent decades, LAC has made enormous progress forging electoral democracies and in the exercise of civil and political rights, while it has been far less successful in reducing socio-economic inequalities (although some progress has been made).

2. Many factors underlie the high levels of inequality and exclusion, but their persistence suggests that there are major flaws in the way democracy is working, that is to say, shortcoming in its ability to distribute political power and allow access to it by traditionally subordinated groups.

3. In LAC, these limitations have to do, among other factors, with the question of who takes part in elections and who wins them. In both dimensions biases persist that facilitate the reproduction of inequalities and forms of social and economic exclusion.

4. Some of those barriers can be fixed by reform mechanisms within the democratic system.

Our analysis is divided into three sections. In the first, we track the progress made in the LAC with the forging of democratic institutions and the expansion of political rights throughout the past generation. The second section will examine some of the more blatant social and economic biases in the exercise of political rights --particularly the right to elect and be elected -- in the region. For that, we will tap the abundant empirical evidence available, some of it stemming from the store of information generated by the OAS' specialized work on electoral issues. In the third and final section, we suggest some institutional remedies for correcting those biases: solutions based, in some cases, on the experience garnered by the Organization over several decades of electoral observation and in the course of the technical cooperation it has provided in order to strengthen democratic institutions in the Hemisphere.

1. THE RECENT EXPANSION OF DEMOCRACY AND POLITICAL RIGHTS IN THE AMERICAS.

The exercise of citizens' political rights in the Hemisphere is one area in which, despite the numerous tasks still pending, progress has been notable. Although measuring political rights -- construed as the power to elect and be elected, combined with the capacity of states to guarantee the full exercise of that power -- is a complex matter[8], there are some rigorous indicators available.

Data based on the Freedom House methodology[9] show LAC improving remarkably since 1990, especially in terms of its *political rights* variable (see Table 1). Between 1990 and 2014, 12 countries improved and 9 maintained a perfect score with respect to the political rights variable. Only 7 countries experienced a decline in that indicator (Argentina, Bolivia, Ecuador, Honduras, Nicaragua, Trinidad and Tobago, and Venezuela).

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8   See, for instance: Gerardo L. Munck, "Measuring Democratic Governance: Central Tasks and Basic Problems," in *Measuring Empowerment: Cross-Disciplinary Perspectives*, ed. D. Narayan (Washington, D.C.: World Bank, 2013); Gerardo L. Munck, *Measuring Democracy: A Bridge between Scholarship and Politics* (Baltimore: John Hopkins University Press, 2009); Kirk Bowman, Fabrice Lehoucq, and James Mahoney, "Measuring Political Democracy: Case Expertise, Data Adequacy, and Central America," *Comparative Political Studies*, 38 (8) (2005): 939-70; Gerardo L. Munck and Jay Verkuilen, "Conceptualizing and Measuring Democracy: Evaluating Alternative Indices," *Comparative Political Studies*, 35 (1) (2002): 5-34; UNDP, *DEMOCRACY in Latin America:* Towards a Citizens' Democracy, (UNDP 2004).

9   Freedom House is an organization that has been measuring freedom in the world since 1972, based on a methodology that rates a country's degree of freedom. For each of the two variables (political rights and civil liberties), the methodology used comes up with a number ranging from 1 (the highest level) to 7 (the lowest level.)

Table 1

Freedom House "political rights" scores, 1990 vs. 2014.

Country	Political Rights (1990)	Political Rights (2014)	Difference
Antigua and Barbuda	3	2	1
Argentina	1	2	-1
Bahamas	2	1	1
Barbados	1	1	0
Belize	1	1	0
Bolivia	2	3	-1
Brazil	2	2	0
Canada	1	1	0
Chile	2	1	1
Colombia	3	3	0
Costa Rica	1	1	0
Cuba	7	7	0
Dominica	2	1	1
Ecuador	2	3	-1
El Salvador	3	2	1
United States	1	1	0
Grenada	2	1	1
Guatemala	3	3	0
Guyana	5	2	3
Haiti	4	4	0
Honduras	2	4	-2
Jamaica	2	2	0
Mexico	4	3	1
Nicaragua	3	4	-1
Panama	4	2	2
Paraguay	4	3	1
Peru	3	2	1
Dominican Republic	2	2	0
St. Kitts and Nevis	1	1	0
St. Lucia	1	1	0
St. Vincent and the Grenadines	1	1	0
Suriname	6	2	4
Trinidad and Tobago	1	2	-1
Uruguay	1	1	0
Venezuela	1	5	-4
Regional Average	**2.4**	**2,2**	**0,2**

Source: Own presentation based on findings of the study: "Freedom in the World" by Freedom House, 1990 and 2014 editions

The Electoral Democracy Index (EDI) proposed by UNDP (2004)[10], measures progress toward electoral democracy on a scale from 0 to 1. Although it is minimalist in its analysis of the capacity of democracy to distribute power, in the sense that it focuses solely on access to power through elections and not on the exercise of that power, the Index paints a favorable picture of democracy in Latin America. On the 0 to 1 scale, progress in the region has been remarkable. Whereas in the 1990s the EDI averaged 0.86 for the region as a whole, by 2002 that indicator had risen to 0.93.

All the countries in the region recognize the universal right to vote. Although some countries maintain voting restrictions for the military on active duty, policemen, the clergy, and citizens convicted or a crime or awaiting trial, they are declining in number. Moreover, whereas 10 years ago Latin American countries denied the right to vote to their citizens living abroad, now only one country does so: Uruguay. Overall, there is now ample recognition of citizens' right to elect their representatives.

There have also been positive developments in terms of the number of interruptions of presidential mandates conferred by elections. Whereas 10 presidential terms were interrupted between 1990 and 2002[11], that number declined by half, i.e., to five cases between 2003 and 2014[12].

10　The Electoral Democracy Index was first presented in the UNDP (2004) study entitled "Democracy in Latin America: Towards a Citizen's Democracy," building on previous discussions in academic circles. It is an aggregate index of four aspects of democratic elections: the right to vote, fair elections, free elections, and elected public offices.

11　Information gathered by the Inter-American Political Analysis and Scenarios System (SAPPI) of the Department of Sustainable Democracy and Special Missions (DSDSM) of the Secretariat for Political Affairs (SPA). The 10 cases of interrupted presidential terms between 1990 and 2002 were: Haiti (1991), Brazil (1992), Guatemala (1993), Venezuela (1993), Dominican Republic (1996), Ecuador (1997), Paraguay (1999), Ecuador (2000), Peru (2000), and Argentina (2001).

12　Information garnered by SAPPI/DSDSM. The 5 cases of interrupted presidential terms between 2003 and 2014 were: Bolivia (2003), Haiti (2004), Ecuador (2005), Honduras (2009), and Paraguay (2012).

There is also broad agreement that election in Latin American have become fairer in the past 30 years.[13] In other words, instances of significant irregularities during vote counting have declined in the region. Despite this progress, much remains to be done to achieve fair and competitive elections. In theory, any political party, group, or movement can take part in elections on equal terms. In practice, access to political financing and the mass media,[14] to mention just two factors, tends to leave small and emerging party organizations and/or those without access to power or the State budget at a disadvantage.

This last factor is a first indication of the problems the region faces as it seeks to translate the bare bones of political equality that it has adopted across the board into outcomes capable of reducing the exclusions that have marked its political history for centuries. As we shall see below, that "translation" is impaired in practice by real inequalities in the exercise of suffrage and in access to power.

2. THE BIASES OF AN UNEQUAL DEMOCRACY

a. Who gets to vote?

Inequality in electoral participation undermines the basic tenets of political equality and equal representation. If groups excluded by dint of their socio-economic status, gender, or ethnic origin do not cast their vote, it can hardly be expected that the elected authorities will effectively represent their interests or meet their demands once they take up office. If low-income citizens fail to vote, for instance, it is unlikely that the

13 Miguel Carreras and Yasemin Irepoglu, "Trust in elections, vote buying, and turnout in Latin America", *Electoral Studies* 3 (2013).

14 See, for instance: Kevin Casas-Zamora and Daniel Zovatto, "Para llegar a tiempo: Apuntes sobre la regulación del financiamiento político en América Latina", in Pablo Gutiérrez and Daniel Zovatto, eds., *Financiamiento de los partidos políticos en América Latina*, (IDEA-OEA-UNAM, 2011); Delia M. Ferreira Rubio, "Garantías de equidad en la competencia electoral y financiamiento de la política", *Cuadernos de CAPEL: Construyendo las Condiciones de Equidad en los Procesos Electorales*, 57 (September 2012); OEA, *Política, Dinero y Poder: Un dilema para las democracias de las Américas* (Politics, Money and Power: A Dilemma for Democracy) (2011).

government will devise and implement public policies focusing on the reduction of poverty and inequality. It comes as no surprise, therefore, that the available data indicate that societies registering high levels of electoral participation are also the most economically equitable.[15]

The literature on the variables shaping electoral participation is vast. While some authors argue that participation is mainly influenced by institutional and political variables, [16] there is sufficient empirical evidence to show that electoral participation correlates with socio-economic factors, including level of income and education.[17]

In the Americas, the data show that better-educated and higher-income groups vote more than the rest of the population. According to figures from the 2012 Barometer of the Americas produced by the University of Vanderbilt's Latin American Public Opinion Project (LAPOP),[18] the difference in electoral participation in the Americas between the best educated and wealthiest quintile and the lowest quintile is 15 percentage points. In 2012, 67% of people with a low income and no formal education took part in elections, while 82% of the electorate from the wealthiest quintile with higher education cast their vote.

15 Nicole Hinton, Mason Moseley, and Amy Smith, "Equality of Political Participation in the Americas," in *The Political Culture of Democracy in the Americas, 2012: Towards Equality of Opportunity,* Mitchell Seligson, Amy Smith, and Elizabeth Zechmeister, eds*.* (LAPOP, 2012).; D. C. Mueller and T. Stratmann, "The Economic Effects of Democratic Participation," *Journal of Public Economics* 87 (2003): 2129-2155, cited in Seligson, Smith, and Zechmeister, eds. (2012).

16 Carolina Fornos, Timothy Power and James Garand, "Explaining Voter Turnout in Latin America, 1980 to 2000, *Comparative Political Studies*, (October 2004).

17 André Blais, *To vote or not to vote? The merits and limits of rational choice theory*, (Pittsburgh: University of Pittsburgh Press, 2000); Pippa Norris, *Democratic Phoenix: Reinventing Political Activism*, (New York: Cambridge University Press, 2002); André Blais and Louis Massicotte Agnieszka Dobrzynska, "Why is Turnout Higher in Some Countries than in Others?", (University of Montreal, March 2003). http://www.elections.ca/res/rec/part/tuh/TurnoutHigher.pdf

18 Nicole Hinton, Mason Moseley, and Amy Smith, "Equality of Political Participation in the Americas," in *The Political Culture of Democracy in the Americas, 2012: Towards Equality of Opportunity,* Mitchell Seligson, Amy Smith, and Elizabeth Zechmeister, eds*.* (LAPOP, 2012).

Another recent study suggests that certain socio-economic factors such as education, employment situation, and income level impact the extent of electoral participation in Latin America.[19] The researchers conclude that those living in extreme poverty are less likely to vote than the rest of the population. Interestingly, according to this study, socio-economic factors influence electoral participation in Latin America more than they do in industrialized countries. And, while the above-mentioned studies do not suggest that the institutional electoral set-up (type of electoral system, residence requirements, legal obligation to vote, and so on) has not influence on turn-out, they do all agree that socio-economic factors affect electoral participation in the region.

With respect to race and ethnicity factors, the LAPOP data suggest that those variables have less influence on the level of electoral participation. As Hinton, Moseley & Smith write, "inequalities in electoral participation in the countries of the Americas tend to be the result of economic inequalities, rather than gender-based or racial discrimination."[20] Nonetheless, Afro-descendant and indigenous groups definitely do face barriers to their participation in democracy inasmuch as they pertain - to an overwhelming extent -- to low-income socio-economic strata. Indeed, the evidence suggests that Afro-descendants "live disproportionately in the poorest residential areas" and "face structural discrimination."[21] The vast majority (90%) of Afro-descendant population groups in the countries of the region live in poverty or extreme poverty and in many cases do not enjoy universal access to health care, education, housing, and safe water.[22] The same is true of indigenous peoples in LAC.[23] Even though,

19 Nestor Castaneda-Angarita and Miguel Carreras, "Explaining Voter Turnout in Latin America", *Comparative Political Studies*, 47 (8) (July 2012).

20 Ibid.

21 IACHR, *The Situation of People of African Descent in the Americas.* Washington, D.C.: Organization of American States, 2010, pp. 16 and 17.

22 Mala Htun, "Political Inclusion and Representation of Afrodescendant Women in Latin America," (2014). For example, 43% of Afro-descendants live below the poverty line in Brazil, compared to 22% of whites. As for access to education, average schooling for an Afro-descendant in Brazil in 2006 was 6.2 years (up from 4.3 years in 1995).

23 UNDP - Programa Global de Apoyo al Ciclo Electoral (Global Programme

from a passive and active vote perspective, indigenous groups have made considerable progress toward greater inclusion in the democratic system over the past 20 years, they continue to encounter longstanding obstacles to their political participation. The net effect of these biases is an electoral democracy with imperfect or unequal representation, in other words a democracy that is not in fact fully inclusive.[24]

Unlike the ongoing inequality in political participation based on socio-economic and educational levels, the gender gap has narrowed. In 2012, more women voted than men. In 2004, the figures showed a slightly higher percentage of male voters.[25] It is worth pointing out that there is a strong, positive correlation between women's level of education and their electoral participation. According to a 2005 study for the countries of Central and South America, a 1% increase in female literacy is associated with a 0.87% increase in their electoral participation.[26]

b.   Who can access political power?

Imbalances in the composition of the organs of political power are more marked and consistently point to under-representation of economically subordinated groups, ethnic minorities, and women. For those citizens, the actual chances of participating in the exercise of power are far slighter. There is therefore a risk that those gaps in equality will be replicated in the region from one generation to another.

It is fair to say that in the recent past the region has seen a remarkable change in perceptions regarding leadership of members of groups that have traditionally been excluded from power. Thus, people

for Electoral Cycle Support) in *Ciudadanía Intercultural: Aportes desde la participación política de los pueblos indígenas en América Latina*, (May 2013).

24   Nacy Bermeo, *Does electoral democracy boost economic equality?* in Journal of Democracy, October 2009 (English text).

25   Nicole Hinton, Mason Moseley, and Amy Smith, "Equality of Political Participation in the Americas," in *The Political Culture of Democracy in the Americas, 2012: Towards Equality of Opportunity,* Mitchell Seligson, Amy Smith, and Elizabeth Zechmeister, eds*.* (LAPOP, 2012).

26   Scot Schraufnagel and Barbara Sgouraki, "Voter turnout in Central and South America", *The Latinoamericanist*, 40, (2005), 50.

who think that women's place is in the home, or that members of certain ethnic groups are not good political leaders, are undoubtedly less likely to favor the participation of those groups in public life or to vote for those candidates.[27] Thus, according to LAPOP data, the countries in the region tend to reject the assumption that "men are better leaders than women." Nearly 75% of the population interviewed in countries in the region do not agree or do not strongly agree with that assertion. On average, in those countries in which quotas have been adopted, there is even less inclination to reject women's leadership.[28] It is worth stressing how much impact the presence of women in leadership positions can have on changes in social attitudes. Several studies have documented this "symbolic representation" phenomenon and shown that exposure to women's leadership in those places or countries where it exists has altered both male and female stereotypes regarding the ability of women to lead.[29] The perception in Latin America of leadership by members of ethnic communities has likewise changed. According to LAPOP figures, almost 88% of citizens of the Americas disagree or strongly disagree with the statement that "persons of color are not good leaders."

However, the numbers show that inequalities in access to political power persist and that actual representation frequently lags way behind changes in public opinion perceptions. To begin with, in a region with deeply skewed income distribution, there are still huge class disparities in access to formal power. Thus, a recent study by Carnes and Lupu shows that economic and class inequality impact the level of representation in

27   Nicole Hinton, Mason Moseley, and Amy Smith, "Equality of Political Participation in the Americas," in *The Political Culture of Democracy in the Americas, 2012: Towards Equality of Opportunity,* Mitchell Seligson, Amy Smith, and Elizabeth Zechmeister, eds*.* (LAPOP, 2012).

28   16 countries in the region have adopted quotas: Argentina, Bolivia, Brazil, Colombia, Costa Rica, the Dominican Republic, Ecuador, El Salvador, Guyana, Haití, Honduras, Mexico, Nicaragua, Panama, Paraguay, and Peru.

29   Leslie A. Schwindt-Bayer, *Political Power and Women's Representation in Latin America*, (New York: Oxford University Press, 2010), cited in Nestor Castaneda-Angarita and Miguel Carreras, "Explaining Voter Turnout in Latin America", *Comparative Political Studies*, 47 (8) (July 2012).

the make-up of parliaments in Latin America.[30] The study detects the existence of under-represented groups, who are essentially excluded from shaping and taking public policy decisions. For example, based on the study's own definition of the term, 80% of the citizens of the region are working class, but only between 5% and 20% of lawmakers in each country come from that segment of the population.[31]

Disparities based on ethnic origin also persist. According to United Nations statistics, in LAC indigenous peoples make up approximately 10% of the population, with much higher percentage in Peru, Guatemala, and Bolivia. In the case of Bolivia, they account for nearly 60% of the total population. These figures are starkly at variance with the data from a recent UNDP study[32] on actual exclusion of indigenous groups from parliaments in six Latin American countries (see Table 2).

Table 2
Indigenous presence in six Latin American parliaments

Country	Year	Total Seats	Total Indigenous	Total Indigenous Women
Bolivia	2009-15	130	41 (31,5%)	9 (6,9%)
Ecuador	2009-13	124	7 (5,6%)	2 (1,6%)
Guatemala	2012-16	158	19 (12%)	3 (1,9%)
Mexico	2012-15	500	14 (2,8%)	4 (0,8%)
Nicaragua	2006-09	92	3 (3,3%)	2 (2,2%)
Perú	2011-16	130	9 (6,9%)	2 (1,5%)

Source: Own presentation based on UNDP study - Global Programme for Electoral Cycle Support, Ciudadanía Intercultural: Aportes desde la participación política de los pueblos indígenas en América Latina, (May 2013).

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30 Nicholas Carnes and Noam Lupu, "Rethinking the Comparative Perspective on Class and Representation: Evidence from Latin America," *American Journal of Political Science* (2014).
31 Ibid.
32 UNDP - Programa Global de Apoyo al Ciclo Electoral (Global Programme for Electoral Cycle Support) in *Ciudadanía Intercultural: Aportes desde la participación política de los pueblos indígenas en América Latina*, (May 2013).

As the Table shows, the representation rate ranges between 2.8% (Mexico) and 31.5% (Bolivia), always way below the respective country's indigenous population percentage. The under-representation of indigenous women is even worse: their representation rate in Bolivia is 7%, while in the other five countries it is less than 2%.

While there are significant gaps in the information available for quantifying ethnic groups and hence the extent of their under-representation, there is no lack of information on women's relative exclusion from decision-making positions in LAC, despite progress made in the recent past.

In respect of the Executive Branch of government, there is a regional tendency to elect more women. Whereas, between 1990 and 2000, only three women held the highest office in the land in the 34 member states of the OAS, now there are five (Argentina, Brazil, Chile, Jamaica, and Trinidad and Tobago).[33] There has also been a splurge of female candidates with a real chance of accessing power in Mexico, Honduras, and Peru. Even more progress has been made with respect to *women ministers*. Whereas some studies reported that, in the 1990s, women held barely 7 to 9% of the ministerial positions in cabinets in Latin America,[34] by the end of 2013 that percentage had risen to 25%[35]. However, nine countries in the region are below the average and in one of them the figure is alarmingly low (El Salvador, with 7.7%). Those data undoubtedly point to progress, to which various male and female heads of state have contributed by opting for parity in the composition of their cabinets.

33 Up until May 8, 2014, this list also included Laura Chinchilla as President of Costa Rica (2010-2014).

34 Mayra Duvinic and Vivian Roza, "Women, Politics and Democratic Prospects in Latin America," (Washington, D.C.: Inter-American Development Bank, 2004); Maria Escobar-Lemmon and Michelle M. Taylor-Robinson, "Women Ministers in Latin American Government: When, Where, and Why?", *American Journal of Political Science*, 49 (2), (October 2005).

35 International IDEA, "Latin America: a pioneer in promoting women's political participation," press release posted at: http://www.idea.int/americas/latin-america-a-pioneer-in-promoting-womens-political-participation.cfm (http://www.idea.int/americas/upload/Nota-deprensa-2014MIC.pdf (March 2014).

Women's average representation in parliaments in the region has increased and in some cases exceeded the critical mass of 30% in the lower houses (Argentina, Costa Rica, Ecuador, Mexico, and Nicaragua). In other countries, on the other hand, that goal is still far from being reached (in Brazil, Panama, Paraguay, and Uruguay, the figure is below 12%). In general, the region is still far from achieving parity in parliaments: women achieved a 24% share of seats in the region's senates in 2014 and 22.3% of the seats in single-chamber legislatures.

Much less progress has been made with women's representation in other spheres of power, such as political parties and local governments. Women's participation in political party leadership positions is very limited. An analysis of 94 parties in 18 Latin American countries conducted in 2009 by IDEA International and the Inter-American Development Bank (IDB)[36] shows that their commitment to gender equality is still feeble and that they are still structured in such a way as to deny equal opportunity to men and women when it comes to participation in politics. Region-wide, women account for 51% of militants in the principal political parties, but barely 19% of the membership of the executive committees of party organizations and 16% of the chairs of those committees.[37] The absence of women is even more conspicuous in local governments. Between 2009 and 2011, the regional average share of women in local executive positions increased from 8.4% to 10.2%.[38] There are women mayors in 2,173 of the region's 18,665 municipalities.[39] According to the 2012 Annual Report of ECLAC's Gender Equality Observatory for Latin America and the Caribbean, Guatemala, Honduras, and Peru register the lowest levels of female representation in municipal executive positions.

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36   Vivian Roza, Beatriz Llanos, and Gisela Garzón de la Roza, "Partidos políticos y paridad: la ecuación pendiente," (Lima: IDB and IDEA International, 2010).
37   Ibid.
38   ECLAC, "Los bonos en la mira: Aporte y carga para las mujeres", Gender Equality Observatory for Latin America and the Caribbean, Annual Report, (2012). 31 and 32.
39   Ibid.

Although they are now less marked than in the past, gender gaps in access to political power -- like those based on class or ethnicity -- continue to affect the performance of democracies in the region.

c.   What needs to be done?

This paper has attempted to demonstrate how vital equality is for democracy; how political rights need to translate into greater social equality; and some of the biases built into the political trappings of democracy that thwart that "translation." In the case of the Hemisphere, and especially Latin America, what we have are democratic systems that have made enormous progress in broadening political citizenship, but only limited progress toward the actual enjoyment of the social and economic rights that citizens need to aspire to. Latin American democracy is still forced to cohabit with high levels of social exclusion and inequality which, in practice, negate the democratic ideal, which can only be construed as a community of persons with equal rights.

A drastic reduction in social and economic inequality, while not impossible, is unlikely so long as the democratic process is fraught with obvious inequalities in electoral participation and in the real possibility that people pertaining to certain groups can access power.

It is crucial to understand, however, that the biases detected here in the Hemisphere's democracies constitute a tendency, not a foregone fate. It is possible for our political systems to take steps that help deepen democracy and thereby forge more equitable societies in which power is better distributed: the raison d'être of democratic systems.

The first step is to strengthen redistributive processes and expand the middle classes. The redistribution of wealth in LAC is long overdue. Its continual postponement has condemned the region to a history of social and political ups and downs, in which popular rebellions and bouts of military rule have far outnumbered periods of democracy. Voicing the need to embark on a consistent process of redistribution may sound like a commonplace: Didn't we just say that that is precisely what the disparities in wealth and income prevent in the democratic process?

Nevertheless, it is there that the region's recent experiences give grounds for hope. Finally, LAC seems to be making headway against inequality. Progress is still tentative and insufficient, but it is real, nonetheless. And it may trigger a virtuous circle. For the first time, the region's middle class exceeds the low-income population.[40] That expansion of the middle class brings with it far-reaching political transformations and redistribution in its favor not just of income, but of power, as well. A Latin America in which the middle class is a majority is a region in which there will be increasingly forceful demand for high-quality public goods and services. It is also a region in which numerous families enjoying, for the first time, decent housing, a car, and a bank loan will do everything in their power to prevent the government from messing with macroeconomic equilibria.

The important thing to understand is that the advance of the middle class in Latin America has not just been a product of the economic growth of the past decade. It is also the outcome of a deliberate effort put into public policies and, in particular, public investment in the social sectors, which has increased spectacularly in the region: from 12% of GDP in the early 1990s to over 19% today.[41] The region has also shown enormous ability to innovate when it comes to social policy. The concept of conditional cash transfers, whereby direct subsidies are given to families living in poverty in exchange for certain changes in behavior (typically, keeping children enrolled in school) is a Latin American invention that has now spread throughout the developing world.

This points to a key factor in the story we tell in this paper: the dramatic expansion of political rights in the 1980s and 1990s steered public policies, albeit timidly, in the direction of greater equity. That helped boost the middle class and its political clout, which almost certainly should translate into greater future demand for goods and high-quality public services.

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40   Banco Mundial, "Shifting Gears to Accelerate Shared Prosperity in Latin America and the Caribbean," World Bank Document 78507 (June 2013).
41   Economic Commission for Latin America and the Caribbean (ECLAC), The Social Panorama of Latin America, (Santiago, Chile: ECLAC, 2013).

Perhaps, then, and despite the barriers erected by the still huge concentration of wealth, Latin America may have sparked a virtuous circle of more democracy, a reduction of inequality, and even more deeply entrenched democracy. In other words, there are some signs that, even though we still face serious issues of poverty, exclusion, and inequality, we are moving in the right direction; that is to say, signs that democracy, for all its imperfections, is doing its job of allowing the participation and representation of previously excluded interests and thereby narrowing socio-economic gaps.

However, the obstacles on that path are still so large that there is no way we should rely on the sheer momentum of that process bringing about the changes needed. We need to induce and expedite the virtuous circle. A prerequisite for that – and perhaps the last major task the region faces on its path to development – is a consistent transformation of tax systems in LAC. It is true that the average tax burden in the region rose from 13.5% of GDP in 1990 to 20.5% in 2013, but that increased burden relied disproportionately on taxes on goods and services and consumption in general. Indeed, property taxes – one of the indicators of how progressive a tax system is – declined: from a mere 5.6% of total revenue collected in 1990 to just 3.7% in 2012.[42] A shift to more robust and much more progressive tax systems would not just speak volumes about the positive trend of democracy in LAC; it would also be a decisive step toward its consolidation.

A second feasible step has to do with the adoption and/ or strengthening of affirmative action measures to promote the representation of women and ethnic groups in the region's power structures. One thing that recent international experience has taught us is that political institutions are decisive for achieving women's representation at both the national and local level, especially given their ability to shape social and political outcomes in the system. Thus, the rules governing the recruitment, appointment, and election of political party leaders, implementation of a quotas system, and the formulation and implementation of public policies guaranteeing representation and

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42   OECD-ECLAC-CIAT, "Revenue Statistics in Latin America 1990-2012" (2012).

inclusion, along with a host of other institutional factors, have a significant impact on the participation of groups traditionally excluded from politics.

Women's representation in key decision-making positions tends to increase when advanced quota systems with a position mandate and alternation are implemented by both governments and parties. In that sense, the recommendations agreed upon in the 1995 Beijing Platform for Action legitimize the use of a quota system guaranteeing at least 30% representation. This effect is enhanced when second generation affirmative action measures are implemented, such as public funding for female candidacies.

Affirmative action measures in relation to quotas, parity, or public funding help create a minimum level of equity to govern the competition of men and women in politics. For them to be effective and provide incentives for political parties to comply with them, such solutions need to be forcefully designed and accompanied by additional measures and clear sanctions. It is also crucial to ensure that their implementation is in sync with the structure of the electoral system already in place, because the latter also affects opportunities for women to be elected.

These are just a few ideas about ways to counter the imbalances that prevent the democratic transformation that the Hemisphere has undoubtedly undergone from fully achieving its potential for the construction of fairer and more united societies. Correcting the inequities that continue to impair and condition the political processes of democracy is a prerequisite for overcoming inequality and socio-economic exclusion in the Hemisphere. There are grounds for thinking that the expansion of political rights in our Hemisphere is finally undermining the stubborn legacy of centuries of injustice. Democracy is hard at work, but it needs a helping hand.

*Secretary for Political Affairs
**Acting Director, Department of Social Inclusion, Executive
Secretariat for Integral Development
***Officer, Secretariat for Political Affairs

Discrimination and Exclusion

Emilio Álvarez Icaza L.*
Norma Colledani**
Imelda González***

T he fulfillment of human rights – free of any form of discrimination and focused on the dignity of the human person is the underlying premise of democratic governance and promotion of the rule of law. Hence, the OAS – and certainly the inter-American human rights system (IAHRS) – has become determined to eradicate discrimination and social exclusion, as they impede the effective enjoyment and exercise of human rights.

International and inter-American law has established the States' obligation to guarantee the exercise of human rights under conditions of equality and free of all forms of discrimination. The principles of equality and nondiscrimination are at the core of the IAHRS and of its instruments, among them the OAS Charter, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Additional Protocol to the American Convention in the Area of Economic, Social and Cultural Rights "Protocol of San Salvador."

Hence the need for the States of the Americas to put an end to discrimination and social exclusion through effective observance of the obligations and principles embodied in international and regional human rights instruments, which requires the enactment of domestic laws and

the adoption of public policies and practices that are consistent with those international obligations, that recognize the individual as the *titulaire* of rights and that have at their center the human person's innate dignity.

1. DEMOCRACY, HUMAN RIGHTS, AND NONDISCRIMINATION

Today, democracy, genuine equality, and human rights are inextricably interlinked. As the Inter-American Democratic Charter and the Social Charter of the Americas provide, the promotion and protection of human rights under conditions of equality is a prerequisite for the existence of a democratic society.

In that context, we are called upon to regard the movement to achieve effective enjoyment of human rights as part of a multidimensional process of social construction involving political, economic and social factors; hence, it cannot be interpreted solely as a function of the principle of equality before the law. In other words, this is an active principle whose exercise is premised on equality. The great leap that civilization or democracy made when it embodied the principle of "equality before the law" has been followed by another equally important and transcendent leap, which is the principle of "equality in the exercise of human rights."

This means that the human rights movement is now working for the kind of social inclusion achieved by establishing the structural conditions that will enable all persons to exercise and enjoy their rights under conditions of equality. The social, legal, and political construction of human rights is by itself an exercise in social inclusion, particularly for the more disadvantaged and/or excluded population groups.

Within the processes underway to democratize societies in this hemisphere is an ever-present tension between the need to create conditions of equality and the undeniable fact of inequality and exclusion. In other words, while democratic mechanisms have been put into place and are working to overcome inequality and exclusion and achieve human development based on an inclusive model, it still cannot be said that each

and every individual is able to exercise all the human rights to which he or she is entitled by virtue of his or her intrinsic dignity.

Hence, progress in fulfilling human rights and consolidating the rule of law; in eliminating discrimination and social exclusion, in all their forms, which represent a denial of universal values; and in respecting and guaranteeing the inalienable and inviolable rights of the human person must be energetically embraced as a basic principle informing public agendas in the hemisphere. To do this, the government measures and public policies adopted must be differentiated and multidimensional, calculated to address and overcome social inequalities. The idea is that those government measures and public policies will promote social inclusion by ensuring the exercise of human rights without discrimination.

For States and societies committed to the human rights agenda, the persistence of discriminatory situations and practices deeply rooted in their structures, norms, and cultures, poses an obstacle to accomplishing that agenda and renders such rights devoid of all content and ineffective in practice. Only a resolute structural policy of defending and promoting human rights and capable of assessing government development policies by anti-discriminatory criteria, can guarantee the enjoyment of human rights.

This calls for a constant, gradual and systematic State approach, as well as public policy with an emphasis on human rights. Over the course of time, such a policy will undo the inequalities and create greater social inclusion in every sphere of life.

The American Convention on Human Rights, whose Article 1(1) provides that the States Parties to the Convention undertake to respect the rights and freedoms recognized therein, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition. Accordingly, under Article 2 of that Convention, where the exercise of human rights is not already ensured both in law and in fact, the States Parties undertake to adopt such legislative or other measures as may be necessary to give effect to those rights.

In its admissibility and merits reports and in its thematic reports, the Inter-American Commission on Human Rights has elaborated at length upon the concept of equality and nondiscrimination as principles of the inter-American system for the protection and promotion of human rights. Indeed, as a result of the IACHR's findings, various States have decided to adopt laws and public policies directed at, *inter alia,* eradicating violence against women, amending provisions of their legal system that unduly restrict the exercise of freedom of expression, restoring ancestral lands to indigenous and tribal peoples, providing adequate medical care and taking measures to correct the long-standing discrimination of which entire sectors of their population have been victims.

Along these same lines, the Inter-American Court of Human Rights has observed that there is an inextricable link between the obligation to respect and ensure human rights, as set forth in Article 1(1) of the American Convention, and the principle of equality and non-discrimination. It has also established the scope of Article 24 of the Convention (the right to equal protection), writing that it "prohibits any type of discrimination, not only with regard to the rights embodied therein, but also with regard to all the laws that the State adopts and to their application."

The Inter-American Court has also held that Convention Article 24, read in conjunction with the obligation contained in Articles 1(1) and 2 of the American Convention, means that the obligation to guarantee "is not fulfilled merely by issuing laws and regulations that formally recognize these rights, but requires the State to adopt the necessary measures to guarantee their full exercise considering the weakness or helplessness of the members of certain social groups or sectors."

Consequently, the IACHR and the IAHRS itself have recognized that discrimination is a grave human rights problem with negative repercussions for individuals and communities since it is an obstacle to the recognition and enjoyment of all their human rights and, therefore, an impediment to their social inclusion and human and democratic development.

2. SOCIAL EXCLUSION AND ITS MANIFESTATIONS

From the standpoint of human rights, social exclusion is unacceptable because it implies a denial of human rights that not only hinders human development but is also an obstacle to democratic governance and presupposes the negation of democracy and citizenship itself.

As the United Nations Development Programme (UNDP) pointed out in its 2004 report titled "Democracy in Latin America. Towards a Citizens' Democracy," democracy is and must be a type of political organization of and for the people, which implies a democracy that involves not just a political citizenship that creates and sustains the system and its laws, but also a civil, social and cultural citizenship. Together these form an integral, democratic citizenship empowered thanks to the recognition, guarantee, exercise, and enjoyment of human rights, which in the end becomes an invaluable barometer of democratic governance.

One obvious manifestation of social exclusion is the structural discrimination practiced against certain social groups, such as persons living in poverty and extreme poverty, the elderly, indigenous peoples, lesbian, gay, bisexual, trans, and intersex persons (LGBTI), persons with disabilities, migrants, children, youth, the homeless, victims of trafficking and prostitution, and other groups. In such cases, discrimination should cease to be regarded only as a cultural practice that denigrates and instead be regarded for what it is, i.e., structural inequality: an unacceptable social relationship of domination that violates human rights and puts entire human groups at a disadvantage and relegates them to unequal status, thereby denying them the effective enjoyment of their human rights and development.

In effect, the cultural representations that society shares and that have deep historical roots, such as stigmas and prejudices, give rise to the unequal treatment that the groups that are the targets of the discrimination suffer and account for the social disadvantage they endure. Thus, this kind of unequal treatment is eminently cultural in nature, although it also has

powerful material effects on the exercise of human rights and the quality of life that the discriminated groups and individuals enjoy.

By way of example, the discrimination to which the indigenous peoples of the Americas have historically been subjected is based on ideological constructs of domination that regard inequalities between groups as the "natural order of things" as opposed to the consequence of a particular social structure. Because of their characteristics, indigenous peoples are among the groups that have historically suffered discrimination, set apart by a supposed inferiority that has helped to deepen inequality and discrimination over time. Ethnic-racial discrimination can never be fully understood without examining the structural and historical factors that contributed to it. Thus, the colonial domination and slavery to which the indigenous, Afro-descendant and other peoples were subjected form a backdrop that helps put the latter-day processes of economic, political, and social exclusion into historical perspective.

As a manifestation of exclusion, discrimination is not merely a horizontal inter-group distinction, in other words, a human process of identity formation whereby a group contrasts and distinguishes itself from other human groups; instead, discrimination is the establishment of power relations that lead to violation of the rights of those groups whose differences are stigmatized and are the target of prejudice.

Despite the advances made in the last decade, some of which have been notable, the American hemisphere is one of the regions of the world where the inequality levels are most pronounced. The IACHR has observed that this situation, combined with the high rates of poverty and exclusion in the region, are obstacles to the effective enjoyment of economic, social and cultural rights, and adversely affect the observance of a number of civil and political rights, as evidenced by the weakening of the region's democracies.

Therefore, in democratic practice, one must begin with the premise that inequality continues to be a crucial factor to consider when examining the observance of human rights in the Hemisphere and therefore must occupy a prominent place in the public policy of States. This

is a challenge for the States as a whole, one that transcends governments, institutions and public powers. It is also a challenge for the democratic social compact.

While a macroeconomic recovery process has gained momentum in recent years, millions of people are still wrestling with structural unemployment, social marginalization and a lack of access to basic social services, while living in extreme poverty or social exclusion. Situations therefore continue to present themselves involving *de facto* and *de jure* discrimination against the very groups that have been the long-standing targets of discrimination, such as indigenous peoples, Afro-descendants, and homosexuals. This hemispheric reality is a challenge for the democracies of the region and poses the urgent need for the OAS as a whole to reflect upon how to respond to these problems more effectively.

To begin that exercise, the paramount consideration must be that the first obligation with "immediate effect" that economic, social and cultural rights (ESCR) create is to ensure that those rights are exercised under conditions of equality and without discrimination. This means that the States must recognize and ensure those rights to all persons under conditions of equality, using objective and reasonable justifications for differential treatment, and must avoid any arbitrary treatment, especially any treatment based on expressly prohibited considerations such as race, religion or social origin, ideology, age, sexual orientation or preference, and others. This also means that States should recognize the existence of sectors that are disadvantaged and/or at a deficit with respect to the exercise of various rights, and that they adopt affirmative policies and measures to ensure those rights.

As additional input, the guidelines for the preparation of human rights progress indicators and the indicators produced both by the IACHR, and by the "Working Group to Examine the National Reports Envisioned in the Protocol of San Salvador,"[1] could prove to be useful tools for compiling information on the situation

1   For more information on the "Working Group to Examine the National Reports Envisioned in the Protocol of San Salvador" see: http://www.oas. org/consejo/CAJP/fortalecimiento.asp#Protocol of San Salvador.

of those social sectors contending with serious problems of structural inequality and inequity, and for determining how effective the policies implemented by the States have been in ensuring that these sectors have access to their social rights. They might also provide information that could be used to identify the social and institutional resources available in each State to enable an individual to remedy specific problems of discrimination in the exercise of human rights.

Accordingly, the progress that each State has made toward effective observance and recognition of all persons' human rights must be determined, especially the measures that each has taken to recognize and extend such rights to persons belonging to those sectors that have historically been the targets of discrimination. Thus, the underlying assumption of the exercise must be that vast sectors of the population of the Americas are living in a state of structural inequality; the next step would be examine the groups and sectors within each State that may be wrestling with inequality that is so severe that it influences or limits their chances of exercising their human rights.

Seen in that light, the concept of material equality to achieve social inclusion and eradicate exclusion provides a tool with enormous potential for examining not only standards that recognize rights, but also public policies that can serve to ensure them or, on occasion, potentially impair them. Thus, the United Nations Committee on Economic, Social, and Cultural Rights has established that the State has an obligation to groups that are vulnerable or whose economic, social, and cultural rights are susceptible to violation, which is to enact laws that protect them from that discrimination and to adopt special measures, including active policies of protection, not merely compensation. It is therefore suggested that egalitarian policies be enacted that take into account the specific needs of the most disadvantaged groups.

For the rest, States should ascertain which groups require priority or special assistance in the exercise of social rights at a particular historical moment, and in their plans of action adopt concrete protection measures for those groups or sectors in order to undo the social exclusion

or discrimination they suffer. Such was the conclusion reached, for example, by the UN Committee on Economic, Social and Cultural Rights with respect to several rights, in particular the right to housing and public health. Accordingly, in addition to identifying the sectors that have traditionally suffered discrimination in access to certain rights and before formulating its social plans and policies, the State should determine which sectors need priority assistance – for example, the inhabitants of a particular area of the country, or persons in a specific age group – and, in implementing its social policies and services, establish special or differential measures to uphold and ensure the rights of those sectors. This means strengthening, advancing, and consolidating policy measures with a human rights approach.

The State's obligation to take positive steps to safeguard the exercise of social rights has important implications having to do with the type of statistical information that it should produce, among others. From this perspective, the generation of properly disaggregated data allows identification of disadvantaged sectors or groups deprived of the enjoyment of rights; it is not only a means to ensure the effectiveness of a public policy, but a core obligation that the State must perform in order to fulfill its duty to provide special and priority assistance to these sectors. For example, the disaggregation of data by sex, race or ethnicity is an essential tool for highlighting problems of inequality. One basic and fundamental principle that must be observed when crafting public policy is knowing what and where the target population is and which specific needs are being addressed or which rights are being guaranteed.

No less important is the need to include ever-more sophisticated indicators of inclusion-exclusion that reveal situations of structural poverty or patterns of intolerance and stigmatization of social sectors, which should be considered along with other factors to assess contexts of inequity. These areas should be cross-referenced with information on access to productive resources or to the labor market and indicators on distribution of public, budgetary, and extra-budgetary resources.

The principle of equality and nondiscrimination can likewise have consequences in terms of the criteria by which budgets and social spending should be distributed in a country. Discrimination in access to rights may originate, for example, from severe disparities in neglected geographic zones. Indicators should furthermore serve to identify not only social sectors and groups that suffer discrimination, but also disadvantaged geographic zones. The causes of regional differences of this type may lie in a variety of factors, such as distribution of the services infrastructure, unemployment, social and environmental problems, climatic conditions, distance from the more developed areas, and public transportation problems. Likewise, administrative decentralization processes implemented without adequate economic and human resources, without policy guidelines, and without good linkage between different levels of government, can lead to inequity in the access that inhabitants of different geographic regions have to public services of comparable quality.

As ECLAC has observed, the Latin American and Caribbean region has, with considerable variation between countries, a mix of structures and institutions that produces highly segmented low-productivity economies, as well as societies with inequalities of means, capacities, relational networks and reciprocal recognition. The combination of poorly diversified structures, with few knowledge-intensive activities, and inefficient institutions that are often controlled by powerful economic and political interests leads to a primary —i.e. market-driven— distribution of resources that is highly unequal. In the end, this presupposes the existence of large social sectors who are excluded from the enjoyment of their rights. Hence the obligation of States to create the conditions necessary to reverse this inequality.

In short, visualizing, examining, and analyzing the levels of social exclusion can become a tool that the states of the region can use to craft effective public policies designed not only to undo the social exclusion and generate conditions of equality, but also to create the conditions that make it possible to respect and ensure human rights, as a condition precedent for development of a democratic society.

3. POVERTY AS AN UNDERLYING FACTOR OF INEQUALITY AND EXCLUSION IN THE AMERICAS

The Inter-American Democratic Charter provides that "the fight against poverty, and especially the elimination of extreme poverty, is essential to the promotion and consolidation of democracy and constitutes a common and shared responsibility of the American states." It also states that economic growth and social development and democracy are interdependent and mutually reinforcing, and affirms the OAS member states' commitment to adopting and implementing all those actions required to generate productive employment, reduce poverty, and eradicate extreme poverty.

The Social Charter of the Americas, too, states that "extreme poverty constitutes an obstacle to development and, in particular, to the full democratic development of the peoples of the Hemisphere; and that its elimination is essential and constitutes a common and shared responsibility of the American states." This regional instrument also reaffirms "the determination and commitment of member states to urgently combat the serious problems of poverty, social exclusion, and inequity that affect, in varying degrees, the countries of the Hemisphere; to confront their causes and consequences; and to create more favorable conditions for economic and social development with equity to promote more just societies."

In a world moving toward ever higher levels of economic development, technological means, and greater financial resources, millions of people still live in poverty and extreme poverty, unable to satisfy the basic necessities that would enable them to live a decent life and achieve self-fulfillment; and are all too often the victims of social exclusion and are excluded from power and the political process – their right to effective participation in public affairs frequently ignored.

As the Social Charter of the Americas affirms, social development requires the adoption of policies to promote good governance,

transparency, citizen participation, accountability, just treatment of citizens before the law, and the fight against corruption.

Through its various organs and instruments, the OAS has established that the human right to a decent life requires more than the equally fundamental right not to be subjected to arbitrary execution, the right to humane treatment, the right to personal liberty, the rights associated with representative democracy and the other civil and political rights. States must not only allocate sufficient public resources for social and economic rights, but also monitor to ensure that such resources are properly used. Experience shows that extreme poverty can seriously affect the democratic system, as it is a perversion of democracy and renders citizen participation, access to justice and effective enjoyment of human rights in general illusory.

In 2001, the United Nations Committee on Economic, Social and Cultural Rights declared that poverty is "a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights." Based on that definition, one can assert that poverty is itself an urgent human rights problem and a condition that invites other violations. Extreme poverty involves multiple and interrelated violations of civil, political, economic, social, and cultural rights. Persons living in poverty are routinely exposed to denials of their dignity and equality.

Poverty can also be seen as yet another manifestation of social exclusion, a complex phenomenon that cannot be reduced to a simple disadvantage in income and earnings. In addition to the economic circumstances characteristic of the disadvantage that entire human population groups suffer, one also finds discriminatory practices and attitudes that are cultural determinants of that disadvantage and exacerbate it.

Examination of those sectors that are the targets of the most severe discrimination has established a direct correlation between the dynamics

of discrimination and poverty: where discrimination is prevalent, poverty is more widespread. Indeed, coherent policies to combat inequality and poverty must feature a strategy to combat social exclusion. Hence, both poverty and social exclusion are a challenge for the ideals of human rights.

Therefore, the democracies of the Americas must make certain that the demands of social justice are resolved by the rules of a democratic state of laws. The fundamental challenge is to make the peoples of the Americas aware that their economic, social, and cultural rights are an obligation incumbent upon their States, which the latter fulfill by the public policies and legislative measures they enact and the effective access to justice that State bodies afford.

There is international consensus on the eradication of extreme poverty as not merely a moral duty, but a legal obligation under international human rights law. There can be no more pressing matter to take up than the contribution that the OAS can make to crafting public policies and creating standards for the progressive fulfillment and enforcement of ESCR.

Here, it is important to point out that the OAS Charter establishes important goals that are incumbent upon the States where economic, social and cultural rights are concerned, particularly since the amendment introduced with the Protocol of Buenos Aires. In its Article 3, the Charter singles out the elimination of extreme poverty as an essential part of the promotion and consolidation of representative democracy and the common and shared responsibility of the American States; social justice and social security are recognized as bases of lasting peace; and the fundamental rights of the individual without distinction as to race, nationality, creed, or sex, are also recognized. In a similar vein, the American Declaration recognizes a variety of ESCR, such as protection for mothers and children, the right to education, the right to the benefits of culture, the right to work and to fair remuneration, and others. Likewise, the IAHRS has underscored the point that the American Declaration of the Rights and Duties of Man, has "full legal effects and is binding on all member states of the OAS." This principle applies with equal force to ESCR.

The preamble to the American Convention on Human Rights states that "the ideal of free men enjoying freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his economic, social, and cultural rights, as well as his civil and political rights." For its part, the preamble to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (the "Protocol of San Salvador") expressly recognizes "the close relationship that exists between economic, social and cultural rights, and civil and political rights, in that the different categories of rights constitute an indivisible whole based on the recognition of the dignity of the human person, for which reason both require permanent protection and promotion if they are to be fully realized, and the violation of some rights in favor of the realization of others can never be justified."

Echoing the Social Charter of the Americas, the universality, indivisibility, and interdependence of all human rights and their essential role in the promotion of social development and the realization of human potential have to be reaffirmed, and the legitimacy and importance of international human rights law for their promotion and protection must be recognized.

The IACHR has made direct reference to this theme since 2001 and has underscored the fact that violation of the ESCR is generally coupled with violations of civil and political rights. Indeed, an individual who does not receive proper access to education may have less chance of participating in political life or his/her right to freedom of expression may be inhibited. Someone with little access to the health system or access to substandard health care may have his/her right to life impaired on various levels or denied altogether. This situation can materialize by varying degrees, depending upon the severity of the violation of economic, social, and cultural rights. As a rule, however, the more limited the enjoyment of ESCR, the more limited will be the enjoyment of civil and political rights as well. A situation constituting egregious violations of economic, social, and cultural rights will also involve egregious violations of civil and political rights. This is what happens in situations of extreme poverty.

The Economic Commission for Latin America and the Caribbean (ECLAC) has written that although the region has made major strides towards greater equality over the past decade, it is a fragile progress. This recognition is the starting point; the challenge for the next decade is to move towards a new combination of structures and institutions capable of generating increasing levels of productivity and equality, in the framework of development with sustainability in different dimensions.[2]

Here, a basic first step is to give the poverty problem the importance it deserves and, by extension, visualize and prioritize the problem. Once poverty is perceived as a priority concern, efforts must be undertaken to create the conditions necessary to be able to meet the basic needs of those living in poverty and extreme poverty, and at the same time lay the foundation for implementing sustainable development models with an emphasis on human rights and that will not have the effect of exacerbating either social exclusion or discrimination.

International doctrine holds that States in which poverty is a problem have an obligation to prevent it, avert it, and, above all, combat it by taking every reasonable measure within their reach and to act with due diligence.

Therefore, where the poverty problem is concerned –and especially extreme poverty– further elaboration of the international obligations incumbent upon States to combat this problem is critical. Accordingly, a determination needs to be made of the measures that a State would be called upon to take on every front to conquer the poverty problem from the human rights angle. The examination of these obligations may prove to be a productive tool capable of generating public policies and development programs calculated to ensure that the people of the hemisphere are able to effectively enjoy their economic, social, and cultural rights. This is particularly important with respect to the obligations owed to groups that have historically been the victims of discrimination, such as children and

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2   ECLAC, "Compacts for Equality: Towards a Sustainable Future," May 5-9, 2014. Available at: http://www.cepal.org/publicaciones/xml/8/52718/SES35_CompactsforEquality.pdf

adolescents, the elderly, women, Afro-descendants, indigenous peoples, and others.

In that regard, the United Nations Guiding Principles on Extreme Poverty and Human Rights provide that states should ensure that the design and implementation of public policies, including budgetary and fiscal measures, take into account disaggregated data and up-to-date information on poverty. States should make certain that adequate resources are raised and used to ensure the realization of the human rights of persons living in poverty. Fiscal policies, including in relation to revenue collection, budget allocations, and expenditure, must comply with human rights standards and principles, in particular equality and non-discrimination.

Furthermore, and given the developments on the international scene, the United Nations has observed that States have a duty, in accordance with their international obligations, to prevent human rights abuse committed by non-State actors, including business enterprises. Where transnational corporations are involved, all relevant States should cooperate to ensure that businesses respect human rights abroad, including the human rights of persons and communities living in poverty. Article 36 of the OAS Charter provides as follows: "Transnational enterprises and foreign private investment shall be subject to the legislation of the host countries and to the jurisdiction of their competent courts and to the international treaties and agreements to which said countries are parties, and should conform to the development policies of the recipient countries."

Summarizing, the States' fulfillment of their obligations directly impacts their citizens' social inclusion. It furthers the advancement of individuals and communities through the kind of integral development that enables human beings to climb out of poverty and marginalization and enjoy a decent standard of living.

Conclusion

Discrimination and poverty are the main problem facing democracies in the 21ˢᵗ Century. Hence, the great challenge is to understand that this is the century of social inclusion and eradication of discrimination of all kinds; by extension, it is also the century of democratic consolidation, the goal being to enable all persons within the Hemisphere to exercise their rights equally. The development models that this century will require must not entail any denial or forfeiture of rights and must be both holistic and sustainable.

The gap between the different manifestations of inequality and social exclusion must be narrowed, and effective enjoyment of human rights must be taken as a condition *sin qua non* for strengthening and consolidating democracy. Promotion and observance of human rights is consubstantial with the consolidation of democracy. Accordingly, all structural, legal, and institutional barriers and practices that the people of the region encounter in their efforts to exercise and enjoy their human rights under conditions of equality must be torn asunder.

The interventions and actions undertaken by the States to eradicate *de jure* and *de facto* discrimination against groups that have historically been targets of bias and prejudice and who live in social exclusion, must be premised on egalitarianism in the exercise of human rights and political participation. This is essential for individual human development and the development of democracy within the hemisphere. The model adopted must be based on the principles of inclusion and nondiscrimination in the enjoyment and exercise of human rights.

The human rights movement struggles to achieve the social inclusion of the large, marginalized population groups living within our region. To achieve that goal, the region will have to create the conditions for the democratic way of life to thrive and to become the vehicle that ensures that the people of the hemisphere are able to exercise and enjoy their rights, while at the same time guaranteeing their equality and full respect for their human dignity.

*Executive Secretary
**Human Rights Specialist
***Human Rights Specialist
Inter-American Commission of Human Rights

Poverty, Inequality, Vulnerable Groups and Access to Justice

Dante Negro*

Poverty is, by far, the main underlying cause of social exclusion and inequality, and has a direct impact economically, socially, and culturally speaking. However, inequality is not a consequence of income disparity alone. Determinants also include lack of opportunities and a practical inability to exercise certain rights or influence decisions on key issues that affect the quality of life of individuals, the family, and social groups. One of the most frequently violated rights in this situation is access to justice on equal terms.

Although a range of different factors–some of them structural– affect the general population when it comes to obtaining prompt and effective justice, the situation is far more dramatic for people living in poverty with neither the financial means nor the basic knowledge to uphold their rights through the bodies responsible for dispensing justice, in turn making them more vulnerable. Even those who do succeed in having their day in court use up a larger percent of their overall wealth in the attempt. Sometimes doing so can undermine their ability to satisfy other basic needs, so often they decide not to seek justice or exercise that right in full.

In theory, the law is the same for everyone and is meant to be applied to one and all without distinction. However, in the justice administration service there are deep disparities in terms of access. The

possibilities of access to justice for poor indigenous women in a rural area of the Americas, say, are poles apart from those of a male professional in a major city.

This is particularly serious because access to justice is the basic tool available for people to ensure that all the rights recognized by international instruments and domestic laws are protected by the relevant mechanisms, essentially through efficient, impartial, accessible systems for delivering justice, whether judicial, extrajudicial or administrative in nature. There is little point in a state formally recognizing a right if the holder of that right cannot obtain effective access to justice in a prompt and timely manner to safeguard it.

Inequality in access to justice reinforces and, in the medium and long terms, feeds back into a people's economic and social inequality by stifling any effective possibility of garnering advantages in terms of employment, income, wealth, or even where family law issues are at stake: Someone who lacks the financial means to access the courts in order to settle an inheritance issue will be unable to grow their wealth or find a way out of poverty.

Lack of access to justice on an equal footing not only creates a vicious circle for the person concerned but also has a negative effect on the development of society at large and in terms of overcoming factors of inequality in a country, thereby eroding the rule of law and the basic conditions of democracy.

A system of justice equally accessible to all individuals, regardless of any situational disadvantages that they may have is an effective instrument for overcoming the monumental inequalities for which our region is known. The judicial system should be a tool for effectively protecting people's rights, especially the vulnerable, aiding their full development and progress and, in general, promoting greater social cohesion.

However, poverty is not the only cause of vulnerability where access to justice in our countries is concerned. A number of factors hinder full access. Those factors cause inequalities in society and have a very

significant impact on the accessibility of systems of justice. This creates an enormous challenge since the situations of different vulnerable sectors vary and so, therefore, do their specific unmet needs. The barriers to justice that an indigenous man may face in terms of language, for example, call for different policies to the ones needed for people with disabilities who have to contend with architectural or communicational barriers.

The LGBTI (Lesbian, gay, bisexual, transgender and intersex) community faces different problems that have more to do with the stereotypical views and prejudices with which justice sector operators may regard them, implying, therefore, a need for measures that focus more on awareness-raising or training for such operators. A similar situation exists for the Afro-descendant collective, which, while perhaps not having to wrestle with a language barrier, has to deal with marked stereotypes.

1.   Major challenges in ensuring effective access to justice

The first and most important step in correcting this inequality is, therefore, to identify all the barriers and obstacles for a particular group or collective, in order then to devise the necessary public policies and measures for eliminating them, taking into account all relevant socioeconomic, cultural, and structural factors, and adopting a crosscutting rights-based approach, particularly in relation to vulnerable individuals or groups.

Having identified those factors, efforts should focus on the government organs and all the public servants and operators that work in the judicial system or are involved to one degree or another in its operations. By and large, the target of such efforts should be the people responsible for designing, implementing, and evaluating public policies in the judiciary; judges, prosecutors, public defenders, government attorneys, and other employees of the justice administration; bar associations and their members; ombudsmen; police and corrections system employees; and all other judicial system operators.

The problems of access to justice by vulnerable sectors are also not exclusive to the regular courts. The challenges that arise in that framework apply equally to the administration of alternative dispute settlement systems which, if they are to serve as a valid "alternate solution" to the regular courts, have to be able to offer the kind of accessibility that is consistent with the needs described above, lest they become an alternative mechanism useful only for a privileged segment of society.

An important element to be addressed as a crosscutting theme is access to public information as a tool at the service of all citizens for exercising their democratic rights. Without effective access to such information, neither financial means nor a sound education, it won't be possible to guarantee full access to justice.

2. THE OAS AND ACCESS TO JUSTICE

Given its purposes of promoting democracy, strengthening human rights, fomenting economic development, and eradicating critical poverty, the OAS cannot ignore this situation and must create opportunities for shaping common policies to promote access to justice, with particular emphasis on vulnerable persons or social groups, building on initiatives already underway in other forums such as, for example, the Ibero-American Judicial Summits.

Indeed, one of the main model instruments on this subject at the regional level are the "100 Brasilia Regulations Regarding Access to Justice for Vulnerable People," adopted by the 2008 Ibero-American Judicial Summit. The regulations are often relied upon in designing policies and programs on administration of justice. They are useful for understanding the implications that different types of vulnerability hold for diverse social groups. The OAS can contribute by promoting regional awareness-raising and capacity-building projects as well as by encouraging the adoption of hemispheric regulatory frameworks for public policies needed to ensure equal opportunity and remove obstacles to justice in the broadest sense.

Most importantly, perhaps, is that the OAS can also draw on a wealth of experience of working with different vulnerable sectors in the Hemisphere and understanding of the particular needs of each. It also has the marshaling capacity to bring these sectors together for a legitimate, broad-based political dialogue. That experience can be used to identify the specific needs of each group.

Equal access to justice is amply recognized in the legal systems of the Hemisphere's countries. It is also been enshrined as a human right in an array of international treaties and acknowledged in various policy commitments adopted by countries. Thus, for example, at the Third Summit of the Americas, in 2001, the Heads of State and Government acknowledged the importance of an independent judiciary and of equal access to justice and its timely and impartial administration for the exercise of all human rights.

The OAS General Assembly, for its part, has reiterated in annual resolutions its recognition of access to justice as a means of restoring the exercise of rights that have been disregarded or violated. That same recognition was made in declarations issued by the meetings of Ministers of Justice of the Americas in 1997, 1999, and 2000, among others. Therefore, the legal foundation and political backing for taking decisive and concrete action in this area are given.

3. INEQUALITY IN ACCESS TO JUSTICE BY VULNERABLE SECTORS

The above-mentioned Brasilia Regulations state that the following may constitute causes of vulnerability in access to justice: age, disability, belonging to indigenous communities or minorities, victimization, migration and internal displacement, poverty, gender and deprivation of liberty. The OAS has been addressing these issues on different fronts and has succeeded in setting down important standards on protection of the rights of various vulnerable sectors, in particular, indigenous peoples, the Afro-descendant people, LGBTI persons, people with disabilities,

older persons, asylum seekers, refugees, the internally displaced, and stateless persons. The OAS is in a position to continue working in each of these areas, strengthening standards for protecting the human rights of the individuals who belong to these groups, placing special emphasis on identifying the main challenges that each face where access to justice is concerned, and proposing effective solutions that translate either into the adoption of either domestic legal frameworks or appropriate public policies.

INDIGENOUS PEOPLES

Current indicators on the situation of members of indigenous peoples in prisons reflect the important challenges posed by the issue of access to justice for this sector of the population. In certain countries, indigenous peoples are overrepresented in the prison population and the atrocious conditions in which these detainees are housed even violate internationally recognized principles. A 2013 study submitted by the United Nations Expert Mechanism on the Rights of Indigenous Peoples confirmed such data and found that in some countries the indigenous prison population is five times higher than the proportion of detainees from other sectors of the citizenry. For the United Nations Special Rapporteur on Indigenous Peoples, the excessive presence of indigenous persons in prisons can often be explained by the use of non-indigenous languages during the judicial process, without interpreters or court-appointed indigenous defenders provided or in the presence of officials with prejudices or negative stereotypical views toward them.

The International Labour Organization (ILO) Convention 169 called upon states, when applying national laws, to have due regard for the customs and customary law of indigenous peoples and recognized for these peoples the right to retain their own customs and institutions, where they are not incompatible with fundamental rights. The Convention also requires states to adopt measures to ensure that members of indigenous peoples can understand and be understood in legal proceedings, where necessary through the provision of interpretation.

Therefore, special consideration must be given to situations in which members of indigenous peoples exercise their rights before the state justice system, ensuring that their dignity, languages, and cultural traditions are respected, without prejudice to recognizing indigenous peoples' own conflict resolution systems and propitiating the latter's harmonization with the state system of justice administration based on the principle of mutual respect and consistent with international human rights standards. There is no denying the complexities of recognizing the unique peculiarities of indigenous peoples and introducing rules to facilitate and recognize traditional justice. However, countries such as Bolivia, Colombia, Ecuador, and Peru have already recognized indigenous systems of justice and the experience of these countries could serve as a model for other member states in the region. Furthermore, the current process of negotiating a draft declaration on the rights of indigenous peoples under the Organization's aegis should continue to examine access to justice by members of indigenous peoples as one of its substantive topics.

PEOPLE OF AFRICAN DESCENT

For centuries, people of African descent have been the victims of enslavement, racial discrimination, and denial of their basic rights, including full access to justice. According to a 2004 study by the JSCA entitled "The Judicial System and Racism against Afro-Descendents: Brazil, Colombia, Peru, and Dominican Republic" (*Sistema Judicial y Racismo contra Afro-descendientes: Brasil, Colombia, Perú y República Dominicana*), the criminal prosecution of people of African descent in our region is higher than of persons of other races. Statistically, a large number of cases have been recorded of Afro-descendants who have been unjustly convicted. The situation is worse where Afro-descendent youth and women are concerned. This is due to the traditional stigmatization of persons of African descent as suspects or guilty of committing criminal offenses merely for belonging to that group. No less significant is the

miniscule number of Afro-descendant judicial officials in the Americas, especially in Latin America. Indeed, the main results of affirmative action policies for people of African descent in the government apparatus have largely come in the executive and legislative branches, but remain very much in their infancy in the judiciary.

According to the JSCA study, in the majority of our countries, at present there is no public discussion of the issue of discrimination against persons of African descent in relation to access to justice, even though most of them are parties to the 1965 International Convention on the Elimination of all Forms of Racial Discrimination, which deals with the question of access to justice at its articles 5 and 6.

We should recall that in the Declaration of Santiago adopted in 2000 at the Regional Conference of the Americas preparatory to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the states of the Americas committed to adopting concrete measures to ensure for people of African descent full and effective access to the courts and, at the same time, to end impunity for all perpetrators of gross and systematic violations of the human rights and fundamental freedoms of persons of African descent. More recently, the Inter-American Convention against Racism and All Forms of Discrimination and Intolerance and the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance, both adopted in 2013, established the duty of states parties to those instruments to ensure that the victims of racism, racial discrimination, and related forms of intolerance receive equitable and non-discriminatory treatment, equal access to the justice system, expeditious and effective proceedings, and fair compensation in the civil or criminal sphere, as applicable. The International Decade for People of African Descent, recently declared by the United Nations with the theme "Recognition, Justice and Development," could also provide a fitting framework to promote, among other things, more-equal conditions in access to justice for this important sector of the population in most of our countries.

The challenge ahead is to make an effort to continue identifying the chief underlying causes of unequal access to justice for people of African descent that go beyond such factors as their possible poverty or lack of education, with a view to making structural reforms in our countries' policies.

The LGBTI collective

The LGBTI collective has historically been subjected not only to discrimination and intolerance, but also abuse, violence, and persecution by both private entities and public authorities. The most worrying concern today is hate crime against members of this collective in different countries in the region. The media recently reported on the deaths of youths who were savagely beaten because of their sexual orientation and died from their injuries some days later. Although the perpetrators have been brought to justice, in some countries that would be the exception rather than the rule. Studies show that when a member of the LGBTI collective seeks to uphold their rights in court, they are not afforded the same level of protection or reparation as others. Defenders of the LGBTI rights often complain that access to justice is limited because of stereotypes and prejudice among justice sector operators, which tends to lead to impunity, and, in turn, encourages the repetition of acts of discrimination and violence.

For a number of years now the OAS General Assembly has been adopting resolutions condemning acts of violence and human rights violations against LGBTI persons and urging states to prevent and investigate such acts and violations, while ensuring due judicial protection for victims on an equal footing and that the perpetrators are brought to justice. As with the other areas mentioned above, it is important to determine the main causes of such discrimination in order to design more appropriate public policies.

PERSONS WITH DISABILITIES

Effective access to justice for persons with disabilities means creating an environment that allows them to invoke and exercise their rights on an equal footing with the rest of society. To ensure those rights it is essential to raise awareness among justice sector operators about the obstacles–usually sociocultural (prejudice and negative stereotypes), linguistic, and architectural–that prevent this social group from participating in judicial proceedings. To remove such obstacles states should promote laws and public policies to protect these rights, ensure that courtrooms are accessible and that all relevant information provided to persons with disabilities is available in alternate formats, such as braille or sign language, in addition to ensuring the security, comfort, and privacy of communications.

Access to justice for persons with disabilities is an issue that the Organization has addressed. In November 2013, the Committee for the Elimination of All Forms of Discrimination against Persons with Disabilities (CEDDIS) adopted a standard reporting form for OAS member states to provide information to the General Assembly on their progress in building inclusive societies. The form includes a section that deals specifically with access to justice for persons with disabilities.

In addition, since 2012, CEDDIS has been working on a landmark initiative in the form of a regional diagnostic assessment of access to justice for persons with disabilities and the mechanisms in place for exercising their legal rights. The assessment is based on information furnished by government officials from the judicial and legislative branches, as well as ministries, councils, and secretariats on inclusion and social development, mechanisms, or offices that coordinate the national agenda on disabilities in 14 OAS member states that took part in the initiative.

CEDDIS's regional review examines the existing legal frameworks on access to justice for persons with disabilities, training and awareness programs for judicial officials, physical access to court buildings, the availability of tools to facilitate communication in courtrooms, and the

existence of adequate procedures in judicial proceedings when one of the parties and/or witnesses is a person with a disability, among other questions. The study revealed that adapting judicial buildings to the principles of universal accessibility that guarantee full mobility for persons with disabilities is one of the principal challenges for the region. Conversely, the majority of the states surveyed reported an emerging trend of facilitating the involvement of sign language interpreters and the use of accessible reading tools for the visually impaired in the context of judicial proceedings, although there is still plenty of room for improvement in this area.

Older persons

The Americas, like the rest of the world, is witness to the unprecedented phenomenon of population aging that will impact countries' economic and social systems in areas that range from the sustainability of pension systems to older persons' enjoyment of their human rights. Aging inevitably creates vulnerability.

Critical issues in the right of access to justice and fair-trial guarantees for older persons include the need to prevent and avert situations of involuntary internment and guarantees for ensuring reasonable time periods in any administrative or judicial proceeding in which an older person is a party. Also important is training on protection of the rights of older persons for personnel involved in the administration of justice, including police and prison personnel. Particularly sensitive is the issue of "equal recognition as persons before the law" for older people, reaffirming their right to full recognition of their legal personhood, and full exercise of that right on equal terms with others in all aspects of life, from ownership and inheritance of property or control over their own financial affairs, to access under equal conditions to bank loans, mortgages, and other forms of financial borrowing.

The OAS has been working on a draft Inter-American Convention on the Human Rights of Older Persons since 2009. All the world's regions

are taking steps to enhance protection for the rights of this social group, but the Americas region is leading the way in terms of actually negotiating a specific treaty on the subject. The draft includes among its substantive elements a chapter devoted expressly to the specific characteristics of access to justice for this segment of society.

ASYLUM SEEKERS, REFUGEES, AND INTERNALLY DISPLACED PERSONS

Displacement is a cause of vulnerability especially for migrant workers and their families, although asylum-seekers, refugees, and internally displaced persons also face many challenges, particularly when it comes to access to justice.

The common feature in the situations of all such individuals is displacement from their place of origin or residence due to particular causes or circumstances. Asylum seekers and refugees are forced to flee their countries to save their lives or protect their liberty either because of lack of protection in the state where they reside or persecution from the state itself. If the country that takes them in also fails to provide them with adequate access to justice with the guarantees that their particular plight requires, or if it fails to act promptly in regularizing their situation, such people may be permanently doomed to unequal treatment, limited their possibility to exercise other rights, such as the rights to work, housing, health, and others.

Internally displaced persons, for their part, are among the most vulnerable groups in the world given that very often they have to flee their place of residence because of an armed conflict, widespread violence, or violations of their human rights; in other words, they have been denied guarantees of adequate access to justice to protect their lives and property, or that of members of their families, yet they remain under the jurisdiction of the state concerned.

STATELESS PERSONS

Inasmuch as they are not recognized as citizens by any country, stateless persons are in a legal limbo, enjoying only minimal access to the benefits of society and only able to exercise in a limited way or not at all their rights to a nationality, identity, access to justice, health, education, and work.

As in the case of asylum seekers, refugees, and internally displaced persons, although there is a broad international and regional legal framework in place, it is largely unknown to justice sector operators and at the domestic level the applicable norms are few.

In this case, steps should be taken to increase awareness of the rights and legal guarantees of these sectors in order to go some way toward rectifying the de facto inequality that comes with living away from one's community of origin or not having a specific nationality.

4. JUDICIAL FACILITATORS PROGRAM

Various forums have demonstrated that there is great demand for access to justice. A large proportion of citizens need access to the judicial system and yet do not have it, which increases the amounts of conflicts as well as impunity. This is particularly true in the case of vulnerable sectors, such as women victims of violence, people who live in rural areas, and indigenous peoples.

In the medium term, the deficits in this area could further damage social cohesion and lead to situations where people take justice into their own hands. At present in the Hemisphere, the rules on justice administration are being amended to advance promptness in its application. At the same time, there is greater openness to consider alternate and restorative forms of dispute settlement, as well as greater consensus on making indigenous justice compatible with positive justice. All of the foregoing paved the way for the introduction some years ago of a judicial facilitators service promoted by the OAS General Secretariat.

The General Secretariat began to develop a judicial facilitators program in Nicaragua under a collaboration agreement between the Supreme Court of Justice, civil society organizations, and international cooperation agencies. A distinctive feature of this experience has precisely been the involvement of the judiciary, which has absorbed facilitators as part of it structure and endorses them as mechanism for dispensing justice. As a result of the service and the preventive work of facilitators, Nicaragua has seen a decline in rates of local crime and conflict.

The overarching objective of the program is to contribute to democratic governance, improve access to justice, and reduce poverty in rural areas through a participation mechanism for exercising genuine citizenship in the area of access to justice. Judicial facilitators are impartial leaders who live in their own communities and hold no political or religious office or belong to the police. They are elected by their community or neighborhood, then appointed by a local judge or magistrate and trained to carry out the duties described. Very often they deal with cases at their homes, outside regular business hours. They are subordinate to the courts and responsible for carrying out procedures entrusted to them by the authorities, while referring to the latter cases that pertain to their jurisdiction. They also disseminate laws, carry out a variety of preventive activities, and provide guidance and coaching to the public in their dealings with officialdom. They also act as extrajudicial or preliminary mediators, where allowed under domestic law.

The Program's success in Nicaragua soon prompted interest and requests for assistance from other countries, including Paraguay, Panama, Guatemala, Ecuador, Argentina, and, very recently, El Salvador. Currently, around 4,500 facilitators provide services to half a million people in those countries.

The Program has enabled access to justice for one in five people living in poverty in rural areas (20% of the rural population), reducing one of the more perverse effects of poverty. Thousands of citizens have saved money by not having to travel to courts in cities and metropolitan centers, being able instead to settle many such situations in their own

communities. As a result of reducing the level of conflict, conditions for economic development and investment in these areas have brightened. Indeed many mayors' offices are providing funds from their own budgets to support the judicial branch with the facilitators program, since it ensures better local governance and, in the long run, a higher tax take.

Nor has the Program ignored the issue of gender. There is a very high proportion of women facilitators as a percentage of women in elected office. By and large, women are involved in two thirds of the service, which inspires greater confidence in the system as many of the cases have to do with situations of domestic violence.

The Judicial Facilitators Program has shown that citizen participation in the administration of justice is not only possible, but can also be successful, as well as efficient and sustainable.

CONCLUSIONS

An OAS program of action on equal access to justice for vulnerable groups

Numerous studies conducted by international forums, government entities, and national and international civil society organizations contain specific proposals for expanding and strengthening access to justice for the most vulnerable segments of our societies. These proposals suggest a series of alternatives, such as the creation of legal assistance mechanisms for those segments, that is, legal consultation mechanisms with the participation of universities, law centers (*casas de justicia*), and bar associations, among other entities; promotion of quality and specialized technical-legal assistance, where possible free of charge; the right for foreigners or members of indigenous peoples to use interpreters when they are not familiar with the official language of the country; adoption of measures to simplify and publicly disclose the legal requirements for certain acts; promotion of oral proceedings; adoption of measures so that the way in which the justice system is organized facilitates access to justice for persons in vulnerable circumstances, such as prompt processing

and enforcement of decisions, judicial system operators that specialize in dealing with persons in vulnerable situations, or specialized courts; multidisciplinary teams; measures to make the services of the justice system more readily available for those in geographically remote areas, and other measures.

Other proposals include the creation and promotion of alternative means of conflict resolution, such as mediation, conciliation, arbitration, and other methods that do not involve a court in the settlement of the dispute, which may also help to improve access to justice for certain vulnerable groups while alleviating the dockets of the formal courts.

While it is true that all these measures are valid, the OAS has to find opportunities for injecting added value rather than replicate what others are already doing with relative success.

As was mentioned earlier, the OAS, as a hemispheric policy dialogue forum, is able to create opportunities for its member states to share experiences and best practices, thus generating consensus for establishing standards or basic legal frameworks to serve as a guide for member states to implement domestic laws. One of the most important such forums is the process of Meetings of Ministers of Justice or of Ministers or Attorneys General of the Americas (REMJA), which has already reaffirmed the importance of access to justice for effectively protecting the rights of persons. At the last REMJA meeting, ministers stressed the to take steps to facilitate, in particular, access to justice to persons and population segments who are most vulnerable for reasons of geography, economics, social status, age, gender, physical or mental state, ethnic and immigration status, and linguistic considerations, or any other reason.

Another instrument at the Organization's disposal is the Justice Studies Center of the Americas (JSCA), whose purpose is to impart training and conduct research in order to collaborate in judicial reform processes. The JSCA could contribute by preparing diagnostic assessments and disaggregated statistics for the individual vulnerable groups mentioned here, which would serve as inputs to begin designing more specific and appropriate public policies.

Successful initiatives, such as the Inter-American Judicial Facilitators Program, also need to be strengthened and expanded. The Program, which is already assisting the authorities in eight countries in the region, is designed to introduce and maintain justice administration services in rural areas as a means to cover the deficits created by social exclusion. In 2013, half a million people benefited from the services provided by judicial facilitators and more than 200,000 received guidance from the Program. That year, this initiative also passed a milestone by reaching the figure of 4,000 trained justice operators. One immediate effect of this programs is that in communities with judicial facilitators the percentage of the population that seek assistance in settling disputes is twice that of communities without them, where such conflicts have a negative impact on relationships in households and within the community.

An important element of any future plan of action would be for the Organization to support the work of public defenders. The functions of public defenders should be broadened to include not only criminal cases but also other jurisdictions. States should prevent access to justice becoming a privilege accessible only to those who can afford it. In that regard, efforts to create and strengthen the institution of the free public defender service as an essential instrument to ensure the universality of the right of access to justice should be ramped up.

Through the General Assembly, the OAS member states have recognized that in order to guarantee the right of access to justice, it is not sufficient merely to fulfill their responsibility not to prevent such access, but that they must actively promote mechanisms to make it easier for everyone to be able to fully exercise and enjoy their human rights. In the inter-American framework, the value that the member states ascribe to free legal counsel led both the Inter-American Court and the Inter-American Commission on Human Rights to reform their rules of procedure by introducing the figure of the inter-American public defender, a measure that originated precisely from the importance of facilitating access to free legal representation for those wishing to uphold their rights in the context of the inter-American system for protection of human rights. In recent

years a significant number of countries in the region have redoubled their efforts to create and strengthen public defender offices that provide free legal advisory, representation, and defense services, principally in the areas of criminal, civil, family, and labor law. These institutions have been created with different structures and levels of operational, financial, budgetary, and administrative autonomy. Without denying the importance of this progress, it should be acknowledged that there is still ample scope for bolstering the foundations that underpin public defender services, and consideration needs to be given to how to strengthen and improve these mechanisms. One of the most urgent challenges concerns low per capita coverage of public defenders. Data recently published by the Inter-American Association of Public Defender Offices (AIDEF) puts the average number of public defenders in the countries of the region at 3.8 per 100,000 inhabitants. Considering the levels of poverty in the region and the high number of people in vulnerable circumstances, the need to strengthen public defender service and create more public defenders is an important task pending. In recent years, the OAS has been establishing cooperation ties both with the AIDEF and public defender services in member states to provide capacity building and training for public defenders on hemispheric standards of protection for the rights of vulnerable persons.

We believe that these are some of the specific value-adding areas of work that the Organization could offer for strengthening access to justice. The problem of poverty in Latin America still needs to be tackled. Poverty limits access to justice which, by and large, demands a certain financial sacrifice on the part of the user. However, not having access to systems of justice very often means that the rights of citizens are left unprotected, closing the vicious circle of poverty – lack of access to justice – nonexercise of rights – greater poverty – greater inequality. When the situation is projected from the individual to the national level we better understand why the absence of guarantees of fairer access to justice on an equal footing for all members of society, regardless of their characteristics and particular circumstances, is one of the causes of backwardness and

lack of growth and development in our countries. However, it is precisely the characteristics of the various vulnerable groups where we will find the answer to the problem of ensuring that access to justice and its administration are achieved in a way that satisfies everyone's needs.

*Director of the Department of International Law
Secretariat for Legal Affairs

Violence, Crime and Social Exclusion

Adam Blackwell*
Paulina Duarte**

The Americas is a region that in recent decades has experienced significant progress in democracy and human development. However, the region is still beset by the problems of poverty and inequality; limited access to inclusive education and comprehensive health care; and gaps in access to justice, among other challenges. Despite the efforts of the Member States aimed at addressing these problems, much remains to be done to ensure that all citizens are able to meaningfully participate in the societies they live in. Indeed, these issues continue to prevent many individuals from being able to fully access their communities' economic, social, and/or political spheres, leaving them socially excluded and disadvantaged. In its broadest sense exclusion refers to the removal of *"someone from a place, to discard, reject, or deny opportunities."*

Social exclusion is linked to many of the criminal activity and violence problems that are present in our region, including high levels of homicides, kidnappings, and other crimes, and a disproportionate number of incarcerations. Under these circumstances, social exclusion becomes a form of structural and cultural violence which prevents thousands of people from achieving personal fulfillment. This structural violence disproportionately affects the society's most vulnerable members, such as women, youth, and ethnic minorities. Members of organized crime groups

and gangs have often responded to tough-on-crime government policies by recruiting and involving youth to partake in their criminal activities.

In developing effective and sustainable violence prevention initiatives to address social exclusion, we at the OAS, advocate a multidimensional approach. A multidimensional approach aims to ensure that in developing policies and programs, all at-risk stakeholders (particularly young persons), are included and provided with the opportunity to actively participate. Ensuring that our policies and programs are accessible to young people is imperative to addressing social exclusion. We must therefore design, manage, and implement policies in the area of public security for youth and by youth.

1.   SOCIAL EXCLUSION AND STRUCTURAL VIOLENCE

Human Security is the ability of "people to exercise these choices safely and freely --and be relatively confident that the opportunities they have today are not totally lost tomorrow"[1]. When we talk about social exclusion in the context of our Hemisphere and its relation to security, we are referring to a process of exclusion which becomes structural violence. Within modern consumer societies, social exclusion can significantly limit access to the goods, services, and opportunities that are necessary for individuals to fully develop their potential to the point that their very condition as citizens is put at-risk. In this way, social exclusion negatively affects human security.

When people who are socially excluded see potential opportunities disappear, or when the gap between their own hard realities and that of other members of society continues to grow, some will react with violence and crime. Violence negatively impacts the level of human development in a country and the capacity of the state to provide public goods and services. Notably, a World Bank study found that poverty reduction

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1   United Nations Development Program. Human Development Report 1994 (Informe sobre Desarrollo Human 1994. Mexico: Fondo de Cultura Economica, 1994) Web http://hdr.undp.org/sites/default/files/hdr_1994_es_completo_nostats.pdf

in countries affected by high levels of violence is on average almost one percentage point slower per year than in countries not affected by violence.[2] As the findings of the World Bank study suggest, violence leads to greater inequality and social exclusion (Annex 1), which as previously noted, results in more violence and crime. The result of social exclusion is therefore a vicious cycle of limited opportunities, crime and violence.

There are a number of other statistics that reveal the scope and impact that structural violence has had - and continues to have - on our countries, where 200 million people have been victims of a crime. For example, over 3.6 million citizens in this hemisphere are incarcerated, and globally 11 of the 15 countries with the highest rates of incarceration are OAS Member States. Perhaps more concerning is the number of minors that are currently incarcerated in the Americas: 124,360. The fact that almost 30% of those behind bars -over 1 million people- are convicted of drug crimes demonstrates some of the consequences of this scourge and the impact that it has on the societies of the Americas.[3]

In addition to the World Bank study noted, many other studies have found a relationship between social exclusion, and violence and crime, which seem to suggest that addressing the former could lead to a decrease in the latter. For example, countries with low homicide rates achieve better and faster improvements in human development than countries with high homicide rates. Specifically, countries which on average have low homicide rates are 11% more likely to improve their position on the Human Development Index, compared to countries with higher rates of homicide. Moreover, countries reporting high levels of homicides are statistically associated with slower progress in achieving the following Millennium Development Goals (MDGs): eradicating extreme poverty, youth unemployment, and hunger (MDG 1); increasing rates

2   World Bank. *World Development Report 2011*. United States: World
     Bank Group, April 11, 2011. Web http://web.worldbank.org/WBSITE/
     EXTERNAL/EXTDEC/EXTRESEARCH/EXTWDRS/0,,contentMDK:23252415
     ~pagePK:478093~piPK:477627~theSitePK:477624,00.html
3   Organization of American States. *Inter-American Observatory on Public
     Security 2010.* Web Portal. www.alertamerica.org

of primary education (MDG 2); and reducing infant mortality and birth rates in adolescence (MDGs 4 and 5). Moreover, the *Geneva Declaration on Armed Violence* noted that higher levels of development tend to be associated with reduced levels of homicide and violence. Specifically, countries that reported proportionally lower levels of income inequality and unemployment, also reported relatively low levels of homicide and violence. By contrast, the lowest levels of human development and income were reported in countries that noted high and very high levels of violence, particulairly armed violence.[4]

It bears noting that not all people are equally affected by the processes of social exclusion, violence, and crime. Some groups, either as victims or perpetrators, are particularly likely to be linked to contexts of violence and crime as a result of processes of social exclusion: these include young people, indigenous groups, LGBT groups, and visible minorities.

Ten years ago, in light of these concerning trends, Members States of the OAS proposed a multidimensional view of security. The proposed approach called for the broadening of the traditional concept and approach to security, a concept of security that moves beyond the traditional concept of state security by putting integrated approaches, personal well-being and positive outcomes at the center of our common agenda by encompassing "new and nontraditional threats, which include political, economic, social, health and environmental aspects".[5] As a result, in 2005 the Secretary General, Jose Miguel Insulza, created the Secretariat for Multidimensional Securities. The Secretariat for Multidimensional Security has since aimed to implement the new security paradigm into the Hemisphere by strengthening the dialogue between stakeholders;

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4   Geneva Declaration on Armed Violence. *More Violence, Less Development. Examining the relationship between armed violence and MDG achievement*. Geneva: Small Arms Survey, September 2010. p. 4-5. Web http://www.genevadeclaration.org/fileadmin/docs/MDG_Process/ MoreViolenceLessDevelopment.pdf

5   Organization of American States. *Declaration on Security in the Americas, 2003* Mexico: Special Conference on Security, October 28, 2003. Web https://www.oas.org/en/sms/docs/DECLARATION%20SECURITY%20 AMERICAS%20REV%201%20-%2028%20OCT%202003%20CE00339.pdf
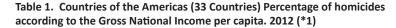
achieving effective cooperation; facilitating the transfer of knowledge; providing technical assistance; and supporting the sharing of promising practices in the field of multidimensional security.
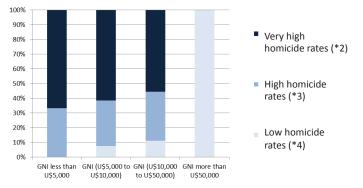
2. CRIME AND VIOLENCE IN THE REGION: STATISTICAL OVERVIEW

The relationship between violence, poverty, inequality, injustice, and the rule of law has been studied in-depth by academic communities, governments, and international organizations. In the Americas, available statistical data support the hypothesis that countries with lower levels of violent crimes are those with greater levels of development and less income inequality.

However, the search for statistical data that would show a definitive relationship between violence, crime, and social exclusion faces a number of practical and methodological problems. Most official data lack periodicity, and in many cases, are merely records of events reported (administrative records), as such data corresponding to the region represents temporal trends that are not comparable. Still, it is possible to gather enough statistical information from a combination of administrative records and victim surveys to propose an approximate approach to the relationship that exists between violence and social exclusion.

Figure 1 shows the homicide rate per 100,000 in a population and its relationship to levels of poverty. The chart measures poverty in terms of GNI per capita (the income of a country in USD divided by its population). GNI per capita is closely linked with other indicators that measure the economic and social welfare of a country and its population; for example, people living in countries with a higher GNI tend to have longer life expectancy, better literacy, better access to drinking water, lower rates of infant mortality and, as may be seen in Figure 1, fewer homicides.

Table 1. Countries of the Americas (33 Countries) Percentage of homicides according to the Gross National Income per capita. 2012 (*1)

Legend:
- Very high homicide rates (*2)
- High homicide rates (*3)
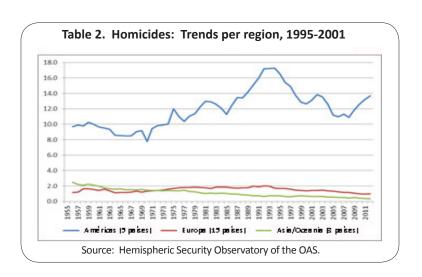- Low homicide rates (*4)

Source: Hemispheric Security Observatory and World Bank, 2014
Note: (*1) GNI per capita is the gross national income, converted to US Dollars, and using the World Bank atlas method, is divided by the population at the mid-year point. (*2) **Very high homicide rates** are the rates in countries equal or higher than the homicide rates of the Americas, which for 2012 was 16.5 homicides for every 100,000 of population. (*3) **High homicide rates** are the rates in countries which are between the worldwide rate (6.8 per 100,000) and the rate of the Americas. (*4) **Low homicide rates** are those that are below the worldwide rate.

Between 2000 and 2013, more than four million people in the hemisphere died violent deaths (as a result of intentional and negligent homicide, traffic accidents and suicides). In 2012 alone, a total of 145,000 homicides were recorded in the 35 countries of the Americas, representing more than four homicides per day. The average homicide rate in the Western Hemisphere (16.5 per 100,000 inhabitants in 2012) is five times greater than in Europe or Asia (Figure 2) and higher than the overall worldwide homicide rate (6.3 homicides per 100,000 inhabitants in 2012).[6] Over the last three decades, the number of homicides has continued to hover around 150,000 per year.

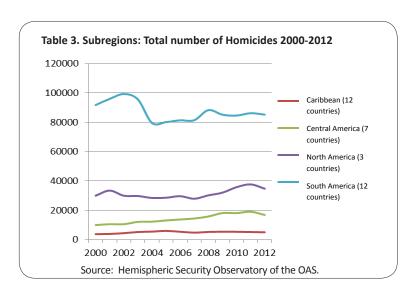While homicide rates were stable in the hemisphere as a whole during the last decade, some countries experienced significant changes internally, such as those of the Northern Triangle of Central America,

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6   United Nations Office on Drug and Crime. *Global Study on Homicide 2013*. Vienna: United Nations, March 2014. Web http://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf

Table 2. Homicides: Trends per region, 1995-2001

Source: Hemispheric Security Observatory of the OAS.

and some countries of South America and the Caribbean.[7] A significant number of homicides in the Americas have been linked to organized crime, particularly to arms and drug trafficking, kidnapping, human trafficking and contract killings. There are also significant differences at the sub regional level. Most of North America (except Mexico) experienced a significant decrease in homicide rates. Central America has been experiencing a steady increase in the homicide rate since 2007, resulting in one of the highest homicides rates currently being reported in the world (27 homicides per 100,000 inhabitants in 2012). In South America, the homicide rate was around 22 per 100,000 people, although trends vary by country. The analysis of national homicide data reveals a migration of the patterns of organized crime into the Hemisphere's sub-regions where institutional weakness is less of a threat to such criminal activities.

7   United Nations Office on Drug and Crime. *Global Study on Homicide 2013*. Vienna: United Nations, March 2014;
     United Nations Development Program. Regional Human Development Report 2013-2014. "Citizen Security with a Human Face: Diagnosis and proposals for Latin America." United States: United Nations Program for Development, November 2013 Web
     http://rankadmin.americaeconomia.com/2013/ranking_multilatinas_2013/pnud/informe_completo.pdf;
     Organization of American States. *Inter-American Observatory on Public Security 2013.* Web Portal. www.alertamerica.org

Table 3. Subregions: Total number of Homicides 2000-2012

Legend:
- Caribbean (12 countries)
- Central America (7 countries)
- North America (3 countries)
- South America (12 countries)

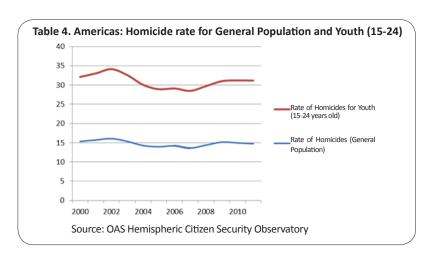Source: Hemispheric Security Observatory of the OAS.

Among 15-24 year old males, the homicide rate in the Americas is more than double that of the general population (Figure 4). In South America and the Caribbean, 15-24 year olds experience a rate of homicides three times higher than that of the overall population.[8] The youth of the so-called "ni-ni" generation, (from the Spanish – *ni estudian ni trabajan*: (they) neither work nor study), are the main homicide victims in the Hemisphere.

The high incidence of young men who are killed in the Americas also seems to suggest the existence of a link between murders committed by gangs and organized crime groups. The statistics indicate that the social and age group most affected by the high levels of lethal violence characteristic of this region is young people, in particular young men who are socially excluded and have low levels of social mobility. The statistics that exist regarding the number of young people involved in deadly violence reveal that they are often perpetrators and victims. Indeed, the primary victims of most violent crimes (homicides) are young males who live in socioeconomic situations of exclusion, and in most cases the perpetrators are of these violent crimes derive from this same social group. Women, on

8   Organization of American States. *Inter-American Observatory on Public Security 2014.* Web Portal. www.alertamerica.org

the other hand, are disproportionately victimized by their partners, and are often victims of homicides related to domestic violence.[9]

Table 4. Americas: Homicide rate for General Population and Youth (15-24)

Source: OAS Hemispheric Citizen Security Observatory

	% of population incarcerated	Rate per 100,000 population	PPL 15-24 years	Incarcerated children
Americas	**39.5%**	**36.2%**	**54.2%**	**10.0%**
Caribbean	84.5%	60.1%	27.8%	34.2%
Central America	101.9%	58.4%	131.5%	93.8%
North America	22.0%	5.0%	3.0%	57.6%
South America	116.0%	78.3%	13.0%	92.4%

Other statistics worth noting are related to prisons. By their very nature, prisons are a tool of exclusion sanctioned by law, but this exclusion, which is meant to be temporary for a specific punishment

9   United Nations Office on Drug and Crime. *Global Study on Homicide 2013*. Vienna: United Nations, March 2014

that takes place throughout a specified length of time. However, beyond the short-term effects of the prison sentence, prisons have been proven to have considerable implications in the medium- and long-term that affect not only the incarcerated individual, but also the family and social environment to which inmates return to after serving their sentence.

The rupture with the wider world, which is an inevitable part of incarceration, makes it even harder to reenter and live positively once again in society. Given the current conditions of most prisons and prison systems in the region, a prison itself perpetuates or ensures the exclusion of the individual from the social and family context into which he is meant to reintegrate. In this context, we observed a considerable increase in the prison population throughout the region (both in aggregate numbers and in the ratio of inmates per 100,000 people). This trend affects youth and women in particular, who are being jailed at an increasingly younger age. High rates of recidivism among young men (15-24) reveal the failure of many prisons and prison systems in promoting social reintegration, and suggest that instead, prisons serve to perpetuate the cycle of exclusion.

The phenomenon of globalization has brought about greater prosperity and higher living standards in many parts of the world; however, it has also worsened the degree and the perception of social exclusion affecting other regions and social groups. Moreover, expanded access to electronic media and connectivity has lead to the risk of even further exclusion, since "acquiring these technologies is understood as the principal way of being integrated socially, whereas not owning them is understood as a form of exclusion."[10]

At the same time, the problems of crime and violence, which some years ago were addressed at the national or sub-regional level, have today evolved into global phenomena. Technology allows criminal activity in the Hemisphere to have greater mobility, flexibility, and capacity to create threats. In this way, organized crime entities increasingly use global

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10   United Nations Development Program. Regional Human Development Report 2013-2014. "Citizen Security with a Human Face: Diagnosis and proposals for Latin America." United States: United Nations Program for Development, November 2013

connectivity in their favor. The permeability of national borders, fewer restrictions on international trade, and the modernization of financial systems and telecommunications provide criminal organizations a greater opportunity to expand their operations beyond national borders. Thus, the region has become increasingly more vulnerable to illegal activities such as drugs, arms, and human trafficking, gang violence and other criminal activities. In this context, the use of technology by criminal organizations and the ease by which it can be used to facilitate the violation of laws, increases the economic and social damage that can result.

It also bears noting that illicit trade and organized crime are significant barriers to economic growth, as they impede legitimate market operations, undermine global supply chains, deplete natural resources, and threaten the stability of the market. The promotion of global economic growth and equity that results from the free market, as well as the role of investment and communications as drivers of growth, will not be effective if corruption, illicit trafficking, and transnational organized crime are not fought.

3.   SOCIAL EXCLUSION, VIOLENCE AND CRIME: THE IMPACT ON WOMEN, YOUTH AND ETHNIC MINORITIES

Poverty, a lack of opportunity, and a lack of access to education place women and girls in vulnerable situations and make them easy targets to be recruited into criminal activity. Indeed, women with low socio-economic and education levels are among the most vulnerable to members of society in terms of being included to partake in criminal operations, whether as victimizers or traffickers. Their increased participation in the drug trade (which in many countries represents more than 50% of all women inmates) is concerning. Their involvement in illegal distribution chains, along with increased personal consumption and the consequential decline of their physical, psychological, and emotional wellbeing have

hindered their opportunities for development. As a result, women are likely to fall into the vicious cycle of violence related to criminal activity.

Gender bias is evident in the data on violence, although frequently violence affecting women in the hemisphere is made invisible. Among the principal forms of violence are domestic violence, intimate partner sexual violence (including sexual abuse and harassment in the workplace), femicides, human trafficking, trafficking, sexual exploitation and institutional violence.[11]

The most recent data to date regarding the prevalence of violence against women indicates that globally, 35% of women have experienced dating violence or sexual violence at some point in their lives. Moreover, the statistics indicate that 38% of all murdered females are murdered by their intimate partner.[12] Reducing or eliminating this cycle of violence and murder will depend on reducing the economic and social vulnerability of women. In turn, reducing the vulnerability of women will require special efforts by government and civil society in the areas of security, education, employment, health, equitable development of rural areas, equal opportunities for men and women, as well as strengthening inter-institutional cooperation.

Similarly, countries in the Americas that collect crime statistics on ethnic minorities, have reported that minorities are over-represented in crime statistics and in the court system (both as perpetrators and victims), a trend that continues to grow. To illustrate this point and the impact of social exclusion, consider the following statistics:

- African-American males in the United States, as well as Afro-Brazilian men in Brazil, who have not completed school are more likely to end up incarcerated than to obtain steady employment.
- In the Americas, there are now more African- Americans in prison than there were slaves in the nineteenth century.

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11   Ibid.
12   World Health Organization. "Intimate partner violence and sexual violence against women," Fact Sheet # 239. Press Center, October 2013. Web http://www.who.int/mediacentre/factsheets/fs239/en/

- Approximately 13% of the U.S. population is of African-American origin; yet make up 40% of the prison population.
- African-Americans and Hispanics, represent 60% of all prisoners in the United States, despite the fact that African-Americans and Hispanics represent approximately 30% of the national population.
- Census data confirms a large racial disparity: those who indicated being African-Americans are incarcerated nearly six times more often than those who identify as Caucasians.
- Nationally, African-Americans make up 26% of juvenile detentions, 44% of all detained youth, and 58% of youth in state prisons.[13]
- If current trends continue, nearly 70% of young African-American men will be imprisoned at some point during their lifespan.[14] For these ethnic minorities going to jail or prison has become almost mainstream; a sad reality that challenges the progress made in the post-Civil Rights era.
- Brazil the majority (74%) of all prison inmates are between the ages of 18-34 years, financially poor, African-American, and of have attained low educational levels. More than half of all prisoners in Brazil (66%) have not completed primary education.[15]
- Only 4% of Canada's population is of indigenous origin, yet make up 20% of prison inmates.
- One in three women in Canadian federal prisons is of indigenous origin, and in the last 10 years the percentage of Aboriginal women in prison has increased by almost 90%.

13 Office of Justice Programs. *Bureau of Justice Statistics (BJS)* United States: Department of Justice, 2014. http://www.bjs.gov/index. cfm?ty=pbdetail&iid=4987
14 Shelden, Randall. *Race and the Drug War*. Center on Juvenile and Criminal Justice, 2013. Web http://www.cjcj.org/news/6226
15 Secretaría Nacional de Segurança Pública. *Anuário Brasileiro de segurança Pública*, *2013*(National Secretariat for Public Security. *2013 Brazilian Yearbook of Public Security*). São Paulo: Fórum Brasileiro de Segurança Pública, 2013. Web http://www.forumseguranca.org.br/produtos/ anuario-brasileiro-de-seguranca-publica/7a-edicao

- While indigenous women make up only 6% of the juvenile female population in Canada, nearly half (44%) of young women in prison are indigenous.[16]
- Ethnic minorities are also at a greater risk of being victims of violence if they live in households with lower annual incomes when compared with households having higher annual incomes.

The lack of prospects many groups of young people have for improvements in their lives, often result in violence and crime. This is particularly true in urban areas, where individuals face situations of social exclusion in regards to accessing the basic tools for development, such as education, and consequently results in limited employment opportunities due to a lack of skill. For young people with no access to the pathways for obtaining inclusion, and without prospects for a bright future, violence and crime facilitates the access of goods and opportunities from which they are legitimately excluded. Furthermore, the relationship between violence and the social context in which it is inserted leads to a vicious and circular interplay, in which violent environments are conducive to violent reactions on the part of youth.

The high rate of incarcerations in the region (some of the highest in the world, with many of the countries in the region having the highest percentages of their population behind bars) has another, often invisible consequence: children with one or more incarcerated parent. The lack of one or more of the principal caregivers in the come, increases the difficulty of ensuring the child's needs are met, and as a result, many such children themselves fall into the cycle of violence and crime.

For this reason, and as is borne out by the statistics, young people who make up the so-called *ni-ni* generation (from the Spanish – *ni estudian ni trabajan:* (they) neither work nor study), are the main victims and perpetrators of homicides in the hemisphere. Facing this lack of inclusion, they find shelter by associating with groups where they find a sense of

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16   *Statistics Canada*. Government of Canada, Date modified: 2014-05-09. Web
     http://www.statcan.gc.ca/tables-tableaux/sum-som/index-eng.htm

belonging. Gang membership – whether it be violent gangs or not, is an extremely attractive to young people in these circumstances.

In such circumstances, these various forms of exclusion are a threat to future governance and to the democratic system; in this sense the young people of the Americas may play the role of both victims and of disruptors. This, because youth "is the social and demographic group that suffers the most the crisis of expectations – as a result of the dissociation between schooling and employment, a greater consumption of images and low levels of material consumption, a higher level of exposure to information and low level of opportunities – [...] may be disruptive in terms of social and democratic life," particularly as this affects cycles of violence and crime.[17] Contrary to this, broadening the participation and involvement of youth in social processes of education, employment, political participation, security, etc., would allow for strengthening democratic processes and security in the region.

Structural violence as a result of social exclusion can therefore only be reduced if and when:

a) The state is effectively able to freely and securely provide universal access to basic services (welfare assistance and safety), as well as opportunities for human development through social investments;

b) The dominance and extent of illegal economic activity can be reduced by implementing effective and inclusive laws that do not leave any group unprotected, and makes prevention policies a greater priority. These laws should be developed in contrast to the increasingly punitive measures that have been adopted, which to date have shown themselves to be ineffective in the medium and long term;

c) Respect for human rights is guaranteed; and

17   Economic Commission for Latin America and the Caribbean (ECLAC). *Juventud e inclusión social en Iberoamérica (Youth and social inclusion in Latin America)*. Santiago de Chile: Organización Iberoamericana de Juventud, 2003. Web http://www.eclac.cl/publicaciones/xml/9/13879/ LCR_2108_PE.pdf

d) Specific attention is given to ensuring that in public policy groups and social sectors who are most affected are involved and able to participate.

In other words, the solution to the problem of insecurity is not necessarily found in greater levels of security (i.e. an increase in the number of police or other law enforcement agents), or in adopting tougher laws against crime. Instead, the solution is a matter of favoring more inclusive public policies, which will transform coercive approaches into community-based security, giving greater importance to policies of prevention over purely punitive approaches.

Furthermore, these recommendations entail an implicit challenge: the need to develop in citizens a set of beliefs and attitudes that will lead to voluntarily following the law. This culture of legality requires the State to have the ability to administer its legal processes in a fair and effective manner, while simultaneously expecting citizens to responsibly exercise their freedoms, and also recognize that their needs and rights are similar to those of other citizens. The result of this interaction between state and citizen makes for a new virtuous circle, where people's active participation in public affairs is reinforced and leads to the possibility of breaking patterns of structural violence.

4. YOUTH AS A FACTOR OF CHANGE TO BREAK THE PATTERN OF EXCLUSION, VIOLENCE AND CRIME

As was seen in the statistics previously presented, as well as in numerous studies pertaining to social exclusion, violence, and crime in the region, young people are one of the most affected groups. This, which is understood to be a problem for the Member States of the OAS, may also be seen as an opportunity for our countries to work to create and put in place public policies that are oriented towards having young people be one of the key factors for change.

The counterpart to the problem of social exclusion is social inclusion, particularly, as we have seen, of young people who are the ones most affected by being deprived of social processes such as education, housing, health care, political participation, etc., all of which have a decisive impact on whether youth become involved in patterns of violence and crime, either as victims or perpetrators. Achieving the social inclusion of young people is therefore key to turning around the patterns of violence and crime in the region, as well as to the sustainability of democratic practices in the hemisphere.[18]

Youth occupy an ambiguous place – they are both receivers of policies and agents of change. On the one hand, young people are seen as the passive recipients of multiple social processes, which include education, security and political participation. On the other hand, youth are understood to be strategic participants in developing safer societies. That is, even as society "restricts them to be recipients of various stages of training and discipline, at the same time schools and the media promote the myth of young persons who can be protagonists of change and promoters of new models of social interaction."[19]

In this context, the participation of young people in public security policies should be transversal or cross-cutting. It is necessary to create connections between those who manage and implement public policies on security and youth groups themselves, as well as to enhance opportunities for youth participation in generating public security policies, particularly those that directly affect youth. This approach requires making youth programs and policies available to youth, at a local level and in coordination with NGOs and volunteer groups, among others.

On the security agenda youth are often considered a problem rather than a solution to activities related to violence. Stigmatizing young people, particularly those with low income and education levels, only exacerbates the problem and feeds existing patterns of social and cultural exclusion against them, thus fueling and reinforcing structural violence.

18   Ibid.
19   Ibid.

Moreover, the economic and social costs of violence are often greater than the actual cost of programs for prevention or social reintegration of young people. Initiatives for violence prevention must be adopted using a more comprehensive approach, so as to ensure the inclusion and active participation of all at-risk stakeholders – first and foremost, young people not yet involved in criminal activities- in the process of fighting and preventing crime and violence. Community-based interventions should seek to modify and manage social behaviors to reduce all forms of violence. Effective interventions related to prevention that promote training for young people, a positive lifestyle and social and political participation will reduce their association with violent crime and negative peers.

In conclusion, it is crucial to acknowledge the capacity of young people to break themselves from the vicious circle of social exclusion, violence and crime, as well as to promote a positive understanding of young people as effective and essential stakeholders. Youth-related public policies should be designed, managed and implemented for youth and by youth in order to adapt the tools used, ensure a proper understanding of their needs, and promote a sustainable commitment to current and future actions.

5.   THE ROLE OF THE OAS

The Organization of American States has not been indifferent to the problems concerning the relationship between inequality, social exclusion, and insecurity. At the Special Conference on Security held in Mexico City in 2003, the OAS defined the concept of "multidimensional security," which took into account the fact that security may not be understood as anything other than the security of the human person, and it can therefore be threatened by a number of factors that are not separate from those of social exclusion and inequality.

The **Declaration on Security in the Americas**, which addresses these concepts, explicitly states that "the basis and rationale of security

is the protection of the human person ..." adding that the conditions of this security "improve by fully respecting the dignity, human rights and fundamental freedoms of individuals, and by promoting economic and social development, social inclusion, education and the fight against poverty, disease and hunger..."

The creation in 2005 of the Secretariat for Multidimensional Security, within the General Secretariat of the OAS, was the institutional outcome of the Declaration on Security in the Americas. In keeping with these principles, the General Secretariat also coordinates and acts as the Technical Secretariat of the Mechanism for the Inter-American Convention against Corruption; the Monitoring Mechanism of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women; the Inter-American Convention against Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials; the Hemispheric Plan of Action against Transnational Organized Crime; the Multilateral Evaluation Mechanism of the Inter-American Commission for Control of Drug Abuse; the Meeting of National Authorities on Human Trafficking; the Meeting of Authorities responsible for Penitentiary and Prison Policies; the Meeting of Forensic Specialists; and Groups of Experts on Reduction of Demand for Drugs, Asset Laundering, Maritime Traffic and Precursor Chemicals.

Similarly, the OAS convenes the processes associated with the Meetings of Ministers Responsible for Public Security in the Americas and Ministers of Justice or Attorneys General of the Americas. These permanent forums for discussion and agreements allow the highest law enforcement and public security management authorities to identify the deepest causes of the problems of crime and violence in the Hemisphere and to generate consensus and coordinated action to face this challenge.

At its 41st regular session, held in San Salvador in June 2011, the General Assembly issued the *"Declaration of San Salvador on Citizen Security in the Americas,"* which specifically stated the will of the countries of the Hemisphere to confront insecurity by means of public policies focused on human beings, addressing the various origins of the problem

and allowing the participation of a broad group of stakeholders. At its 43rd regular session, the General Assembly also adopted the "*Declaration of Antigua Guatemala for a Comprehensive Policy against the World Drug Problem in the Americas*" and the resolution "*Promotion of Hemispheric Security: A Multidimensional Approach*." The objective of both documents, as well as the stated commitment of the States of the Americas, is to promote effective policies to ensure the security of their people from the perspective of the security of the human person, while addressing the various causes of insecurity, including inequality and social exclusion.

An account of the efforts by the OAS to address the issue of security from a perspective that is both multidimensional and responsive to the evolution of this phenomenon within our region's reality cannot fail to include the "Report on the Drug Problem in the Americas" issued by the General Secretariat in 2013, and which was prepared at the request of the Heads of State at the Sixth Summit of the Americas. The report noted, in essence, that the drug problem is complex and diverse, and requires a balanced public health approach and flexible policies in the search for solutions; solutions that while of a collective nature, take into account the diversity among our countries and the different needs each faces in regards to the drug problem. The report provided a starting point for important discussions regarding drug policy in the Hemisphere and has become a significant reference point for a broader debate.

ANNEX 1:

Statistical relationship between crime and inequality

The table below attempts to show the relationship between crime and social exclusion. The variables used are: the Gini coefficient, the percentage of the population who are 18 to 24, and of children (boys and girls) who are not in school. The variables used to measure crime we used murder and theft rates for 2000-2012. In the initial estimates, we identified a positive relationship between the Gini coefficient and the homicide rate. In the Americas, if the Gini coefficient decreases by one percentage point, the homicide rate decreases 35%. If we include in that calculation the population of youth not attending school, the ratio then increases 0.08 points, which suggest a decrease of 40%. Estimates using the theft rate confirmed a positive relation with the Gini coefficient. For example, when the population of young people not in school is included, the results inferred an average of 30% more thefts. When all the controls are included, there is a 50% increase in homicides.

In fact, for the countries, there is a positive relationship between levels of inequality and rates of homicides and thefts. Data seems to show that efforts to reduce crime in the region must be accompanied by reducing levels of inequality between countries

Table 1: Statistical relationship between crime and inequality in the Americas, 2000-2012.

VARIABLES	Homicide rates			Theft rates		
GINI	0.00707***	0.00804***	-0.00233	0.0555*	0.0624**	0.101***
	(0.00174)	(0.00175)	(0.00222)	(0.0285)	(0.0262)	(0.0360)
% Youth			0.0458***			-0.163
			(0.00671)			(0.104)
% Children not in school		0.0143***	0.0101***		-0.0939**	-0.0771**
		(0.00251)	(0.00240)		(0.0373)	(0.0387)
Constant	-0.00135	-0.00245***	-0.00542***	0.00248	0.00154	0.0110
	(0.000895)	(0.000895)	(0.000932)	(0.0144)	(0.0133)	(0.0146)
Observations	286	260	260	214	201	201

Standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1

*Secretary for Multidimensional Security
*Director of the Department of Public Security

Addressing Inequality through Sustainable Development

*Cletus Springer**

T he emergence of sustainable development as the imperative of the 21st century has its roots in notions of intra-generational and inter-generational equity and in a recognition that an urgent transformation in development approaches is required to ensure that the needs of current generations are met in a manner that does not compromise the ability of future generations to meet their own needs[1]. Over the past 3 decades several attempts have been made to emphasize the centrality of the human dimension in the development process, more recently through the Millennium Development Goals (MDGs). In its 2013 Report, a Panel of Eminent Persons established by the UN's Secretary-General[2] noted that a new development agenda would require action beyond the MDGs which they felt did not focus enough on reaching the poorest and most excluded people and were silent on issues such as the devastating effects of "... conflict and violence on development, the importance to development of

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1 The concept of sustainable development and its link with intergenerational equity was first introduced by the World Commission on Environment and Development (Bruntland Commission) in its report entitled "Our Common Future"

2 The Report of the High Level Panel of Eminent Persons on the Post-2015 Development Agenda. A New Global Partnership: Eradicate Poverty and Transform Economies through Sustainable Development. New York: United Nations, May 30, 2013. http://www.post2015hlp.org/wp-content/up-loads/2013/05/UN-Report.pdf

good governance and institutions that guarantee the rule of law, free speech and open and accountable government and the need for inclusive growth to provide jobs."

Importantly, the Panel found that the MDGs fell short by "...not integrating the economic, social, and environmental aspects of sustainable development as envisaged in the Millennium Declaration, and by not addressing the need to promote sustainable patterns of consumption and production. The result was that environment and development were never properly brought together." The Panel concluded that the post-2015 Development Agenda should be driven by "5 big transformative shifts," all of which are at the heart of the OAS Charter. These are: (1) halting the pace of climate change and environmental degradation; (2) bringing about more social inclusion; mobilizing social, economic and environmental actions together to eradicate poverty; (3) rapidly shifting to sustainable patterns of consumption and production; and (4) encouraging responsive and legitimate institutions based on the rule of law property rights freedom of expression and access to justice.

The analysis in this Article reinforces the centrality of the Panel's findings as it relates to the links between "multidimensional inequality" and unsustainable development and the pathways that are available - many of which are actively being pursued by the OAS - to promote sustainable development with social equity. The core conclusions from the analysis of the links between inequality and water resources, energy, disasters, urban decay and governance, are that: inequality and unsustainability are key elements in a cycle of negative reinforcement; unsustainability has its roots in lack of access to quality education, information, justice, land, inequality of opportunity and income inequality, among others factors. Moreover, these weaknesses manifest themselves in current and future development challenges, such as environmental degradation, disasters, pollution, unsustainable land management, decaying cities, poverty, and unsustainable consumption and production. The analysis makes clear that the only route to sustainability lies in adjusting social and economic relationships between wealthy and poor nations and individuals, along

the lines of equitable distribution of the benefits of economic growth and enhanced access to livelihood assets.

1. INEQUALITY IN THE AVAILABILITY AND DISTRIBUTION AND USE OF WATER

The Americas is among the regions with the greatest abundance of water on the planet alongside a relatively low, overall water extraction rate. The region has a third of the world's renewable water resources and, although it has only 15% of the territory and 8.4% of the world's population, it receives 29% of global precipitation. The hemisphere has numerous transboundary water resources, both surface and underground, including 74 aquifers in continental border regions which have led to important political agreements[3]. However, this hemispheric water wealth is not evenly distributed, in time nor space, and its availability is subject to many pressures, both local (from extraction activities such as agriculture and mining, deforestation and destruction of watershed catchment and recharge areas), and global (from climate change). In Central America, 70% of the population lives in the Pacific watershed with only 30% of the water availability, leading to a fragile socio-economic and environmental relationship when addressing a demand for water-dependent services.
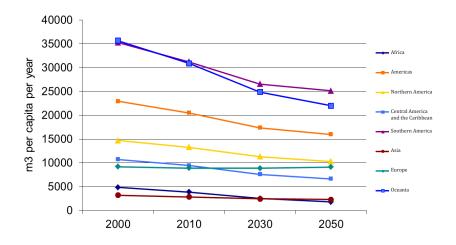
1.1. *Unequal distribution is the prime determinant in the characterization of inequity associated with water.*

Limited information and technical knowledge as well as limitations in financial resources to develop water infrastructure reduce the chances of effective use, affecting the provision of universal services to all sectors of the society and economy. Increasing pollution of water bodies and reduction in investments for maintenance and expansion of waterworks (potable water, sanitation, hydropower, transportation, tourism and recreation), also contributes to inequities in the availability of water and undermines health, thus becoming determinants in poverty and exclusion. The water

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3   ISARM-Americas, UNESCO-OAS, 2010-11

wealth of the continent also has positive dimensions, where effective utilization has enhanced opportunities for the welfare of communities, countries and regions, for example, irrigation for food production and food security, hydropower generation and commercial transport through natural and artificial water bodies. In many cases the economic benefits of these activities have helped to support social programs favoring social inclusion. *Challenges for water resources management under future scenarios*

Total actual renewable water resourses per capita: Trends and projections

Population dynamics are among the main determinants in the sustainable management of water resources, including its effective and equitable use (graphic). Water is a climate-dependent resource, therefore changes in the climate system also complicate equitable management, and will likely continue to do so particularly in a scenario of global climate change[4]. In a scenario of increased water stress (droughts or floods), water supply systems and services associated with the resource will be subject to greater pressures due to impacts on infrastructure and /or changes in

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4   IPCC WGII, AR-V, 2014.

the capacity of these services because of factors such as migration. This situation raises the importance of reaching agreements on access and use of water before irreversible limits are reached.

1.2. *Conflicts arising from competing uses of water resources*

The increased demand for water-based, goods and services can generate social challenges and conflicts. The development of tourism infrastructure along coastal areas with inadequate planning, unsustainable mining and agriculture, and large-scale construction of hydroelectric dams and reservoirs have generated conflicts between communities and sectors. The growing recognition of water as a human right in national laws and in international human rights instruments can help to promote the equitable provision of water and its efficient use, reducing at the same time the potential for conflicts. However, in the absence of participatory, inclusive and equitable processes, such conflicts will continue.

1.3. *The role of good water governance in promoting social inclusion*

The global crisis of the early years of the 21st Century has highlighted the fragility of global development processes, with important consequences for the scope of equity derived from goods and services associated with water resources. While as a region, water demand and supply is in balance, in many countries water demand outstrips supply. In some cases this water stress is caused, not by a limited availability of water but by a combination of factors such as poor management, the absence of transparent and accountable decision-making processes, outdated legislation, inadequate financing, water pollution, limited civil society participation, limited investments in maintenance, and poorly-planned expansion of the water infrastructure to satisfy the needs of homes and businesses.

2.   ADDRESSING INEQUALITY THROUGH ENHANCED ACCESS TO SUSTAINABLE ENERGY

The challenges posed by inequality can also be appreciated through the prism of access to modern energy services. The availability of energy that is universal, diverse, reliable, secure, and affordable is fundamental to providing for basic social needs, economic growth and human development. Inadequate access to energy has had direct and indirect negative impacts on several relevant issues relating to inequality, including low levels of industrial and agricultural productivity, poor human and environmental health, deficient education, unsound water management practices, unreliable communication services, and insufficient access to information.

For many decades, the countries of the Americas have been striving to provide universal access to reliable energy services. At several Summits of the Americas, Heads of State and Government stressed the issue of access to energy as a key priority linked to poverty alleviation, job creation, environmental sustainability, and the promotion of democracy. However, the region's sustainable energy push has had mixed success. Job losses, loss of income and increased poverty caused by the 2008 global financial crisis has significantly affected the ability of consumers to pay for energy services. It is estimated that approximately 34 million people in Latin America and the Caribbean, most of who live in rural and remote areas do not have access to modern and reliable electricity services[5]. In some countries the percentage of the rural population with no access to electricity ranges from 20% to as high as 90%. The crisis has also caused deteriorating debt and equity markets, thus making it difficult for energy producers and investors to access capital for new investments. As a result numerous energy projects have been suspended or canceled.

Without adequate access to modern, affordable and reliable commercial energy, poor countries are trapped in a vicious circle of poverty,
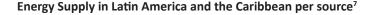
[5]   http://www.iadb.org/en/topics/energy/energy-in-latin-america-and-the-caribbean,1272.html
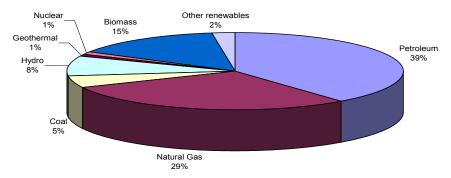
social instability and underdevelopment. The World Health Organization estimates that in 2012 nearly 131,000 deaths in Latin America and the Caribbean were attributable to the combined effects of household and ambient air pollution linked to the use of coal and biomass for cooking[6]. This finding more than doubles previous estimates and confirms that air pollution is among the region's main environmental health risks. The region's efforts at expanding energy access and creating more inclusive economies and equitable societies have also been stymied by energy price volatility, that is, the degree of uncertainty and risk relating to the price of energy commodities over time. The dramatic fluctuation of oil prices primarily in oil and gas, experienced worldwide in 2008 is a clear example of such volatility which undermines energy security of the Americas. Oil prices increased significantly, from US$12 per barrel in January 1999 to a peak of US$145 in July of 2008, the highest price in history for that commodity.

Energy price volatility has had a direct impact on a number of issues such as: stressed national energy budgets; depleted foreign exchange reserves; disrupted access to energy by marginalized groups in cases where the price of energy is too high; declining investments in conventional and renewable energy and other low-carbon technologies; declining income of energy exporting countries in cases where energy prices are too low; and inadequate access to credit to defray the high upfront costs of renewable energy projects. A key lesson from history is that oil prices and increased volatility returns over time thus making it essential that the more vulnerable countries step up their efforts to diversify their energy mix, towards a higher use of low-carbon energy sources. Projections for the next 25 years indicate that oil, gas, and large-scale hydropower will continue to dominate the region's energy supply. The projection of renewable energy remains relatively smaller in comparison.

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6   http://www.paho.org/hq./index.php?option=com_
     content&view=article&id=9406%3A7-million-deaths-annually-linked-air-
     -pollution&catid=1443%3Anews-front-page-items&Itemid=2&lang=en

The graphic below shows the composition of the energy supply of Latin America and the Caribbean region for 2012 Net Generation of Electricity in Latin America and the Caribbean per source.

Energy Supply in Latin America and the Caribbean per source[7]

Link between Energy and Climate Change

The close link between energy and climate change has grave consequences for social inclusion, economic growth and environmental sustainability. The energy and transport sectors are the largest contributors to global greenhouse gas (GHG) emissions caused by fossil fuel use. Together, these sectors account for 70% of total GHG emissions released into the atmosphere, with the energy sector accounting for 59%. Conversely, both sectors are highly susceptible to climate change impacts.

2.1.   *Enhancing Access to Affordable Energy Services for All*

Expanding energy services in rural settings will require increased investments in energy infrastructures and off-grid schemes through the expansion of renewable energy technologies. Substantial financing is also needed to support research and development in renewable energy and energy efficiency technologies, foster institutional capacity building, and facilitate the integration of technical standards and energy cooperation in the region.

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7   Energy-Economic Information System, OLADE 2012

Electricity Access in Latin America (2011)

Region	Population without electricity (millions)	Electrification rate %	Urban electrification rate %	Rural electrification rate %
Argentina	1.1	97	100	68
Bolivia	1.3	87	99	62
Brazil	1.4	99	100	96
Colombia	1.2	97	99	91
Costa Rica	0.0	99	100	98
Cuba	0.3	98	99	92
Dominican Republic	0.4	96	99	89
Ecuador	0.7	96	98	90
El Salvador	0.5	92	97	82
Guatemala	2.7	82	95	69
Haiti	7.3	28	44	9
Honduras	1.3	83	95	70
Jamaica	0.2	93	98	87
Nicaragua	1.3	78	98	50
Panama	0.4	88	97	62
Paraguay	0.1	98	100	96
Peru	3.0	90	98	60
Trinidad and Tobago	0.0	99	100	99
Uruguay	0.0	99	100	87
Venezuela	0.1	100	100	96
Other Latin America	0.2	91	93	89
Latin America	**24**	**94.8**	**98.5**	**81.1**

IEA, World Energy Outlook 2013

3.   REDUCING INEQUALITY IN CITIES

The accelerated pace of urbanization is creating new forms of social and economic inequality that threaten human and environmental security. Cities often expand beyond their planned limits, and official and informal systems, to provide water, sewerage, waste disposal, and other common services to these areas tend to be insufficient and inefficient. About 80% of the population of Latin America and the Caribbean is living in cities. Growing urbanization and inequality of access to education, housing, potable water, sanitation, health, and transport, are interconnected. Existing fiscal and land-use policies are not conducive to facilitating adequate systems of urban transportation, nor is there a favorable environment for private participation in the transportation system. The largest urban centers are just beginning to keep track of city crime and are learning the particular forms of metropolitan violence. They are beginning to experiment with new measures capable of effectively curtailing violence.

Encouragingly, cities are being rediscovered as focal points for sustainable development efforts, for multilateral lending and bilateral development assistance. While much of the emphasis is focused inward, the relevance of city and urban development is actually oriented outward in linkages with other cities and metropolitan areas with evolving democratic processes, with free trade and with better environmental management. Management issues that affect the sustainability of cities include the sustainability of water resources, border-area development and natural hazard risk reduction.

4.   INEQUALITY, DISASTERS AND SUSTAINABLE DEVELOPMENT

The urban development challenges described earlier also bear on disasters. Development determines amongst other things, the occupation of a territory, the construction of socio-economic infrastructure and the

demand for natural resources and services provided by ecosystems. As more social and economic assets and infrastructure are exposed to natural hazards, inevitably, risk increases. In addition, development drives people into natural ecosystems, whether for housing or for agriculture, forestry or other productive systems, thus causing environmental degradation, and increasing the demand for more infrastructure as new centers of development are created.

In many cases, the root causes of disasters lie in socio-economic and structural issues, such as land-tenure, land markets, unemployment and informal economies. In many countries in the Americas, the dominant land-tenure systems are characterized by large areas of land owned by a few, known as *latifundios*, which are located in fertile and productive soils, and less exposed to natural hazards. Concurrently, small areas of land known as *minifundios* are owned by many, mostly the poor. In these areas, water is scarce, soils are degraded, and crops, housing and other social and economic infrastructure are highly exposed. Subsistence economies prevail in communities living in these areas, which depend heavily on local natural resources and ecosystems. Thus, each disaster results in further environmental degradation and, in turn, leads to a vicious circle of poverty – disasters – environmental degradation – and back to more and higher indices of poverty and more disasters, each time becoming more catastrophic. Poorly functioning land markets and, particularly, the prohibitive price of land, drive low income families to settle on the peripheries of cities, often on steep slopes, in flood plains, and on fragile soils prone to landslippage and mudslides, where there are no basic services and where housing developments do not follow any safety regulations. Self-construction is predominant, which results in unsafe buildings with no consideration for disaster preparedness and response. In many cases, this situation is exacerbated by the vertical growth of settlements, built with little or no regard to building codes, water and sanitation requirements, and electricity. Poor accessibility and precarious construction combine to create an environment that is even more hazardous to human health and public security.

Alongside these causes of disasters are pre-conditions that are deeply rooted in the social structures and the political and institutional systems. The attainment of human rights for all, particularly women and children, the elderly and people with disabilities, indigenous people and other marginalized groups, becomes critical to any attempt to reduce the vulnerability of these segments of the society. Sound and functional democratic institutions allow for the inclusion of all citizens in the decision-making processes, and provide the conditions for good governance –timely access to information, and timely flow of information and decision-making.

In the Americas, the issue of disasters has evolved over the past 20 years from disaster response and relief, to disaster prevention and mitigation. Some iconic instruments of the Inter-American System, that represent the old vision, are the Inter-American Emergency Aid Fund (FONDEM), established in 1965, and the Inter-American Convention to Facilitate Disaster Assistance that was adopted in 1991 and came into effect in 1996. The Inter-American Committee on Natural Disaster Reduction (IACNDR), established in 1999, marks a key point in the evolution towards a new vision that gives attention to disaster prevention and mitigation within an integral risk reduction approach. The Inter-American Network for Disaster Mitigation (INDM), established in 2007, provides "the permanent hemispheric mechanism for strengthening practical cooperation among intergovernmental agencies in disaster reduction, especially by sharing technical information and best practices." And in 2012, member States endorsed the *Inter-American Plan for Disaster Prevention and Response and the Coordination of Humanitarian Assistance*, which stresses citizenship participation and training of local community leaders, and seeks to integrate all the instruments of the Inter-American System.

5.   INEQUALITY, GOVERNANCE AND SUSTAINABLE DEVELOPMENT

This Article makes clear that for meaningful progress to be made towards the goal of sustainable development, social inequalities must be eradicated. Inequalities exist because of failures in systems and processes of governance. At a minimum, governance should aim at achieving economic, social and environmental objectives at local and national levels in a coordinated, integrated, participatory, cyclical and balanced manner. But as the analysis reveals, the conflicts that exist between economic, social and environmental policies are fueling social inequalities and undermining sustainable development goals.

Achieving a balance between economic growth, human development and environmental sustainability depends on: (i) sound national policies and effective institutions; and (ii) political will, leadership and the commitment of Governments in forging alliances with business, labor and civil society in a democratic, participatory, setting. A key starting point therefore must be the formulation of sound, decision-making processes that take full account of the knock-on effects (positive and negative) of policies on each other. Article 30 of the OAS Charter emphasizes the importance of this integral decision-making approach as a means of ensuring "...international social justice in their relations and integral development for their peoples, and as conditions essential to peace and security. Articles 34-45 of the Charter identify certain foundational goals that are relevant to the subject of inequality and sustainable development, such as: (i) equitable distribution of national income; ii) modernization of rural life and reforms leading to equitable and efficient land-tenure systems, increased agricultural productivity, expanded use of land, diversification of production and improved processing and marketing systems for agricultural products, and the strengthening and expansion of the means to attain these ends; (iii) urban conditions that offer the opportunity for a healthful, productive, and full life; (iv) fair wages, employment opportunities, and acceptable working conditions

for all; (v) rapid eradication of illiteracy and expansion of educational opportunities for all and; (vi) fair and efficient systems and procedures for consultation and collaboration among the sectors of production, with due regard for safeguarding the interests of the entire society."

5.1. The impact of international policy drivers

While international sustainable development agreements (ISDAs) such as Agenda 21, the Barbados Program of Action and the MDGs have had beneficial impacts on the national and regional policy landscape, there exists a significant implementation deficit especially in respect of environmental laws. This shortcoming is mainly due to the absence of a systemic assessment of compliance possibilities, stakeholder roles and institutional needs for implementation. The Declaration of Santo Domingo for the Sustainable Development of the Americas (2010) establishes the importance of encouraging dialogue and regional cooperation as well as public- private partnerships, inter alia, to consolidate the existing hemispheric mechanisms for the promotion and strengthening of policies, legislation, institutional transparency, and other mechanisms *that foster equity, equal rights and opportunities, social inclusion, public participation, and sound public administration.* This statement becomes increasingly relevant in the context of current efforts at defining a post-2015 development agenda and in particular the elaboration of sustainable development goals (SDGs) based on the following four principles: (1) **Integrated development** that simultaneously advances multiple benefits across the three dimensions of sustainable development (social, environmental, and economic) and that ensures that poverty eradication and environmental sustainability go hand-in-hand; (2) **Equality** in relation to access to natural resources and the benefits of a healthy environment as well as engagement in related decision-making processes is fundamental for both environmental sustainability and human development; (3) A **human rights-based approach** to environmental sustainability that recognizes that the realization of human rights depends on a healthy

environment; and (4) the **resilience** of communities to resist tomorrow's shocks without reversing today's achievements in human well-being depends on the vital role of natural resources and ecosystems.

5.2. *Adoption of human rights-based approach to sustainable development[8]*

There is growing appreciation within the Americas that access rights are fundamental for the achievement of sustainable development, and that by strengthening public participation in decision-making on environment and natural resources management, governments and civil society can contribute to sustainability. The right to a healthy environment was first recognized in Principle 1 of the Stockholm Declaration which was adopted at the 1972 UN Stockholm Conference on Human Environment and which states "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations."[9] In 1988 the Americas became the second region in the world to reaffirm this Right in a binding international instrument, with the adoption of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights, signed in San Salvador, El Salvador (Protocol of San Salvador). The Protocol has been ratified by 16 OAS member States, and is included in the constitutions of 22 Member States. Six countries of the Americas have recognized the right to water and sanitation at the constitutional level and are taking concrete steps towards implementation. In June 2013 a set of indicators was agreed upon by the Working Group to Examine the Reports of the States Parties to the Protocol of San Salvador and was adopted by the OAS Permanent Council

8   Excerpt of 2014. De Windt and Orellana, "Regional Environmental Law: Transregional comparative lessons in pursuit of sustainable development" Edward Elgar Publishing Ltd. Chapter I Introduction to Environmental Law in the Americas, Part B; OAS and Sustainable Development.

9   Declaration of the UN Conference on the Human Environment (adopted 16 June 1972) UN Doc. A/CONF.48/14/Rev.1 (1973), reprinted in 11 ILM 1416 (1972) (Stockholm Declaration).

in December 2013. This group of progress indicators addresses the right to a healthy environment, including how it is incorporated into the structure of the State, and the steps taken for its progressive realization. Another important step forward is the recognition of access to information as part of the fundamental right of freedom of expression, together with the rights of access to the decision-making process and to justice on environmental matters which have helped to guarantee substantive environmental rights and reduce inequality with regards to access to natural resources. However, for progress on a hemispheric rights agenda to increase and be sustained, a stronger stance with regards to environmental governance is required.

CONCLUSIONS AND RECOMMENDATIONS

This Article establishes that managing the relationship between behavior, consequences and development potential is at the heart of sustainable development and that policies, must pursue a balance between immediate and long-term benefits and amongst competing social, political and economic interests and circumstances and across generations. Decisions about resource allocation, development priorities, and distribution of the cost and benefits associated with development must be made according to national norms, policies and laws and consistent with international ideals. The Inter-American Strategy for Public Participation in sustainable development decision making (IASP) can serve as a tool for advancing sustainable development diplomacy amongst countries of the region by supporting confidence building and consensus in addition to advancing access rights such as access to information, justice and to the decision making process.

Over the past 50 years the OAS has made a significant contribution to the promotion of integrated water resources management, with equity and inclusion as fundamental elements. The commitments contained in these instruments offer a solid basis for responding to emerging challenges such as global warming, and climate change, as well as the continuing

social impacts associated with the global crisis in the early part of the 21ˢᵗ Century. From the point of view of integral and sustainable development, integrated water resources management must be embraced as a catalyst for peace, and an agent of democracy and good neighborliness, elements which are fundamental for inclusion and equitable use of water. Against this background, the water agenda being implemented by the OAS, based on the Inter American Program on Sustainable Development (IPSD) assumes critical importance as it supports the efforts of Member States in reaffirming strategic and priority actions within an inclusive sustainable development framework.

Enhancing access to energy for all must be seen as a critical foundation for more robust economic growth, and the creation of more inclusive societies. Ascertaining how much energy is needed to enable poverty alleviation is critical to addressing energy access. The Energy and Climate Partnership of the Americas (ECPA) offers an effective platform for pursuing the goal of energy access for all in our hemisphere. The nations of the Hemisphere have a considerable potential to produce ethanol and biodiesel in ways that promote rural development and support economic growth while ensuring food security and environmental sustainability. While fossil fuels will likely continue to be the dominant source of energy for years to come, with natural gas increasing its share, the finite availability of oil and the need to curb climate change compels action. A meaningful shift in energy generation, distribution and consumption patterns is therefore inevitable. OAS Member States should continue to address these issues by embracing the notion that social inclusion can be significantly achieved through enhanced energy access, which in turn can be effectively addressed through sustainability, integration, market transformation, and diversification. Urgent and concerted action is needed to ensure that energy uncertainty does not reverse the social and economic gains achieved over the past 2 decades in particular.

Addressing the issues that affect the sustainability of cities requires (i) new policies that consider urban growth and prosperity in the context of multiple, competitive, yet harmonious use of built and

natural environments; (ii) new programs that invest in sustainable natural resources use and natural hazard vulnerability reduction with direct constructive participation by the private and public sectors; and (iii) new tools that recognize the demands placed on public and private planning, budgeting and operational decision making in the context of administrative districts, watersheds and trade corridors. Successful urban poverty challenges are multi-dimensional, the most visible of which are growing slum and squatter settlements linked to insecurity of tenure and inability to access basic services. The adverse impacts of climate change are intensifying the vulnerability of the urban poor, a situation that is made worse by their informal legal status, limited access to housing, basic services and personal safety. Promoting social inclusion in cities will depend on the effectiveness of policies and strategies that target rural-to-urban migration, and that promote savings and investment opportunities that create jobs and sustainable means of livelihood, in particular for the poorest and most vulnerable sectors. In addition, Governments will have to redouble their efforts to meet the housing needs of the poorest and most vulnerable sectors, bearing in mind the need to provide adequate essential services and to improve the environment. To that end, international and sub-regional financial institutions must lend the greatest possible degree of support to efforts to promote the construction of low-income housing and related infrastructure services. Particular attention must also be given to urban settlement programs including through strengthened partnerships between the public and private sectors for urban planning and development, taking account of environmental considerations and the situation of landless and homeless persons. Partnerships such as the OAS Sustainable Cities Initiative offer an effective means for promoting international technical and financial cooperation, and for supporting local government involvement and private-sector participation in the financing and delivery of urban services and improved environmental management.

Recognizing that disaster risk is built through development processes, there is an urgent need to deconstruct risk and integrate risk assessments and disaster prevention and mitigation within development

strategies and plans. And as climate-related disasters are on the rise, adapting to climate change and increasing resilience to cope with the adverse impacts of hydro-meteorological extreme events should become the focus of any disaster risk reduction policy and plan. Vulnerability is not solely dependent on physical conditions and the environment, but on the characteristics and circumstances of a community or system that make it susceptible to the damaging effects of a hazard. The social construction that defines relationships between men and women, children, adults and the elderly, for instance, is perhaps one of the most critical aspects of that social system, and will determine the relative vulnerability of each segment. And while legislation can help to regulate relationships and social conduct to reduce vulnerability, it must be accompanied by decent job programs for young men and women, educational programs for children and youth within a gender-based approach, as well as programs for the full inclusion of all segments of the society. The importance of this approach was underscored in a recent study undertaken by the OAS Inter-American Commission of Women (CIM) and SEDI/DSD, which found that while women tend to be the first to get organized before, during and after disasters, they are often omitted from short-term humanitarian aid or long-term preparedness and prevention planning processes.

Social inclusion is not only an imperative to reduce vulnerability, but a necessity to increase the effectiveness of any disaster risk management policy and programs All of the afore-mentioned 'vulnerable' groups have special capacities, skills and abilities that can used to build their resilience. The use of traditional and ancestral knowledge of the elderly constitutes a significant asset, as does the coping skills and resolve of the disabled. Social inclusion is not only about reducing the vulnerability of marginalized groups or social integration but also about reducing risk for all.

At the hemispheric level, effective international governance for sustainable development should reflect complementarity between the policy and institutional framework for sustainable development of the UN system and the OAS as a regional UN agency. Effective hemispheric

environmental governance should also translate into accountability regarding implementation of the different mandates of the political bodies of the OAS and in particular the Inter-American program for Sustainable Development which comprises the Organizations' policy directives on sustainable development.

*Director, Department of Sustainable Development
Executive Secretariat for Integral Development

Gender and Social Inclusion

Carmen Moreno*

Hillary Anderson**

Unequal wealth and income distribution continues to be a drag on sustainable development and democracy in our countries and, most importantly, creates stresses for regional governance, peace, and security. Gender inequality along with economic, social, and political disparities are the result of the historical persistence of discriminatory structural factors and systems that bar the majority from the opportunities and benefits of development. Historically women have been excluded from the modern experience because of pre-existing gender hierarchies, the private-public dichotomy, and prevailing views on inclusion and exclusion where the enjoyment of rights is concerned.[1]

Women's exclusion is a multidimensional issue that helps to undermine their inclusion and performance in economic, social, and political contexts, impairing their possibility of influencing political systems and processes. Thus, the exclusion of women from government decision-making, political representation, and management of public funds places limits on democracy and the exercise of their rights as citizens ipso facto.

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1   CIM and IDEA. *Women's citizenship in the democracies of the Americas.* Washington, D.C. Inter-American Commission of Women, Organization of American States and International Institute for Democracy and Electoral Assistance, 2013, p. 37 (in Spanish only), http://www.oas.org/es/cim/docs/CiudadaniaMujeresDemocracia-Web.pdf

It should be emphasized that women cannot be considered a homogenous group and that, for many women, gender inequality blends with other factors – socioeconomic status, ethnicity, age, physical capacity, geographic location, migratory status, sexual orientation – to exacerbate their exclusion. This focus on diversity is critical today because for many women the progress of recent decades has radically altered their social position and their advocacy capacity on political, economic and social issues. For others, though, time and the region's economic and social changes have only seen their circumstances worsen and they are still a long way from the concept of inclusion considered an essential precondition for the full exercise of their rights.

The Economic Commission for Latin America and the Caribbean (ECLAC) notes that although the impact of the 2008-2009 financial and economic crisis was less dramatic than expected for the region, economic and social inequality grew and a large number of people slid into extreme poverty, including a majority of women.[2] Inequality of income and opportunities also grew, coexisting with fiscal systems that have done little in terms of redistribution, denoting the limited capacity of states to collect taxes and transfer income to the poorest households. According to data from the ECLAC's Gender Equality Observatory for Latin America and the Caribbean, in 2010, 32.7% of women did not have an income of their own; the percentage was lower for men, at 12.1%.[3]

Despite the fact that multiple inter-American and international conventions and agreements have affirmed and recognized the value of women's work in the area of social reproduction – including caregiving – "as a public matter which falls within the purview of States, local

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2   ECLAC *Time for Equality: Closing Gaps, Opening Trails.* Santiago, Chile, Economic Commission for Latin America and the Caribbean, 2010. http://www.eclac.cl/publicaciones/xml/1/39711/100604_2010-115-SES-33-3-Time_for_equality_doc_completo.pdf

3   CLAC Gender Equality Observatory for Latin America and the Caribbean: Economic Empowerment: People without incomes of their own, by sex, http://www.cepal.org/oig/WS/getRegionalIndicator.asp?language=english&page=12 (at May 5, 2014)

governments, organizations, companies and families,"[4] as well as "the need to promote shared responsibility by women and men within the family,"[5] among the main obstacles to the full economic, social, and political inclusion of women are, on one hand, the lack of social and economic value ascribed to domestic work and caregiving, and on the other, the fact that women continue to be almost single-handedly responsible for this work.

Sexual division of labor as a structural reality is one of the most important "economic inequalities and injustices which affect women within the spheres of the family, labor, politics and community affairs."[6] Caregiving is a social responsibility, and receiving care is a right; however, the persistent lack of sharing of family responsibilities among men and women, as well as the deficient performance of the state with regard to the burden of the economic and financial crisis and the post-crisis adjustment period, and in terms of creating functional and sustainable infrastructure of care, mean that the burden of ensuring this right falls squarely on women's shoulders and is a formidable barrier to their inclusion in their countries' political, economic, and social affairs.

This article explores from a rights-based perspective how a number of structural and social manifestations of gender inequality conspire against women's social inclusion. The list is not exhaustive and is confined to the predominant injustices and to the main areas of work of the Organization of American States and its Inter-American Commission of Women (CIM).

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4   Quito Consensus (par. 9), adopted at the Tenth Session of the Regional
     Conference on Women in Latin America and the Caribbean: http://www.
     eclac.cl/publicaciones/xml/5/29555/dsc1i.pdf
5   Ibid.
6   Ibid, par. 12.

1. LEGAL AND OPERATIONAL FRAMEWORK OF WOMEN'S RIGHTS

The legal and political framework surrounding women's rights in the Americas is the most robust in the world after Western Europe's.[7] Legally speaking, women enjoy a broad array of rights on equal terms with men. However, as UN Women notes, "[i]n all societies, women are less powerful than men and the two areas in which women's rights are least protected, where the rule of law is weakest and men's privilege is often most entrenched, are first, women's rights in the private and domestic sphere, including their rights to live free from violence and to make decisions about their sexuality, on marriage, divorce and reproductive health; and second, women's economic rights, including the right to decent work and the right to inherit and control land and other productive resources."[8]

Since the adoption in 1933 of the Convention on the Nationality of Women, the Americas region has made gradual progress in guaranteeing women's civil (1952), political (1952), economic, social, and cultural (1966 and 1988) rights. These guarantees were consolidated in 1979 in the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW/UN). Since then, the region has continued to make progress toward guaranteeing the full exercise of women's rights through treaties designed to address specific issues that pose a particular obstacle to the full exercise of their rights, such as violence against women in the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará, 1994) or the International Labor Organization's multiple conventions on equal remuneration (1951), discrimination in employment and occupation

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7   OECD. *Atlas of gender and development:* How social norms affect gender equality in non-OECD countries. Paris: Organization for Economic Co-operation and Development, 2010, p. 92, http://www.oecd.org/document/50/0,3746,en_2649_33935_44810034_1_1_1_1,00.html

8   UN Women. *Progress of the World's Women 2011-2012: In Pursuit of Justice.* New York: United Nations Entity for Gender Equality and the Empowerment of Women, p. 11, http://progress.unwomen.org/pdfs/EN-Report-Progress.pdf

(1958), workers with family responsibilities (1981), maternity protection (2000), and domestic workers (2011), among others.

In the Americas, the main gap in rights coverage continues to be thesexual and reproductive rights. Other than the general protections afforded to physical, psychological and sexual integrity (Belém do Pará, 1994), health, education and job (Protocol of San Salvador, 1999), or maternity (CEDAW, 1979, et al.), women are still not guaranteed their rights to decide, exercise, and control their sexuality and reproductive function on an equal footing with men, free from discrimination, prejudice, and violence. Apart from being a violation in itself, this circumstance undermines women's capacity to exercise their other rights in full. The lack of access to information and sexual and reproductive health services, and the inability to decide when and under what conditions to exercise their sexuality and reproductive function are an obstacle to women's rights to have their physical integrity respected, to health at the highest level, to access to education and employment, and to participation in political, economic, social, and cultural life on an equal footing with men.

As regards the operational framework for these rights, all the region's countries have established within their domestic legal systems a government authority responsible for women's rights and gender equality – known as the national women's mechanism The extent of these entities' authority and technical capacity varies greatly from one country to the next but in most cases they still have the least financial and human resources, the least influence over the political agenda, and the least authority to undertake intersectoral work. Having said that, this situation has been changing in some countries.

These national mechanisms usually supervise execution of the "Equality Plan"–or whatever name it goes by–which is designed to put into effect the domestic and international legal framework on women's rights through concrete policies, programs, and actions tied to specific goals and time frames. These mechanisms are also responsible for reporting to the relevant monitoring mechanisms (UN Human Rights Council,

CEDAW Committee, Follow-Up Mechanism for the Convention of Belém do Pará (MESECVI), etc.) on progress and challenges in implementing the country's international and inter-American commitments with regard to women's rights and gender equality.

Although a thorough analysis of these mechanisms' findings exceeds the scope of this article, a broad assessment reveals significant contradictions in terms of women's actual exercise of their rights in the region. On one hand, the legal framework for women's rights is very strong; on the other hand, however, gender inequality and the non-application, or discrimination in the application, of this legal framework produces enduring major gaps–examined in greater detail in the next section–in women's capacity to actually enjoy their rights.

2. INEQUALITY/DISPARITIES IN THE EXERCISE OF RIGHTS AND SOCIAL INCLUSION

2.1. Gender stereotypes and inequality and discrimination in education

In most of the region's countries, the enrollment rate for women in all levels of education (primary, secondary, and higher) exceeds that of men. However, these overall rates conceal how the interaction of gender with social class, ethnicity, geographic location, and other factors continues to hinder the participation of girls and adolescents–poor, indigenous, afro-descendant, and rural–in formal education.[9] Other factors, particularly adolescent pregnancies and violence against women and girls in educational facilities, undermine scholastic retention of girls and adolescents, as well as their performance.[10]

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9   IACHR, *The Work, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights* Washington, D.C. Inter-American Commission on Human Rights. Organization of American States, 2011a, p. 63, http://www.oas.org/en/iachr/women/docs/pdf/WomenDESC2011.pdf.

10   CLADEM. Guaranteeing and Realizing the Right to Education in Latin America: Progress in Gender Equality and Enjoyment and Exercise Women's Right to Education *(Garantía y realización del derecho a la educación en*

This situation aside, as the OAS Inter-American Commission on Human Rights (IACHR) notes, "one of the persistent barriers in the region is that the education that is imparted can become the main obstacle to achieving education based on equal opportunity."[11] Both syllabus contents and teaching practices–what ECLAC calls the hidden curriculum"–[12] in the region's education systems continue to reproduce gender inequality and discrimination by transmitting, or not countering, discriminatory mores and stereotypes of men and women and their social behavior. Furthermore, although we are seeing gradual change, there is still segregation in education at the tertiary level, with a preponderance of males in subjects such as the sciences, mathematics, engineering, and computing.

Upon ratifying the myriad international and inter-American treaties and agreements that exist,[13] the states of the region committed to adopting specific measures to transform the traditional gender norms and sociocultural patterns of men and women by designing appropriate programs for all education levels with the aim of eliminating prejudices, discriminatory practices, and stereotyped roles.

In the Americas, despite claims of a secularized education, the dominant power of churches over what is "morally decent" in education and the persistent exclusion or insufficiency of sex education in educational curricula continue to be an obstacle to the full exercise of human rights by men and women as well as to gender equality. As a recent report published by the Latin American and Caribbean Committee for the

América Latina: Los avances en la igualdad en el goce y el ejercicio del derecho de las mujeres a la educación. Lima, Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM), 2011, p. 17, http://www.cladem.org/images/archivos/publicaciones/regionales/desc/LibroBalanceRegional.pdf

11   IACHR, 2011a, op. cit., p.63.
12   ECLAC. Women's Education: From Marginalization to Co-education. Proposals for an educational reform methodology. (*La educación de las mujeres: de la marginalidad a la coeducación. Propuestas para una metodología de cambio educativo*). *Women and Development* Series (No. 22). Santiago, Chile, Economic Commission for Latin America and the Caribbean, 1998, p. 15, http://www.eclac.org/publicaciones/xml/0/4340/lcl1120e.pdf
13   See, for example, CEDAW [Article 5 (a) and (b)] or Convention of Belém do Pará [Article 8 (b)].

Defense of Women's Rights (CLADEM) found, "it is entirely reasonable to conclude that the transformative potential of education, particularly with regard to the prospects of achieving gender equality, will be negated so long as public education is not genuinely secular."[14]

2.2. *The education-employment relationship, inequality in the workplace, and the absence of women in formal remuneration, insurance, and benefits systems*

A glance at scholastic enrollment rates and the women's overall participation in the labor market in the Americas could give the impression that gender equality has been attained. As with education, women's participation in the labor market has also increased as a result of a variety of factors, including the economic crisis and the rise in the number of female-led households.[15] Far from stagnating, as has been the trend globally, women's labor market participation in Latin America and the Caribbean has gone up by 35% since 1990[16]. A recent World Bank report found that, were not for this increase in women's participation in the labor market, the poverty rate in the region would be 28% higher.[17]

However, a significant gap persists between women's scholastic enrollment and their status in the workplace.[18] Despite the gains, relative to men, fewer women work, more of them are unemployed, a greater share of them are in different forms of precarious employment (unregistered salary positions, low-productivity self-employment, part-time jobs), they are paid less on average for doing the same work with the same qualifications (gender salary gap), and have limited access to property, inheritance, land, and credit, and access to and control over resources

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14   CLADEM, 2011, op.cit., p.60
15   IACHR, 2011a, op.cit., p. 29
16   World Bank. Gender at Work: A Companion to the World Development Report on Jobs. Washington, DC: World Bank, 2014, p.8, http://www.worldbank.org/content/dam/Worldbank/Event/Gender/GenderAtWork_web2.pdf
17   Ibid.
18   IACHR, 2011a, op.cit., p. 73.

and services.[19] All this means that women do not derive same benefits all the same autonomy or financial independence from their participation in productive employment as men, which is a–or perhaps the–basic precondition of social inclusion.

One of the principal underlying factors of gender inequality in the job market is the high concentration of women in the informal economy. Women tend to find work in the informal sector because it affords them greater flexibility to combine their productive activities with their domestic and caregiving responsibilities. However, with that greater flexibility comes more precarious working conditions, lower incomes, fewer or no benefits, and a higher likelihood of harassment or exploitation.[20]

As people's participation in social security arrangements generally depends on their position in the labor market, the above also means that women have less access to social security. Very often women depend on the benefits that their partners derive from their participation in the labor market or else on other segmented, usually insufficient benefits, particularly given their caring responsibilities and the increasing rate of female-headed households.[21]

2.2.1. *Migration and the globalization of patterns of inequality and discrimination*

The growing participation of women in global labor migration flows, including an increasing number of young women, mirrors the trend in national labor markets. Although the number of women migrant workers continues to grow and their remittances represent a crucial contribution to the economies of most countries in the region, they are concentrated in sectors such as domestic work and caregiving, which typically are precarious, offer less access to benefits, and frequently entail exploitation and abuse.

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19   CIM and IDEA, 2013, op. cit., p. 48

20   CIM: Advancing Gender Equality in the Context of Decent Work Washington, D.C. Inter-American Commission of Women, Organization of American States, 2011, p. 29, http://www.oas.org/en/CIM/docs/AvanceGeneroTrabajoDecente-EN[Final-Web].pdf.

21   Ibid., p. 54

The concentration of women migrants in domestic work is part of the structure of global chains of caregiving, as there has yet to be a general redistribution of reproductive work responsibilities–domestic work and caregiving–among men and women. Many women in host countries go from being domestic workers and caregivers, which implies a home and a family, to being women migrants, generally in situations of lower socioeconomic status and belonging to a marginalized ethnic group[22]. Although these global chains of care create a lot of jobs for women migrants, the work they do is neither socially nor economically valued and contributes to the globalization of patterns of inequality and discrimination.

2.3. *Women's representation in the media, the masculinity crisis, and redefining gender roles in the new society*

The media play a fundamental role in society and constantly influence people's thoughts, behavior, and opinions. In the pursuit of inclusive and peaceful societies, the media have a vitally important role to play in dismantling inequalities and covering the news from a gender-aware and human rights-based perspective.

The media are often used to broadcast stereotyped male and female images, which generally denigrate women, for the purposes of commercial gain and consumption, a practice that infringes the right of women to have their dignity respected. The hegemony of the media's androcentric and sexist discourse is indicative of the absence of the gender-aware approach as a core tool of inclusive journalism based on equal treatment of women and men.

The Global Media Monitoring Project (GMMP) 2010 reported that of a total of 570 people who were discussed in the news, only 150

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22   Orozco, A. "Cadenas globales de cuidado" Serie Genero, Migración y Desarrollo, No.2. Santo Domingo: Instituto Internacional de Investigaciones y Capacitación de las Naciones Unidas para la Promoción de la Mujer (INSTRAW, ahora parte de ONU Mujeres), 2007, p.4, http://mueveteporlaigualdad.org/publicaciones/cadenasglobalesdecuidado_orozco.pdf

(23%) were women.[23] News reported from an androcentric point of view, in which women are the minority, contributes to the belittlement and exclusion of their participation and contribution to society. With regard to the professional women who were identified in this study, 25% were politicians, 24% were educators and health professionals, and 20% were lawyers or judges.[24] No women engineers or scientists were identified and in many cases no mention was made of their occupation or position, which did not occur with men. Men were preferred for opinions and interviews (91% of cases) and were the subject of the news in 73% of cases.[25]

The vision of masculinity that continues to dominate in the media–provider, controller, aggressive, and even violent–has as its counterpart women who are passive, submissive, caring, and accommodating which in no way reflects the reality of women today and increasingly less so that of men. The so-called "crisis of masculinity," in which men are seeking a new identity that will allow them to participate in the new society, has several manifestations–from rising male school dropout and unemployment rates, greater involvement in organized crime and other activities on the social fringes, and the use of violence as a form of protest against a social shift that is leaving them sidelined.[26] The dramatic changes in gender roles and the new part that women play in society have yet to be matched by any profound change in the typical model of masculinity. As a result, many men find themselves in a crisis of identity, unsure of their role and function in society, since women are increasingly playing the part of provider. Although this phenomenon has not yet attracted much attention from the mass media, it poses a significant future challenge where the social inclusion of men is concerned.

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23   WACC. *Global Media Monitoring Project 2010*. World Association for Christian Communication, 2010, http://whomakesthenews.org/
24   Ibid.
25   Ibid.
26   De Boise, S. "Patriarchy and the 'Crisis of Masculinity.'" *The New Left Project* (October 14, 2013), http://www.newleftproject.org/index.php/site/ article_comments/patriarchy_and_the_crisis_of_masculinity

2.4.   *Political exclusion of women and the political agenda for their rights*

The Inter-American Democratic Charter recognizes the importance of full and equal participation by women in the political structures of their countries as a fundamental element in the promotion of democracy. Thus, the extent to which women in the Americas exercise their political rights is a measure of the legitimacy, quality and effectiveness of democracy and governance in the Americas.

Statistics show the degree of exclusion of women from political life and positions of authority and political power: In no country of the Americas do women hold–simultaneously–one third of the highest positions in all three branches of government: legislature, executive, and judiciary.

In parliaments, despite the fact that only one in four lawmakers is a woman, after the Nordic countries, the Latin American region leads the way in terms of numbers of female members, with an average of 25.2% of elected members of the lower houses.[27] The adoption of mandatory quotas, which in some cases require parity, is meant that some of the region's countries are among the highest ranked in the world with respect to women parliamentarians: Ecuador (41.6%), Nicaragua (40.2%), Mexico (37.4%), Argentina (36.6%), and Costa Rica (32%). Nevertheless, sizable challenges persist in countries that have not taken special steps to advance women's political representation, such as Belize (3.1%), Haiti (4.2%), Saint Kitts and Nevis (6.7%), Jamaica (12.7%), Guatemala (13.3%), or Chile (14.2%); while in others inadequate regulation or the lack of its implementation has prevented quota requirements from effecting significant change: Panama (8.5%); Brazil (8.6%), or Paraguay (12.5%).[28]

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27   IPU. "Women in National Parliaments: Situation as of February 2014." Inter-Parliamentary Union: http://www.ipu.org/wmn-e/world.htm (consulted April 30, 2014).

28   Ibid.

Parliament aside, women's participation in political life–political parties, ministerial cabinets, electoral institutions, state-owned enterprises–still faces considerable gender inequality and discrimination challenges. The average proportion of women in executive branches in Latin American countries is 25.99%.[29] Cursory examination of statistics reveals a very low female presence in top-flight executive posts of large state-owned enterprises in Latin America. In February 2014, a woman was named executive director of Petrobras, the first woman in the company's history to occupy the position.

Outside of female representation, the possibility of influencing policy through an advocacy platform for women's rights and gender equality is even more limited, although in the majority of countries there are women's parliamentary committees and blocs as well as women's committees in political parties. A study by the Inter-American Development Bank (IDB) and International Institute for Democracy and Electoral Assistance (IDEA) showed that, in spite of the fact that women make up 50% or more of card-carrying members of political parties in selected countries, they occupy less than 19% of leadership positions.[30]

Despite the many commitments adopted regarding women's political rights in the region, efforts to put them into practice remain limited and women continue to struggle with important barriers, such as access to funding for political activities and quantity and quality of media coverage. In recent years, there has been a rethinking of democracy from the point of view of parity as a general democratic principle.[31] Ecuador and Bolivia were the first in the region to adopt and enshrine parity in their constitutions (2008 and 2009, respectively). So far, they are the only two countries were parity encompasses the entire civil service, extending

29 Ibid.
30 IDB and IDEA. *Gender and Political Parties: Far from Parity.* Lima, Inter-American Development Bank and International Institute for Democracy and Electoral Assistance, 2010, p. 28, http://www.idea.int/publications/parties_and_parity/index.cfm
31 CIM and IDEA, 2013, op. cit, p. 138

its scope to political parties, although there are express mandatory provisions that apply particularly to candidacies for elected office.[32].

Defeating women's exclusion from political life, in particular, from positions of authority and political power, is one of the critical challenges that the democracies of the Americas face. In this context, parity has emerged as one of the most feasible solutions for ending this exclusion. Parity needs to gain ground, at least on two fronts. In first place, it must encompass all state institutions–not just candidacies for elected positions; in second place, the issue of parity should be addressed more holistically, moving past the adoption of set percentages of women and establishing a system of alternation. "No democracy without women," has been one of the watchwords of women's and feminists' movements in the region, and one that, today, has also been taken up by many other agencies, including the OAS.

2.5. *Women's access to justice*

A little-studied but crucial component of social exclusion is access to justice, in particular, the fight against impunity for criminal acts and the possibility of redress and compensatory damages. In all discussions on women's rights and social inclusion the weakness of women's access to justice as well as ignorance and the feeble impact of legal standards on women's rights in the region is particularly troubling, notwithstanding several landmark rulings in strategic lawsuits brought by women's organizations in the region.[33] As UN Women points out, "[A]lthough equality between women and men is guaranteed in the constitutions of 139 countries and territories, inadequate laws and loopholes in legislative frameworks, poor enforcement and vast implementation gaps make these

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32 CIM and IDEA. *The struggle for parity: Democratizing the political system in Latin America (Experiences in Ecuador, Bolivia, and Costa Rica)* Peru, 2013

33 See IACHR, *Legal Standards related to Gender Equality and Women's Rights in the Inter-American Human Rights System: Development and Application*. Washington, D.C.: Inter-American Commission on Human Rights, Organization of American States, 2011: http://www.oas.org/en/iachr/ women/docs/pdf/REGIONALst.pdf.

guarantees hollow promises, having little impact on the day-to-day lives of women."[34]

Despite its pretensions at neutrality, when the rule of law fails to take into account the fundamental differences between women and men in terms of their social roles, access to resources, participation, and vulnerability, it is not an effective guarantee of rights, irrespective of any international commitments adopted. In particular, failure to enforce the rule of law in the private sphere, where most women work and are more vulnerable to violence, leaves a considerable proportion of the population unprotected.[35] The IACHR has stressed that the development of legal standards and women's rights must be accompanied by their implementation,[36] which, under the Convention of Belém do Pará, is one of the state's obligations. The IACHR also insists that, "[t]he case law of the inter-American system holds that de jure and de facto access to judicial guarantees and protections is essential ... if States are to be in full compliance with the international obligation[s] they have freely undertaken to [perform with] due diligence."[37]

The concrete implementation of laws–domestic and international– and constitutional guarantees of gender equality and women's rights is a precondition for the rule of law to be a reality for women too. As UN Women states, "well-functioning legal and justice systems can provide a vital mechanism for women to achieve their rights. Laws and justice systems shape society, by providing accountability, by stopping the abuse of power and by creating new norms."[38] However, in most of the world, a woman is more likely to report a robbery than a sexual assault; a small proportion (5-14% in Europe) of rape complaints eventually make it to the conviction

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34   UN Women, 2012, op.cit., p.8

35   Ibid., p.11

36   IACHR, 2011b, op.cit., p. 1.

37   IACHR, *Access to Justice for Women Victims of Violence in the Americas*.
     Washington, D.C.: Inter-American Commission on Human Rights,
     Organization of American States, 2007, p. 1, http://www.cidh.org/women/
     Access07/toaccess.htm.

38   UN Women, 2012, op.cit., p.9

stage, and few people have confidence in their domestic judicial systems.[39] In the region, the Follow-up Mechanism of the Convention of Belém do Pará (MESECVI) has drawn attention to the absence of entities receiving complaints, and their concentration in urban areas.[40]

From ignorance of their rights and/or available judicial mechanisms, to prejudice and lack of training and/or resources of judicial operators, women still face substantial barriers in obtaining access to effective justice. Furthermore, women are underrepresented at all levels of the justice system (police, prosecutors' offices, public defender services, judicature); the proportion of women in senior judgeships in Latin American countries was 24.3% in 2012[41] –despite evidence that the presence of women in the police and other agencies increases the likelihood of women reporting rape, domestic violence, and other gender-related crimes.

2.6. Violence against women and the focus on security in the public sphere

Although lack of citizen security is a problem that affects everyone, it is safe to say that women's experience of violence, dispossession, human trafficking, and other security problems differs to that of men, a difference that stems essentially from the social construction of gender roles and the traditional relegation of women to the private sphere.

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39   Ibid., pp. 50-51.
40   Ver: MESECVI. Segundo Informe Hemisférico sobre la Implementación de Convención de Belém do Pará. Washington, D.C.: Mecanismo de Seguimiento de la de la Convención de Belém do Pará (MESECVI), Organización de los Estados Americanos, 2012, p.59-60, http://www.oas.org/es/mesecvi/docs/MESECVI-SegundoInformeHemisferico-ES.pdf.
41   ECLAC/OIG, Autonomy in Decision-Making: Judiciary (Percentage of women judges in the highest tribunal or supreme court) [*Autonomía en la toma de decisiones: Poder judicial (porcentaje de mujeres ministras en el máximo tribunal de justicia o corte suprema)*], http://www.cepal.org/oig/ws/getRegionalIndicator.asp?page=07&language=english

2014 marked the 20th anniversary of the adoption of the Convention of Belém do Pará. The states of the Americas region still have an obligation to fulfill where violence and discrimination against women are concerned. Judicial decisions, in the inter-American human rights system and the international system alike, are indicative not only of this historic obligation, but also of the enormous amount that needs to be done with regard to the duty to respect and ensure the right of women and girls to live a life free from violence and discrimination.

Since 1994, when the Convention of Belém do Pará was adopted, its 32 states parties have made considerable efforts to build a fairer, more equitable and egalitarian world for women. However, despite the efforts of the states parties to the Convention to reflect the seriousness of the problem, the high rates of violence and the myriad ways in which it manifests against women and girls of all ages are clear evidence that those efforts need to be intensified. As the most recent reports presented by the states to MESECVI, the Convention's follow-up mechanism, show:[42]

- In Argentina, every year, more than 8,000 women report having to been directly and indirectly affected by some type of violence;
- According to health records in Bolivia, 323 out of every 100,000 women have been victims of violence, and yet the rate of demand for care for women who have been victims of gender violence is estimated to be only 10.46 per 100,000;
- In Brazil, in the past 12 months, 815.04 out of every 100,000 women have been victims of violence;
- In Colombia, 37% of women who had ever been married or in a relationship reported having been victims of physical abuse by their husband or boyfriend;
- In El Salvador, between 2.7% and 5% of violent deaths of women reported to Office of the Prosecutor General of the Republic were prosecuted and ended with sentences between 2005 and 2010;

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42   MESECVI. *Regional Tools to Fight Violence against Women: The Belém do Pará and Istanbul Conventions* Washington, D.C. Mechanism to Follow up on Implementation of the Convention of Belém do Pará, Organization of American States and Council of Europe, 2014, pp. 17-21, http://www.oas.org/en/mesecvi/docs/MESECVI-CoE-CSWPub-EN.pdf

- In Guatemala, of a total of 7,548 cases filed for violence against women, judgments have been issued in only 909;
- In Mexico, of every 100,000 women, 46,994 between the ages of 15 and 55 reported having experienced at least one violent incident during their relationship with their most recent partner;
- In the Dominican Republic in 2012, approximately 65,709 cases of violence against women were reported;
- In Suriname on 2012, 2,582 women were victims of femicide at the hands of their intimate partner or ex-partner.

Although all human rights exist in both the private and the public sphere, society continues to regard violence against women (in particular, family or domestic violence) as a private matter to be settled between partners, rather than as a threat to the security of women. In practice, this means that the issue is not included in public policies on security, nor is it visible as part of the protection work performed by the security sector in the majority of the region's countries.

CONCLUSIONS AND PUBLIC POLICY RECOMMENDATIONS

In recent decades, the region has adopted innumerable binding legal agreements, policy accords, and declarations of commitment on the human rights of women and gender equality; it is beyond the scope of this report to reiterate them. It is worth noting that all of these agreements are essential to the full social inclusion of women and the exercise of their rights, and it is time to transform these commitments in reality in women's lives.

The core elements for the social inclusion of women include:
- The recognition and guarantee of sexual and reproductive rights, for men and women alike;
- A greater work accompanying and following-up education and communication to generate a structural change in the gender rules, roles and stereotypes.

- The promotion of co-responsibility between men and women for domestic work and care and infrastructure policies and services that support it;
- A greater focus on social policy as a tool against inequality and exclusion, including social security and care infrastructure;
- Participation, leadership, and influence by women in all democratic contexts and processes in their countries on an equal footing, without discrimination.
- Regulation of the informal economy, elimination of the salary gap, and new approaches to employment creation that allow women to participate in the job market on equal terms and to have the possibility of reconciling their working and family lives;
- Elimination of the culture of impunity and social acceptance of violence against women and girls;
- Generation of data and other forms of evidence about gender inequalities, the use of rights-based indicators to effectively measure the impact of our efforts, and strengthening of accountability systems and mechanisms on compliance with commitments adopted on women's human rights and gender equality.

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*Executive Secretary
Inter-American Commission of Women
**Principal Specialist
Inter-American Commission of Women

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Inequality and Education in the Americas: Working to Create Educational Opportunities for All

Marie Levens*

Growth, Inequality, Poverty, and Education

Over the past decade, Latin American and Caribbean economies have grown, very often by double-digits. The region may have weathered the most global financial crisis, but job creation, trade, and tourism have slowed, financial reserves have been used in large measure to offset depreciation and rapidly-changing exchange rates, and youth unemployment has risen. The Economic Commission for Latin America and the Caribbean (ECLAC) reports: "Serious fiscal imbalances remained in certain Central and South American countries, while in several Caribbean countries these imbalances coincided with limited borrowing room, forcing them to embark upon difficult fiscal adjustment processes" (ECLAC, 2013, pg.56).[1]

       A vicious cycle: Our greatest imbalance of all is inequality. A growth agenda alone cannot address the region's disheartening narrative of inequality; even in our most recent high-growth years, inequality has not abated. A quality education is a gateway to a productive future. Howver, Harvard's Fernando Reimers writes, "Poverty and education cannot be eradicated solely by intervening in education [alone]. Higher

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[1]   2013. Economic Development Division of the Economic Commission for Latin America and the Caribbean (ECLAC). United Nations.

levels of education, in themselves, will not generate more jobs with decent pay."[2] Education gaps are highest in countries with the greatest income inequality, but that is only part of the story. Inequality can be addressed only through a higher *quality* of growth, which requires a *quality* education.

With the reliance on interconnectedness in today's accelerated global economic marketplace, the demands are that much higher for high-production, information-savvy jobs. While the financial picture may be only a recent snapshot of economic instability and imbalance, the region has suffered from inequality for decades. We have developed trading relationships with countries outside our region, but we do not conduct sufficient trade, including the exchange of ideas, amongst ourselves. Growth has fostered opportunity, yet the gulf between the information and opportunity haves and have-nots has widened. Our cities are growing, yet so are our urban slums and crime rates.[3-] Our region is open for business, but the rural poor have little access to opportunity and education, and our urban poor are underserved. Expectations are high, but our test scores are low. In our interconnected world, the stakes are competitive, yet large portions of our populations are excluded from participation because they cannot read or write.

Not limited to class, race, or family background, inequality extends to girls, abused children, child laborers, refugees, migrants, religious minorities, child domestic workers, indigenous communities, rural populations, children with chronic or episodic disabilities, children in conflict zones, HIV-AIDS orphans, and children living in families below the poverty level or who are slipping to a lower tier. "Minority ethnic groups are characterized by the most poverty and least access to land, housing, health, poverty, political representation and, in particular, schooling."[4]

2   Riemers, F. 2001. Unequal Schools, Unequal Chances: The Challenges to Equal Opportunity in the Americas. Davidn Rockefeller Center Series on Latin American Studies

3   "On average, a 1 percentage increase in the Gini coefficient [measuring inequality] appears to increase crime rates by between 1 and 4 percent."

4   Conconi, A. 2007. Are there ethnic inequality traps in education? Evidence for Brazil & Chile. Oxford Poverty and Human Development Initiative

Deforestation and contaminated ground water disproportionately affect the health and livelihoods of the poor, creating almost insuperable barriers to the pursuit of a basic education.

Human Opportunity Index (HOI): The HOI examines and measures access to water, sanitation, and electricity (considered basic services) through an inequality lens. The HOI also includes two education indices: the completion of sixth grade on time and school enrollment at ages 10-14. In Latin America and the Caribbean, Gini coefficients (the measures of income distribution throughout society) and the HOI reveal a misalignment between our development goals, current educational systems, and our vision of a stable democratic, progress-oriented region.[5]

The inequalities we can quantify are compounded by qualitative inequalities that we can also measure. With relative accuracy, we can count the number of schools and the number of children enrolled in them. However, building *more* schools is no guarantee of a quality education. A new school planned for a rural area may very well stand empty. Schools staffed with unqualified teachers deepen inequalities. Unsafe neighborhoods and unsafe school buildings make learning impossible. Educational expansion and access does not equate to educational inclusion.

The Global Partnership for Education claims, "If all students in low income countries left school with basic reading skills, 171 million people could be lifted out of poverty."[6] One extra year of schooling increases an individual's earnings by up to 10%. Education is a clear and identifiable opportunity and a consistent catalyst of measurable personal growth, national prosperity, social development, and civic engagement. Growth, inequality, poverty, and education are inextricably linked.

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5   Ferreira, F. H. G., J. Messina, J. Rigolini, L. López-Calva, M. A. Lugo, and R. Vakis. 2013. Economic Mobility and the Rise of the Latin American Middle Class. Washington, DC: World Bank

6   Overview, Why education? The benefits of education. Global Partnership for Education website: http://bit.ly/1kJl86q

1. UNEQUAL AND FRAGILE LINKS IN THE EDUCATION SUPPLY CHAIN

Children – early inequality: The earlier children acquire and develop cognitive, motor, and psychosocial skills, the more they are likely to become productive members of society and ensure a substantially higher likelihood of institutional births, vaccinations, and nutrition[7] for subsequent generations.   However, children from families of low social-economic status (SES) miss important links in the educational supply chain that leads to opportunity.

In the absence of targeted and accountable interventions during childhood, the inequality chain gets weaker and the odds of compensating for a poor education are almost insurmountable. "Minority ethnic groups are, by overt design or marginalization, cannot rely upon access to land, housing, health, political representation and, in particular, education.[8] Once enrolled, they show substantial gaps in basic knowledge and early signs of failure and inequality. In Latin America and the Caribbean, "82% of disabled people live in poverty,"[9] approximately 6.5 million children do not attend school, including 20-30% of children with disabilities. Children whose families speak an indigenous or non-official language are at a distinct disadvantage and marginalized even further.

Classrooms with the least academic success, the highest incidents of classroom disruption and violence, and the highest drop-out rate tolerate bullying, dismiss cultural diversity, ignore students with different learning needs, have not established structures and support for ensuring gender equity. A high percentage of students from these environments eventually cease their pursuit of gainful employment, do not partake of health services, and restrain themselves from voicing concerns.   With

7   Jaime Saavedra 2009. Measuring Equality of Opportunity in Latin America: a new agenda. Poverty Reduction and gender Group: Latin America and the Caribbean Region. Banco Mundial

8   2010. UNDP: Marginalized Minorities in Development Planning: United Nations Development Programme Resource Guide and Toolkit

9   2014. World Bank. Disability and inclusive development in Latin America. http://bit.ly/1q4XfNm

inadequate skills to gain employment, young people feel powerless amidst, and distrustful of, the powerful. Exclusion decimates self-respect and feeds a vicious cycle of self-imposed discrimination.

The parent community is a powerful catalyst for ensuring that education gained in school is reinforced at home. Efforts to educate parents and include them as stakeholders and key players in reinforcing education have reduced the pressures that force poor households to augment their income or labour supply through child work and have strengthened incentives for families to send their children to school.

An unequal education is a public health issue. Inadequate support for education correlates to persistent public health crises, undermines achievement, and shortens the length and quality of life. Students not well enough to learn will not learn well enough. Reversing this cycle requires an accurate assessment of who is attending our schools and who is not, as well as targeted and accessible and public-health education programs, teacher training, and community engagement. Efforts to address issues of obesity, mental health, and alcohol abuse have been shown to lower state-sponsored medical expenses, increase health habits, and lower incidents of sexually transmitted diseases.

Dropout rates and grade duplication must be addressed. Approximately 117 million boys, girls, and adolescents of initial (which should begin at least one year before primary), primary, and lower secondary education age, expressed as two or more years of over-age. Close to 22% of the students from ages 11 to 14 have still not completed primary education".[10]

Latin America and the Caribbean have the third-highest regional dropout rate to the last grade of primary education at 17%.[11] In addition, since one of the main reasons for dropping out of school is the need to find work for subsistence, this leads young people to enter the job market with little education."[12]

10 2012. UNICEF. Global Initiative on Out-of-School Children. *Finishing School. A Right for Children's Development: A Joint Effort*, Executive Summary, Latin America and the Caribbean.
11 2012. UIS/UNESCO Global Education Digest
12 2013. Latin America Economic Outlook. OECD. http://bit.ly/1msL3oe

"Educational failure, which manifests itself in repetition and re-enrollment, generates unnecessary costs for the system. "In Ibero-America, costs resulting from repetition reach 19.9 billion dollars, that is, three times the cost of universal coverage targets from initial to lower secondary education, as stipulated in Targets 2021."[13] Governments in the region spend an estimated US$12 billion annually as a result of grade repetition.[14]

Multi-age classrooms may pose a viable solution to the expense of building schools, but the experience for older students, whose needs are fundamentally different from those of younger children, can be culturally alienating and humiliating.

The transitions from primary to middle and secondary school and from secondary school to higher education show additional weak links in the supply chain of quality education. In "Investing in Human and Social Capital: New Challenges," OECD has determined that, "in order to have lasting impacts on social outcomes, each stage in the learning trajectory of an individual learner should be connected to other stages. Early interventions may yield high returns in the long-term only when subsequent learning environments are *synchronised* with early investments."[15]

13   Figures come from the Organization of Ibero-American States for Education, Science and Culture (OEI) coordinates the Targets 2021 initiative, which seeks the commitment of Ibero-American countries to reach specific targets in the improvement of education quality and equity, and of social inclusion. Global Initiative on Out-of-School Children. *Finishing School. A Right for Children's Development: A Joint Effort*, Executive Summary, Latin America and the Caribbean, Copyright 2012 UNICEF. UNESCO/UNICEF The statistical analysis is based on administrative data from the countries in the region. This data was collected using the UIS database as of May 2011. Copyright 2012 UNICEF

14   (NOTE: statistics superseded by more recent data. See above. But reasons why grade repetition is costly remain valid) Regional Overview: Latin America and the Caribbean, Persistent Inequalities Hinder Progress Toward EFA. UNESCO Education for All Global Monitoring Report 2009; Nov 4-5, 2010. OECD Educational Ministerial Meeting, Paris Investing in Human and Social Capital: New Challenges"

15   Investing in Human and Social Capital. OECD Education Ministerial Meeting. Feb 4-6, 2010: http://bit.ly/1j0weWD

Global comparative testing is a diagnostic tool, not a race: The Programme for International Student Assessment (PISA) exam ranked participating Latin American countries in the bottom third in reading, mathematics, and science among the 65 countries that took the test. Many educators debate the validity of its standardized measurements.[16] Sample sizes for PISA surveys and tests remain small, not all countries provide school location data, and dropouts are not calculated. However, the PISA exam provides illuminating research about proficiencies that assess the degree to which classroom learning leads to (a) the capacity of students to solve problems, and (b) how well they can participate in society.

While one can argue that the exam is, like the economy, a snap-shot rather than a movie, the research points to the need for allocations and reallocations to revise curriculum and teacher professional development. The same investment applied to improving one's country's standing in science is better spent focusing on whether or not science is relevant and inclusive. Programs integrating the science of safety, for example, not only have saved lives through prevention and planning, but also have enhanced student achievement.[17]

Higher Education. The educational supply chain and the targeted interventions that can enforce it cannot be limited to the end of secondary school. Regional universities build equity and development. Support for higher education and for building new universities is expensive, but new models of multi-university collaboration and global partnerships can provide world-class opportunities through shared courses, blended learning, competency certificates, and distributed outreach programs that connect service with scholarship. To meet the needs of a globally interdependent world, universities must reconsider traditional models of course delivery and reimagine themselves as innovation laboratories capable of growing talent and addressing inequalities or find themselves irrelevant.

16 Barros, et al (2008). Measuring inequality of opportunities in Latin America and the Caribbean. Conference edition. Latin American Development Forum. http://bit.ly/1nhFkyv

17 Hall, D. (2010). Essays on inequality, education, trade and endogenous growth. PhD dissertation. Drexel University

2.   TEACHERS AND INEQUALITY: FROM SUPPLY CHAIN TO DEMAND CHAIN

What holds true for universities also holds true for the teaching profession. Unless teachers are qualified and committed to student achievement, there is little hope for children to develop resilience, motivation, and hope. Policies that include the teachers' voice instantly engage a local development community capable of serving as responsive agents of change.

While there are exceptions to every rule, student learning is directly correlated with teacher quality. Guillermo Perry, former chief economist for Latin America at the World Bank, puts it to us all this way: "Who among us would leave their children's education in the hands of their worst classmates?"[18]

PREAL's José Guzmán sums up much of the challenge for policy makers in which he recommends: "... a broad view of the teaching profession should consider pre- and in-service teacher training and other interlinked aspects such as: mechanisms for selection, hiring, promotion and –sometimes– firing teachers; standards and expectations about teacher performance; salaries and incentives as well as evaluation and accountability. Furthermore, institutions and processes for implementing teacher policies are also important elements for policy analysis: the role of the State, teacher organizations, and other stakeholders; tensions between authority and participation; institutional capacities and resources; short-term demands vs. long-term planning; and budget allocation." [19]

Cross-hemispheric data from analyses of teacher induction programs, teacher preparation, student achievement, and interviews with award-winning teachers point to: (a) an overemphasis on general, theoretical concepts disconnected from more practical needs and

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18   (December 17, 2013). PREAL Enlaces: training first-rate teachers. PREALblog. http://bit.ly/1nKidis

19   Guzmán, J., et al (2013). Effective teacher training policies to ensure effective schools: a perspective from Central America and the Dominican Republic. PREALblog. http://bit.ly/1iF0v8i

classroom realities, (b) little preparation for reaching children with diverse needs and from different cultures, (c) resistance to online teacher communities of practice capable of building support networks, creating curriculum, and sharing effective practices (d) ineffective technology adoption in the absence of teacher feedback (e) limited funding for mentorship programs – especially those supporting new teachers – and scholarships for promising individuals capable of inspired local leadership.

Teacher Networks, ICTs, and Open Educational Resources: Without the capacity to learn from and with each other and build communities of practice, expenditures in teacher professional development yield little measurable growth in teacher performance. Teacher networks help address issues of teacher isolation by building safe environments to ask questions, share professional practices and curriculum, and solve problems.

Outdated textbooks exclude schools from access to high-quality materials they can adapt for local use. Teachers in Latin America and the Caribbean are rapidly embracing Open Educational Resources (OER) in have revealed that leverage technology investments by in the region, developed by first-rate regional. While an increase in funding must accompany targeted programs and strategies designed to close the inequality and inequity gap, a shift to this strategy brings far greater returns. MIRA, the global pioneer for the development of an OER map that identifies K-12 initiatives, is a collaboration of 19 entities based in Latin America led by educators and technologists in Brasil and Ecuador.[20]

A society is as strong as its teachers. We must shift our perception of teachers as messengers of curriculum delivery to teacher leaders who are: (1) passionate about the subject and compassionate toward children (2) capable of early identification, diagnosis, and remediation of learning challenges (3) supported to develop data-driven, low-cost strategies for reaching socially-marginalized children, (4) skilled in the adaptation and use of ICTs, (5) designers of equality-focused child-friendly environments for learning (6) comfortable in their communities as ambassadors of learning.[21]

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20   MIRA: http://mira.org.br
21   Mansuri, G., and V. Rao. 2013. Localizing Development: Does Participation

Safe schools: In Latin America, the global economic crisis has negatively affected innovation and global competitiveness in the region. According to the ECLAC report (2010), the area's reliance on producing exported goods that lack technology has created a discrepancy between Latin America and larger nations such as China. The World Economic Forum (2010) also describes an improved curricula with a focus on mathematical number sense, functional literacy skills, science, and most importantly tangible skills as most necessary to solving inequality in Latin America. Professional development in this region is critical in helping bridge the gap between the Latin American economy, and the rest of the world. With even the remotest of areas still using mobile devices heavily, the integration of technology is an attainable goal, and can even improve healthcare. Safe schools have the potential to teach children real life skills and STEM, prepare students by studying natural disasters and planning accordingly, ensure community support, serve as a resource for proper hygiene and health, and spark innovative and creative minds prepared for the world's biggest areas of productivity: math, science, and technology. This type of professional development might work because it integrates national standards, while meeting the needs of Latin American communities in their effort to improve the economy of the region.

3. STRATEGIES THAT ADDRESS INEQUALITY AND STRENGTHEN LINKS

Regional examples of excellence are growing. The region is abundant with inspired models of government action resulting in enforceable policies, shared hemispheric practices, community engagement, and well-defined investments in individual and institutional educational leadership designed to:

- The city of Medellín, Colombia, stands as a unique and innovative example of how cities can become inclusive for their citizens through both infrastructure planning and citizen engagement.[22]

Work? Washington, DC: World Bank.

22   Romero, S. 2007. "Medellin's Nonconformist Mayor Turns Blight to Beauty."

- In Chile, a mobile computer room offers community education classes to members of indigenous communities; Docente al Dia connects teachers to content and each other

- In Mexico and Paraguay tailored censuses incorporate vital information about indigenous peoples

- In Brazil, "heightened attention to quilombolas has translated into concerted efforts by the Brazilian government and civil society for social inclusion on quilombola terms. Policies, particularly in education and health, are tailored to quilombola heritage and way of life."[23]

- In Bolivia, Barrios de Vereda – a large infrastructure project – engaged the community in planning, resulting in indoor sanitation facilities, outdoor lighting, and childcare services

- In Ecuador, an investment in earthquake science and safety for Quito has raised awareness of hazards and developed a strong preparedness and planning program.

- In Panama, clear policies have enabled the generation of revenues from the Panama Canal to be used for education.

The hemisphere is rich with examples that balance growth, development, education, and inclusion. Transparent and accountable redistribution and contingent cash transfer initiatives are focusing attention on the measurable impacts of addressing inequalities and remediation strategies for marginalized populations.[24] Inclusive school-based management are building regional, rather than centralized, educational leadership. Day-care centers "have expanded social protection programmes with early childhood components,"[25] including

New York Times, July 15. http://nyti.ms/1mqD32J October 7, 2013).

23 Wong (2012) Mansuri and Rao. (2013). World Bank: Inclusion matters: the foundation for shared prosperity. New frontiers of social policy. http://bit.ly/1iL4Uvp.

24 Inter-American Social Protection Network. Conditional Cash Transfers: http://bit.ly/1oi11yh

25 UNESCO (2009). Regional overview: Latin America and the Caribbean: global monitoring report. http://bit.ly/1hqPqbE

cash transfers for households that access health services. High quality early childhood education and health programmes – ranging from pregnancy monitoring, institutional births, toddlers' nutrition and neurological development – are resulting in a 27% higher likelihood that children will remain in school.

One size does not fit all. Inclusion, by its very nature, requires a multi-dimensional, collaborative approach. Large scale, replicable initiatives cannot be conceived and delivered vertically from a central office in a capital city. Neither is there evidence to suggest that a completely decentralized, scattered, and unaccountable horizontal structure is any more effective.

Communities must be engaged. The most successful educational leaders reach the people who reach the people *and become* educational leaders. Community-driven inclusion "can improve service delivery in sectors such as health and education, improve resource sustainability, and help communities build lower-cost and better-quality infrastructure (Wong 2012; Mansuri and Rao 2013)."[26] Furthermore, by virtue of targeting mostly the poor and vulnerable, these programs can help bring the voice of such groups to the policy table, inspiring communities to address seemingly intractable problems.

4. RECOMMENDATIONS: THE OAS ROLE IN REDUCING EDUCATIONAL INEQUALITY

The OAS is uniquely suited to demonstrate global leadership by convening inclusive cross-sector policy dialogue and interdisciplinary technical cooperation capable of expanding educational opportunities and interventions to address inequality.

Inclusion requires multidimensional commitment. The multidimensional character of inequality requires cross-sectoral approaches designed to establish practical strategies that enhance human

26 Wong (2012) Mansuri and Rao. (2013). World Bank: Inclusion matters: the foundation for shared prosperity. New frontiers of social policy. http://bit.ly/1iL4Uvp.

capacity and agency.[27] We live in a technologically dependent world, but no app or device alone can ensure equality or open opportunity. We must employ information management systems to monitor the data we need to make informed decisions, but do the tools take into account the marginalized and excluded? Political will and dialogue drive our agenda, but only have we invested in educational leaders to ensure that the mechanisms we put in place ensure our expectations are met and we earn the community's trust?

Inclusion requires an ecosystem. "Most education funders have focused on building school infrastructure and providing services. Such efforts are intuitive and can reach vulnerable populations effectively; however, to avoid overlooking vast opportunities for social returns funders should look at the broader education ecosystem" capable of large-scale impact in improving quality, access, and equity."[28]

The lens of development with inclusion requires a comprehensive, cross-sector, empirical examination of how we are truly implementing the OAS social charter. Only we can identify, convene, and rely upon those capable of answering tough questions: Are our educational investments increasing or decreasing inequality? Are our information systems sufficient enough to account for marginalized and underserved communities? Are we providing social protection services and a continuum of care for the vulnerable and traditionally excluded? Are we paying attention to critical transition points in the educational supply chain so that we can stem the tide of dropouts? Do we have programs to engage youth in school and after school? Are we utilizing our assets in education to strengthen our communities or put them at further risk for extortion and crime?

For the communities we serve, are formal and non-formal sectors engaged in the process of strengthening social inclusion or are we rewarding patronage? Are we employing traditional methods of storytelling

27   EFA Global Monitoring Repogrt 2009 Overcoming Inequality: Why Governance Matters

28   D. Capital Partners (2013). Impact Investing in Education: An Overview of the Current Landscape. ESP Working Paper Series, No. 59. p. 9 http://osf.to/1jpaq6x

and media (from microblogs to soap operas) to teach and promote social inclusion? Are we building inclusion in addition to prosecuting offenders? Are we employing existing institutions and incentivizing individuals to innovate for social inclusion? For groups excluded and marginalized, are we providing education in a form they can access, such as mobile libraries, flexible schedules, livelihood-based education for parents? Is our growth designed around extraction and exclusion or respect for economic, social, and environmental stability? How can we ensure that our teachers are bright, optimistic stewards of our future?

The OAS has developed responsive and cross-cutting frameworks to ensure that the Social Charter of the Americas is taken seriously. Given the realities of limited resources – human, financial, and material – countries have to make choices and decisions. But inclusion is well within reach.

1. *Allocate wisely:* Our commitment to education requires that we shift monies to targeted education programs that serve vulnerable populations. All children who attend primary school for at least 4-5 years should leave with basic literacy and numeracy skills to function in their communities. Ensure accountability for redistribution programs; expand scholarships for those who have demonstrated promise and fund programs that enable leaders to cascade excellent teaching.

2. *Convene stakeholders:* We must engage the private sector, teachers, student organizations, parents, and individuals from disadvantaged communities, civil society, and universities in dialogue designed to build a more inclusive educational system from pre-school through higher education. To understand the needs, you need all the actors.

3. *Remove Barriers to access, equality, and quality:* The Human Opportunity Index provides data about the barriers to participation in, and the accessibility of, a quality education. Map the lives of children in urban and rural communities to determine how to address (a) physical vulnerabilities by investing in the

infrastructure of education, such as roads, clean water access, school infrastructure, and equipment (b) academic and psycho-social impediments, by targeting services designed to support students who are disadvantaged through no fault of their own (c) educational barriers, ranging from removing barriers preventing teachers from growing professionally, remedial support for students, and parent education

4. *Respect culture:* Engage in those participatory processes designed to discover and uncover how to integrate mother-tongue teaching into curriculum at the early grades; gather the wisdom of indigenous peoples; identify incentives for high-performing individuals, enlist support for addressing local challenges, and acknowledge the assets of diverse communities.

5. *Expand subsidies and scholarships:* For the poor and disenfranchised, going to school – even public school - can be above their means. Government subsidies which cover fees, uniforms, meals, transportation, books and other related costs can make the difference of whether a child attends and stays in school or not. And, for those pursuing higher education, scholarships, low-cost loans, and programs which pay for mentoring and tutoring can make the difference between whether a student drops out or is able to complete his university education.

6. *Invest in teachers:* Inspire universities and civil society to identify promising talent and attract young people to a vital profession; provide mentors for teachers in their first few years; tailor professional development to teacher-driven needs for practical, local contexts; create opportunities for teachers to engage in networks, share new ideas, customize curriculum (including open educational resources), and measure impacts; dovetail teachers' contributions to a timely approval process so that national standards can be reached through systematic attention; enable monitoring mechanisms that combine

quantitative and qualitative data on teacher performance and student achievement; and incentivize creativity and innovation.

7. ***Choose appropriate technologies.*** Work with the private a public sector to support the adoption of technologies that enable local educators to build skills in, rather than for (or instead of) teachers; support the capacity to connect teachers to information and each other; enlist teachers as experts to determine how to adapt and adopt Open Educational Resources to meet local needs; take advantage of high-tech (such as satellite internet, mesh and portable wireless networks and devices, expanded mobile phone coverage) with medium-tech access points (television, radio, computer centers with server space for vital content).

8. ***Weave education into the fabric of inclusive states*** through (1) macroeconomic policies integrated with social policies (2) accountable democracy, citizenship rights and responsibilities, gender equality, multiculturalism, universal rights, affirmative action, rights-based social policy; (3) the rule of law, universal access to justice, public interest litigation; freedom of information; mechanisms of responsibility; transparency, voice, and accountability

The OAS is uniquely suited to demonstrate our global leadership by convening inclusive cross-sector policy dialogue and interdisciplinary technical cooperation capable of expanding educational opportunities and address inequality. With deep ties and access to all levels of society and a reputation for neutrality and fairness, the OAS offers unique expertise to convene people, develop regionally specific ideas, and ensure that practices support human welfare.

No other agency or entity is as effective in reaching the people who reach the people, The professionals who work in the OAS system are from the region and understand the political, economic and social contexts in which OAS member states operate, enabling us to:

- Support hemispheric conversations initiated by the Ministers of Education and Labor in policy meetings in order to share and exchange thoughts on educational priorities, challenges, in order to develop plans of actions for improving education and labor and employment conditions in the Hemisphere.

- Provide access to quality professional development and academic study opportunities through online and cross-border scholarships and loans that enhance regional collaboration and global knowledge sharing. Develop networks of higher education institutions and teachers that enhance collaboration and inclusion.

- Serve as a clearinghouse and marketplace to showcase best practices, such as the annual Virtual Educa event, which highlights exhibits, workshops and conferences to present the latest in innovation in education using ICTs.

- Strengthen the Educational Portal of the Americas, an online platform that builds local capacity through carefully vetted, cross-sector courses in effective educational methods and provides technical assistance to participating organizations. In early 2012, the Educational Portal of the Americas collaborated with INTEL® to offer online free professional development courses to teachers, principals, administrators and solicited the services of graduates of the courses to provide the training free of charge. The Portal provided on-line training and allowed free participation in another Portal online course.

- Endorse and extend programs that serve educators otherwise disregarded. In Haiti, the OAS works with Teachers Without Borders on a Certificate Program aimed at Haitian primary and secondary school teachers to building their capacity to be more effective and interact with the resources of the communities.

Inclusion runs deep and manifests itself only when communities are self-reliant. As the technical secretariat of the meetings of Ministers of Education, the OAS not only provides avenues for technical cooperation, but also ensures that local expertise is in place so that beneficiaries continue on once the OAS and external experts are gone. Our greatest strength lies in our ability to gather those people and institutions to identify and satisfy needs, develop methodologies and programs that are appropriate for the context in which they operate, respect the local and national traditions and capacities, and "fine tune" practices in one country for the realities and context of another.

We support countries that want to discuss and take action to put inclusion in the forefront of their education agenda. As a filter for strategic development, we make certain that all member states are represented in the discussion on education. When countries in the region collaborate, they realize that they are not alone in strategizing solutions to their problems. When a university in one country offers a scholarship to an individual from another, that individual will have a special bond with that university and that country in the future.

We urge all member states to identify those who can work with us to clarify and extend that framework. Development with inclusion in our hemisphere is entirely within our grasp. We need not reinvent the wheel, nor assume that an inclusive educational transformation will take a long time. The toolkits are available and accessible: guidelines for inclusive education, culturally-sensitive training for teachers, accountability systems, demographic informatics, rural education methodologies, and poverty indices are readily accessible. The wherewithal and innovative ingenuity of the people can be inspired to accelerate our progress toward robust economic and social development with inclusion.

To make truly sustainable progress, we cannot limit ourselves to equality without paying systematic and deliberate attention to quality. We cannot assume that growth is an equation for inclusion, and so we must design growth to ensure development. Sensible policy from above must

be accompanied by transparent engagement from below. Poverty decreases when opportunities to learn increase.

Our growth and development goals, current educational systems, and our vision of a stable democratic, progress-oriented region are out of balance, and unbalanced approaches are symptomatic of inequality. Our attention to education that serves our respective states and the OAS social charter are nothing short of operationalizing dignity. We operationalize dignity when we build human capacity and agency, along with growth; when we pursue science, technology, engineering, and mathematics not so much because we are frantic to catch up with the rest of the world, but because our hemisphere deserves it; when scholarship students return the favor by serving their communities; and when rural communities feel acknowledged, take advantage of opportunities, and participate in civil society.

Summary and Conclusions

We cannot expect the quantity of growth to determine the quality of education for children. In a slower economy and a great attention to skllls needed for success in the 21st century, inattention to the lives of children and their parents set a course of inequality that can last a lifetime. Vulnerable communities are particularly at risk, leading to public health issues which drain the system, high drop-out rates, and discontent throughout transition periods. Our latest performance on global comparative testing should be used as a diagnostic, not a race. Higher education must step up to meet the challenges of the 21st century.

The relationship between poverty, inequality, development, and education is complex. The Human Opportunity Index provides quantitative data we need. The key is to connect policies with practices that lead equality to educational quality

Teacher networks must be supported, along with educational leadership that provides local accountability and freedom to innovate. Teachers need to be engaged in curriculum and technology choices made that much more accessible through Open Educational Resources. We can join the

innovation of the creative education world with our system of education and raise achievement for all.

Our region has the brains and political will to bring about development with inclusion. The education system is a key catalyst of that change. Examples of innovation abound throughout the region, but they are scattered. We need to bring policy makers and teacher leaders together to share practices throughout the hemisphere.

The OAS is the only body truly qualified and connected to bring about the change we need to connect education, equality, growth, and development. The suggestions we made are part and parcel of a framework that is inclusive because it engages all sectors of OAS. We stand ready to help.

*Director, Department of Human Development and Education.
Executive Secretariat for Integral Development

Universal Access to Information and the Media

Catalina Botero*

Democratic regimes rely, among other things, on the existence of a free process for choosing collective preferences, which presupposes open, plural, vigorous, and uninhibited public debate. It is in that process of deliberation that people are able to adopt informed decisions on the future of the society they pertain to. That is why censorship is prohibited: nobody may exclude other people's ideas or opinions from the public debate. Each member of society has the power to decide which of those ideas or pieces of information are worth paying attention to and which must be discarded. That is precisely the democratic core of freedom of expression: that everyone has a chance to express his or her views and to be listened to and everyone can hear what others have to say.

If the above is true, then we must acknowledge that people pertaining to social groups that are traditionally marginalized, discriminated against, or defenseless, have mostly been excluded, for a variety of reasons, from public debate. Such groups lack institutional or private channels for collectively and permanently expressing their ideas and opinions in public. That process of exclusion has also prevented societies from knowing the interests, needs, and proposals of those who, in many cases, have had no opportunity to access democratic debate on an equal footing[1].

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1   IACHR. Annual report for 2008. Report of the Office of the Special

The freedom of individuals to debate and criticize policies and institutions on an equal footing and diversity and pluralism in public debate do not just promote civil and political rights; they undoubtedly also make a decisive contribution to the realization of economic, social, and cultural rights and to the achievement of the social goals that states have set themselves in order to overcome poverty and inequality. Indeed, those goals are best protected in a state with effective oversight and supervisory mechanisms. Such mechanisms include, first and foremost, guarantees for the exercise of social protest, the right of access to public information, and freedom to investigate and criticize public policies, as well as the adoption of measures for the inclusion of traditionally marginalized or highly vulnerable groups in the democratic deliberation process.

With a view to achieving a more inclusive and plural system capable of meeting those goals, significant proposals have been put forward, which we will refer to briefly below. Particularly worth noting are the proposals aimed at promoting genuinely equal opportunities for everyone to access the media.

1.   THE RIGHT TO FREEDOM OF EXPRESSION AND THE PRINCIPLES OF UNIVERSALITY AND EQUALITY

Under Articles 13 and 1.1 of the American Convention on Human Rights, everyone has the right to freedom of expression, on an equal footing and without discrimination for any reason, including reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

As interpreted by inter-American jurisprudence and doctrine, this provision upholds the right of everyone to found media as a way of exercising his or her freedom of expression. The right to found and manage mass media is thus endowed with the same strengthened

Rapporteur for Freedom of Expression. Chapter IV (A Hemispheric Agenda for the Defense of Freedom of Expression)

guarantees that protect freedom of expression. Accordingly, democratic societies must "be inclined toward free, independent and plural broadcasting that is reinforced against arbitrary interferences and responsibly meets the legitimate, reasonable and proportionate obligations imposed upon it under the law and the Constitution."[2]

Now, as mentioned earlier, the inter-American system has detected ongoing challenges regarding universal access to the media. That being so, a genuine guarantee of the right to freedom of expression must mean more than requiring states to refrain from actions preventing the exercise of that right. As both the Inter-American Court of Human Rights and the Inter-American Commission have stated, freedom of expression requires that no individuals or groups are *a priori* excluded from access to such media and that conditions are in place that allow equitable access to them.

To that end, the inter-American system has recommended that pro-active measures be adopted to guarantee the effective exercise of that right, on an equal footing and without discrimination. Thus, what is needed is a policy aimed at facilitating inclusion by removing the obstacles that prevent certain segments of society from accessing the media and, at the same time, actively promoting the integration of disadvantaged or currently marginalized groups in the media.

In that context, the organs of the inter-American human rights protection system have recalled the need to eschew public or private monopolies in the ownership and control of the media and thereby guarantee plurality. In fact, the Inter-American Commission on Human Rights (IACHR) and its Special Rapporteurship for Freedom of Expression (Special Rapporteurship) have said on a number of occasions that control over the media, especially audiovisual media, by a private sector or State monopoly or oligopoly can seriously impair the plurality of information. In its Report entitled "The Impact of the Concentration of Media Ownership,"

2   IACHR. Annual report for 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VI (Freedom of Expression Standards for Free and Inclusive Broadcasting) OEA/Ser.L/V/II. Doc. 51. December 30, 2009

the Commission and its Special Rapporteurship stated that "[w]hen the sources of information are seriously reduced in number, as in the case of oligopolies, or when there is a single source, as in the case of monopolies, the possibility that the information being disseminated will have the benefit of being compared with information from other sectors is limited, imposing a de facto limitation on the right of all society to information. The existence of monopolies or oligopolies, public or private, thus constitutes a serious obstacle to the dissemination of one's own thinking, and to receiving different opinions[3]."

In this regard, Principle 12 of the Declaration of Principles on Freedom of Expression, adopted by the IACHR in 2000, states that: "Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people's right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals."

As the aforementioned Principle 12 makes clear, apart from effective enforcement of anti-trust laws, it is necessary to ensure that State-administered assets and resources, which are vital for the full exercise of freedom of expression, are distributed in accordance with the underlying values and principles of the inter-American legal framework, that is to say, the principles of liberty, equality, and nondiscrimination. It is essential, therefore, that policies in this matter seek to overcome the existing inequality in access to the media, for instance, by the economically disadvantaged social sectors. Thus, states must not only refrain from discriminating against those sectors; they also need to promote proactive public policies in support of social inclusion.

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3   IACHR. Annual report for 2004. Report of the Office of the Special
     Rapporteur for Freedom of Expression. Chapter V (Indirect Violations
     of Freedom of Expression: The Impact of the Concentration of Media
     Ownership). OEA/Ser.L/V/II.122. Doc. 5 rev. 1. February 25, 2005

Genuine social inclusion means that all voices and interests can be heard in public debate. Accordingly, public discourse needs to be enriched with information and opinions on the needs and interests of broadly excluded social groups. In many instances, economic or political factors prevent excluded, marginalized, discriminated, or minority groups from expressing themselves adequately in the deliberations that are an inherent part of the way democracy functions and public opinion is formed. That is why it has been argued that the State has at least a threefold obligation: to respect all sectors' right to freedom of expression, without discrimination; remove the disproportionate barriers to access by marginalized or minority groups to the communication process; and adopt affirmative action measures to ensure that those groups can exercise their right to freedom of expression, putting forward their points of view in public discussions that concern them, vigorously and uninhibitedly, without economic or state control. These are, in short, measures to ensure inclusion in the deliberation process, as a prerequisite for sustainable and successful inclusion in the other spheres of public life.

The above leads us to consider the need for three kinds of inclusion policy. First, it is now recognized that it is important to establish public media that are genuinely plural, independent of government, and universally accessible, in order to foster greater inclusion of traditionally excluded groups or segments of the population. Second, an effort has been made to establish public and transparent processes for assigning licenses or frequencies, in such a way as to avoid or limit the existence or formation of monopolies in the audiovisual media. Third, progress would appear to be needed with legal recognition and equitable access to licenses by community broadcasting media. Finally, linked to the above, importance is now also attached to proper management of the digital transition process, so that the least privileged segments of the population have increased access to broadcasting services. The following sections briefly describe the scope and significance of these measures.

2. ACTIONS RECOMMENDED TO BRING ABOUT UNIVERSAL ACCESS TO INFORMATION AND THE MEDIA

2.1 *Regarding public media: a veritable mechanism for inclusion.*

Public media can (and should) play a special role in ensuring the plurality and diversity of views needed in a democratic society. The function they perform is crucial for providing high quality content that may not always be commercially profitable but caters to the population's informational, educational, and cultural needs. However, for public media to be really able to fulfill that function, they have to be independent of the Executive; genuinely pluralist; universally accessible; endowed with the funds they need to fulfill their legal mandate; and subject to accountability and community participation mechanisms at the various stages of production, circulation, and reception of content.

On that, the special rapporteurs for freedom of expression of the United Nations, the Organization of American States (OAS), the Organization for Security and Co-operation in Europe (OSCE), and the African Commission on Human and Peoples' Rights (ACHPR) maintained, in their 2007 Joint Declaration on Diversity in Broadcasting, that "Special measures are needed to protect and preserve public service broadcasting in the new broadcasting environment. The mandate of public service broadcasters should be clearly set out in law and include, among other things, contributing to diversity, which should go beyond offering different types of programming and include giving voice to, and serving the information needs and interests of, all sectors of society. Innovative funding mechanisms for public service broadcasting should be explored which are sufficient to enable it to deliver its public service mandate, which are guaranteed in advance on a multi-year basis, and which are indexed against inflation[4]".

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4   United Nations Special Rapporteur on Freedom of Opinion and Expression; OSCE Representative on Freedom of the Media; ACHPR Special Rapporteur on Freedom of Expression; and OAS Special Rapporteur on Freedom of Expression. December 12, 2007. Joint Declaration on Diversity in Broadcasting.

In light of the above, it is important that states regulate the activities of public media in order to grant them autonomy with respect to the political majorities of the day and the capacity to produce high quality, diverse, and plural content. The law must establish goals and mandates that complement those of the private media.

To promote social inclusion, it is necessary to strengthen all the guarantees required to ensure that traditionally marginalized groups can access these media and, through them, express their views and exert influence so that the public agenda takes their interests and needs into account. These kinds of social inclusion measures are essential to the quest for greater equality, which is why the Organization constantly refers to them when it proposes mechanisms, such as those mentioned here, for achieving diversity and pluralism in the communication process.

Accordingly, public media need to be geared to fulfilling their mandate of ensuring plurality and diversity of both news and views. That, in turn, presupposes that they are free from arbitrary interference by either the government or private sector broadcasting interests. Their program content should: (1) disseminate the artistic, cultural, scientific, academic, and educational output of general interest being produced all over the country; (2) report on matters of public interest; and (3) reflect the political, social, geographical, religious, cultural, linguistic, and ethnic pluralism of society.

In order to secure autonomy for public media, and thereby greater diversity and pluralism, it is important that the law uphold their editorial and informational independence. Furthermore, while each state is free to adopt the institutional arrangements it deems best, it is important that all State-run broadcasting media are overseen by an independent authority, whose members are elected in a transparent and competitive process, based on professional expertise and ethics. One good practice is to include in legislation strict rules regarding disqualifying factors, incompatibilities, and conflicts of interest. It is also a good idea for the law to establish objective and transparent procedures for appointing and removing the directors of each of the public media. To ensure independence, some states

do not grant the Executive Branch power to freely appoint or dismiss media directors.

Public radio and televisions services should generally be both cost-free and nationwide in order to guarantee the rights of freedom of expression and access to information of all persons under the State's jurisdiction, without any discrimination based on social, economic, or geographical conditions.

A public media system attuned to the highest standards of the right to freedom of expression should not only guarantee plurality and a diversity of opinions in its programs; it also needs to ensure that as many people as possible have access to them. Thus, it is important to take pro-active steps to ensure that people who live in areas not covered by other media -- for instance, because private sector media would run at a loss -- and people who cannot afford to pay for television content have access to public media.

Now, clearly, public media can only meet those goals if they have sufficient and stable funding. Public financing to match the legal mandate is one way to shield against arbitrary public and private sector interference. In that sense, while it is possible to envisage other, supplementary, forms of financing, it is not advisable that they be allowed to compromise the public service mission by shaping content. In addition, public media need a stable budget and financial autonomy to shield them from arbitrary government interference as well.

Finally, it is important for public media to be able to act transparently. That involves, on the one hand, guaranteed access to information on all aspects of how public media are run (except in respect of guarantees that are vital for journalism, such as the confidentiality of sources of information), and, on the other hand, accountability and citizen participation mechanisms – for instance, in respect of the reception of proposals, comments, and complaints by the audience.

2.2.   *On the allocation of radio frequencies*

The Inter-American Court of Human Rights has emphasized that freedom and diversity must be the guiding principles in regulating broadcasting and that media activity must be guided and protected by the standards of the right to freedom of expression. On this, the Court has pointed out that "[i]t is the mass media that make the exercise of freedom of expression a reality. This means that the conditions of its use must conform to the requirements of this freedom[5]." Consequently, it is vital that any regulation – and any public policy in general – on the media be assessed in light of the guidelines and directives imposed by the right to freedom of expression.

The same doctrine has been reiterated by the IACHR and its Special Rapporteurship in a number of reports. For instance, in their report on Freedom of Expression Standards for Free and Inclusive Broadcasting, the IACHR and its Office of the Special Rapporteur for Freedom of Expression pointed to the important role of the State in regulating the radioelectric spectrum to ensure free, independent, vigorous, plural, and diverse broadcasting[6]. In this sense, and as mentioned previously, all individuals have the right to establish or join media outlets and those outlets requiring the use of the spectrum should be subject to clear, transparent, and democratic regulation that ensures the greatest enjoyment of this right by the greatest number of people, thereby also ensuring the greatest circulation of information and opinions. Indeed, and as the Court and the Commission have indicated, the regulation of the radioelectric spectrum must simultaneously guarantee freedom of expression of the greatest number of people or perspectives, equality of opportunities in media access, and the right of contemporary

5   I/A Court H/R. Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism (Arts. 1227(2), 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No. 5, par. 34.

6   IACHR. Annual report for 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VI (Freedom of Expression Standards for Free and Inclusive Broadcasting) OEA/Ser.L/V/II. Doc. 51. December 30, 2009.

societies to plural and diverse information. In order to achieve these objectives, states must submit themselves to a series of rules, without which it would be impossible to grant all the guarantees mentioned. Both the Inter-American Court and the IACHR have paid special attention to detailing these guidelines and directives.

The IACHR has recognized the State's authority to regulate broadcasting. This authority includes not only the possibility of defining the method of handling concessions, renewals, or revocation of licenses, but also the planning and implementation of public policy related to broadcasting, as long as the guidelines set by the right to freedom of expression are followed.

Broadcasting regulation normally includes procedures related to access, renewal, or revocation of licenses, the requirements for access to licenses, conditions under which they can be used, the composition and authority of the enforcement authority, and oversight, among other subjects. As these aspects of broadcasting regulation can mean restrictions on the right to freedom of expression, in order to be legitimate they must be provided for in a clear and precise law; have the freedom and independence of the media as an aim, as well as the equity and equality of access to mass communication; and establish only those subsequent limits to freedom of expression that are necessary, appropriate, and proportional for the legitimate aim they pursue. To that end, it is important that frequency allocation processes be characterized by transparency and guided by objective, clear, public, and democratic criteria.

In this way, the broadcasting regulation that the State can and should create would form a framework under which the broadest, freest, and most independent exercise of freedom of expression for the widest variety of groups and individuals is possible. The framework should function in such a way that it guarantees diversity and plurality while simultaneously ensuring that the State's authority will not be used for indirect censorship. Indeed, the IACHR has pointed out that the regulation of broadcasting must aspire to promote and expand the scope of the right to freedom of expression, not restrict it. Thus, its legal framework must

ensure that the media can be a vehicle for the free, vigorous, open, plural, and diverse exercise of the freedom of expression. As a consequence, regulation must tend to guarantee greater safety for free self-expression, without fear of being sanctioned or stigmatized for it, while at the same time promoting greater equality in the conditions of the exercise of freedom of expression, in a triple sense: plurality of voices, diversity of voices, and non-discrimination[7].

Accordingly, the IACHR has recognized the importance of the procedure for granting a license including sufficient guarantees against arbitrary actions, including the obligation to justify decisions that grant or deny requests, as well as adequate judicial review of these decisions.

It is necessary that the criteria that should guide the assignation of licenses must be clearly and precisely provided for in the relevant laws, in such a way as to protect petitioners from any arbitrary action. Accordingly, it is key that the procedures be transparent, clear, and have predetermined deadlines.

Likewise, it is important that the assignation criteria and the procedure used to apply them be limited to establishing only those requirements that are necessary for the accomplishment of a plurality and diversity of voices. For that reason, the requirements for granting licenses cannot be a disproportionate barrier to achieving this goal. Thus, for example, when the money offered or the economic criterion is the principle or exclusionary factor for the granting of all radio or television frequencies, it jeopardizes equal access to the radio spectrum and discourages pluralism and diversity. The IACHR has asserted that although these criteria could be considered objective and non-discretionary, when they are used to assign all radio frequencies they result in the exclusion of broad segments of society from the process of access to the media.

For similar reasons, procedures for assigning licenses should not include technical or administrative requirements that are disproportionate

7   IACHR. Annual report for 2009. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter VI (Freedom of Expression Standards for Free and Inclusive Broadcasting) OEA/Ser.L/V/II. Doc. 51. December 30, 2009.

or unreasonable and require all license holders to hire technicians or specialists. Such requirements indirectly raise an economic barrier to access to radio frequencies. Neither should geographic distance serve as a barrier to access to frequencies or licenses by, for example, requiring rural media outlets to travel to the capital to file a request.

In short, the main idea is to achieve the greatest possible diversity in mass communications. To achieve that diversity, conditions must exist for the creation of truly public broadcasting, independent of political power and executive influence, as well as private commercial and non-profit radio that is free, vigorous, and independent. As explained below, for that to come about, emphasis has been placed on the particular importance of broadcasting regulations including spectrum allocations earmarked for community media, in such a way that they can perform their essential function not only in the process of social inclusion but also as mechanisms to promote culture and history, and for the development and education of different communities.

2.3.   *On community broadcasting media*

Community media perform a core function by enabling various segments of society to exercise freedom of expression and access to information. Indeed, community media perform an essential function not only in the process of social inclusion but also as mechanisms to promote culture and history, and for the development and education of different communities.

For instance, community media are fundamental in order to guarantee effective respect for the right of the indigenous peoples to exercise freedom of expression on an equal footing. In this regard, let us recall that Article 16 of the Universal Declaration on the Rights of Indigenous Peoples, as well as Article VIII.2 of the Draft American Declaration on the Rights of Indigenous Peoples, approved by the Inter-American Commission on February 25, 2007, recognize the right of indigenous peoples to establish their own communications media in their own languages. However, community media do not serve only indigenous

peoples. As the Special Rapporteurship has repeatedly stated, under certain circumstances these kinds of media may be vital for allowing other traditionally marginalized social sectors, such as women and especially female heads of household living in poverty (or extreme poverty, Afro-descendants living in underprivileged areas and must endure the consequences of racist cultures, as well as other groups or communities, to publicly disseminate their vision of the world and their needs and interests[8].

For this reason, community media need to be legally recognized and spectrum needs to be reserved for them, along with equitable terms of access to licenses.Here it is worth recalling that many laws in the countries of our region still contain disproportionate barriers or prohibitions that prevent marginalized or traditionally discriminated communities from accessing the media. It is therefore important that the regulation of broadcasting expressly recognize the right of non-profit organizations and communities to own audiovisual media. As the Office of the Special Rapporteur for Freedom of Expression of the OAS has stated, "These cases deal with a legal framework to promote the vitality of democracy if we bear in mind that the communicative process must satisfy not only the consumer needs of society's inhabitants (legitimate entertainment needs, for example) but also citizens' information needs[9]."

Accordingly, the law must define appropriately the concept of community media, including their non-commercial and social purpose, and their financial and operating independence from the state and from economic interests. It is also important to note that the law must also: (1) provide simple procedures for obtaining licenses; (2) refrain from demanding strict technological requirements that prevent access to them;

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8   IACHR. Annual report for 2008. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV (A Hemispheric Agenda for the Defense of Freedom of Expression) OEA/Ser.L/V/II.134 Doc. 5 rev. 1. February 25, 2009. Paragraph 101.
9   IACHR. Annual report for 2008. Report of the Office of the Special Rapporteur for Freedom of Expression. Chapter IV (A Hemispheric Agenda for the Defense of Freedom of Expression) OEA/Ser.L/V/II.134 Doc. 5 rev. 1. February 25, 2009. Paragraph 107.

and (3) allow for the possibility of using different sources of funding. In any case, the law must include sufficient guarantees to prevent such media from becoming dependent on the State through government funding.

Accordingly, it is necessary to ensure that state funding does not dissolve the independence of community radio, since that would entail the loss of the genuine community value of this broadcasting sector.

2.4. *On terrestrial digital transition as an opportunity for inclusion*

The transition from analog to digital broadcasting offers a great opportunity for social inclusion in the telecommunication sector. For that reason, public policies in this area should be guided by a series of principles that safeguard both the rights and freedoms of broadcasters and access by plural and diverse voices. Those principles have already been briefly expounded in other sections, so here they will only be mentioned in passing, with a reference to some of the technical recommendations specifically aimed at the above-mentioned transition process.

First, care must be taken in this transition process to guarantee respect for freedom of expression pursuant to the terms used in the aforementioned Principle 12, that is to say, guaranteeing allocation based on democratic criteria to ensure, among other things, the diversity of signals. This requires that decisions regarding terrestrial digital transition be adopted by a body that is independent of the political majorities of the day, through transparent and planned processes governed by clear, objective, transparent, and democratic criteria established by law. It is important that that authority be endowed with the powers and resources – with respect to human and technological capacity and powers of supervision and enforcement – needed to implement decisions on key public policies.

Likewise, it is worth ensuring that the terrestrial digital transition process is conducted in a well-planned, strategic manner that will ensure optimum results for the public, taking local circumstances into account.

Now, the promotion of diversity is a key substantive criterion for

taking decisions relating to this transition process. For instance, in the terrestrial digital transition planning and decision-making process, it is important to ensure that those lacking in financial resources can access the new signal; that small broadcasting stations with few resources and located in remote areas can continue transmitting; and that priority is attached to the power of the digital signal so as to improve access for, among others, persons with hearing or visual disabilities.

The terrestrial digital transition planning and decision-making process also needs to take into consideration the extent to which it can promote the interests of all the groups making up society, including cultural and linguistic minorities and persons living in different areas and regions; as well as the diversity of the types of content available in the broadcasting system.

Similarly, it would be appropriate to introduce regulations to optimize broadcasting and make it more cost efficient, for example by setting up, depending on the circumstances of each particular case, grants or subsidies – (allocated by an independent body on the basis of objective criteria) -- shared distribution networks or networks with other efficiency-enhancing mechanisms.

Finally, while it is true that the transition from analog to digital broadcasting offers a great opportunity for social inclusion, deficient implementation may end up increasing already existing barriers to access, for example, by requiring technological adaptations that many community radio stations cannot afford without the necessary grants. In this sense, it is worth remembering that technology is not neutral and that here we are talking about matters that have a direct bearing on the exercise of the fundamental right to freedom of expression.

<div align="right">
*Former Special Rapporteur for Freedom of Expression,
Inter-American Commission on Human Rights
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Migration and Inequality in the Americas

Juan Manuel Jiménez*
Marcia Bebianno**

P opulation movements at the international level are simultaneously the result of global change and an important driver of later changes both in the societies where these population flows originate and where they end. The effects become manifest in the economic arena and extend to international relations, while at the same time they lead to greater ethnic and cultural diversity, transform identifies, and blur the traditional frontiers. They also represent one of the most significant factors in the construction of modern urban areas and in the configuration of their social structures and various cultural environments, including areas of inequality.

Migratory flows are the result of various factors that make them highly dynamic. Human mobility is basically driven by demographic trends, armed conflicts, natural disasters, structural weaknesses in the development of poor countries, inequalities in national economies, poor living conditions for broad sectors of society, a lack of job opportunities, and in general the increasingly wider gap between rich and poor both among and within countries.

At the start of the 21st century, more people than ever are living in countries other than the country where they were born. By 2013, 232

million people were international migrants, compared to 175 million in 2000 and 154 million in 1990. Asians and Latin Americans living outside their regions of origin form the largest groups in the global diaspora.[1] In Latin America and the Caribbean, close to 30 million of those who were born there now reside outside their native country. Nearly three-fourths of them are in the United States and most of those remaining are in Argentina, Venezuela, Spain, and Canada.[2]

In the Americas, the magnitude and characteristics of migration have had profound social and economic effects, both in migrants' countries of origin and in the countries where they reside.

1.   RECENT CHARACTERISTICS OF MIGRATIONS FROM AND TO THE AMERICAS

In 2010 the economies in the Americas began to show signs of recovery, with average GDP increasing from -0.4% in 2009 to 5.6% in 2010. However, this economic improvement was not fully reflected in an increase in international migration trends, particularly in Latin America and the Caribbean where permanent immigration fell by 9% and temporary migration fell by 6% in 2010, basically due to the reduction in those recorded in the migratory regularizations of Argentina and Brazil. In many cases, migratory movements in the various countries of Latin America and the Caribbean seem to be generally unrelated to changes in the condition of national economies and to be determined more by conditions in the countries of origin than conditions in the destination countries.

For most countries in the Americas, immigration is a regional matter since immigrants come from within the Americas, except in the cases of Brazil, Canada, and the United States, where immigration largely originates outside the Hemisphere. Intra-regional flows in Latin America

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1   United Nations, Department of Economic and Social Affairs (2013), Trends in International Migrant Stock: Migrants by Destination and Origin, United Nations database, POP/DB/MIG/Stock/Rev.2013.

2   International Organization for Migration (IOM), World Migration Report, 2008.

and the Caribbean in 2010 were half the region's flows to Canada and the United States[3].

In 2010, Asia was the continent of origin of close to 45% of those immigrating to Canada and the United States, while those coming from the rest of the Americas represented 25%, without including estimated unauthorized migration of about 300,000 people in 2009, falling from a maximum of about 850,000 per year in the first half of the decade[4].

In addition, there was a strong concentration of migration from neighboring countries in Latin America and the Caribbean. For some destination countries, between 40% and 50% of immigration comes from a single neighboring country. This was the case for Argentina (from Paraguay), Barbados (from Guyana), Bolivia and Chile (from Peru), and Costa Rica (from Nicaragua).

1.1. *Asylum seekers in the Americas5*

Applications for asylum in the Americas increased by 7% in 2011 compared to 2010, with an increase of 41% in the United States and a decline of 55% in Ecuador. 97% of the applications for asylum in the Americas comes from the nationals of six countries, particularly Colombia, Mexico, and Haiti and to a lesser extent El Salvador, Guatemala, and Honduras.

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3   OAS/OECD, 2012 International Migration in the Americas: Second Report of the Continuous Reporting System on International Migration in the Americas (SICREMI), Executive Secretariat for Integral Development (SEDI)

4   Passel Jeffrey y D'Vera Cohn, 2010 "U.S. Unauthorized Immigration Flows Are Down –Sharply Since Mid-Decade" , Pew Hispanic Center.

5   An "asylum seeker" is someone who seeks recognition of their refugee status and whose application has not yet been definitively evaluated. According to the **Geneva Convention relating to the Status of Refugees**, a refugee is someone who *"owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it…. ''*

1.2. *Emigration to the OECD countries*

The economic crisis had a substantial effect on emigration from the Americas, redirecting emigration to Spain toward other OECD countries. Migration toward Spain fell by 38% in the periods 2005-2007 and 2008-2010. In absolute figures, that meant a decline from about 860,000 to 550,000 people for the periods indicated[6].

Migratory flows of emigrants from the Americas to other OECD countries outside Europe grew by 8% (Canada, Chile, Mexico, Japan, Korea, Australia, New Zealand) and by 14% to other countries in Europe during the period 2008-2010 compared to the period 2005-2007. The total increase in movement from these two areas amounts to about 105,000, offsetting to some extent the decline of 360,000 moving to Spain and the United States.

Although economic conditions have become more difficult nearly everywhere within the OECD area, migratory movements from the Americas have remained at a relatively high level, involving more than three million people during the period 2008-2010. This figure represents a decline of only 8% compared to the period 2005-2007, before the economic crisis.

Not even the most serious economic crisis since the Great Depression has managed to significantly reduce migratory movements, which continue and no doubt will increase to the degree that demographic imbalances in the developed countries begin to the impose their effects with increasing force.

2. THE LINKS AMONG MIGRATION, DEVELOPMENT, AND INEQUALITY

In recent years there has been a radical change in thinking about migration and development. For many decades, attention focused on migration as a problem, either because it was considered a consequence

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6   OAS/OECD, 2012 International Migration in the Americas: Second Report of the Continuous Reporting System on International Migration in the Americas (SICREMI), Executive Secretariat for Integral Development (SEDI)

of a lack of development or due to fears regarding a brain drain or a loss of skilled workers. Currently, it is understood that migration can contribute to poverty reduction and to development, both in the countries of origin and destination countries as well as within regions, and that these benefits can be improved with appropriate policies.

Following suggestions from other international organizations in the debate on the link between migration and development, more information is needed regarding the results of migration both for those who migrate and for those who stay, so that the relationship between migration and development and the effects thereof on inequality in both the countries of origin and destination can be adequately evaluated.[7]

At the global level, recent studies carried out by the World Bank estimate that migration can have a positive impact on both growth and inequality. They also assert that an increase in overall well-being as the result of an increase in migratory movements of both skilled and unskilled labor would prove more beneficial to developing countries than developed countries, with a positive effect on global inequality as well.

However, the research on migration's impact on inequality at the local level, that is, on the communities of origin and destination, points to very diverse and complex panoramas.

In the case of the destination communities, researchers have sought to determine the extent to which migrants are integrated into their new communities. To do so, they have defined integration based on the migrants' situation compared to that of those born in the country in terms of the following dimensions: income, access to education, health, and the exercise of citizenship. In the OECD's recent analysis of the integration of migrants in its member countries [8], it adds the following dimensions: employment characteristics, integration in the labor market, and discrimination.

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7   OECD 2012, UN HDR 2009, Oxford Poverty and Human Development Initiative, 2013.

8   OECD 2012 , Settling In: OECD Indicators of Immigrant Integration 2012, OECD Publishing, Paris

For the communities of origin, the effects of migration have mostly focused on the analysis of remittances and their effects on poverty. However, a comprehensive view is needed that encompasses the social and cultural costs of emigration.

3. THE SITUATION OF THOSE WHO REMAIN

In the examination of the links between migration and development in countries of origin, most of the attention has been on the role of remittances in poverty reduction and their contribution at the local, subregional, and national level. According to World Bank estimates, officially recorded remittances worldwide totaled approximately 406 billion dollars in 2012, which represents an increase of 6.5% over the previous year. The World Bank also estimates that remittances may reach 534 billion dollars by the year 2015. About 325 billion dollars of the current flow of remittances are directed to developing countries, with Mexico among the world's leading recipients of remittances.

There is robust empirical evidence from a large number of developing countries that remittances can increase household incomes and reduce poverty at the family level. Studies done by the IOM and the World Bank report an increase in the income of migrants' families as well as significant reductions in the poverty rate among families that include a member who is a migrant (Bangladesh, Pacific Islands). In addition, studies in some African countries (Mali, Ethiopia, and Ghana) show that a percentage of the remittances often goes to savings and is used to deal with times of crisis.

In the Americas, throughout 2011, the flows of remittances to Latin America and the Caribbean show signs of a solid recovery, reaching growth rates close to those recorded prior to the start of the world economic crisis (2008-09). In 2011, the region's countries received a total of US$61.013 billion in remittances, which represented an increase of 6% over the previous year[9].

9   OAS/OECD, 2012 and 2011 International Migration in the Americas: Report of the Continuous Reporting System on International Migration in the

In Latin America, a recent study showed that in Mexico and Paraguay the households that received remittances were primarily the poorest households with the lowest school enrolment rate, while the opposite happened in Nicaragua and Peru. The study indicates that migration can have significant repercussions on poverty reduction in a country, as in the case of Mexico, where the poverty rate falls in households where at least one family member has moved to another country.

Nonetheless, in general the restrictions caused by the limited opportunities that unskilled workers have for moving to other countries mean that remittances do not directly reach the poorest families nor the poorest countries[10].

Beyond the reduction in individual and family poverty, remittances contributed to sustainable development in various ways. They are related to increased access to higher education and a larger number of students who complete their studies. They also have a positive effect on the health of those who remain, whether due to increased disposable income or to greater knowledge acquired through transnational migrant networks[11].

Finally, note should be made of the social effects on emigrants' families and communities, an aspect that has not been given attention until recently. Despite the financial benefits, the separation is very painful and has emotional costs both for those who emigrate and those who remain. Recent studies in Mexico address the situation of emigrants' families and communities to determine what effects family separations have on generations that grow up in transnational families.

Americas (SICREMI), Executive Secretariat for Integral Development (SEDI)

10 United Nations 2009 Human Development Report "Overcoming barriers: Human mobility and development." UNDP.New York: Department of Social and Economic Affairs.

11 Ibid.

4.   THE SITUATION OF THOSE WHO EMIGRATE

4.1.   Integration and inequality of immigrants in OECD countries[12]

The social and economic integration of immigrants in the OECD countries – which include Canada and the United States, the countries receiving the most immigrants in the Americas – has been investigated based on an international comparison using indicators of the integration of immigrants and their children. Some of the principal conclusions are:

a) The results vary considerably according to the area of economic and social integration. No one country can be identified as the best performer in all the dimensions analyzed for the study of immigrants' integration.

b) Differences in the results of immigrants' integration in host societies across the different OECD countries are generally greater than the differences between immigrants and the native population within countries.

c) The composition of the immigrant population in terms of type of entry, educational level, and duration of stay in the destination country is an important determinant of the variations in integration among the countries.

d) The differences between immigrants and the native population cannot be entirely explained by observable socio-demographic variables and the percentage that can be explained varies according to the area covered. Very important variables often not covered in the analysis of integration include qualifications or skills; mastery of the language of the host country; the quality of the degree obtained abroad; as well as other unobservable variables such as motivation, the ability to adapt to a new context, and cultural formation. Also highly influential are contextual variables such as the status and operation of the housing and job markets, conditions for accessing social services, and the

12   OECD 2012 , Settling In: OECD Indicators of Immigrant Integration 2012, OECD Publishing, Paris

prevalence of discrimination. Thus, deeper analysis is needed for a better understanding of the differences among the various countries with respect to immigrant integration and within countries with respect to different groups of immigrants.

e) Immigrants' situation in the labor market improves with the passage of time.

f) Household size and composition has a significant impact on the households' resulting characteristics, particularly when there is an adult born in the host country. Households with a mixed composition (immigrant adult and adult born in the host country) are more likely to benefit from a broader family and employment network.

Finally, the study points to the disadvantages faced by immigrants' children who were born, grew up, and were educated in the host country compared to children with at least one parent who was born in the host country. There are also gaps remaining in most OECD countries in terms of access to employment for the children of immigrants and the quality of the jobs they hold, in addition to their being less likely than the rest of the population to find jobs in the public sector, despite being nationals of their country of residence.

Some specific results corresponding to the years 2008 and 2010 are:

- **Household incomes and poverty**

  In all OECD countries for which we have information, the median income of immigrants' households is lower than that of natives. Immigrants are also under-represented in households belonging to higher income deciles. On the contrary, in most OECD countries they are over-represented in the lowest income decile, and great inequalities are found when comparing incomes among immigrants' households.

  In 2008, on average in the OECD countries, 17.3% of immigrants are at risk of being poor, compared to 15% of the native population.

Immigrant families are particularly at risk, which could be related to relatively lower participation in the labor market among immigrant women with children and the higher average number of children in immigrant households compared to the households of those born in the host country.

- **Situation of households**
  On average in the OECD countries, nearly one out of every four people lives in a household that is overcrowded or has housing deficiencies. In particular, 20% of those in immigrant households live in overcrowded conditions compared to 11% of those living in native households. The difference is even greater for households with children, where the percentage is 32% for immigrant households compared to 19% for native households.

  With regard to home ownership, in 2009, 53% of immigrants owned their homes compared to 71% of those born in the host country.

- **Self-perception of health condition and access to medical services**
  In 2009, on average 70% of immigrants indicated that their health was good (72.2% of men, 68.1% of women), a percentage comparable to the percentage for those born in the host country. In addition, 7.1% of immigrants reported having at least one medical service not covered during the last year, with no statistically significant difference in comparison with the native population.

- **Education of immigrants' descendants who are born in the host country**
  The education of immigrants' children who are born in the country of residence, where they grow up and are educated, plays an important role in integration and is in fact considered a point of reference for integration in general, due to the broader implications of education.

About 76% of immigrants' children born in the host country attended pre-primary education for at least one year in the OECD area, with probabilities only slightly lower than for the children of native parents. In the countries that offer free preschool programs, attendance rates are generally higher than 80% and the differences with the children of native parents are insignificant.

Regarding educational achievement, one-third of immigrants' children aged 25 to 34 have a university degree and among them women obtain degrees in higher percentages than men. In turn, one out of every five has completed lower secondary education.

- **Integration in the labor market**

  Generally speaking, the immigrant population is less likely to find employment than the native population, and the differences are more profound among women than men.

  In 2009-10, on average, the unemployment rate of immigrants was approximately 1.5 times higher than that of natives (about 12% compared to 8%). This disadvantage persists and increases with youth unemployment, where the rates are 23% and 18% respectively. On average, about 40% of the unemployed who were born in the country but who are descendants of immigrants are among the long-term unemployed (out of work for more than 12 months) compared to about 26% of those with parents born in the host country.

  In 2008, about 17% of children aged 15 to 34 who were born to immigrants in the country of residence were neither working nor studying. For 2009-2010, 16% of employed immigrants work in unskilled jobs, compared to 7% of natives. In all OECD countries, immigrants are over-represented in unskilled jobs, and there is also a clear gender gap between immigrant men and women, since twice as many women hold low-skilled jobs. This does not happen among the native population.

28% of highly educated immigrants are over-qualified for the jobs they do, compared to less than 17% of highly educated natives.

In 2008, 17% of the children of immigrants born in the country of residence were employed in the public sector compared to 24% of the children of parents born in the country.

- **Civic participation**

  In 2005-2006, 48% of the population born abroad in OECD countries was citizens of their country of residence. Naturalization trends tend to lag behind migratory flows. Since the year 2000, more than 19 million people have been naturalized in the OECD area, reaching the highest point in 2000 and 2006-2008, varying between 1.4 and 2.1 million per year. In 2010, more than 1.7 million foreigners became citizens of an OECD country, a trend largely driven by the United States, which accounts for approximately half of all naturalizations in the OECD. In the European Union, the number of naturalizations reached a new record of 756,000 in 2010. The increase in 2010 is led by the United Kingdom and Spain, reflecting a large number of immigrants from the previous decade who became eligible for naturalization.

- **Discrimination**

  In all the OECD countries that were examined, the incidence of the perception of discrimination is significantly higher among immigrants from lower-income countries than among the immigrant population in general. The incidence of the perception of discrimination reported by immigrants is higher among men than women and tends to affect migrants in younger age groups more than older migrants. Finally, immigrants with a low educational level are more likely to feel discriminated against than those with an average or high level of education, as do the unemployed compared with those who have jobs.

4.2. Integration and inequality of immigrants in Latin American and Caribbean countries

The region of Latin America and the Caribbean has long been characterized by intraregional migration, which has increased significantly in recent years, particularly between neighboring countries. This increase was driven by strong regional economic growth and the resulting increase in demand for labor migration, by changes making laws on migration less restrictive, and by facilities for the movement of persons in the context of various types of conventions and agreements such as MERCOSUR, CAN, SICA, and CARICOM. Between 2000 and 2010, the immigrant population as a percentage of total population increased from 1.2 to 1.4, which in absolute terms represents an increase of approximately 1.5 million immigrants. The Bahamas, Barbados, Costa Rica, Panama, Argentina, Bolivia, Chile, and Ecuador were the countries with the highest increases in the immigrant population as a percentage of total population.

The first thing we need to stress is the lack of comparative research on the integration of immigrants for most countries in Latin America and the Caribbean, particularly for migratory flows at the start of the 21st century. In many cases, data has already been collected that could be useful for studying immigrant integration, such as data from the series of 2010 censuses when international migration was included for analysis. Censuses and other sources such as surveys and administrative records are still in many cases sources of data that are available but not utilized for research.

The Dominican Republic's "First National Survey of Immigrants" (ENI-2012), Costa Rica's 2011 and 2012 reports on "Migration and Integration," and Uruguay's study on "International and Returned Immigrants" based on that country's 2011 Population Census are some of the few examples of methodologically rigorous empirical research analyzing the integration of immigrants in the destination societies of Latin America and the Caribbean.

Due to the lack of common conceptual frameworks for analysis and the limited examples available, we find it impossible to provide a

general overview of the social integration of immigrants in the countries of Latin America and the Caribbean. Despite this, some characteristics would seem to be repeated in the OECD area, such as over-representation of immigrants in low-skilled jobs, the percentage of immigrant workers concentrated in certain branches of activity according to their nationality, and gender gaps in the labor integration of immigrant women.

5. THE INTEGRATION OF IMMIGRANTS AS A PATH FOR REDUCING INEQUALITY AND ITS RELATIONSHIP TO RECENT LEGISLATIVE REFORMS, MIGRATION POLICIES, AND REGULARIZATION PROCESSES

5.1. *Changes in the conceptualization of migration*

The structural problems of poverty and inequality, added to restrictions on human freedoms in many Latin American and Caribbean countries, provided the context in which many of the restrictive regulatory frameworks and migration policies were formulated up to the late 1980s. After that point, the process of restoring democracy and the pacification of internal conflicts began in various regions of the Americas.

The advances made in democratic processes in Latin American and Caribbean countries over the last two decades have been the determinants promoting a new way of conceptualizing regulatory frameworks and public policies on the subject of migration. Moreover, in addition to electoral democracy, there have been very important advances in the area of civil, political, and social rights.

These advances in the area of rights reverse the direction of the restrictions that occurred during the dictatorial governments of the 1970s and 1980s. Starting in 1990, we begin to see bilateral and multilateral treatment of migration, going beyond the traditional perspective of considering migration policy as an instrument of strict national sovereignty[13].

13   Mármora, Lelio 2003 "Las políticas de migraciones internacionales" Paidos Iberica

Changes toward open migration policies also occur in a context of uneven progress in the various areas of regional integration such as the Andean Community of Nations (CAN), the Central American Integration System (SICA), the Southern Common Market (MERCOSUR), and the Caribbean Community (CARICOM), in which the consideration of migration for effective regional integration has gained ground over time and where the idea of the free movement of people and the creation of a community citizenship are discussed as often as the free movement of goods.

Within the OAS framework, in 2012 the Special Committee on Migration Issues (CAM) was set up as a permanent committee of the Inter-American Council for Integrated Development (CIDI), acting as the principal forum within the OAS responsible for migration issues.

This tendency to centralize migration issues within integration bodies continues to increase. For example, the treaty establishing the Union of South American Nations in May 2008 defines its objective as "cooperation on issues of migration with an integrated approach, based on unrestricted respect for human and labour rights, migratory regularisation, and the harmonisation of policies." (Article 3, paragraph k)

In addition to the integration bodies as multilateral contexts for treatment of migration issues in their various aspects, there are also the so-called Regional Consultative Processes, which are nonbinding consultative forums established at the regional level, where representatives from the States, civil society, and international organizations examine the issues of migration. The Central American Commission of Migration Directors (1990), the Regional Conference on Migration (Puebla Process, 1996), and the South American Conference on Migration (Lima Process, 2000) are regional level consultative forums. Within the framework of the United Nation's High-level Dialogue on International Migration and Development, the Member States adopted the Declaration on International Migration and Development, whereby the States agree to consider the issue of migration in the design of the Post-2015 Development Agenda, assigning human rights priority as they relate to migration and development and

emphasizing migrants' contribution not only to their societies of origin but to their destination societies as well[14].

The treatment of migrants' human rights has held an important place in international forums and bodies through various resolutions, declarations, and programs. In 2005, the OAS General Assembly approved resolutions AG/RES. 2130 (XXXV-O/05) on "The Human Rights of All Migrant Workers and Their Families" and AG/RES. 2141 (XXXV-O/05) on the "Creation of the Inter-American Program for the Promotion and Protection of the Human Rights of Migrants, Including Migrant Workers and their Families."

In the case of the South American Conference, aspects of the guarantee and respect for human rights have been on the agenda in all conferences held since 2000. As one of the objectives of its 2009 Action Plan, the Regional Conference on Migration establishes "Full respect for existing provisions on human rights of migrants, irrespective of their immigration status, as defined in the Universal Declaration of Human Rights of 1948 and other relevant international instruments."

The relationship and influence of these multilateral arenas – where this new view of migration is presented and debated – along with the formulation, approval, and execution of migration policies at the national level is extremely complex and may be cause for academic research from various perspectives analyzing the degree and manner in which these new paradigms and conceptual frameworks regarding migration are assimilated in national and local contexts.

Independently of the complexity of the relationship of migration and human rights and although the discussion of all aspects of migration will continue at both the national and international levels, the progress that has been made toward open migration policies favoring migrants' well-being and respect for their rights will very likely not be reversed and will contribute to the construction of more equitable and integrated societies.

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14   IOM / UN / UNFPA 2013 "Towards High-Level Dialogue 2013 on interna-
      tional migration and development. Final report on high-level dialogues"

5.2. *Regulatory frameworks*

Here we will highlight only some new aspects and characteristics of the new regulatory framework on migration:

a) New laws on migration tend to recognize social rights for migrants regardless of their administrative status as migrants: the right to work, the right to fair compensation, rights to education and health and to freely take part in cultural life, among other rights. Argentina and Uruguay consider these rights in their new legislation on migration and through that legislation have instituted mechanisms for the effective enforcement and protection of the enunciated rights.

b) Recognition of the right to migrate as a manifestation of freedom of movement as a right in itself, not contingent upon the reason or cause for migrating. Argentina, Ecuador, and Uruguay enshrine this right in their legislation at various levels.

c) New refugee laws are enacted, created in accordance with the principles of no return, prohibitions on rejection at the border, non-discrimination, no penalty for illegal entry, family unity, confidentiality, and more favorable treatment and interpretation for individuals.

d) With respect to crimes linked to migration, such as smuggling and trafficking, in the last decade there has also been marked movement toward enacting new laws and decrees both covering prevention and punishment aspects – incorporating new criminal offenses – and governing care and reparations for the victims of such crimes.

5.3. *Regularization processes*

Irregular or unauthorized migration is a widespread phenomenon in Latin America because of the common language and the large informal sector existing in most countries[15]. In order to regularize the migrant situation and to ensure the inclusion and integration of a large number of

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15   Guillermo Javier Vuletin, 2008. "Measuring the Informal Economy in Latin America and the Caribean" IMF Working Papers 08/102

migrants who are irregular residents, numerous regularization processes have been carried out over the last ten years. These regularization processes are an essential first step so that immigrants can participate and be integrated in the societies of their destination countries, since irregular status often impedes access to health, education, and social security, among other rights. Regularization of administrative status is thus a necessary – although insufficient – condition for successful participation and integration in the destination society.

In Argentina, in the context of the *Patria Grande* program implemented during 2006 and 2008, 423,697 people were registered, and 126,385 were given temporary residence and 98,539 were given permanent residence, with the most represented nationalities being Paraguayans (58%), Bolivians, (24%), and Peruvians (11%).

Between 2007 and 2008, Chile received 55,000 applications and ruled favorably on about 48,000. The most represented nationalities were Peruvians, Bolivians, and Ecuadorans.

In 2009, Brazil enacted the Law on the Legalization of Foreigners in an Irregular Situation (Federal Law 11.961/09), which allowed it to rule favorably on more than 45,000 cases.

Ecuador undertook two regularization processes by normalizing the status of Haitian citizens in 2010 and through the 2011 Ecuadoran-Peruvian statute on permanent migration status.

Mexico has carried out six migrant regularization programs in the years 2000, 2001, 2004, 2005-2006, 2007, and 2008-2011 (the latter in effect up to May 2011).

In Venezuela, in 2004, 798,314 foreign citizens began their regularization and naturalization process. Of these, 357,891 received their naturalization card, in addition to other solutions granted.

Colombia (2008), Belize, and Uruguay have also undertaken regularization processes in recent years.

Final considerations

International migration will continue to increase in upcoming years, as it has been shown that not even the most serious economic crisis since the Great Depression was able to significantly diminish migratory movements. Migratory movements will continue to increase as the effects of demographic imbalances caused by aging populations in the developed countries begin to be felt more strongly.

Since the year 2000 numerous provisions have been enacted with respect to migration issues in the Americas, with emphasis on a transition from restrictive laws and significant legal obstacles limiting the entry and permanence of immigrants toward new laws based on an open conception emphasizing the protection of migrants' civil, social, and political rights as well as the enactment of new laws to protect refugees and define crimes linked to migration. One of the major challenges is the ability to give operational and administrative substance to the new concept of migration contained in the new laws, since the regulations for the laws, administrative regulations, and the institutional practices that remain often contradict those new laws.

Although migration is not a substitute for broad-based development policies, it may be a vital strategy for households and families that seek to improve their livelihoods.

Migration generally provides benefits both for those who migrate and for those who stay. The 2009 United Nations Human Development Report, devoted to human mobility, asserts that: "People are motivated to move by the prospects of improved access to work, education, political and civil rights, security, and health care. The majority of movers end up better off – sometimes much better off – than before they moved. The gains are potentially highest for those who move from poor to the wealthiest countries,…Available evidence suggests that people who move to emerging and developing countries ….also tend to gain"[16].

16   United Nations 2009 Human Development Report "Overcoming barriers: Human mobility and development." UNDP.New York: Department of Social and Economic Affairs p. 49

However, the results of the analysis of migrants' integration in their destination communities as compared to natives show different situations. In the OECD area, we find that the children of immigrants who were born and grew up in the destination country show fewer differences in terms of integration as compared to the native population than those who were born outside the destination country. Although this analysis provides relevant information, it is directed more to the design of policies to promote integration in the destination countries but provides little in terms of understanding and documenting the benefits of migration for the person who emigrates. It is essential to include in the research agenda the perspective of the person who emigrates, for which the relevant comparison is with his or her situation in the community of origin prior to emigration. Some studies have made advances in documenting the impacts on salary, access to education and health, and these studies support the statement included in the above-mentioned United Nations Human Development Report. Thus, studies are needed at the micro level, covering migrants' communities of origin and their destination communities. Such studies will be able to provide more clarity regarding the benefits of migration and its effects on inequality and in this way make it possible to design policies that help to improve the living conditions of migrants and their families.

*Specialist of the Department of Social Inclusion
**Specialist of the Department of Social Inclusion
Executive Secretariat for Integral Development

Inequality in Labor and Employment

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*María Claudia **Camacho****

Work is the means for achieving personal goals and for making a contribution to societyit is the basis for sustaining homes and defines, in large extent, the growth potential of our economies. Furthermore. The situation of justice in a society, its cohesion, and its governability can be inferred from prevailing working conditions

Equality in work has at least four connotations: equal access, equal pay, dignified and just working conditions, and equal access to social protection. All are included in the concept of decent work, coined at the ILO and adopted by the OAS as a matter of hemispheric consensus.[1]

The relationship between labor and equality is anchored in the relationships between labor and economic growth, poverty eradication, and income distribution. Accordingly, this article begins with an analysis of those dimensions. The first section also includes a discussion of the informality that is characteristic of employment in the region, and

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1   The concept of Decent Work seeks to express the conditions of a good job and dignified employment. It has been defined as a productive job in conditions of liberty, equality, security, and dignity, and is characterized by four strategic pillars: rights at work, opportunities for employment, social protection, and social dialogue. The adoption of this concept within the OAS can be seen in the Social Charter of the Americas adopted in 2012 and the Declarations of the Inter-American Conference of Ministers of Labor of the OAS since 2001.

which cuts across all the above-mentioned relationships. The second section discusses the labor situation of youths, women, indigenous, and Afrodescendant populations, and persons with disabilities; this overview shows the existence of profound inequalities that not only become explicit in the labor market but are also reproduced there. The third section refers to the role of labor institutions in the search for equality and their contributions to make the world of work more inclusive and just. Finally, the fourth section discusses the work of the OAS in support of the ministries of labor and the dialogue among governments, workers, and employers in the region.

1.   LABOR AND EQUALITY

The labor market is the link between the macroeconomic situation and the well-being of households. In the labor market, productivity yields are assigned through salaries, one gains access to social protection, and inequalities and forms of discrimination that come from other spheres (educational, social, cultural) become evident and have lasting repercussions.

The main characteristic of the labor market in the region is that it is extremely segmented; this aspect has been cited repeatedly as one of the main causes of inequality. There are acute productivity gaps in the region, both within and among countries, with some highly technological poles of production and other sectors in which only subsistence labor is performed. This gap[2] creates segmentation both in access to quality jobs and in labor incomes, and, going even further, in the possibility of the population being protected by social security.

The following data clearly show the heterogeneity of the productive structure and its impact on income distribution. The high-

2   This gap fits within the concept of structural heterogeneity coined by ECLAC, which "is characterized by the coexistence in a single economy of production sectors that would be characteristic of economies at different stages of development, with low-productivity sectors figuring heavily." ECLAC (2012), Structural change for equality: an integrated approach to development. p. 212.

productivity stratum produces two-thirds of GDP (66.9%), the middle stratum produces 22.5%, and the low-productivity sector generates only 10.6% of the GDP. This alone would not be worrisome, but it is worrisome that employment is inversely distributed: the high stratum generates just 19.8% of employment, the middle stratum 30%, and the low stratum 50.2%, which translates into a very unequal distribution of productivity gains among workers. Output per person employed in the high stratum is 16.3 times greater than in the low-productivity stratum, which is associated with informality.[3]

1.1 . *The challenge of informality*

The great labor challenge in Latin America and the Caribbean is not unemployment, which in 2013 reached a historic low of 6.3%[4], but the high level of informality, which both reflects and reproduces major gaps among productive sectors. These gaps, together with factors of exclusion and discrimination and the high concentration of ownership of productive assets in a few hands, result in segmented and unequal societies.

In 2012 informal employment was 47.7% in Latin America and the Caribbean, with rates greater than 70% in some countries. It is focused on low-productivity sectors, made up of workers in small production units (less than 10 workers), domestic workers, and self-employed workers[5]. It is also worrisome because of the deficit in social protection that it entails, in particular due to the lack of social security coverage (the contribution-based pillar of social protection). Estimates show that 78.6% of workers in middle-productivity sectors are contributing to social security, whereas only 22.3% are contributing to social security in the low-productivity sectors[6].

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3   ECLAC (2012), op. cit. Low-productivity sector includes those employed in microenterprises and domestic employment, along with unskilled independent workers, self-employed workers, and unpaid family members without professional or technical skills; that is why it is used as a proxy for informality.

4   ILO (2013), Panorama Laboral.

5   Ibid.

6   ECLAC (2012), op. cit.

Achieving formalization of the labor market is fundamental in the search for equality because informality perpetuates conditions of exclusion. Those who are less educated and poorer are disproportionately impacted: 63% of the workers who have only primary education and 72% of the workers in the lowest-income quintile are informal[7]. On being concentrated in low-productivity sectors, the possibilities of workers experiencing upward mobility or receiving better incomes are very limited. They receive considerably lower incomes than their peers in the formal sector and the deficit of social protection they face means, among other things, that they are left adrift in the face of illness and during old age. Informality, while a multidimensional phenomenon, is associated with instability, lack of protection, insecurity, and violation of rights; this is why it represents a deficit of decent work.

1.2. Labor and economic growth: A two-way relationship

A robust economy in which the different sectors have average or high levels of productivity is fertile ground for employment. How fertile? It depends on the country's level of development and on the proportion of its work force engaged in salaried labor relations. It has been seen that in the most developed countries (those with the highest per capita GDP), which have a larger proportion of the work force in salaried positions; the impact of economic growth on employment is greater.[8] In other words, the wealthiest, who are also the most productive, create better jobs through economic growth.

In the developing countries, contrary to what happens in the industrialized countries, the level of employment is determined by demographic trends. Due to the fact that there is little or no support when

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7   ILO (2013), op. cit.
8   Weller, J. and C. Kaldewei (2013), "Empleo, crecimiento sostenible e igualdad," ECLAC. It can be seen that the correlation between economic growth and employment is higher for salaried employment than for self-employment; in other words, the degree of incorporation to the salaried workforce has an impact on growth in employment. At the same levels of economic growth one creates more salaried jobs in rich countries and with a higher degree of incorporation to the salaried workforce than in poor countries with a lower rate of inclusion in the salaried workforce.

facing unemployment and only weak social protection measures, everyone must work, be it in the formal or informal sector. Accordingly, one can see that the correlation between employment and economic growth is much closer in North America than in the rest of the region.

There are four aspects of demographic trends and the development of the workforce in the region that create a great potential for economic growth: increases in labor-force participation rates, in which greater women's participation stands out; the reduction of the dependency rate[9], which has made possible the existence of the so-called "demographic dividend"; gains in labor productivity; and gains in the education and training of the work force. Nonetheless, for that potential to be realized, favorable political, macroeconomic, and productive conditions have to be in place such that these gains in participation, productivity, and the improved quality of the labor force are met by a corresponding increase in the demand for labor. While unemployment has fallen, the region has yet to fully tap this potential for growth.

1.3. *Labor and eradicating poverty*

Labor income and employment (or unemployment) are closely related to poverty because income from work is the principal, if not the only, means of subsistence for the vast majority of households in the region.

Given that the level of employment in developing countries is determined by demographic considerations, as discussed above, increasing the labor participation of the poorest households is fundamental to fighting poverty. Indeed, one of the causes identified as explaining poverty reduction in the region in recent years has been precisely the increase in labor participation of the poorest households. On the other hand, one of the explanations for the low incomes of the poorest households is the very low participation of the poorest women in the labor market.

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9   In 1980, which marks the beginning of the democratic transition in Latin America and the Caribbean, the dependency rate was 78.8% and in 2015 it is estimated at 49.9% (Weller 2013). It should be noted that this rate will begin to turn around soon, ending the demographic dividend due to the aging of the population.

While more employment and higher incomes help reduce poverty, it is also the case that poverty can lead to higher employment, by means of greater participation. Households respond to adverse economic shocks by increasing their participation in the labor market, as could be seen for Latin American women in moments of crisis and in the face of policies that provoked displacements in the labor market, labor instability, and higher unemployment.

1.4 . *Labor and income distribution*

Workers' incomes are a link that connects the situation of the economy, productivity, and education/training with income distribution.

One of the main reasons given for the improvements in income distribution since 2002 is the reduction of the income gaps between more and less skilled workers.[10] By way of contrast, it is adduced that one of the main causes of growing inequality in the 1980s and 1990s has been a widening of this gap as the result of greater demand for skilled labor, given technological changes and increased trade and investment, which the education and training system apparently was not able to satisfy. The salary gap between more and less skilled workers has eased in the last decade thanks to gains in the skills of the labor force, which is encouraging news, even though major challenges remain in terms of the quality and relevance of education.

The gains in income distribution, reducing that gap, have not been accompanied by better distribution among the factors of production in Latin America and the Caribbean. Since 2002 average real wages, a key component of income distribution, have grown less than labor productivity[11]. This means that while workers benefited from relatively high economic growth through more jobs, the gains from improved productivity in the region were not distributed equally. Beyond this, the fact of pay increasing at a pace that is lagging behind productivity gains

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10   See ECLAC (2012) op. cit., Weller and Kaldewei (2013) op. cit., Lopez-Calva, L. and N. Lustig (2010) Declining inequality in Latin America: A decade of progress?, UNDP and Brookings.

11   ECLAC and ILO (2012), Coyuntura laboral de América Latina y el Caribe.

means that there is an increase in the share that goes to capital over labor; which in turn has provoked a worsening in functional distribution in most of the countries of the region.

Labor market segmentation also has negative distributive consequences, given the large gaps between formal and informal sector incomes. Persons employed in the informal sector receive 36% to 80% of the incomes of their peers in the formal sector[12]; since 1998 this gap has increased in some countries while it has diminished in others. These data show another dimension of the impact of informality on inequality.
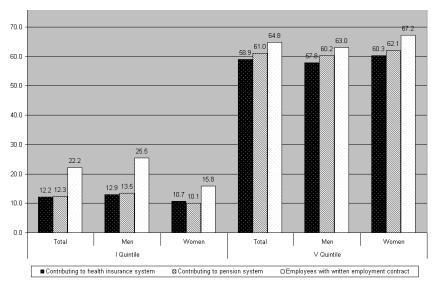
2. THE SITUATION OF CERTAIN GROUPS: OVERLAPPING INEQUALITIES

Those who are born into the poorest households, youth, women, those who belong to ethnic minorities or are Afrodescendants, persons with disabilities, migrants, and other disadvantaged groups throughout the region have fewer opportunities to gain access to decent work that is well-paid, has social protection, and offers a true promise of advancement and growth.

Graph 1 is a good snapshot of the relationship between income level and gender, on the one hand, and quality of work, represented by health coverage and pensions plus the existence of a written employment contract, on the other. The situation is consistent and radically more disadvantageous for the poorest, and among them, for women. Next, this snapshot is supplemented by the analysis of other population groups and the evidence of several other overlapping forms of inequality.

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12 ECLAC (2012), op. cit.

Graph 1

Contributors to social security and to pension plans, and wage-earners with
written labor contracts, by quintiles of income, by sex
Latin America (18 countries), 2011 (percentages)

2.1 . Youth

The situation of youth is one of the most serious concerns in the region due to its economic, political, and social repercussions. Despite the efforts made, their unemployment rates continue to be high: urban youth unemployment in Latin America and the Caribbean was 14.5% in 2013, more than 2.25 times total unemployment, and three times adult unemployment. In the United States it is 16.3% and in Canada 13.6%, more than double total unemployment.[13] Just as for adults, in Latin America and the Caribbean there is an enormous gap between unemployment in the lower-income and higher-income quintiles and for males and females. In the poorest quintile youth unemployment is 25.8% while in the wealthiest quintile it is 8.5%; among young women the gap is more than 20 percentage points, and among men it is nearly 10 percentage points.

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13   ILO (2013) op. cit., U.S. Bureau of Labor Statistics (2014) Economic News
    Release, Statistics Canada (2014) The Daily April 4th.

Two issues are even more alarming: (1) the quality of youth employment, given that 55.6% of the youth employed in the subregion have employment in the informal sector, that is they have precarious jobs without social protection or job benefits. (2) A total of 21.8 million youth in Latin America and the Caribbean (20.3%) do not go to school or work. Of these, 70% are women who are likely marginalized from the educational and labor system as they have taken on homemaker duties. Of these, only 24.6% were seeking employment and the vast majority of them belong to low-income households. The likelihood of being neither in school or employed increases considerably for the poorest of the poor and for women.

2.2 . Women[14]

Women account for more than half of the working age population. They have considerably improved their education and labor participation, and their gains in the labor market are notable. Nonetheless, women still face serious disadvantages. In Latin America and the Caribbean unemployment among women is greater than among men (7.6% versus 5.6% in 2013), whereas in the United States and Canada the situation is the inverse today (6% versus 6.6% for the United States, and 5.4% versus 6.1% for Canada). In the subregion women are overrepresented in informal-sector employment: 53.7% of the women workers find employment in the informal sector, compared to 47.8% of male workers. This higher proportion of women with informal-sector jobs is explained by their greater presence in informal domestic service. It should be noted that domestic work is, quantitatively speaking, the largest single occupation for the women of the region, accounting for 15.3% of female labor.[15]

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14   The indicators in this section, unless otherwise indicated, are from the report "Decent work and gender equality" by ILO, UN Women, et al. (2013), launched during the XVIII Inter-American Conference of Ministers of Labor (IACML) of the OAS.

15   Data from ILO (2013), BLS (2014), and Statistics Canada (2014), op. cit.

The difference of incomes between workers of both sexes continues to be quite marked. Women receive lower incomes than men in all occupational segments. The largest gaps are in self-employment work, which is associated with the informal sector, where women's incomes are 57% those of men. There is also wage inequality among women in the different segments of employment, in addition to those that stem from ethnic and racial discrimination. Women employed in the informal economy receive less than half of the income (44%) of those employed in the formal sector.

One of the leading explanations of the employment gaps is the disproportionate burden that women assume in the tasks of caring for the family. As the ministers of labor of the Hemisphere have recognized, moving towards fairer labor conditions requires reducing existing disparities between men and women, in which "equity initiatives in the workplace that lead to a better balance between family and workplace responsibilities"[16] play a central role.

2.3 . *Indigenous and Afrodescendant populations*

There is wide ethnic and racial diversity in all the countries of the Americas, though sadly the wealth of this diversity has no just parallel in the living conditions of the indigenous and Afrodescendant populations, who face higher levels of poverty and exclusion throughout the Hemisphere.

These populations are harder hit by unemployment and the vast majority of indigenous and Afrodescendant persons who are employed are in low-productivity and low-skilled jobs[17]; in Latin America and the Caribbean domestic work is the leading occupation for indigenous and Afrodescendent women. The income gap between ethnic minorities and the rest of the population, in those countries where such information is available, is almost 40%[18], and their returns on education are less than

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16   .Article 29, Declaration of Buenos Aires, adopted at the XVI IACML in 2009.

17   IACHR (2011), The Situation of People of African Descent in the Americas, OAS.

18   Ñopo, H. (2010), New Century, Old Disparities: Gender and ethnic earnings gaps in Latin America and the Caribbean, IDB.

those received by the rest of the population. Data from 2006 show that the unemployment rate in indigenous and Afrodescendant women was 85% greater than for their male counterparts on average, whereas for women who are neither indigenous nor Afrodescendant it was on average 60% greater than for men[19].

2.4   *Persons with disabilities*[20]

Persons with disabilities also face special difficulties in the job market. These are related to high levels of poverty (82% of persons with disabilities in Latin America and the Caribbean live in poverty), low schooling (20% to 30% of children attend school), and generalized exclusion from social, economic, and political life, which is due both to stigmatization and to a failure to take into account their needs when designing policies, programs, and facilities.

It is estimated that 80% to 90% of persons with disabilities are unemployed or outside the labor force, and that those who are employed receive little or no pay, and are employed in precarious informal-sector jobs with little or no social protection.

To these groups can be added several others who face difficulties finding and keeping a job, especially a quality job, such as migrant workers, segments of the LGBTI community, and persons who have reinserted from armed conflicts, among others.

3.   Labor Institutions and Equality

Labor institutions are understood in a broad sense as rules of the game, which goes beyond legal provisions and include, among others, regulations of labor conditions, the mechanisms for establishing and controlling these conditions, including on a priority basis collective bargaining, workers' and employers' organizations, and the institutions that affect the availability and characteristics of the work force. Three

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19   ILO (2007), Global Employment Trends for Women.
20   Statistical information from the World Bank website, Disability and inclusive development in Latin America & the Caribbean (2009).

channels have been identified[21] by which these institutions impact the operation of the labor market: they adjust incentives, they facilitate efficient bargaining, and they make it possible to increase information, communication, and trust between the parties.

Together, these institutions have the aim of guaranteeing the efficiency of the labor market, protecting the actors that are not as strong within it, and contributing to securing better working conditions. It has also been recognized that they help enforce the right to decent work and are determinant in the relationship between productivity and labor income.

3.1. *Social dialogue and collective bargaining*

Collective bargaining is the labor institution that has the greatest potential to contribute to equality given that it directly addresses the capital-labor relationship. It has been seen that in countries in which the institutions (of collective bargaining) more than the market set wages and working conditions, one sees less inequality and dispersion in pay and less income inequality in general[22]. This potential of bargaining is limited in the economies of the region given their large informal sectors and, therefore, the lower number of workers covered.

Strengthening collective bargaining is important for facilitating productivity gains to be translated into wage increases, and thereby into greater equality. This has been acknowledged by the ministers of labor of the Americas, meeting in the Inter-American Conference of Ministers of Labor (IACML) of the Organization of American States, who have indicated that social dialogue and collective bargaining are "fundamental pillars of democracy and prosperity in our nations"[23] and in the midst of the economic crisis in 2009, they ordered that collective bargaining be expanded to include "agreements between parties by which to confront the effects of the crisis with the least possible costs."[24]

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21   Freeman, R. (2008) Labor market institutions around the world, Center for Economic Performance, London School of Economics.

22   Ibid.

23   Article 35, Declaration of San Salvador, adopted by the 17th IACML in 2011.

24   Article 42, Declaration of Buenos Aires, adopted by the 16th IACML in 2009.

3.2 .   Minimum wage

The minimum wage is one of the most visible labor institutions and certainly a central element of tripartite dialogue. The discussions on the appropriate minimum wage and on its effects on the levels and quality of employment have been the subject of much academic research and a major debate that goes beyond the scope of this article. However, it has been recognized that the moderate yet consistent increases in the minimum wage in recent years contributed to an improvement in income distribution, and moreover to cushioning the consequences of the 2008 and 2009 economic crisis[25].   During the crisis several countries used the minimum wage to recover the purchasing power of workers and to stimulate their economies, as a supplement to monetary and fiscal policies.

In the search for greater income equality and functional equality, and given the relationships between labor income and productivity, it is desirable for bargaining around the minimum wage to bear in mind not only inflation but also productivity.

3.3 .   Employment and training services and initiatives for specific groups

Other institutions or instruments that have positive impacts on inequality are employment or labor intermediation services, professional education and training systems, and initiatives to improve the possibilities of access to employment and working conditions of groups who face the greatest challenges in the job market.

Recent studies reveal that in Latin America the search for employment takes place mainly through informal channels[26], such as family or personal contacts, which puts youth and job seekers from marginalized sectors once again at a disadvantage, and is a barrier to the possibilities of upward labor and social mobility. For this reason, fighting unequal opportunities in the

25   ILO and ECLAC (2012) op. cit.
26   Mazza, J. (2012) Fast tracking jobs: Advances and next steps for labor inter-
      mediation services in Latin America and the Caribbean, IDB. In countries
      such as Paraguay, Mexico, and Colombia workers use informal channels
      90% of the time when looking for work; in other countries it is 80% or 70%.

job market requires strengthening employment or intermediation services, which connect supply with demand. This is a task on which the region has made progress and which it should continue to pursue.

The region has made major investments in job training systems, which have helped improve the skills of the labor force as it faces mounting pressure from the productive sector. In particular, there is still a recurrent call to attention regarding the disconnection between the contents of training and the skills the economy demands. For example, according to a survey by Manpower, a worldwide recruiting firm, in the Americas more than in any other region of the world employers say that workers do not have the technical skills they need (24%), and that they cannot find experienced workers (32%)[27]. In addition, 31.5% of company representatives in 19 Latin American countries consider that workers' lack of skills is a serious or very serious obstacle to the company's performance[28]. This disconnect has been cited as a key challenge by the ministers of labor of the region, who have undertaken to seek "effective mechanisms that will help address gaps between training supply and labor demand" and to promote "a greater synchronization between the world of work, formal education, and training systems as essential elements to enhance the labor skills of our workers, as well as the complementarity, productivity, and competitiveness of our countries."[29] They have also recognized continuing education and training as important tools for advancing in equal opportunity and access to the job market.

3.4.   The role of the Ministries of Labor

In the Americas, the ministries of labor have evolved significantly over the last 20 years to respond to the pressures of globalization, changes in the productive sector, segmentation of the labor market (in particular the informal sector), and the challenges generating employment, especially for marginalized segments or those with greater difficulties when it comes

27   Ibid.
28   Weller and Kaldewei (2013) op. cit.
29   Articles 20 and 21, respectively, of the Declaration of Medellín adopted at the XVIII Inter-American Conference of Ministers of Labor (IACML) in 2013.

to insertion in the labor market. The ministries' traditional functions in terms of enforcing labor legislation, conducting labor inspections, serving as the registry of unions, and dispute management, are now supplemented by greater responsibilities in terms of job promotion and greater efforts to directly address groups that face greater challenges.

A review of the current functions of the ministries in the region reveals the following principal functions:

- Attaining the effective and efficient enforcement of labor legislation and promoting a culture of compliance;
- Promoting harmonious labor relations based on dialogue and cooperation;
- Strengthening the tripartite social dialogue around priorities of the public agenda at the national level;
- Promoting and protecting the Fundamental Principles and Rights at Work established in the ILO Declaration of 1998: (a) freedom of association and effective recognition of the right to collective bargaining; (b) eliminating all forms of forced or compulsory labor; (c) effective abolition of child labor; and (d) eliminating discrimination in respect of employment and occupation;
- Improving the functioning of labor markets through active and passive labor market policies;
- Guaranteeing adequate training and professional education that answers to the needs of the productive sector;
- Participating actively in the social and economic debates and promoting the effective articulation and coordination of labor, social, and economic policies.

At the regional level one can also see the creation of new offices or units and the development of targeted programs and initiatives in the ministries that seek to improve the labor insertion of certain segments. Special mention can be made of the units on fundamental rights, youth employment initiatives, and the units specialized in gender; the latter have been given particular support by the OAS and the Inter-American Commission of Women (CIM), in a partnership with the ILO.

In the calls for proposals issued annually by the OAS in the context of the Inter-American Network for Labor Administration (RIAL), almost half of the requests for cooperation and technical assistance (45%)[30] presented by the ministries are focused on employment issues (employment services, professional training, labor market information systems), or on serving vulnerable populations. This evidences the recent development of such services in some ministries as well as the need to strengthen them in others.

The region has also progressed in creating more institutionalized forums for social dialogue in which governments, workers, and employers can debate broader issues on their national agendas. The tripartite dialogue is going beyond the labor agenda so as to contribute to the economic and social development agenda.

4.   THE CONTRIBUTION OF THE OAS

The OAS has witnessed first-hand the evolution of labor markets in the region and has contributed to strengthening labor institutions through its Inter-American Conference of Ministers of Labor (IACML). This forum, which in 2013 marked its 50th anniversary, brings together the labor authorities of the entire Hemisphere to analyze and take action on the most pressing challenges in labor matters. This is why its debates reflect the social and labor history of the region. Inequality in the labor market has been one of the concerns of the IACML, especially in recent years, probably due to the persistence of that inequality and to the precarious labor conditions that too many social groups continue to face.

Within the IACML, where ministers of labor are joined by representatives of workers and employers, major discussions have taken place to address inequality in the labor market. The importance of collective bargaining is emphasized, and, as its prerequisite, the freedom of association, and these are supplemented by the concept of a broad and inclusive social dialogue, which is considered a pillar of democracy and

30   Of 316 proposals presented by the ministries of labor in response to calls for proposals from the RIAL/OAS from 2007 to 2014.

progress. There has been a growing appeal to address the need to coordinate labor and social policies with economic policies, and within these, fiscal and production policies, acknowledging that such coordination "is essential for achieving strong, sustainable, and balanced economic growth, generating and preserving quality employment, reducing poverty and increasing social cohesion."[31] It has been reaffirmed that the ministries of labor need to be strengthened to be able to address the changing realities of the world of labor and production. The idea has been promoted that alongside their traditional functions of enforcing legislation and supporting labor relations, they should perform functions in the areas of job training and employment services. Decisions have been made to improve the labor insertion of youth, women, and ethnic minorities, among others.

The OAS has also made a major contribution to the dialogue among governments, workers, and employers at the hemispheric level, not only from the beginning of its ministerial Conference, but recently at the General Assembly and in the Summits of the Americas process. In these meetings the three actors have opportunities for interaction in which they make recommendations, express concerns, and debate key issues on the hemispheric agenda. In their discussions, the issues of inequality and discrimination in employment are a matter of ongoing concern.

The ministries of labor themselves, acting within the IACML, created the Inter-American Network for Labor Administration (RIAL) with the objective of strengthening their human and institutional capabilities through a mechanism that brings together and disseminates knowledge and experiences. This Network is coordinated from the OAS and the ministries finance it and define its priorities and operations.

The RIAL has made it possible for the labor administrations to analyze and seek shared solutions to emerging issues, to identify policy recommendations, to adopt and adapt practices that have shown results, and to reinforce each other. This is attained through direct, bilateral exchanges on the ground, as well as at hemispheric events that bring together the specialists on a given topic, such as youth employment, labor

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31   .Article 9 of the Declaration of Medellin, adopted at the XVIII IACML in 2013.

inspection, or social dialogue.[32] Given the importance of social protection as a pillar of inclusion and equality, both in and beyond the labor market, one must also mention the Inter-American Social Protection Network (IASPN), also coordinated by the OAS, and which has become a valuable learning community in this area.

The existence of these mechanisms of exchange and mutual learning is extremely useful and relevant in the current context, given the changes in the labor administrations, their new responsibilities, the establishment of new internal structures, and the ongoing need to modernize and strengthen them. The ministerial Conference and the inter-American networks contribute to responding to the labor market challenges discussed in this article, which are common to the vast majority of the countries in the region, and which demand innovative and urgent solutions. The OAS, as a regional institution, is the privileged forum for helping to bring about such solutions.

CONCLUSION

Individuals, firms, households, and governments all encounter one another in the labor market; and economic development, governability, and social cohesion depend in large measure on the proper functioning of the labor market. The labor market connects the macroeconomic situation to the well-being of households to the extent that it allocates productivity gains through wages, transmits the impacts of economic expansions or contractions through the quantity and quality of jobs, makes it possible to access social protection, and taps individual capacities and potentials.

At work, the many inequalities and forms of discrimination that come from other spheres (educational, cultural, and social) are made explicit, but here they have lasting repercussions.

The poorest, the least educated, ethnic minorities, Afrodescendants, youth, and persons with disabilities, and, among them, women, face

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32   To date, the RIAL has carried out almost 80 bilateral exchanges between Ministries of Labor, has held 18 specialized hemispheric events on priority and emerging issues, and has trained more than 855 public servants and more than 70 representatives of workers and employers. It also brings together experts from specialized agencies. For more information: www.rialnet.org.

higher levels of unemployment and represent the lion's share of the informal sector. In informal employment these groups have lower incomes than they would in the formal sector, and they are not able to get social-protection coverage, so they are on their own when facing risks such as disease and will not be protected in their old age. This situation means that for them and their families, there are few if any possibilities of mobility and growth.

As a result, working conditions not only reflect inequalities but perpetuate them, which is why it is essential to address the challenges of the labor market in the struggle for equality, in addition to their role in economic growth and poverty reduction. Addressing these challenges requires, among other things, increasing productivity in general and especially of the most precarious segments; improving job training; expanding coverage of social protection; streamlining the process for establishing and formally registering firms; eliminating discrimination; and improving enforcement of labor laws, especially protecting the fundamental principles and rights at work.

In this effort labor institutions, broadly speaking, and labor administrations have a special responsibility. Indeed, the ministries of labor have been undergoing a transformation to better address the new realities of the world of work. The ministries have expanded their functions so as to have a greater impact on employment and to address the needs of certain groups who face greater difficulties; they are modernizing and proposing new initiatives and programs.

This situation creates fertile ground for the exchange of ideas and a process of mutual strengthening, and makes regional dialogue and cooperation on labor matters all the more important. In this regard, the OAS has gone a long way, and will continue working hand-in-hand with labor administrations and representatives of workers and employers to continue finding shared solutions and to define alternatives that lead to full equality at work.

*Section Chief, Labor and Employment Section
Department of Social Inclusion
Executive Secretariat for Integral Development

On Certain Inequalities in Inter-American Law

Jean Michel Arrighi*

T he OAS General Assembly, its Permanent Council, and its various levels of government representation include the participation of all countries of the Americas. With their differences in size, wealth, and population, all have the same right to one vote. All have made a commitment to comply with the majority decision, whether it is advantageous to them or not. If national societies are familiar with many forms of inequality, as the articles in this book demonstrate, that is also the case with international society. Inequalities in international society have grown as the number of actors has multiplied. No longer a club of a few countries, today the international community numbers more than 200. Added to that are the actions of organizations of all types, purposes, and membership, as well as the fact that international institutions once restricted to the states now include the participation of individuals or private companies. In addition, international law no longer deals only with certain relations between states; it now reaches into countries' domestic arena to address issues that were once off limits. All this has had an impact on the inter-American system. It affects the system, forces it to look within, and leads it to adopt innovative decisions that would have been unthinkable only a few years ago.

1. INTERNATIONAL SOCIETY: A SOCIETY OF UNEQUALS

In the mid-twentieth century, it was only some 50 independent countries that created the United Nations. Of those, 21 were members of the inter-American system. They contributed their legal and institutional heritage to the worldwide system. Today the UN has nearly 200 members, of which 35 are members of the OAS.

For a long time, the law emanating from the society of states was limited to regulating a few aspects of their relations with each other. A decentralized structure, with no authorities in common and with no agreed-upon means of enforcement that would ensure respect for its norms, would favor the predominance of the strongest.

Today's reality no longer allows that type of behavior, even though it continues to exist today. Production chains of goods and services, the movement of people, communication technologies, and threats from organized crime, among many other factors, demand a response from the international legal order with the active participation of all its members.

International law has expanded to the point where it is difficult to find an activity that is not regulated simultaneously by international and domestic law. Protection of individual rights, labor laws, the commercial system, and, more recently, a country's very form of government are all subject to accepted international monitoring, at least in some regions, beginning with the Americas.

To be sure, there are still spaces that can be regulated only at the international level: impeding the use of force and promoting the peaceful settlement of disputes among states; creating rules for the management of shared resources, rivers, the sea, airspace; and establishing common criteria for drawing borders, as in the case of *uti possidetis*, a principle that originated in this Hemisphere.

But the international legal system has other forms of inequality common to all countries, large or small. Not all of society participates directly. It is the executive branch that, in general, exclusively represents the state. It is the executive that takes action within international

agencies, adopts treaties, and approves resolutions. The participation of the legislative branch is limited to the treaty approval process, at most, and participation by members of the judicial branch is even more limited. And yet the increasingly close connection between the national and the international demands that these other branches of government also be included to safeguard the implementation of international obligations. Suffice it to mention the growing role of national judges in the enforcement of international judgments and arbitration decisions.

International organizations emerged to achieve many of these objectives. But there, too, inequalities arise. There are international organizations whose decisions are weighted; not all members have the same weight when it comes to voting. Such is the case with the international banks. Other organizations have set up restricted-membership bodies with significant powers, in which a small group of countries can block a decision, even against the wishes of the majority. Such is the case with the United Nations Security Council. Many other organizations have established that their decisions must be approved by unanimity of their members, so that each of them has a veto.

2. THE INTER-AMERICAN SYSTEM: ITS GOVERNING PRINCIPLES

Since the beginning of their independent existence, the countries of the Americas have sought ways to avoid these pitfalls. They developed a set of common norms and institutions that have gone into building a true framework that should enable cooperation on a wide variety of fronts. They abolished the use of force in their international relations, promoted the peaceful settlement of disputes, and agreed that all decisions would be the result of majority vote, on an equal footing among all members.

Shortly after they gained independence, at the beginning of the 19th Century, the new countries of the Americas began to negotiate the first treaty instruments to ensure peace among them, the first step toward cooperation. This was one purpose of the 1826 Congress of Panama,

convened by Bolívar, and it was in connection with that event that the First International Conference of American States was held in Washington in 1889-1890. From that point on, in successive high-level meetings, the countries would begin to build a normative framework covering multiple aspects of both public and private international law. But most remarkable was the process of setting up groundbreaking institutions that decades later would serve as an example globally and in other regions. Suffice it to say that in the first decades of the last century, the institutions created included the Pan American Health Organization, the Inter-American Children's Institute, the Inter-American Commission of Women, the Inter-American Juridical Committee, and the Pan American Union, today's Organization of American States. By 1890, the idea of creating a development bank—now the Inter-American Development Bank—had already been envisioned. Later, in 1923, the countries imagined an Inter-American Court of Justice, for which they developed a "Peace Code"; in 1959, the Inter-American Commission on Human Rights was established; and new entities have emerged from the OAS to address new challenges: telecommunications, the fight against drugs, and anti-terrorism cooperation, to name just a few.

This set of norms and institutions, established with the OAS at the center, is grounded in three fundamental principles: the juridical equality of states, the principle of nonintervention in internal affairs, and respect for international law. These three principles, which arose from the evidence of true inequality and the need for cooperation among countries, are intimately interconnected.

a. Juridical equality among States

In the face of real inequality among countries, the legal system seeks to neutralize it as much as possible. The OAS Charter says, in Article 10, that "States are juridically equal, enjoy equal rights and equal capacity to exercise these rights, and have equal duties. The rights of each State depend not upon its power to ensure the exercise thereof, but upon the mere fact of its existence as a person under international law." This is a legal fiction—countries are not equal—but a legal fiction without which there

is no international society. In the inter-American system it has multiple translations. One of those is the "one state-one vote" rule, by which not only does each country have the same right to vote but every decision is approved by a majority, with any form of weighted voting prohibited. Another is the norm by which all government bodies and institutions in the framework of the OAS are open to all member states; there are no participation bodies restricted to only certain member countries.

b.   The principle of nonintervention

The other side of the coin, given real inequality, must be the principle of nonintervention by one country in the internal affairs of another. "No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any other form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements," Article 19 of the OAS Charter states. Article 20 adds, "No State may use or encourage the use of coercive measures of an economic or political character in order to force the sovereign will of another State and obtain from it advantages of any kind." This is a shield to protect the weaker from the stronger. Cracks in this principle are what weaken the principle of juridical equality and harm the international institutions that ought to ensure that it is respected. The inter-American system had firsthand experience with this during the "Cold War," in many of the cases in which the Inter-American Treaty of Reciprocal Assistance was applied.

c.   Respect for international law

The third principle, the one that must undergird the first two, is that of respect for international law. "International law is the standard of conduct of States in their reciprocal relations; international order consists essentially of respect for the personality, sovereignty, and independence of States, and the faithful fulfillment of obligations derived from treaties and other sources of international law," state the first two paragraphs of

Article 3 of the OAS Charter. This international law is to a large extent the law stemming from the OAS bodies. It is there that the General Assembly, the Permanent Council, the specialized conferences, and the bodies made up of independent members, such as the Inter-American Juridical Committee and the Inter-American Commission on Human Rights—all with the technical support of the General Secretariat—participate in preparing and adopting these standards. These include treaties but other sources as well: resolutions, declarations, and draft model legislation.

3.   EVOLUTION OF THE SYSTEM

This law that has emerged from different sources in the regional organization has expanded its content and its effects over the course of time.

Originally, the central purpose of juridical development was to maintain peace through the prohibition of use of force, the abandonment of the right of conquest, and the obligation of peaceful settlement of differences, all of which were ways to limit the power of the most powerful. But this began to create a rich normative framework, including a Code of Private International Law, the "Bustamante Code." In 1948, along with the OAS Charter, the countries approved the American Treaty on Pacific Settlement, the "Pact of Bogotá." But for decades it was a dead letter, with intervention and force prevailing to impose solutions to conflicts among our countries. It was only beginning in the 1980s that the countries of the Americas began to invoke the Pact of Bogotá and by mutual accord, since a clause in it involves recognition of jurisdiction, have taken their disputes to the International Court of Justice in The Hague.

a.   Relation to national rights

Inter-American law quickly began to delve into issues involving the legal systems of each member state. Matters that had once been the sole purview of the countries no longer remained so, and today they are subject to regulation by inter-American law, with no violation of the

nonintervention principle. The "classic" example is that of protection of human rights. For the countries of the Americas, before the Convention was adopted in 1969, the obligations arose from a 1948 resolution, the "American Declaration of the Rights and Duties of Man." This extends to all OAS member states by the mere fact of being members, whether or not they are parties to the "Pact of San José, Costa Rica," and whether or not they were members of the OAS in 1948.

Another more recent, and once again groundbreaking, case involves inter-American standards for the defense of representative democracy, in which treaty standards coexist alongside resolutions of the General Assembly. The standards of the 1948 OAS Charter (Article 3.d) and those introduced by the 1985 Protocol of Cartagena de Indias (Article 2.b) and the 1992 Protocol of Washington (Article 9) should also be read in the light of the definitions of "representative democracy" provided by the Fifth Meeting of Consultation of Ministers of Foreign Affairs, of 1959, and two General Assembly resolutions: Resolution 1080, of 1991, and the "Inter-American Democratic Charter," of 2001. To date, it is these last two resolutions that have been most invoked in times of crisis.

In the mid-1990s, when the possibility of cooperation among the members to combat corruption began to be discussed at the OAS, some voices were raised to say that this was a matter within the jurisdiction of each country and not one to be addressed by international law. Inter-American cooperation prevailed, and after a process in which many OAS agencies participated, in 1996 the first international treaty on this subject was adopted—the Inter-American Convention against Corruption. This would be followed by the implementation of a mechanism to ensure compliance, one in which all countries, on equal footing, evaluate each other, report, and make reciprocal recommendations. Today this also includes onsite visits that enable evaluators to have direct contact with all national actors: politicians, academics, journalists, representatives of civil society organizations, and judges, among others. Here too a treaty coexists with subsequent resolutions, one creating the Inter-American Program against Corruption and one establishing the Follow-Up Mechanism.

There are many other recent examples in which national policies are viewed, analyzed, and evaluated and alternatives are proposed. Perhaps the most recent involves anti-drug efforts.

There are also examples in which the organization does not limit itself to evaluating how national legal systems comply with their international obligations, but also proposes draft text for changing their domestic legislation. This is the case with various model laws, some of which have been approved by the General Assembly, such as the Model Inter-American Law on Access to Public Information.

b. **Relation to other actors**

It is no longer only representatives of the executive branch who participate in international society; many other actors are making their voices heard. The OAS has been no exception. Individuals are able to lay claim to their rights before the inter-American bodies for the protection of human rights. Representatives of indigenous peoples, after much struggle, have won the right to participate in the process that someday may lead to the adoption of an inter-American declaration. Civil society organizations involved in anti-corruption activities present their reports to the Convention's Follow-Up Mechanism. Human rights defenders regularly present the results of their work to the Permanent Council and are recognized by the General Assembly.

Even within the executive branch, the rule used to be that taking action before the regional organization was a matter for representatives of ministries of foreign affairs. The OAS has opened up opportunities and venues for cooperation among other sectors of the executive branch. This is the case with the meetings of ministers of education, ministers of labor, and ministers of public security. One good example which has fostered cooperation based on inter-American law is the work done by the ministers of justice, who meet periodically in the framework of the OAS. The primary objective is to give effective compliance to inter-American agreements on legal cooperation, beginning with those having to do with

assistance on criminal matters and extradition, but also in other areas, such as family or children's issues. Networks of national authorities have been created for this purpose, with the General Secretariat facilitating the technical means and legal support. As a result, all OAS member states can provide and receive the cooperation they need in these cases, something that used to be limited to those countries with greater financial means, better communications, and good access to any necessary technical advice. These mechanisms, with the possibility of equal participation by all countries, have led to an increase in ratifications of these conventions and the development of new text to update them.

The other branches of government have also begun to act to incorporate inter-American law into their legal systems. The various model laws require the participation of national legislators: examples include local workshops to promote the inter-American law on access to information or those held to promote the inter-American law on secured transactions. Judiciaries have also participated in various OAS initiatives. The Inter-American Judicial Facilitators Program, which facilitates access to justice for rural populations far away from courts and other authorities, is possible because in the countries where the program operates the judicial branch recognizes the legitimacy of these citizens' actions. Now a growing number of countries are asking for the program to be set up, though not without first overcoming considerable reticence and resistance on the part of judges who may have seen this as a threat to their jurisdiction.

For many years, the OAS has earned the recognition of national authorities for its observation of electoral processes. On this issue, as well, something that seems like a normal activity for the regional organization was originally seen as a threat to the principle of nonintervention. Vestiges of that remain in the budgetary rules restricting use of the Regular Fund for that activity. Here the organization, particularly its General Secretariat, maintains close cooperation with the institutions providing election oversight in the member countries. It is rare today to hear talk of electoral fraud in the region.

4.   SOME NEW CHALLENGES

Both the proliferation of new actors and the new areas of jurisdiction of the inter-American system today have given rise to new areas of inequality and therefore new challenges in terms of addressing them.

a.   New members of the system

For many decades the inter-American system was essentially a system shared by the Latin American countries and the United States; at times they were divided, at times distant, at times united. Today, from the 21 members that participated in the creation of the OAS in 1948, we have grown to 35. It is worth remembering that no country has ever denounced the OAS Charter. The 14 new members include some of the smallest countries in the world, in addition to Canada. They come with new concerns, new demands, and new contributions. All of them belong to the "common law" system (Canada shares both of the region's legal systems); are familiar with other judicial traditions; and to a large extent did not participate in the construction of the regional institutions to which they belong. They come, then, with certain disadvantages, not to say inequalities, vis-à-vis the "founders." They offset these disadvantages with an exemplary working group that has given them greater weight in the decision-making process in the OAS bodies. Several countries in the Anglo-Saxon Caribbean have already joined many inter-American conventions, particularly the Inter-American Convention against Corruption, the Convention of Belém do Pará on violence against women, and in some cases the "Pact of San José, Costa Rica." Canada, for its part, has rapidly gained a recognized leadership in certain aspects of juridical cooperation. For example, it was the leading proponent of the inter-American network for mutual assistance in criminal matters at the ministers of justice meetings, and it has contributed from the beginning to the development of electoral observation missions.

While subregional groupings have always existed with varied objectives, these have gained strength in recent years. Some are established as forums at the highest level; others have judicial mechanisms in common,

while others have also begun to develop common legislation and regional parliaments. These groupings also serve as the means to strengthen unions and thus neutralize inequalities in broader arenas, either at the regional level—the OAS and the other inter-American institutions—or at the United Nations, particularly within the General Assembly.

b.   On other Actors: The defense of democracy

We will now refer to the standards governing the defense of representative democracy in the region. But for these standards to be applied, they must be invoked by those competent to do so, and those with the competence are the governments, that is, the representatives of the executive branch. The two resolutions that provide for the adoption of sanctions—Resolution 1080 and the Inter-American Democratic Charter—or Article 9 of the OAS Charter leave this decision in the hands of either an *ad hoc* meeting of the ministers of foreign affairs or a special session of the General Assembly. And when the Democratic Charter authorizes assistance to be requested in the event of a crisis that does not amount to an interruption of the democratic order, it places that request in the hands of the government at risk, either because it requests assistance (Article 17) or because it consents to it (Article 18). Except in those cases in which elected authorities were overthrown, in which Resolution 1080 was applied on one occasion (Haiti, 1992) and the Inter-American Democratic Charter on another (Honduras, 2009), in all other cases these norms could be invoked only at the request of the executive branch. This is what occurred, for example, on two occasions at the request of the Government of Nicaragua, in 2004 and 2005, when it saw its powers limited due to a confrontation with Parliament. The same thing happened in 2005 in Ecuador, where the assistance established in the Democratic Charter could be set in motion only when the interim President turned to the OAS after a conflict between his predecessor and the judiciary, which ended first with the dissolution of the Supreme Court and then with the destitution of the President by Congress. In short, it is the executive branch that has a monopoly on putting these inter-American procedures into

place; the other branches of government do not have access to them when they are the victims. This issue, which is of fundamental importance to maintain the equality of the branches of government in the international arena as well, has been pointed out repeatedly, beginning with a 2010 report by the OAS Secretary General to the Permanent Council. This is not easy to achieve. International law continues to be, to a large extent, state-centric and it is the executive branch that acts on behalf of the state. But in the case of confrontation between branches of government, this generates inequality at the international level, to the benefit of one branch.

c.   The institutions of the Inter-American System

We have already seen how, from the beginning, a broad framework of regional institutions responsible for the most widely ranging aspects of cooperation was developed. Health, children, women, agriculture, financing for development, human rights, the law, telecommunications—these are just some of the areas that gave rise to inter-American international organizations. Some of them came into being before the creation of the OAS in 1948. Others were established by the OAS. Some earlier entities were incorporated into the OAS Charter or are included in it; such is the case with the Inter-American Juridical Committee, for example. Others maintain a connection through the General Secretariat, which provides them with support, as with the Inter-American Commission of Women and the Inter-American Children's Institute. Other earlier organizations created their own structure apart from that of the OAS, such as the Pan American Health Organization (which also became associated with the World Health Organization) and the Inter-American Institute for Cooperation on Agriculture; while others maintained ties with the OAS that have varied over time, such as the Inter-American Defense Board. Some institutions created after 1948 are bodies of the OAS, as in the case of the Inter-American Commission on Human Rights; others did not become part of the OAS, as in the case of the Inter-American Development Bank.

The idea was for there to be one system, presided over by the Conferences of American States, which met every four years and which

were later substituted by the OAS General Assembly following the reform of the 1967 Charter in effect as of 1971—with the responsibility for coordination falling to the Pan American Union and then to the current OAS General Secretariat and the OAS Permanent Council. That did not happen.

All our institutions are operating, covering the broadest array of issues, but with varying levels of resources and powers. This gives rise to a new source of inequality in the system—inequality among the organizations that comprise it.

To a certain extent, the vacuum left by the Conferences of American States could be filled by the Summits of Heads of State and Government which have been held periodically since 1994. This has sometimes been the case: it was the Heads of State, in the context of these Summits, who called upon the OAS to prepare a convention against corruption and adopt a democratic charter, and more recently they asked the Secretary General for a report on the drug situation in the Americas. But the task of achieving a true system with equal, coordinated institutions—each of which, based on properly allocated resources, can fulfill the functions for which it was created—is still unfinished business. This is an inequality that could increase over time, to the detriment of all citizens of the Americas.

Conclusions

This is a vast subject.[1] Each of these points has been the subject of many studies, which is why we have not included footnotes[2] to the volumes of the collected Courses on International Law offered by the General Secretariat in Rio de Janeiro since the 1970s.[3]

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1 Much of the information on current activities mentioned here can be seen in detail on the website of the General Secretariat, especially the information that has to do with the Secretariat for Legal Affairs: www.oas.org/en/sla/.
2 For a detailed bibliography, we refer the reader to the course offered at The Hague Academy of International Law, "L'OEA et le droit international," published in Volume 355 (2011) of its Recueil des Cours.
3 The classes related to the inter-American system from 1974 to 2001 have been collected in two volumes, ed. OAS, 2003.

We have tried to give an overview of the history and evolution of the inter-American system and of the inequalities it has had to confront. First, there is the inequality stemming from the member states' own inequality. This is the easiest to perceive and the easiest to avoid. On that point, our regional system was a trailblazer, with rules to preserve juridical equality and prevent abuse of power, institutions to strengthen respect for the law and cooperation among all countries, and appropriate means to settle disputes.

But new forms of inequality have continued to arise. These began to be perceived as inter-American law delved into areas that had once been off limits: human rights, defense of democracy, and the strengthening of the rule of law and its institutions, among others. Inequality among the various national and international players that interact with each other began to come to light. Each and every day, representatives of the different branches of government, civil society organizations, experts, individuals, and companies increasingly demand a voice in processes that will affect them directly. With many difficulties, inherent to a society and to international law in the hands of governments, the inter-American system has opened new avenues for participation.

But perhaps it is time to revisit what was envisioned by the founders in the system's beginnings: the need to have not only a common normative framework but also a coordinated network of institutions, quickly designed and created to ensure cooperation among the countries of the Americas. Today the institutions are in place. I fail to see any subject that is not being addressed by some inter-American institution. But these organizations have become unequal, particularly in terms of the financial support they receive from the very states that belong to all of them. Now it is not only the countries that are unequal but the international institutions as well. We have the normative framework with well-oiled mechanisms to ensure compliance and organizations prepared to point the way forward. We have adequate institutions in many different fields. We are ready to stand up to this new source of inequality.

*Secretary for Legal Affairs

Social Inclusion and Drugs in the Americas

Paul E. Simons*

José L. Vázquez**

Víctor Martínez***

T he drugs phenomenon impacts people's daily lives in multiple ways and in interaction with other processes, so it needs to be grasped in all its complexity and not in terms of direct or causal relations. Social inclusion or integration is, in principle, a two-way process. On the one hand, it is embarked upon affirmatively by individuals as the active subjects of their own development; and, on the other, it is a process undertaken by society and its institutions functioning as a responsible, ethical, supportive, and respectful environment for persons with problematic ties to drugs, providing facilities for their treatment and reintegration into society.

For the practical purposes of presenting the core ideas in this paper and describing the projects and related activities of the Inter-American Drug Abuse Control Commission (CICAD)[1] of the Organization of American States, the concepts of inclusion, integration, cohesion, and social reinsertion/reintegration into society used in the various sections of this paper from different analytical perspectives shall be considered equivalent or similar -- without prejudice to other semantic and methodological considerations -- because they reflect the same basic

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1 CICAD was established in 1986 as a political forum and framework for providing technical support to member states in addressing the drug problem in the Americas. In that way, it was to contribute to regional development through human and institutional capacity building and by channeling collective efforts to reduce the production, trafficking, and use of drugs in the Hemisphere.

notion of the full incorporation of affected individuals into their particular spheres of personal, work, and family relations and development, and, in general, into their life in society.

1.   DEFINITION OF THE PROBLEM

1.   *Diversity of the drug problem in the Americas*

The "diversity" of the drug phenomenon refers to both its innate complexity and the radically different realities it encompasses, on the one hand, and the very different approaches and responses adopted to address it, on the other. There is not just one drug-related problem in the Hemisphere, but rather multiple problems related, in turn to the particular characteristics of different countries and to the position that their governments, institutions, and stakeholders take vis-à-vis those problems. The most pressing of those problems for individuals, as for countries, include the intense violence and social inequality commonly associated with drug trafficking and parallel changes in drug use patterns in the Americas.

That is why the ways in which the drug problem affects countries differ, as do the reactions to it and the impacts of those reactions. In short, all experience the problem, but in different ways. And the same is true of countries, for which the problem poses itself in different ways, depending on their circumstances and specific contexts.

Thus, we are up against a multidimensional problem involving multiple players, with huge social repercussions testing the resilience of the governments and institutions involved. Among other dimensions, there are signs that drug trafficking is the activity that triggers most crime and violence and the worst public security headaches and challenges in transit countries.

As for changes in drug use patterns in the Americas, the use of specific types of drugs appears to be more prevalent where poverty, exclusion and violence affect the most vulnerable groups in society. A growing demand for addiction-related health services is also evident

among the same groups. Indeed, drug use and its consequences for the health of the human beings who use them, are a very important part of the problem but, as we shall see, by no means its only component or determinant.[2]

2.   *Relation between socioeconomic status and drug use.*

Some research has found close ties between drug use and countries´ level of development.   More developed countries have higher drug use rates. In the specific case of countries in the Americas, the highest cannabis and cocaine use rates are observed, for instance, in the United States, Canada, and the countries of the southern cone of South America, with the exception of cannabis use in some Caribbean countries, where the rates are also high.   Other studies show that as a country´s level of development increases, drug use increases to a similar degree.[3]

On the other hand, national drug surveys have not found appreciable differences in drug use between higher and lower socio-economic strata.[4] However, that is only applicable when the rates for occasional or experimental drug use are compared.[5]

When drug use rates for problematic users are compared, a very different picture emerges, in which the highest rates of drug abuse and addiction are found among people in the lowest socio-economic strata. According to the findings of drug surveys in several South American countries, for instance, while cocaine use rates are higher in the middle-to-upper and upper socio-economic strata, cocaine abuse and addition are more frequently found at lower socio-economic levels of the population.

2   OAS. The Drug Problem in the Americas: Drugs and Public Health, 2013. 76pp.

3   Salazar Silva, Fernando; Villatoro Velázquez, Jorge Ameth; Oliva Robles, Natania Froylan; Hynes Dowell, Marya; De Marco, Maria; Relationship between human development and drug use. Human development index and drug use; Salud Mental 2014; 37:35-39

4   Valenzuela, José et al."Empleo de un Nuevo Método de Clasificación Social" Adaptación de la Escala del Profesor M. Graffar: "Une Méthode de Classification Sociale D'échantillons de Population."

5   Government of Chile, Ministry of the Interior. National drug use surveys among the general population in Chile.

3.   *Social determinants of health*

The social determinants of health approach proposes five levels of analysis: 1) **context and socio-economic position**, which affects the type, scope, and distribution of health in populations, the level of governance, social and macroeconomic policies, culture, and social values; 2) **differences in exposure to risk factors**, which is inversely related to social position; people in lower positions are more exposed to unhealthy working and housing conditions, to poor nutrition, social exclusion and barriers preventing them from pursuing health lifestyles; 3) **differences in vulnerability to risks,** stemming from the different impact that the same exposure to risk has on different socio-economic strata, depending on their immediate environment and their history of exposure to risks; 4) **differences in the outcomes of health care**; and 5) **varying consequences**. **Illness may lower a sick person's social status and those who have fewer resources are also disadvantaged when it comes to looking after their own health and purchasing medicine.**

There is inequality in the care given to patients with addictions, when compared with care for patients with other diseases. Within the group of persons with addictions, the seriously addicted from disadvantaged communities who, in addition, suffer from mental illnesses, are those most discriminated against and have less access to treatment.

Generally speaking, countries face different problems depending, on the one hand, on the magnitude of their domestic output of illegal drugs and the intensity of international trafficking, both of which are related to the availability of weapons and varying degrees of violence and corruption and concomitant threats to good governance; and, on the other, on drug distribution to domestic markets and the capacity of health and social protection systems to respond to the needs of the population.

How the problem manifests itself is also depends on structural conditions and public policies. We know that all policies have undesired consequences that need to be taken into consideration. Take, for instance, the violence deployed to dominate markets and policies aimed

at maintaining order in society or the increase in addiction to narcotics resulting from a policy to expand their availability in order to treat the sick, thereby creating the opportunity for diversion to other markets.

In this context, **there will be differences is terms of the availability of drugs, the proportion of the population exposed to them, the exposure to violence, which is an important predictor of drug dependence, and the percentage of the population with access to prevention, treatment, and social development programs**.

Differences in exposure to risk factors. Drug use scenarios vary in terms of dangerousness. It depends on such factors as level of development, degree of urbanization, and availability of services, the availability of drugs and weapons, or the crime rate and the existence of groups involved in drug distribution that may be more or less prone to violence. Other relevant factors include police actions and the strategies used to combat crime or, where applicable, consumption. In such, more dangerous, scenarios, the drugs used tend to be less pure with more serious health consequences, and children and adolescents are more frequently witnesses or victims of violence.

Differences in vulnerability to risks. **Associated risks are greater for minors and adolescents, women, the poor and marginalized, and the mentally ill.** Initiation to drug use tends to start earlier in life, in a few cases starting under 15 years of age, increasing sharply in adolescence and early adulthood, and in a few cases thereafter. As we all know, early initiation increases the risk of dependency.

Women are more vulnerable than men to certain consequences of drug use related to their motivation for using drugs and there are also differences in sensitivity to the effects of drugs. Socially, women addicts suffer greater discrimination than men. For a good many women, early initiation, victimization, and unwanted pregnancy exacerbate their condition.

People living below the poverty line are at greater risk. Adolescents who have no job and do not attend school are also at greater risk of using substances and getting involved in drug selling

related activities. They have a greater tendency to use poor-quality drugs and prior vulnerabilities related to poor nutrition and childhood hardships increase the likelihood of adverse consequences. The mentally ill are at greater risk of becoming drug dependent. Prior mental issues are associated with approximately half of all drug dependence cases.

Consequences for health. The different contexts, differences in exposure, and the greater vulnerability of persons in the most marginalized settings all require special analyses and strategies. The poorest segments of the population have scenarios and higher rates of problems exacerbated by less access to health and social services.

Social consequences. Addicts and their families are more prone to loss of property, unemployment, run-ins with the law, and to become victims of violence and discrimination in their surroundings. These sequels are more evident and pronounced among low-income groups.

The psychosocial factors that play a role can be divided into: **risk factors** that, without being causally linked to drug use or dependency, precede them and increase the likelihood of their occurring; and **protection factors**, that boost people's resilience to risks. In the latter case, we have what are called **resilient individuals**, who, despite having encountered many of the risk factors and difficult environments, do not use drugs or develop dependency on them. Knowledge of the risk factors makes it possible to identify opportunities for prevention, while familiarity with the protection factors facilitates appropriate intervention. The change in focus away from drug use to reducing the vulnerability of individuals by working on the risk factors has opened up a new perspective, thanks largely to an emphasis on prevention from the earliest phases of development.

Individuals differ from one another and also live in different environments that would make them more or less vulnerable to substance abuse. For that reason, they require different intervention strategies, in terms of both content and intensity. The challenge is developing interventions that are effective with high-risk groups.

The risk factors can be located in different settings -- in each individual (e.g. emotional disturbance or learning issues, or a personality driven to search for new sensations), in his or her family (e.g. cohabitation with alcoholic or depressed parents), school (e.g. failure at school), peer relations (e.g. friends who use drugs), or community (e.g. ample availability of substances) -- that interact with each individual, who processes the stimuli derived from those settings, interprets them, and responds to them. The intensity and relevance of these factors vary throughout the different stages of an individual's development.

Protection factors may also be located in each of the settings of an individual's life: in the personal sphere (e.g. high self-esteem or a risk-averse personality), the family (cohabitation with parents capable of fulfilling the emotional needs of minors), school (e.g. diligence, being a good student), peer relations (e.g. friends have little tolerance for drug use), and the community (e.g. belonging to social support networks). Basically, protection factors may be defined not so much as the opposite of risk factors but rather as factors that, in the event of risk, protect individuals from using drugs. For instance, if a minor lives in a chaotic family, he or she will be less prone to use drugs if she or he works hard at school and classmates have low tolerance of drug use.

The factors that contribute to resilience include: i) close ties with parents or another adult who can ensure a caring environment, from early on in the child's life and consistently; ii) a sense of success, self-control, and self-respect on the part of minors; iii) inner strengths (e.g., good physical and psychological health) and external resources (e.g., a good social support network that includes the family, school, and community); iv) social skills, including communication and negotiating skills, the ability to make sound decisions and to avoid potentially dangerous activities; v) problem-solving skills; vi) the insight and attitude that adversity can be overcome with perseverance and effort; and vii) having survived previous situations of risk.

Recently published findings of research into the health sector in Mexico[6], aimed at exploring inequalities by focusing on their social determinants, show evidence that it is possible, by impacting the conditions of poverty and marginalization surrounding the health system's beneficiaries, to achieve a significant reduction in health inequalities and thereby in social inequality overall. The study concluded that it was necessary to guarantee the effective exercise of social rights, without exclusion of any kind, and suggested adopting preventive measures to provide comprehensive coverage, focusing on primary health care.

4. *Vulnerable groups and drug use*

A key notion in drug policies is **vulnerability**, which is a reference to populations that are more likely to experience marginalization and social exclusion and a concomitant likelihood that they will use drugs. **Such vulnerable groups are particular segments of the general population characterized by poverty, poor nutrition, low levels of education or of educational achievement, and other social problems**. Other groups are known to be socially especially vulnerable, such as youth, certain ethnic groups, sex workers, and so on. Thus, vulnerable groups are defined as groups of people who, because of their socio-demographic profile are more likely to use drugs.

In practice, it is difficult and costly to identify the specific risk factors that increase an individual's vulnerability. For that reason, being able to identify vulnerability in different sectors of the population is an important strategy for channeling public policies and programs and directing them to groups or households where problematic drug use is more likely to develop.[7]

A classic example of the importance of the concept of vulnerability is illustrated by the development of preventive programs directed at young

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6   Martínez Valle A, Terrazas P, Álvarez F. : Cómo reducir las inequidades de salud actuando sobre sus determinantes sociales: el papel del sector salud en México. Rev Panam. Salud Publica. 2014; 35(4):264-9.

7   EMCDDA, Selected Issues: Drugs and Vulnerable Groups of Young People; 2008

people. In general, young people are more vulnerable for a variety of reasons. For instance, their brains are developing in ways that may affect their decision to use drugs and increase the likelihood of dependence in the long term. Furthermore, among young people there may be groups that are even more vulnerable: youth with social or academic problems, youth living in poverty, or juvenile delinquents, and so on. Accordingly, the concept of vulnerability is fundamental for prevention. Of the OAS member states that say they have prevention programs, 53% claim to have preventive programs geared to vulnerable groups, which mainly target youth (OAS 2013).

Health-related vulnerability is a dynamic condition generated by the conjunction of a number of social determinants, combined with the defects or shortcomings of each country's health systems. A Study of Health Inequalities in Vulnerable Groups in Mexico: Adults, Older persons, the Indigenous, and Migrants[8], revealed the dearth of protection for these specific groups and the handicaps they face for resolving their access to health problems, compared with those of other segments of the population.

On the other hand, the link between social vulnerability and drug use is not always clear or linear. Despite being at greater risk of developing dependency on drugs, most people in vulnerable groups do not necessarily pose this problem. A similar problem can be seen in the relation between crime and drug use; although it may be stated that drug use tends to be high among persons who have committed crimes compared to the general population, it cannot conversely be said that the crime rate among drug users is higher than among those who do not use them. According to the CICAD - UNODC 2010 study on drug use in prison populations and the relationship between crime and drugs, persons deprived of their liberty show "weak ties to formal work and a history of frustrations at schools. A high percentage of them reported having a family member with a criminal record.[9]" In other

8   *Juárez-Ramírez, C et al. La desigualdad en salud de grupos vulnerables de México: adultos mayores, indígenas y migrantes. Rev Panam. Salud Publica. 2014; 35(4): 284–90.*

9   *CICAD and UNODC, Drug Use in Prison Populations and the relationship*

words, drug use and crimes may be a manifestation of an individual's other social problems. **Indeed, vulnerability and social exclusion could be determinants of multiple social problems in individuals, whereby the link to drug use would be one of several.**

5.   *Social integration and drugs: Fundamental principles and approaches.*

Some guiding principles have been proposed for formulating national policies designed to achieve social integration of individuals, families, and communities involved in drug use. Such policies should, in principle,[10]

- Be based on scientific evidence and begin with a systematic and objective evaluation of existing experiences and initiatives undertaken by all players in the respective national territories;
- Be established according to priorities that allow for interaction from the top down and bottom up;
- Be implemented with respect for international human rights standards;
- Focus on preventing and reducing the destructive consequences of processes of social exclusion derived from the policies themselves;
- Take mul-tisectoral, cross-sectoral, and multi-player approaches into consideration; and
- Ensure the active participation of individuals, families, and communities involved in drug use.

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between Crime and Drugs, 4th Joint Report; Subregional System for Information and Research into Drugs in Argentina, Bolivia, Chile, Colombia, Ecuador, Peru, and Uruguay, 2010

10 *Milanese, Efrem and the CICAD working group. Integración social y formas de vinculación a las drogas [Social integration and types of involvement with drugs.]. Extracts from the report presented at the Inter-agency Meeting in Washington, D.C. (July 2012).*

Policies designed to achieve social integration through work may be viewed from two different angles. The first has to do with policies designed to generate economic development and job opportunities (in all areas relating to the production and marketing of goods and services). The second has to do with work conditions conducive to actually providing an opportunity for social integration. This is where it is important to have policies for preventing and reducing harm done by the sale and use of drugs within the workplace and polices aimed at rehabilitation not just of drug-dependent individuals but of their working environment and the risk factors associated with it.

Work and education are the key spheres for social integration. Indeed, through work, collaborative ties can be established that can then turn into social integration processes with players involved in growing and producing drugs (peasant farmers and rural families and communities, in particular, cheap labor for cocaine production, etc.), with players involved in trafficking the drugs (especially the "small fry": micro-smugglers, users who sell to pay for their own habit, couriers ["mules"], and so on), and with the drug use-related players (the users themselves, the families of users, and user groups, such as gangs).

Education (above all formal education) is regarded as the most important socialization factor (after the family). For that reason, a country's educational system is a key factor in prevention.

Social integration through education policies can be viewed from two separate yet coordinated perspectives. The first relates to the forging of social integration policies through formal and non-formal educational processes. The second involves working on (formal and non-formal) educational settings to make them safer and reduce the risk of stigmatization, marginalization, and factors conducive to social exclusion (as can be done in the case of work). Here it is a matter of seeing which prevention, damage control and treatment policies are being implemented within educational institutions to withstand the perverse effects of the implementation of certain policies.

In short, social integration policies in an educational context must:

- enhance, ensure, and facilitate access to the educational system;
- reduce and contain processes conducive to exclusion, with all its consequences.

The authors of the paper analyzing out-of-school children, published by UNICEF in 2012,[11] distinguish two facets: difficulties linked to demand for education (conditions conducive to exclusion, vulnerability, or objective obstacles people face in gaining access to education) and educational supply-side difficulties (conditions relating to the education offered). This provides a map of supply- and demand-related hurdles.

Among the players taking part in drug production, sale, and use, **those most in need of educational policies are the "small fry"** (small farmers, couriers, shippers, small-scale street vendors, users in socially highly vulnerable environments, and so on). The alternative development experiment is a good starting point for showing the part that education can play. It is not indeed not just a question of substituting one crop or productive activity for another. Above all, it is a question of training people:

- To be aware of the adverse effects that a particular crop has on their lives;
- To be conscious of the positive consequences of a given proposal (as well as its limitations);
- Acquire the technical skill to handle a given proposal so that they can be autonomous in implementing it;
- To be aware of its systemic effects;
- To acquire the skills and knowledge need to handle the entire process (or a wide range of sub-processes) and not just produce; and
- To acquire the knowledge and skills required to grasp and influence the social processes associated with the productive processes (modification of participation and decision-making processes, for instance).

11 *UNICEF. (2012). Completar la Escuela (Finishing School) Global Initiative on Out-of-School Children. Panama City: UNICEF.*

These considerations make it clear that education is the basis for any integrating strategy.

In short, the rationale underlying the social integration of individuals, families, and communities with problematic ties to drugs is based on the following assumption: focusing on crime and punishment does not help link strategies and processes with other dimensions (public health, education, work, human rights, and so on). The result is a set of fragmented and sometimes contradictory consequences. It is therefore a matter of tackling the problem as a whole, while remaining mindful of the undesired consequences that may emerge.

If the drug issue is addressed from the point of view of "social integration and non-exclusion of the players involved with drugs," based on the currently predominant (public health) paradigm, then a huge step is taken toward social integration. At the same time, other paradigms also need to be produced to counter the undesired effects of the whole process.

2. Multilateral Responses to the Problem

2.1. Reference Guide to social inclusion and drugs

This paper forms part of a work plan that the Executive Secretariat of CICAD is following with a view to establishing a frame of reference for the formulation of public policies that adequately address the effects on social integration processes of the various types of involvement with drugs of individuals, groups, communities, and society as a whole. The starting point for this study was the **Hemispheric Drug Strategy (HDS)**, adopted by all member states of CICAD in 2010. The very title of the HDS points to a significant change vis-à-vis the previous Hemispheric Strategy *against* Drugs, emphasizing as it does now that it is matter of generating responses, not against a phenomenon, but rather to address a complex social problem with a focus on the wellbeing of the individual.

The consensus embedded in the HDS establishes a fundamental platform for developing new policies on drugs. First, it embodies respect for human rights as the basis for any drug-related policy or action.

Second, it recognizes that a person dependent on drugs is suffering from a chronic, recurrent illness with multiple social determinants. It that sense, it introduces an approach rooted in public health principles. Third, the HDS points to the need to develop policies based on scientific evidence. In addition, the HDS establishes that "In addressing the world drug problem, its impact on poverty and exclusion must be given special emphasis while encouraging the implementation of policies and actions that foster social inclusion and a reduction in those vulnerabilities" (Article 2).

Furthermore, in numerous articles, the HDS establishes key elements for interventions emphasizing the social integration of some of the players involved with drugs. Thus we have:

"Policies, measures and interventions to address the world drug problem should take gender issues into account" (Article 3), a key factor to bear in mind in human development and social integration initiatives and a basic criterion to bear in mind for making drug-policy-related interventions more effective;

"... the abuse of drugs is a social and health problem that requires a multisectoral and multidisciplinary approach" (Article 14);

"Demand reduction policies should include as essential elements universal, selective and indicated prevention, early intervention, treatment, rehabilitation [and social reintegration] and related recovery support services, with the goal of promoting the health and social well-being of individuals, families and communities, and reducing the adverse consequences of drug abuse" (Article 15);

"It is necessary to invest in and provide a response to the specific needs of at-risk groups, including children, adolescents and youth, both within and outside the educational system and in other contexts, territories and communities. These higher vulnerability groups should be provided with education and skills development opportunities that promote a healthy lifestyle" (Article 18);

"It is necessary to explore the means of offering treatment, rehabilitation and [social reintegration] [recovery support] services to drug-dependent criminal offenders as an alternative to criminal prosecution or imprisonment" (Article 22); and

"Recognizing that recovery from substance abuse and dependence is essential to the successful transition between incarceration and release, re-entry and social reintegration, treatment services should be made available as far as possible to offenders in corrections facilities" (Article 23).

At the same time, the HDS addresses the subject of alternative development in the chapter devoted to supply reduction. On that, it determines that "National programs to reduce the supply of illicit plant-based drugs should include the adoption of comprehensive measures, such as integral sustainable alternative development and law enforcement measures, in accordance with the situation in each country" (Article 29). For the implementation of that Article, a line of work is described in the Plan of Action on Drugs approved by CICAD in May 2010 and adopted by the General Assembly one month later. One of the actions planned is **"Promote integral and sustainable alternative development policies and programs that promote social inclusion**."

All these elements in the HDS make it feasible, at this time, to address the drug phenomenon in public policies from a rights, public health, integral and sustainable development, and social integration perspective.

In response to the challenges posed by the HDS and its Plan of Action adopted in 2011, the Executive Secretariat of CICAD has been developing a Plan of Action for defining hemispheric guidelines, identifying and promoting best practices, and developing research into social integration and its relation to the various forms of involvement with drugs. A road map proposed by the Executive Secretariat on this subject was considered already at the plenary meeting of CICAD, held in Paramaribo, in May 2011.

The purpose of the Work Plan was to contribute to the formulation of social integration policies in the region aimed at preventing direct links between the population and the drug phenomenon and enhancing the social integration of persons already involved with it. This work must, of necessity, start from reflection on the real circumstances of social integration and its relation with the drug phenomenon, on the concepts underpinning it, and on already existing models and best practices in and outside the region, with a view to counseling member states in their efforts to forge appropriate responses. To that end, inter-agency and subregional meetings have been held as channels for participatory reflection, with a broad range of both public and private sector political, technical, and community players in the region. The idea is to develop a set of tools for generating social integration policies and programs for populations caught up in or at risk of becoming involved with drugs.

2.2. *Alternatives to incarceration: links between social exclusion and prison and penitentiary policies.*

In recent decades, many countries in Latin American and the Caribbean have introduced severe criminal sentences as a way of responding to the drug use problem and related crime. That strategy has led to a large number of people ending up in jail for drug-related offenses, ranging from mere possession, small-scale distribution, and small-scale cultivation. What is more, the jailing of drug users, micro-traffickers, and so on has not reduced either addiction or drug-related crime. Meanwhile, it is increasingly recognized that incarceration can harm offenders, their families, and, in the long run, the community. In short, it is a process conducive to social exclusion of individuals and one that may be costly, from both a financial and social point of view.

In many OAS member states, laws may not interpreted or applied in such a way as to distinguish between different levels of involvement in the drug problem. For instance, treating street vendor or micro-traffickers in the same way as large-scale traffickers could trigger unwelcome

outcomes when it comes to trying to distinguish between violent and non-violent offenders in particular contexts.

Likewise, many people are handed down maximum sentences and many more, even people who have not committed serious or violent crimes, are kept in maximum security prisons. Nor are distinctions drawn between different substances and the risks they pose to health, when it comes to going after, detaining, and trying individuals. The imposition of drastic penalties may lead to greater social exclusion, disregarding the lack of socio-economic opportunities or social alternatives that may induce people to commit minor drug offenses (such as small-scale trafficking or smuggling), that are often punished with penalties more severe than those for crimes like murder or rape. The lack of proportionality in sentencing policies has contributed to higher incarceration rates in some member states. In other cases, excessive use of pre-trial detention for drug-related offenses has triggered increases in the incarceration rate.

The impact of a conviction for a serious offense may continue to be felt for an entire lifetime and even short prison terms have been shown to lower people's basic income or their ability to find work, be effective parents, or become productive members of their communities. Upon returning to their neighborhoods, many convicted of drug-related offenses who had already committed a crime return to their criminal activities and then to prison, due to a failure to resolve the complex set of basic issues that led to their imprisonment in the first place. Lack of support, risk factors, and ongoing repeat offender mechanisms make it even more difficult for felons who have served their sentence to find housing or a decent job, and to reintegrate as citizens in their respective communities. All this leads them back into illicit activities and pushes up the crime rate.

The Inter-American Commission on Human Rights has amply documented the poor conditions and overcrowding in penitentiaries in Latin American and the Caribbean which have, on occasion, led to violations of inmates' most basic human rights and fostered criminal networks and activities directed from the prisons. In many countries, violence is commonplace in prison life, above all in the most over-

crowded prisons. Some countries have already begun to debate the issue of excessive reliance on the prison system to effectively solve a series of drug-related social problems.

In the Hemispheric Drug Strategy and its Plan of Action 2011 – 2015, adopted by OAS Member States,, it was agreed to consider the possibility of adopting necessary measures aimed at allowing alternatives to deprivation of liberty for offenders who are also dependent on drugs Such measures are considered vital because a major portion of the crimes committed in countries of the Hemisphere are alcohol- and drug-related.

The above-mentioned OAS Report on the Drug Problem in the Americas pinpointed a series of challenges in the enforcement of drug laws which call for public policy responses by the countries in the Hemisphere. According to that report, "In some countries, the sale of drugs has become a major economic activity, with numerous adverse social, political, and economic consequences, such as corruption and a weakening of the State." Moreover, "...for some countries, the transnational trade in illicit drugs has, in addition, become a major source of violence..."

Among the challenges identified in the Report is the increase in the prison population due to drug-related offenses and the overcrowding it causes, the lack of access to treatment and other social services for drug-dependent persons, and the vulnerability and risks to which specific social groups are exposed -- youth, women, and the low-income population -- when they encounter prison conditions for the first time.

In that scenario, several countries have been pushing for alternatives to prisons and penitentiaries, concentrating specifically on drug use and the possession of drugs for personal use, as well as offenses with less impact on society. Those alternatives include the decriminalization of drug use, the suspension of prison sentences for drug use, and the adoption of administrative penalties, in addition to the deriving of such cases to the appropriate treatment and education service. According to the same (OAS, 2013) report on the drug problem, in the section on legal and regulatory alternatives, "approximately a dozen OAS member states impose non-prison penalties or have reduced prison

penalties or do not punish the possession of controlled substances for personal use, " reflecting a first shift in this strategic direction.

Special mention must be made of the implementation of the drug treatment court model which, according to CICAD, offers an alternative to incarceration for drug-dependent offenders. They "...involve diverting offenders from prison to treatment and rehabilitation under judicial oversight."

In this context, and given current challenges, it us of the utmost importance to analyze and evaluate these alternatives to incarceration, while recognizing the need to strengthen the public health approach and give priority to guaranteeing and protecting the human rights of the population directly affected by the phenomenon. Furthermore, in connection with these alternatives, it is pertinent to consider not use drug use, but also the impact on the other links in the drug problem chain.

2.3. *Training and certification of prevention and treatment service providers in Central America and the Caribbean (PROCCER project)*.

Mental health problems in general and addictions in particular have a major social and economic impact on individuals, families, and governments. To the extent that those suffering from them are discriminated against and stigmatized, they constitute a group more vulnerable to human rights violations. This consideration is particularly important when a gender perspective is applied to the region's drug problems.

Recognizing **women as an at-risk population** is crucial in formulating programs and providing services. Gender issues cannot be ignored in the prevention and treatment of drug problems, because specific and selective care is needed to lower the recidivism rate in the use and abuse of drugs by the female population. Traditionally, drug use, abuse, and addiction were considered a mainly male issue. However, recent substance abuse research points to **major gender differences** in "epidemiology relating to substance use, the social factors involved

and characteristics, biological responses, progress toward dependence, medical consequences, concomitant psychiatric disorders, and barriers to access to treatment, retention in treatment, and completion of treatment."

Drug use by women poses very different challenges from those posed by male use. In is within that frame of reference that the "Training and Certification Program for Drug and Gender-related Violence Prevention, Treatment, and Rehabilitation in Peru" envisages treatment approaches with a gender perspective designed to treat women with substance use related disorders, because the clinical implications of gender-sensitive treatment and rehabilitation have a marked effect on outcomes.

Children constitute another social group that is highly vulnerable to the drug phenomenon, particularly so in certain social exclusion contexts. It is important to mention that in the past, when minors engaged in anti-social behavior or in some way broke the law they were treated like adults, tried and incarcerated in common prisons, which only exacerbated their plight by exposing them to numerous risks.

In many Latin American member states, drug treatment and rehabilitation services are run, for the most part, by **nongovernmental organizations whose staff lacks appropriate training.** There is a great need to strengthen, disseminate, and institutionalize systematic training in drug abuse and treatment for it through collaboration with the member states aimed at developing and establishing training and certification mechanisms for the development of effective prevention and treatment models and approaches geared to at-risk groups in the region, especially at-risk women with substance use disorders.

Faced with these facts on the ground, CICAD has developed several initiatives in Latin America through its Human Resources Training and Certification Program (PROCCER), aimed at building human and institutional capacity through specialized training and certification for service providers working with marginalized segments of the population in the OAS member states, including women and juvenile offenders.

PROCCER began in the Caribbean in May 2011. It is the first initiative with a regional focus and offering both training in treatment techniques and training for the providers of drugs and violence prevention services. In 2012, a diagnostic assessment was conducted in all Caribbean OAS member states to identify training needs, human resource profiles, and institutional needs. The assessment was conducted by an expert from the region, using tools developed jointly with CICAD. It focused on drug prevention and treatment and on crime and violence prevention. The diagnostic assessment showed that 42% of the participating institutions provided services specially tailored to prevent juvenile and gang violence. Many of those working in the field of drug prevention and treatment in the Caribbean have stated that gang activity, especially among young people, is a cultural matter that needs to be addressed in the training given to prevention and treatment service providers. CICAD is working with experts on prevention and treatment curricula to ensure that this component is appropriately built into training courses for the region.

In the second phase of the "Training and Certification Program for Drug and related Violence Prevention, Treatment, and Rehabilitation (PROCCER)" in El Salvador, a practical training program is being designed and implemented on care given as part of an effort to reduce demand among high-risk children, including adolescents. The program is directed at key personnel in the Salvadoran Institute for the Integral Development of Children (ISNA), with a view to strengthening their capacity to attend to the children who receive the Institution's services. The Project is especially important because it enables different strategies and policies in this field to be implemented consistently.

CICAD has also developed pilot schemes in El Salvador for providing technical assistance and effective evaluation tools for implementing reintegration programs that begin inside correctional facilities and then ensure a successful transition into the community. It covers training in artistic skills, employment, insertion into the labor market, case management, preparation for life, guardianship, individual

and family counseling, community support services, family support services, and treatment of substance abuse and mental health issues.

Mindful that social reintegration is an essential facet of the treatment of drug problems, CICAD teamed up with the OAS's *Trust of the Americas Partnership in Opportunities for Employment*, through the Technology in the Americas project, which provides training in information and communication technologies using Microsoft's *Unlimited Potential* (UP) program. It also provides training for work with the young female offender population aimed at helping them reintegrate into society and at reducing repeat offender rates among them. In addition, El Salvador has embarked on a pilot orchestra program at the Women's Rehabilitation Center (CRF) to prepare inmates for their reintegration into society by developing their social, personal, self-control, musical, and cognitive skills. Proven benefits of the youth orchestra program include improvements in academic performance, declining school drop-out rates, and a reduction in risk factors for youth, including violence and substance abuse.

2.4. Cooperation with Southern Cone countries regarding smokable forms of cocaine

Cocaine smoking first emerged in southern cone countries in the early 1990s, and became more pronounced in the next decade, in some cases in connection with economic and political crises that triggered not just deterioration in working class living standards but also a process of social exclusion, that is to say, a breakdown of social ties and bonds. Over the years, this process has had a profound impact on the lives of the adolescents and young people living in socially highly vulnerable sectors, with scant access to health care systems exacerbating their exclusion from society.

The problem surfaced in the demand for treatment, in the emergency rooms of public hospitals, in groups of affected mothers and relatives clamoring for help through the media, in disruptions of the environment (takeovers of public land and the setting up of drug use locations), in acts of violence, the formation of local micro-trafficking networks, in crime, and so on.

The presence of smokable forms of cocaine problem is partly detected by traditional national epidemiological studies of the general population, through interviews with people living in households/ dwellings, or of adolescents enrolled in schools, whose prevalence rates have remained relatively low and stable over the decade, according to the studies carried out. Those studies did, however, detect a higher proportion of problematic use or addiction among users of certain drugs, compared to users of cocaine or cannabis. In light of the above, new and specific strategies for addressing and researching the issue are needed in order to estimate and fully grasp this pattern of consumption.

Against that backdrop, CICAD began its Smokable Forms of Cocaine Project in five southern cone countries: Argentina, Brazil, Chile, Paraguay, and Uruguay, so as to acquire, through joint, coordinated efforts, more in-depth and broader knowledge of this set of problems, to be applied in designing and implementing effective prevention and assistance programs, based on evidence and on sustained ongoing evaluation and monitoring.

The Observatories on Drugs and CICAD will continue to pursue this project concerning specific substances and their links to identified social issues, pursuant to the following objectives and by taking the following steps:

- Establish a network of institutions, researchers, and national experts to address the problem of "smokable forms of cocaine" and to undertake joint, coordinated and effective research and intervention actions and programs for prevention and assistance.
- Deepen our knowledge of the different facets of this problem as a basis for crafting interventions.
- Coordinate and support the sharing of experiences among countries in the region, in accordance with the priorities for joint work that are established.
- Design the programs and actions to be pursued by the Project in 2014 and beyond.

3. GOING FORWARD

Given its mission and within its spheres of activity, CICAD will continue to engage in activities and undertake initiatives that contribute to this effort by all countries to promote socially more inclusive development. Its various sections will address each country's drug issues and try to consolidate progress made in the different areas of activity.

3.1. *Progress in promoting institutional social integration and drug strategies:*

Based on the current process of defining an appropriate conceptual framework and the documentation and consultations being carried out to develop public policies on social integration and drugs in the countries of the region, CICAD will disseminate the outcomes according to a pre-established schedule and undertake activities designed to persuade countries to "own" the best practices that emerge from this process and to strengthen inter-agency coordination in this field. Accordingly, there will be presentations and exchanges with the institutions competent for each sphere, coordinated with the National Drug Commissions, with a view to establishing a framework of commitments and eliciting technical assistance for concerted progress in implementing social integration strategies in each country, so as to facilitate their monitoring and evaluation. In addition, CICAD-OAS will build the concept of social integration and drugs, its strategies, and its best practices into the design of its programs.

Inter-agency coordination of policies focusing on advancing social integration in drug-related matters may, in some cases, require prior local diagnostic assessments, organizational analyses, and feasibility studies, as well as the establishment of strategic planning consistent with each country's institutional management framework. These will help identify concrete technical assistance and training needs and ensure that the policies can be properly implemented and monitored by the sectorial entities or institutions involved.

3.2. Progress in research into the links between social exclusion and drugs

Going forward, it will be vital to continue investigating and acquiring evidence-based knowledge on the connection between social exclusion and the drug problem. Currently, the evidence points to a two-way path from social exclusion to drugs and from drugs to social exclusion. The risk and protection factors associated with social exclusion and drug use tend to be the same. In that sense, it is possible that social exclusion and the drug problem could both be manifestations of other phenomena or broader social determinants.

Generally speaking, and based on observations made during previous research, drug use and the socioeconomic status of population groups does not appear to be a one-way risk variable. On the contrary, drug use is found at all socioeconomic levels. Other studies suggest that drug prevalence increases as countries improve their level of development. This suggests that the risk of a drug use epidemic could increase when a country experience a period of development, rather like the ailments associated with today's developed countries, such as obesity, diabetes, or certain mental illnesses, and so on.

The subject of the links between the local economic and community dynamics of microtrafficking and the social conditions in which it thrives could be another important area for research aimed at enhancing our knowledge of the relationship between social exclusion and the drug problem in communities. That could throw more light on the links between crimes and drug use in specific population groups and contexts and help us develop preventive social innovation strategies.

In general, there is ample scope for research into the drug problem and human development at the local level, where the consequences of the former are felt most acutely. Tentatively, one might pose the following questions: How much social support and to what extent are social services available in the most vulnerable geographic areas? What conditions

must be given to ensure that people receiving treatment do better? Do the most vulnerable have access to treatment centers when they need it? Do treatment centers meet minimal standards of care? Do countries have preventive programs specifically targeting the most vulnerable groups? Do those programs actually work and have they been evaluated? The various studies that examine social conditions in different countries and the relation they bear to drug use or trafficking in different geographical areas could greatly enhance our ability to intervene with appropriate strategies for dealing with the drug problem and social exclusion.

* Executive Secretary of the
Inter-American Drug Abuse Control Commission (CICAD)
** Treatment Specialist
Demand Reduction Section - CICAD
*** Project Coordinator
Institution-Building Section - CICAD

Organization of American States
17th Street y Constitution Ave. N.W.
Washington, D.C. 20006, USA
+1 (202) 370-5000.
www.oas.org