

## DEMOCRACY IN OUR HEMISPHERE AND THE ROLE OF THE ORGANIZATION OF AMERICAN STATES\*

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Le cinquantième anniversaire de la *Déclaration américaine des droits et devoirs de l'homme* offre une occasion de faire le point sur l'état de la démocratie dans notre partie du monde et du rôle de l'Organisation des États américains. Dès le milieu des années 80, d'importants progrès ont été faits dans la mise en œuvre ou la restauration de la démocratie dans plusieurs États membres de l'OÉA et nous constatons aujourd'hui dans la région que la majorité des États ont achevé leur «transition» vers la démocratie. Cependant, plusieurs pays ont encore un défi à surmonter : celui d'en arriver à consolider cette démocratie. Afin de fournir l'aide nécessaire pour relever ce défi de taille, l'OÉA a souscrit à une approche collective et coopérative. Des modifications importantes ont été apportées à sa Charte pour promouvoir le consensus de l'organisation relativement à son obligation visant à protéger et maintenir la démocratie dans la région. Par ailleurs, et en sus de ces modifications, l'OÉA a élaboré des mécanismes, tels que l'Unité chargée de Promouvoir la Démocratie, des politiques, telles que le *Programme interaméricain pour vaincre la pauvreté*, ainsi que des conventions, telles que la *Convention interaméricaine contre la corruption*, afin de donner une fondation solide à la consolidation de la démocratie à plus long terme. Les chances de survie de l'organisation dépendent de sa capacité à faire face aux changements qui ont cours dans notre partie du monde et dans son habileté à évaluer et à s'adapter aux nouveaux besoins des États membres, tout en profitant de sa position avantageuse à titre de tribune politique régionale des Amériques.

The fiftieth anniversary of the *American Declaration of the Rights and Duties of Man* provides an appropriate opportunity to survey the state of democracy in our hemisphere and the role of the Organization of American States. Beginning in the mid 1980's important progress in the establishment or restoration of democracy was made in a number of the Member States of the OAS, and the region today exhibits the majority of countries having completed the "transition" to democracy. At the same time many countries are still faced today with the challenge of the "consolidation" of democracy. The OAS has responded to this formidable challenge by adopting a collective and collaborative approach. Important amendments were made to the OAS *Charter* in order to implement the organization's consensus regarding its obligation to preserve and uphold democracy in the region. Likewise, and as complements to the amendments, the OAS has also developed new mechanisms, such as the Unit for the Promotion of Democracy, policies such as the *Inter-American Program to Combat Poverty* and instruments like the *Inter-American Convention Against Corruption*, in order to contribute to the longer-term support of the consolidation of democracy. The continued viability of the Organization will depend on its ability to assimilate the changes occurring in the hemisphere as it evolves and to adapt its role to the emerging needs of the

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Member States, all while playing to its comparative advantage as the regional political forum of the Americas.

El cincuentenario de la *Declaración americana de los derechos y deberes del hombre* ofrece una oportunidad de recapitular sobre el estado de la democracia en nuestra parte del mundo y sobre el papel de la Organización de los Estados Americanos, OEA. Desde la mitad de los años 80, importantes progresos se han hecho en la puesta en marcha o la restauración de la democracia en numerosos Estados miembros de la OEA. Constatamos hoy, en la región, que la mayoría de los Estados han acabado su «transición» hacia la democracia. Sin embargo, muchos países todavía tienen un desafío por delante: el de llegar a «consolidar» esta democracia. Con el fin de proporcionar la ayuda necesaria para superar este desafío enorme, la OEA ha elegido un enfoque colectivo y cooperador. Modificaciones importantes han sido aportadas a la Carta de la OEA para promover el consenso de la organización con relación a su obligación de proteger y mantener la democracia en la región. Por otra parte, además de estas modificaciones, la OEA ha elaborado mecanismos, tales como la Unidad encargada de Promover la Democracia; políticas, como el *Programa interamericano para vencer la pobreza*, y convenciones, como la *Convención Interamericana Contra la Corrupción*, con el objetivo de dar un fundamento sólido a la «consolidación» de la democracia a plazo más largo. Las posibilidades de sobrevivencia de la organización depende de su capacidad de asimilar los cambios que ocurren en nuestra región y de su habilidad a evaluar y a adaptarse a las necesidades emergentes de los Estados miembros, todo eso aprovechando su posición ventajosa como tribuna política regional de las Américas.

As we mark the 50<sup>th</sup> year of the *Declaration*,<sup>1</sup> it is appropriate to take stock of the state of democracy in our hemisphere and the corresponding role of its oldest regional association, the Organization of American States (OAS).

Both the origins of the *Declaration* and that of the OAS can be traced to the Ninth International Conference of American States, which took place in Bogotá, Colombia in 1948 and laid out the foundations of what is the present structure of the Inter-American system. The country delegates who signed the *Declaration* also signed the *Charter of the Organization of American States*,<sup>2</sup> which gave birth to the OAS.<sup>3</sup>

Although the *Charter* solemnly proclaimed the importance of fostering and preserving democracy, it has only been during the past fourteen years or so that the OAS has been able to trace out a more decisive role for itself in defending and strengthening democracy in the Americas.

## I. Democracy in our hemisphere: a current snapshot

By the mid- to late 1980's, while the countries of North America and the English-speaking Caribbean were continuing to enjoy relatively stable democratic political systems, profound changes were occurring elsewhere in the hemisphere which would bring the remaining countries closer in step with those nations. As the Cold War was ending on the world scene and its corresponding influence was fading in the Americas, a number of Latin American countries and parts of the Caribbean found themselves leaving behind years, if not decades, of military and dictatorial regimes, and the hemisphere moved definitively towards a majority of countries represented by elected civilian governments. In regions such as Central America, important peace processes were underway which would ultimately bring a greater measure of stability and "political space" for democratization to take place. In the countries where democratic systems of government were finally established or restored, active sectors of civil society had helped to bring about this important transformation.

As the nineties have advanced, important progress has been made in the countries of the Americas with respect to improving electoral systems and in the holding of essentially free and fair democratic elections. There has also been a notable expansion of the rights and freedoms of the citizenry in a number of countries as a result of the evolution in both international and national legal norms and in the strengthening of national systems protecting civil and political rights, including the creation of new institutions such as human rights "defensores" or ombudsmen (in

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<sup>1</sup> OR OEA/Ser.L/V/II.23/Doc.211, rev. 6 (1949) [hereinafter the *Declaration*].

<sup>2</sup> *Charter of the Organization of American States*, 30 April 1948, O.A.S.T.S. No. 1-C and 61 (also known as the *Bogotá Charter*) [hereinafter the *Charter*].

<sup>3</sup> The *Charter* was signed by 20 Latin American countries and the United States.

Central America, for example, most countries now have human rights Ombudsmen's offices established). Efforts have also been made during this past decade by governments across the hemisphere to effect necessary structural and institutional changes which have involved reducing the size and reach of a frequently bloated and over-extended state and reforming critical sectors such as public administration and the judicial system. Reforms in a growing number of countries such as Colombia and Bolivia have included decentralizing key aspects of central government's political-administrative powers to regional and local governments. Governments have also begun to open themselves to greater public participation in a variety of sectors, such as in the case of the participation of Brazilian human rights groups in the development of that country's national human rights plan.

As we survey the region today, there is no doubt that the majority of countries have completed the *transition* to democracy; at the same time, they are, in differing degrees, still faced today with the formidable challenge of democratic deepening and *consolidation*.

Despite advances in democratization in the hemisphere, a number of countries are facing the obstacle of fundamental weaknesses in basic democratic institutions. In some cases, the lack of a clear separation of powers is still apparent among the judicial, legislative and executive branches of government, with the balance of power continuing to be heavily weighted in favor of the latter. Moreover, in many countries, these institutions are frequently perceived as inefficient, ineffective and not transparent in their actions vis-à-vis the citizenry. Not only is there a need for improvement in the functioning, actions and image of these institutions in the Americas, but the deepening of democracy in the region also requires further entrenchment of solid democratic values and practices, both within formal democratic institutions and in society as a whole. Crucial to the successful functioning of a democratic system, is its ability to uphold the rule of law, to deal with conflict through legitimate channels, and to both reflect and promote tolerance, probity, fair play and openness.

A deepening of democracy also necessarily depends on the active involvement of the citizenry in public affairs. Beyond the importance of voting their representatives, the populations of the hemisphere need to be more fully and consistently involved with government in areas such as helping to shape policy, in contributing to service delivery, and in monitoring the actions of public institutions and officials. Of particular relevance is ensuring that those sectors of the population that have traditionally not participated, or that have been excluded from participating, be brought fully into this process. In countries of the hemisphere, this would include women, indigenous peoples, black communities, the handicapped and other sectors of the population.

Finally, countries of the region are increasingly confronting a series of specific challenges to democracy consolidation in the form of situations which threaten to erode or compromise the gains already made. In a 1997 General

Secretariat paper on democracy and the OAS,<sup>4</sup> a number of such “threats to democracy” were identified and re-grouped into two major categories – those that could contribute to the erosion of legitimacy of a democratic state and its leaders if left unchecked, and those stemming from the actions of groups or other entities attempting to take over all or certain functions of the state through violence or its implied use. Threats from the first category included the following: the persistence of poverty and social injustice, the increase in criminality and insecurity among the citizenry, the phenomena of corruption and impunity and the growth of illegal drug trafficking. In the second category, examples included acts of terrorism, military uprisings and abuses of presidential power.<sup>5</sup>

Democratic development is a long-term, continuous and not necessarily linear process. In recent years, various countries in the hemisphere have experienced a certain backsliding into economic and political turmoil which has posed a serious threat to the consolidation of the democratic process. Although the dawn of the “democratic era” in the eighties brought with it strong hopes for a way out of the economic morass, few countries have achieved their hoped-for levels of prosperity and equity. Indeed, in socio-economic terms, the 1980s in Latin America were mostly characterized by the deleterious effects of the debt crisis and a resultant economic decline and deterioration. Although reform and modernization measures adopted in the 1990s led to some improvements in macroeconomic terms, these measures have also led to widespread, disruptive and even violent protests. The lack of dialogue and consensus seeking on major issues of the national agenda, particularly in the case of economic reforms which can have strong adverse effects on certain sectors of the population, and the lack of a buffer for these effects, have led to such situations. Likewise, the persistence of extreme political polarization, intolerance, and lack of dialogue among political forces in some countries has generated serious situations of political instability and compromised further democratic development. The effects of these and other challenges to democracy on the citizenry in the hemisphere have frequently been sobering: declining levels of voter turnout, particularly among certain sectors, such as youth, and widespread disenchantment with traditional political parties and political leadership, with increases in an “anti-party”, “anti-politician” mentality. There is evidence to suggest that the identification of political parties as natural intermediaries between the democratic state and society has been eroded and there are no clear alternatives to take their place.

What can an entity like the Organization of American States do in the face of such a formidable array of challenges to democratic consolidation in the hemisphere? What instruments are currently at the disposal of the Member States and what may be needed in the future?

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<sup>4</sup> OAS, General Secretariat, *Representative Democracy in the Americas: Proposed Framework for Action for the Inter-American System*, OR OEA/GS/CP/Doc.2899 (1997).

<sup>5</sup> *Ibid.* at 6 to 16.

## II. The OAS and Democracy: Brief Retrospective and Current Actions

From the mid-1980s onward, there began to exist, for the first time, a marked and strong position among OAS Member States regarding the primacy of democracy as the desired political system of the hemisphere and a firm consensus regarding the Organization's obligation to preserve and uphold it in the region. During this period, key changes and additions have been made to the political-judicial instruments governing the OAS, which have made the defense and promotion of democracy one of the principal objectives of the Organization. In particular, three important amendments were introduced to the *Charter* during this time.

Firstly, in 1985, the preamble of the *Charter* was modified to identify the strengthening and preservation of representative democracy as an explicit and central objective of the Organization. This modification, effected through the adoption of the *Cartagena Protocol*,<sup>6</sup> also makes the explicit link between democracy and respect for human rights, stating the need to "consolidate, in the framework of democratic institutions, a regime of individual liberties and social justice, based on the respect of human rights."

Secondly, at its 1991 General Assembly, the Organization adopted *Resolution 1080* which committed Member States to act immediately and collectively to protect democracy in the hemisphere when it is under siege. The resolution makes provisions for the Secretary General of the Organization to call emergency meetings of the Permanent Council or for the convening of the hemisphere's Foreign Ministers when there is an "irregular interruption" of the democratic process in a Member State, in order for the Organization to decide upon swift courses of action. This instrument has been applied in the wake of political crises in four important cases since its adoption: the coup d'état in Haiti in 1991, the rupture of the constitutional order in Peru in 1992 and in Guatemala in 1993, and the attempted coup in Paraguay in 1996. In all four cases, a series of diplomatic and/or coercive measures were applied which ultimately contributed to normalizing the situation.

Thirdly, an instrument known as the *Washington Protocol*<sup>7</sup> was adopted in December 1992, which allows for the possible suspension of a Member State whose government has been overthrown by force. This instrument entered into force in 1997 through its ratification by the necessary two-thirds of Member States.<sup>8</sup>

These and other related juridical-political instruments developed over the past number of years at the Organization, unequivocally demonstrate the collective responsibility assumed by the Member States to uphold and defend democracy in the hemisphere. This call to action in defense of democracy in countries of the region has

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<sup>6</sup> *Protocol of Amendment to the Charter of the Organization of American States*, 5 December 1985, O.A.S.T.S. No. 66 (also known as the *Protocol of Cartagena de Indias*).

<sup>7</sup> OAS, General Assembly, 16th Spec. Sess., *Protocol of Amendment to the Charter of the Organization of American States*, OR OEA/Ser.A/2 Add. 3 (1992) [hereinafter the *Washington Protocol*].

<sup>8</sup> The Government of Venezuela ratified the *Protocol* on September 25, 1997, bringing the total number of ratifications to 21.

necessarily evolved in a delicate balance with the Organization's historic commitment to the principle of "non-intervention" in the affairs of sovereign Member States. Particularly in the case of *Resolution 1080* and the *Washington Protocol*, these instruments are intended to be both dissuasive vis-à-vis possible attempts to subvert democracy in the region, as well as reactive in the context of an actual rupture in the democratic process in member countries. In the specific case of *Resolution 1080*, the instrument has proven to be flexible enough to date to respond to what have been several quite distinct cases cited above of interruptions of the democratic process.

As an important complement to these mechanisms, the OAS has also developed instruments to contribute to the longer-term support of the consolidation of democracies. Primary among these instruments is the Unit for the Promotion of Democracy (UPD). The UPD was established in 1990 within the General Secretariat of the OAS to provide advisory services and technical assistance to Member States for the strengthening of their democratic institutions and procedures. Among its various functions are the organizing and undertaking of election observation missions at the request of Member States, which, in conjunction with national actors, contribute to ensuring transparent, free and fair elections. Another important function of the Unit is providing support for the strengthening of key democratic institutions in the Americas, either through direct technical assistance and advisory services or, increasingly, through the promotion of cooperation and exchange among like institutions in the hemisphere. For example, the Unit has been working closely with legislatures in sub-regions of the Americas (Central America, Andean countries, MERCOSUR countries, Caribbean), encouraging dialogue and inter-parliamentary cooperation, promoting training and modernization, and supporting comparative research for the generation of new and greater knowledge on the role and functioning of parliaments in the hemisphere. Likewise, it has promoted dialogue, exchanges of experience and joint cooperation among countries of the region, on the issues of decentralization policy, the strengthening of local government and the promotion of citizens' participation at the local level. Through its work with electoral institutions, the Unit has assisted in the strengthening and modernization of various aspects of electoral systems in the region and promoted permanent mechanisms for civic education in countries of the hemisphere. Within the framework of a new set of training workshops for young leaders, the UPD is seeking to assist in the creation of a new and vibrant democratic leadership in the hemisphere and to support networking and exchange among young leaders in the Americas. These and other activities are contributing to strengthening democratic institutions, as well as strengthening democratic values and practices in the hemisphere, with the long-term goal of consolidating a truly democratic political culture in the Americas.

With the assistance of other areas of the OAS General Secretariat, principally the Secretariat for Legal Affairs, Member States of the OAS have also advanced significantly in the creation of an inter-American legal framework to address some of the most pressing threats to democracy and have pledged to work on harmonizing national legislation in a number of key areas. For example, in March

1996, Member States signed the *Inter-American Convention Against Corruption*,<sup>9</sup> the first such instrument to be developed in the world for collective action against corruption. Related to the problems of crime and insecurity, an *Inter-American Convention on Mutual Assistance in Criminal Matters*<sup>10</sup> has also been developed. In the area of drug-trafficking, OAS Member States, through the Inter-American Drug Abuse Control Commission, have been at the forefront of the development of a regional anti-drug strategy which includes the harmonization of national anti-drug legislation and its application in countries of the hemisphere.<sup>11</sup> In relation to issues of rights and participation, the Organization has been working on the eventual adoption of an *American Declaration on the Rights of Indigenous Peoples*,<sup>12</sup> the draft of which was prepared by the Inter-American Commission on Human Rights in consultation with indigenous groups of the hemisphere and governmental experts.

In recent years the OAS has made a concerted effort to affirm its role as the pre-eminent forum for political dialogue and policy debate in the hemisphere, including in the pivotal area of democracy promotion. In the past two years, the Organization has hosted two Meetings of Ministers of Justice and Solicitors General, in what is designed to be a permanent annual event of discussion and cooperation for improvement in the area of administration of justice in the Americas. Various initiatives are also in development to deepen inter-American parliamentary dialogue within the framework of the OAS, aiming to strengthen the ties among legislatures and legislators in the hemisphere and to stimulate increased discussion and debate among parliamentarians regarding the challenges of the current hemispheric agenda.

Another role which the OAS is attempting to enhance in order to contribute to combating threats to democracy in the region is that of fostering greater cooperation and mutual support among Member States in critical areas, such as the eradication of extreme poverty and the fights against crime and terrorism. Mention can be made of OAS initiatives such as the *Inter-American Program to Combat Poverty*, the *Special Program for Crime Deterrence and Citizen Security* and the *Plan of Action for Hemispheric Cooperation to Prevent, Combat and Eliminate Terrorism*. These programs promote action by and collaboration among Member States through initiatives such as exchanges of experience, the sharing of information, advisory services and technical assistance, support for policy design and evaluation, and training. The Organization's emphasis on a collective and collaborative approach to current threats to democracy is not only an effective means of grappling with these challenges but also a tacit recognition that many of the region's most serious problems require transnational approaches and solutions.

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<sup>9</sup> *Inter-American Convention Against Corruption*, 29 March 1996, OAS Treaties Register B 58.

<sup>10</sup> *Inter-American Convention on Mutual Assistance in Criminal Matters*, 23 May 1992, O.A.S.T.S. No. 75.

<sup>11</sup> The Inter-American Drug Abuse Control Commission has also been advancing towards the design and eventual implementation of a multilateral evaluation mechanism to monitor individual countries and the region's progress in dealing with the drug problem, as tasked by the heads of state during the Second Summit of the Americas held in Chile in 1998.

<sup>12</sup> OAS, Inter-American Commission on Human Rights, *Draft of the Inter-American Declaration of the Rights of Indigenous Peoples*, OR OEA/Ser.L/V/II.90/Doc.14, rev. 1 (1995) at 1.

### **III. Democracy into the 21<sup>st</sup> century: Whither the OAS?**

The advent of the late 1980s and the 1990s has meant sweeping changes for the Americas in terms of their democratic landscape. Important advances in democratization have taken place, although numerous challenges remain. For the OAS, it has been a period of re-thinking of its roles and of attempts to re-invigorate its position as the primary political forum of the hemisphere. Central to this effort has been the increasing affirmation over the years of the Organization's role in strengthening and preserving representative democracy in the Americas, as stated in the *Charter*, "as an indispensable condition for the stability, peace and development of the region." The continued viability of the Organization will depend on its ability to assimilate the changes occurring in the hemisphere as it evolves, adapting its role to the emerging needs of the Member States in the realm of democracy strengthening, all while acting, to its comparative advantage, as the regional political forum of the Americas. In this regard, several issues should be taken into consideration in the next few years: the review and strengthening of the organization's juridical-political instruments concerning democracy, the OAS structural reforms in support of democracy and the making the OAS real and relevant to citizens of the hemisphere.

### **IV. Review and strengthening of the Organization's juridical-political instruments concerning democracy**

During the March 31<sup>st</sup>, 1999 regular session of the OAS Permanent Council, in the wake of the recent assassination of the Paraguayan Vice-President and related turmoil in that country, as well as other disturbing events in the hemisphere, a proposal was made to begin full consideration of a possible strengthening of Resolution 1080. The proposal was accepted, and a process of review is to begin shortly within the political bodies of the Organization. This initiative presents an opportunity to strengthen some aspects of the current "OAS doctrine" in support of democracy, particularly as it relates to the preventive aspect of those instruments. Continuing volatility in the region would suggest a need for new or refined instruments which could assist in anticipating and circumventing potentially serious and abrupt threats to democracy in countries of the hemisphere. In addition to the role of the Member States, a potential supporting role in this area by the General Secretariat should also be studied.

### **V. OAS structural reforms in support of democracy**

As the Organization's mandates and responsibilities for preserving and enhancing democracy in the hemisphere have increased, it is imperative that OAS structures be strengthened and refined to adequately meet these challenges. During the OAS 1998 General Assembly in Caracas, Venezuela, the Secretary General introduced the idea of creating a Secretariat for Political Affairs to accommodate the

increase in mandates related to the political field.<sup>13</sup> Such a Secretariat could re-group under its auspices the broad array of democracy-related themes currently being worked on by the OAS General Secretariat in a decentralized and somewhat disarticulated fashion, and provide more solid on-going support on political issues to the political bodies of the Organization. Within the realm of the political bodies of the OAS, the entity directly responsible for democracy issues is the “Working Group on Representative Democracy”. Given the importance of democracy promotion for the Organization, consideration should be given to elevating the Working Group to a full-fledged Commission. Finally, a critical aspect of internal reform which has been debated for several years and which now appears to be making some progress, is the issue of access by non-governmental organizations (NGOs) and other civil society groups to the Organization. The OAS currently has no equivalent to the “consultative status” accorded to NGOs by various United Nations bodies. As the OAS assumes increasingly important mandates from the hemispheric agenda, via the Summits of the Americas or other processes, it has become imperative that such “internal democratization” take place within the Organization.

## **VI. Making the OAS real and relevant to citizens of the hemisphere**

The OAS is frequently categorized as an inter-governmental organization of the Americas. It is, however, not only an organization of governments, but of the people which they govern. A strong challenge to the Organization is to make its work in democracy preservation and promotion more tangible and visible to the citizens of the hemisphere, particularly as it may impact on their daily lives. One of the most visible manifestations of the OAS’s democracy work are the electoral observation missions organized and deployed by the Unit for the Promotion of Democracy. Dozens of observers, women and men, selected from throughout the hemisphere, put a human face on the actions of the Organization and foster confidence among voters during their observation of an electoral process, often interacting with inhabitants in the remotest corners of the country. The Organization needs to develop other ways to remain current and relevant to ordinary citizens. One way may be, as suggested above, the opening up of the Organization to civil society groups with wide representation. Another may be to support, at the request of those countries, dialogues between new governments and their citizens on the national agenda and on building a deeper consensus around critical social and economic issues. One mechanism for such support by the OAS could be the UPD’s *Cooperation Program with Recently-Elected Governments*.

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<sup>13</sup> AG/INF.213/98, Contributions of the Secretary General of the OAS, César Gaviria, on the Renovation Process of the Organization, June 1, 1998, Caracas, Venezuela. Speech given at the opening ceremony of the XXXVIII General Assembly of the OAS.

## **VII. The challenge of the future**

As the Organization's current Secretary General, César Gaviria, has emphasized on repeated occasions, the continued viability of the OAS is contingent on its ability to permanently adapt its objectives, methodologies and actions to the changing needs of the Hemisphere. This is particularly true in the area of democracy. In the recent past, the democratic ideals and aspirations of numerous countries of the Hemisphere were sacrificed to the priorities of the Cold War. In the context of the current democratic landscape in the Americas, the OAS has the opportunity to strongly reaffirm its commitment to democracy and to make this commitment resonate at all levels of society in our countries. That is, indeed, its greatest challenge today and will continue to be so into the future.

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