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Civil society, the media and internet as tools for creating  
accountability to poor and disadvantaged groups

Enrique Peruzzotti and Catalina Smulovitz

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**Report prepared by  
Enrique Peruzzotti and Catalina Smulovitz  
Universidad Torcuato Di Tella, Buenos Aires, Argentina  
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This report analyzes the ways in which civil society and the media contribute to establish more accountable governments in the region. The report is organized around two main sections: section I provides a general overview of the trends and changes that affected the development of Latin American societies and the media in the past decade. More specifically, it will concentrate on the appearance of two actors that greatly contributed to shape the agenda of accountability in the region: a regional network of civic associations and movements organized around demands for due process and a new form of investigative or watchdog journalism. The section describes both the types of actors involved in a politics of accountability and the main issues they have addressed. Section II concentrates on the workings and achievements of this politics of accountability. It analyzes the methods and strategies employed to make public officials accountable and on some of their accomplishments.

## **I. Civil Society, the Media and Accountability in Latin America: Recent developments**

The last wave of democratization in Latin America has been followed by important changes at the level of civil society and the media. On the one hand, new civic associations and NGOs have sprouted throughout the region, such as human rights organizations, civic networks that monitor elections to prevent fraud, social movements against police abuse and violence, or citizens organizations that demand clearance of public information. On the other hand, the region has witnessed the emergence of a more inquisitive type of journalism that is playing an important watchdog role in relation to public authorities. Both developments are vivid example of the growth of an innovative type of politics in the region organized around demands for rights and accountability.<sup>1</sup> Citizen and media actions aimed at overseeing political authorities are becoming an established aspect of Latin American political life and are contributing to redefine traditional links between civil society, media and public authorities. Civic associations and NGOs organized around

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<sup>1</sup> Catalina Smulovitz and Enrique Peruzzotti, "Societal Accountability in Latin America" in *Journal of Democracy*, Vol 1, # 4, October 2000.

demands for due process and the rule of law, and a watchdog journalism that has uncovered numerous cases of governmental wrongdoing represent two paradigmatic examples of the way in which struggles for accountability are taking place. It is our contention that those struggles are crucial both at fostering more accountable democratic regimes and at expanding the scope of citizen's rights. In this section we will briefly analyze how these two key actors have evolved and the kind of accountability issues they have addressed.

### *1.1 The emergence of new type of civic associationalism in Latin America*

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

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

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<sup>2</sup> This argument is developed in Enrique Peruzzotti, forthcoming. "Towards a New Politics. Citizenship and Rights in Contemporary Argentina", *Citizenship Studies*, and "The Nature of the New Argentine Democracy. The 'Delegative Democracy' Argument Revisited", *Journal of Latin American Studies*, vol. 33, 2001.

*Security issues* were a prominent subject in the public agenda of the last decade, particularly those that refer to acts of police violence over disadvantaged groups. There have been numerous episodes of state violence over sectors of poor and marginal populations that sparked a wave of social mobilizations in demand for justice and police reforms. We find many of such cases in countries like Argentina and Brazil where a series of unrelated incidents of police violence led to the organization of local social movements, and to the establishment of permanent society based monitoring associations. In addition, the death of two army privates as a result of abuses by his superiors while servicing in the army in Argentina and Chile also generated popular responses and triggered scandals that, in the Argentinean case, led to the end of the military draft. In Peru, the *Coordinadora Nacional de Derechos Humanos*, a nation-wide network of Peruvian human rights organizations and the *National Ombudsman Office* repeatedly questioned the practice of compulsory draft by the military in rural areas, generating a broad debate and even a presidential acknowledgment about the need to reform or end the military draft<sup>3</sup>.

Demands for *judicial autonomy* have also ranked high in the agenda of the media and of civil society organizations. Here it is necessary to make a distinction between two types of demands and initiatives: 1) movements organized around cases in which the provision of impartial justice seems to be jeopardized due to the control exerted by political authorities over the judiciary, and 2) initiatives by NGOs and civic organizations to reform the judiciary and to promote access to justice of disadvantaged groups. The first group of initiatives has been mostly advanced by mobilizations of sectors of the population that find themselves in a disadvantaged position as a result of operating in geographical areas where legal guarantees are virtually absent or frequently violated<sup>4</sup>. Generally, these movements are organized around specific cases and around a single claim: a fair trial. In many cases, their efforts concentrate on monitoring police investigations and judicial proceedings to

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<sup>3</sup> See, for example, Francisco Fernández Segado, “La Reforma de la Regulación Vigente sobre el Servicio Militar Obligatorio y su Adecuación a los Presupuestos de un Estado de Derecho”, *Debate Defensorial*, Vol. 1, September 1998.

<sup>4</sup> See Guillermo O’Donnell, “On the State, Democratization, and Some Conceptual Problems: A Latin American View with Glances at Some Postcommunist Countries” in Guillermo O’Donnell, *Counterpoints. Selected Essays on Authoritarianism and Democracy*, Indiana, Notre Dame, University of Notre Dame Press, 1999.

prevent political authorities from tampering the evidence or influencing the proceedings. Argentina is perhaps the country that offers the largest numbers of this type of initiatives (*María Soledad case, Nahir case, Cabezas case, Carrasco case, etc.*)<sup>5</sup> In Peru, the Ombudsman Office (*Defensoría del Pueblo*) has also played an important role at monitoring and denouncing the actions of the judiciary under Fujimori.

The second group of initiatives has targeted the judiciary and the problem of judicial autonomy. Organizations such as *Corporación para la Excelencia de la Justicia* in Colombia, or *Poder Ciudadano* in Argentina have organized campaigns for the legal education of the citizenry and established programs that deal with different aspects of judicial performance and reform. Problems of access to justice have occupied a prominent place in the agenda of many of these organizations. In Colombia and Peru, *Fundación para la Defensa del Interés Público (FUNDEPÚBLICO)*, *Viva la Ciudadanía*, the *Comisión Andina de Juristas*, and *Instituto de Defensa Legal (IDELE)* have played an important role at developing new legal instruments that could improve the defense of rights and the access to justice of ordinary citizens. The incorporation in recent constitutional reforms of several of those instruments (such as Acciones de Tutela, Acción de Cumplimiento, Acción Popular, etc.) has resulted in an increase of legal mobilization. In addition, public interest law is being promoted by several organizations in the region, like *Formación Jurídica para la Acción (FORJA)* in Chile, *Fundepublico* and *Viva la Ciudadanía* in Colombia, *Poder Ciudadano*, *Asociación por los Derechos Civiles* and *Clinica Jurídica de la Universidad de Palermo* in Argentina<sup>6</sup>.

*Electoral observation* is the third area where societal initiatives have concentrated. Civic initiatives against electoral fraud played a crucial democratizing role in Mexico and Peru. In both cases, we witness the emergence and expansion of a network of organizations oriented at monitoring the electoral process to ensure fair elections. In Mexico, *Alianza Cívica* was formed in 1994 as the result of a coalition of civic groups interested in developing an autonomous network for electoral observation. The contribution of this

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<sup>5</sup> For a detailed description of these and other cases see Section II or this report.

<sup>6</sup> For an overview of those initiatives, see Fundación Ford, *Rompiendo la Indiferencia. Acciones Ciudadanas de Interés Público*, Santiago, Chile, Fundación Ford, Oficina para la Región Andina y el Cono Sur, 2001.

movement to Mexico's democratization has been remarkable. Their actions greatly contributed to electoral reform. The 1996 electoral code incorporated most of the demands of the movement and led to the establishment of an impartial electoral authority that made possible to hold fair and competitive elections<sup>7</sup>. In Peru, *Foro Democrático* and *Transparencia* were active in denouncing fraud and pushing for the change of the electoral laws passed by Fujimori. *Foro Democrático* organized a campaign calling for a referendum to block Fujimori's reelection that despite having collected two million firms was ignored by the legislative. *Transparencia* was created in 1994 with the goal of monitoring elections and was eventually able to establish a nation-wide network of observers<sup>8</sup>.

Finally, the issue of *governmental corruption* has received wide attention by both the media and civil society. In this terrain, the media played a central role at exposing governmental wrongdoing. The region has been shaken by numerous media scandals of governmental corruption at all levels of the public administration: from low ranking civil servants up to the presidential office. Civic initiatives have also been important and have developed innovative tools for controlling governments. For instance, some civic organizations have developed programs to monitor the financial assets of public officials. (*Poder Ciudadano* in Argentina and *Alianza Civica* in Mexico) The Colombian Constitution established the *veedurías ciudadanas*, a sort of ad hoc civic committees to oversee governmental actions and procedures. Perhaps the most famous *veeduría* was the one established to monitor the impeachment of the then President Ernesto Samper on corruption charges. The *veeduría* was highly critical of the works of the parliamentary body

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<sup>7</sup> An analysis of *Alianza Civica* can be found in Alberto Olvera, "Accountability Social en Mexico, La Experiencia de Alianza Civica" in Enrique Peruzzotti y Catalina Smulovitz (compiladores), *Controlando la Política. Ciudadanos y Medios en las Nuevas Democracias Latinoamericanas*, Buenos Aires, Editorial Temas, 2001. See also, Rafael Reygadas Robles Gil, *Abriendo Veredas. Iniciativas Públicas y Sociales de las Redes de Organizaciones Civiles*, México, Convergencia de Organismos Civiles por la Democracia, 1998; Sergio Aguayo Quezada, "La participación de organismos no gubernamentales mexicanos en la observación de elecciones", in Miguel Concha Malo (coord.), *Los Derechos Políticos como Derechos Humanos*, México, La Jornada Ediciones, 1994.

<sup>8</sup> For a general overview of different experiences of electoral observation, see Kevin J. Middlebrook (ed.) *Electoral Observation and Democratic Transitions in Latin America*, San Diego, Center for US-Mexican Studies, UCSD, 1998.

in charge of the impeachment procedures and published a detailed document denouncing irregularities<sup>9</sup>. Other *veedurías* have been constituted with the aim of supervising public bids and the process of privatization of Bogotá's public phone company.

## 1.2 *The Media and Internet as agents of accountability*

Important developments in the post-authoritarian era brought new conditions for the operation of the media. First, the consolidation of democratic regimes has drastically redefined the environment in which the media operates. The reestablishment of constitutional guarantees and the end of state violence and censorship greatly contributed to the practice of critical reporting. Second, in many countries the media underwent a process of privatization, deregulation and conglomerization that greatly changed the structure of media industries<sup>10</sup>. Such policies led to a transition from family controlled media organizations to the emergence of large and diversified multimedia corporations. Media concentration conspires against democratization of media access. As Waisbord argues, civil society and citizens have little influence “in the ongoing process by which substantial media resources change hands, officials reap sizable gains and commercial interests become further entrenched”<sup>11</sup>.

In spite of all the new obstacles and problems it creates, the shift to a market system has nevertheless generated a more independent journalism. The decoupling of media industries from the state opened up the possibility of a critical journalism that contributes to political accountability. In fact, during the last decade the media has played a central role both in exposing official wrongdoing and corruption and as a source of free and alternative

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<sup>9</sup> See, *Poder, Justicia e Indignidad. El Juicio al Presidente de la República Ernesto Samper Pizano*. Informe de la Comisión Ciudadana de Seguimiento, Bogotá, Utópica Ediciones.

<sup>10</sup> See Guillermo Mastrini y César Bolaño (eds.), *Globalización y Monopolios en la Comunicación en América Latina. Hacia una Economía Política de la Comunicación*, Buenos Aires, Editorial Biblos, Jesús Martín Barbero and Germán Rey, *Los Ejercicios del Ver. Hegemonía Audiovisual y Ficción Televisiva*, Barcelona, Gedisa, 1999.

<sup>11</sup> Silvio Waisbord, “Between Markets and States: Media and Public Sphere in South America” in James Curran and Nyung-Jin park (eds.) *De-Westernizing Media Studies*, Routledge, forthcoming.



information for the monitoring of governmental activities<sup>12</sup>. Watchdog reporting is no longer the realm of alternative publications but has gone mainstream. The emergence and consolidation of investigative journalism have established the media as a key actor in the political dynamics of Latin American societies. By unraveling numerous cases of governmental corruption and generating conspicuous political scandals, the media has attained high levels of legitimacy in large sectors of the population.

Watchdog journalism has been the main ally of the politics of social accountability. Many of the previously described civic claims for equal treatment under the law, due process or judicial independence began to exert considerable pressure on the political system only after they attained significant media coverage and visibility. Thanks to the media, local cases attracted the attention of the whole nation. But the role of the media was not limited to supporting the cause of civic movements and associations. In many cases the media itself was the denouncing actor. The activity of independent journalists were crucial in uncovering important cases of human rights violations like the massacres of *La Cantuta* and *Barrios Altos* in Peru or the slaughter by police forces of 19 rural workers of the landless movement that were blocking a road in Northern Brazil.

Watchdog journalism also exposed innumerable cases of governmental corruption. Media scandals have exerted a considerable toll on the fate of numerous public officials. In Brazil and Peru, disclosures of corruption brought down the Collor and Fujimori administrations. In Colombia, the investigations about the contributions made by the Cali cartel to the 1994 electoral campaign seriously weakened Ernesto Samper's presidency. A newspaper investigation about an illegal sell of weapons to Ecuador during the Ecuador – Peru war by the Argentine government led to the house arrest of former president Carlos Saúl Menem. An editorial by a prestigious journalist suggesting that the passing of the labor reform law in the Senate was the result of bribes triggered a series of denounces and resignations that greatly affected the political capital of De la Rúa administration. The political crisis generated by the scandal eventually led to the breakdown of the governing

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<sup>12</sup> Needles to say that the actual market structure of the media necessarily limits this watchdog role: the activities of Latin American watchdog journalists rarely expose private cases of wrongdoing that could affect the organization's commercial interests. Yet, this observation should not diminish the watchdog role that the media is playing in relation to governmental wrongdoing. See, Silvio Waisbord, *Watchdog Journalism in South America. News, Accountability, and Democracy*, New York, Columbia University Press, 2001.

coalition (integrated by the Radical party and Frepaso) and to the resignation of vice-president Carlos Alvarez who disagreed with the way De la Rúa handled the situation.

Regarding the role of Internet as a tool of the politics of accountability, a handful of interesting experiences can be mentioned given that the large majority of the Latin American population is unconnected to the Internet. Perhaps the most notorious case of the use of the Internet to make certain movements or claims visible, not just nationally but internationally, is the indigenous rebellion in Chiapas. In this case and from the outset of the rebellion, Internet provided a way for the rapid dissemination of information about the EZLN and the nature of the conflict. Yet, as Harry Cleaver argues, the EZLN played no direct role in the creation of the sympathetic international circuits that supports the EZLN. They belonged primarily to “computer rich North America and Western Europe” or to Mexican organizations operated from the D.F.<sup>13</sup>. The EZLN and the poor indigenous communities of Chiapas had a mediated relation to Internet: the Internet networks serve to propagate the written communiqués that the movement hands over to the media. In recent years, the Zapatistas and their supporters have been able to organize large-scale global meetings such as the intercontinental meeting in Chiapas in the summer of 1996 or the one held in Spain the following year. The meetings drew 3,000 and 4,000 people respectively from all over the world<sup>14</sup>.

Internet is providing an important tool to many NGOs. It helps them to disseminate their work and general information. In Argentina, *Poder Ciudadano* has established an Internet-based news agency that provides information about the programs and initiatives developed by NGOs in the region<sup>15</sup>. A regional network of organizations working on public interest law has also been created.

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<sup>13</sup> Harry Cleaver, “The Zapatista Effect: The Internet and the Rise of an Alternative Political Fabric”, *Ciberlegenda*, Número 3, 2000, p.5.

<sup>14</sup> Cleaver, op. cit., p. 6.

<sup>15</sup> The web page is [www.infocívica.org.ar](http://www.infocívica.org.ar)

## II. The Exercise of Social Accountability. An overview of its methods and strategies.

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

Societal accountability strategies can be distinguished due to the main resources they are based on. The *juridical or legal strategy* entails the submission by individuals or social actors of legal claims or of legally framed petitions to the courts or to other control agencies. It is an instrument individual citizens and social actors use to force the state to intervene in those political and social disputes public officials want to avoid or ignore.<sup>16</sup> The transformation of societal demands into legal claims serves two purposes: a) it provides a legitimacy "seal" for the petitions and b) it forces the state to take stand on the advanced claims. The use of the juridical strategy by civil society is part of the broader process of judicialization of politics that is taking place globally.<sup>17</sup>

*Social mobilization* is the second strategy employed in the exercise of societal accountability. Traditionally, the study of social movements has concentrated on the impact that social mobilization may have on the satisfaction or defense of material needs or on the achievement of particularistic goals. In this case, control is achieved when organized social actors are able to call attention to a particular problem or claims related to a perceived public wrongdoing. This specific use of the social mobilization strategy is linked with the

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<sup>16</sup> Catalina Smulovitz, "The Discovery of Law. Political Consequences in the Argentine Case" in Brian Garth and Yves Dezalay. *New Challenges for the Rule of Law*. Michigan. Michigan University Press. forthcoming.

<sup>17</sup> Neal Tate and Torbjorn Vallinder (ed.), *The Global Expansion of Judicial Power*, New York. New York University Press, 1995. This process is characterized by a) the increase in the number of regular legal claims, b) by the appearance of new legal institutions that expand the ways to petition for rights and c) by the expansion of the number of actors authorized to make claims.

already mentioned emergence of new forms of associative life in the region organized around demands for due process and "proper" procedures.

The third strategy for the exercise of societal accountability relies on the use of the *media*. Societal accountability requires visibility and the media is the most important instrument to achieve this goal. It works because, as it happens with the mobilizational strategy, visibility imposes reputational costs to public agents that need to protect their reputation to hold public office. It can be activated by individual journalists, by media enterprises or by citizens and civil society associations.

Lets consider then, how these different societal accountability strategies have been used in different Latin American countries.

### *II.1 Judicial strategies*

Societal accountability strategies had had an uneven development in the region. While in some countries judicial strategies have been dominant, in other mobilizational or mediatic ones have been more important. In some cases the development of judicial strategies is related to specific institutional and constitutional modifications that have changed the requirements needed by citizens and collective actors to claim and petition for rights as well as the number and type of rights that can be claimed. In others, the relevance of the judicial strategy is related to changes in the perception about the benefits of law that came about as a consequence of the political struggles related to the treatment of past human rights violations.

In Colombia, for example, the Constitution created an institution, the “Acción de Tutela”, that allows citizens to demand for the protection of fundamental rights. A study conducted by the Unidad de Tutela de la Secretaría General del Consejo Superior de la Judicatura, established that between 1991 y 1999, Colombian courts have sent 213.404 acciones de tutelas to the Constitutional Courts.<sup>18</sup> According to some studies the “Acciones

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<sup>18</sup> It has to be emphasized that only individual citizens can activate the “acción de tutela” an institution that allows any citizen and without any formal requirements to demand direct protection against threats or violations of fundamental rights. Claudia Mora. “Relatoría sobre las Acciones de Interés Público en Colombia”, en Felipe Morales Gonzalez, (ed.) *Las Acciones de Interés Público*.

de Tutela” advanced in Colombia have mainly concentrated on the petition of payments of pension funds, of salaries or in disputes regarding quotas for access to educational institutions. Other mechanisms included in the Colombian constitution that allow citizen participation are the "legislative popular initiative", the referendo, the citizen veedurías, the popular consultation and the recall of elected officials<sup>19</sup>. Although some authors have mentioned that most of these institutions have been rarely used<sup>20</sup>, others have pointed out that in their first five years popular consultations have taken place in Medellín and Pereira where their municipal administrations have been defeated<sup>21</sup> and that successful recalls took place in Mogotes and Cartagena where their major were replaced.

A similar trend can be observed in Brazil where the 1988 constitution also incorporated institutions intended to facilitate citizen participation and control of public affairs,<sup>22</sup> such as popular initiative, plebiscite, referendum, public mandatory meetings and expansion of the number of legitimate actors that can make use of “Ação Direta de Inconstitucionalidade.”<sup>23</sup> In addition the constitutional transformation of the office of the Public Prosecutor created a space where programmatic constitutional rights can be demanded.<sup>24</sup> Indeed, the percentage of actions initiated by this institution shows its new acquired relevance as an office for making rights demands (i.e. 96% of the civil environmental demands have been initiated with the intervention of this office). According to Brazilian experts, the Public Prosecution office is performing a similar role on issues related to the defense of health rights and street children rights<sup>25</sup>. In the state of Paraná, for example, the State Office of the Public Prosecutor has created a special body dedicated to

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*Argentina, Chile, Colombia y Perú* Escuela de Derecho Santiago de Chile. Universidad Diego Portales, número 7, 1997.

<sup>19</sup> Luis César Pereira Monsalve. *Constitución Política de Colombia*, Poligráficas, Medellín, 1999, pp. 546-584.

<sup>20</sup> *Ibid.* p. 57.

<sup>21</sup> Interview with Pedro Santana Rodriguez.

<sup>22</sup> Paoli María Celia and Vera da Silva Telles. "Social Rights: Conflicts and Negotiations in Contemporary Brazil" in Sonia E. Alvarez, Evelina Dagnino, and Arturo Escobar (eds.) *Cultures of Politics, Politics of Cultures. Re-Visioning Latin American Social Movements*, Boulder, Westview Press, 1998.

<sup>23</sup> Rogério Bastos Arantes. *Judiciário e Política No Brasil*. Sao Paulo, Editora Sumaré, 1997.

<sup>24</sup> Rosângela Calvancanti, *Cidadania e Acesso a Justiça*, Sao Paulo, Editora Sumaré, 1999. Rogério Bastos Arantes, “Direito e Política: o Ministério Público e a Defesa dos Direitos Coletivos”, *Revista Brasileira de Ciências Sociais*, Vol. 14 # 39 Febrero 1999.

<sup>25</sup> Calvancanti, *op. cit.*

the promotion of the use of legal procedures by lower income sectors of the population. Thus, while this particular body of the Public Prosecution office allows the diffusion of the operative resources needed to make rights and accountability demands, the Public Prosecution Office decides whether the demands advanced by this population can be transformed into judicial claims. An article published by the weekly *Veja* shows the cloud achieved by the Public Prosecutor office in controlling the legality of public affairs. According to the article, 195 prefectos and ex prefectos had been sentenced to prison for administrative wrongdoing as a consequence of actions initiated by the Public Prosecutor in the last five years.<sup>26</sup> The example illustrates the capacity of the office of the Public Prosecutor to exercise control as a result of actions initiated by citizens, civic organizations and the Public Prosecutor Office.

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

The Argentinean case witnessed the increase in the number of legal and "quasi" legal claims in agencies such as the Defensoría of del Pueblo de la Nación and in the Controladuría General Comunal, as well as in the regulatory agencies of the recently privatized public utilities enterprises<sup>27</sup>. In Peru, the Defensoría del Pueblo created by the 1993 Constitution monitors the performance of the public administration and defends citizens' rights. It has been activated mainly by citizens' demands and complains.<sup>28</sup> During the Fujimori years, the Defensoría showed notorious degrees of institutional autonomy. It had an important role in the protection of human rights responding to demands advanced by relatives of victims. Among its important achievements are the resolutions that led to the

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<sup>26</sup> *Veja*, October 6, 1999. It should be emphasized that *Veja*, itself use the word warning to call the prefectos' attention regarding the fact that the office of the Public Prosecution is being used to control their actions.

<sup>27</sup> Catalina Smulovitz, "Ciudadanos, Derecho y Política" in Felipe Gonzalez Morales, op. cit. 1997.

<sup>28</sup> Comisión Andina de Juristas *Servicios Públicos: Privatización, Regulación y Protección al Usuario en Chile, Colombia y Perú*. Lima .1996.

liberation of individuals that have been unjustly sentenced for terrorist related crimes. Specifically it exerted considerable pressure to end the so-called system of “judges without face” implemented in 1992 to deal with terrorism. And the office also achieved the presidential pardon of 418 individuals that had been unjustly sentenced.

Another event that shows the relevance of the rhetoric of rights and of legally based instruments in the actions pursued by citizens and social movements is the increased presence of advocacy NGO’s, such as Asociación por los Derechos Civiles, Poder Ciudadano and CELS (Centro de Estudios Legales y Sociales) in Argentina, FUDEPUBLICO (Fundación para la Defensa del Interés Público) in Colombia or FORJA in Chile.<sup>29</sup> These associations are employing existing and new institutional tools to demand for the rule of law. CORREPI (Coordinadora contra la Represión Policial e Institucional) in Argentina is demanding justice for victims of police abuse. The Asociación por los Derechos Civiles, also in Argentina is demanding against discriminatory practices; FORJA and Terram in Chile and FUNDEPUBLICO in Colombia are claiming for the right to live in a safe environment (See *Lo Errazuriz* or *La Renca* cases in Chile or cases against mining interests in Colombia)<sup>30</sup>. The above cases are just a few examples of way in which civil society organizations are using legal resources. In each of these cases, the resource used to exercise control is a legal claim, while public officials and policies are the objects of control. The results have been diverse. In some of the CORREPI cases, there have been indictments, trials and sentences of public officials. In those pursued by the Asociación por los Derechos Civiles after a judicial decision, a denounced discriminatory practice has been reversed. In the *Lo Errazuriz* case in Chile, the case was won at lower level courts but lost at the Supreme Court. Although, not all cases were successful, it has to be emphasized that through these actions some citizen’s organizations are becoming agents of control and surveillance of public policy.

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<sup>29</sup> Mary McClymont and Gailub Stephen (eds) *Many Roads to Justice*. Ford Foundation, 2000.

<sup>30</sup> Felipe Gonzalez Morales (ed) *Las Acciones de Interes Público. Argentina, Chile, Colombia y Peru*. op. cit. 1997.,

## II.2 Social Mobilization

"Soft" resources such as social mobilisation are also been used to control policy outcomes and the performance of public officials. Although social mobilization can take place together with a legal strategy, this has not always been the case. Indeed, campaigns demanding information about the assets of public officials, or denouncing electoral frauds or violations of environmental rights did not always intend to bring about legal claims. In other cases, social mobilization denouncing police abuse had, at the same time, legal and political goals. Police abuse, corruption of public officials, electoral frauds and the way social programs are implemented are now issues under surveillance because NGOs like Viva Rio in Brazil or CELS and CORREPI (Coordinadora contra la Represión Policial e Institucional) in Argentina, *Alianza Cívica* in Mexico or *Grupo Iniciativa* in Chile have been able to document their existence and to mobilize the support of intense groups around their public relevance. These organizations have been able to place topics in the public agenda and they have also established themselves as credible and authoritative watchdog voices.

As was the case with the use of the judicial strategy, the scope and effectiveness of the mobilizational one also has an uneven development in the region that depends on contextual and historical reasons. In the Argentinean case, for example, human rights organizations that had an extremely important role during the transition years, have preserved their central position reorienting their missions in order to incorporate questions related to violations of human rights in democracy. Thus, a preexisting organizations like CELS is now dedicated to the surveillance of police abuses and of the way the state is implementing social programs. Others like MEDH (Movimiento Ecuémico de Derechos Humanos) focus mostly on prisoners rights.

In recent years new specialized NGO's and local grassroots organizations with single issue claims have also developed. In Argentina, responses and protests against police violence locally organized by friends and relatives of victims have led to the emergence of national organizations such as the *Comision de Familiares de Victimias Inocentes* (COFAVI) and *Coordinadora contra la Violencia Policial e Institucional* (CORREPI), and



to local organizations such as *El Agora* in Córdoba. The actions have been decisive in placing illegal behavior of police officials in the spotlight, in denouncing numerous cases of police misbehavior and violence, and in demanding justice and institutional reforms. Today police misconduct is being monitored and followed by an array of organizations that have the capacity to grant public visibility to their denounces and criticisms. The actions of these organizations have had different outcomes<sup>31</sup>. Besides being successful at placing the issue of police violence and corruption on the public agenda, these organizations are instrumental in forcing horizontal agencies<sup>32</sup> to review both existing legislation and their position on issues such as the adequacy of the existing institutional structure of police agencies, or the effectiveness of existing mechanisms of political control on the institution.<sup>33</sup>

In addition to the police violence cases, the mobilizational strategy has been critical in the resolution of three other incidents that shook the Argentinean political scenario: the María Soledad, the Carrasco and the Cabezas cases. In all three cases, a murder gave rise to a claim of justice and to an extensive social mobilization demanding authorities guarantees, proper police investigation and proper judicial procedures. In all three cases, mobilization was initiated locally and promoted by relatives of the victims and it extended afterwards to a wider population involving also local and national NGOs. In all three cases, there were trials, and indictments of the accused and in the three, the media and the population followed on a daily basis the evolution of the investigation and of the judicial process.<sup>34</sup>

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<sup>31</sup> In some cases, as in the Ingeniero Budge case in Argentina, a very long judicial process led to the indictment of the policemen that participated in the killings. In others, like the Bulacio case, the case is still open. According to a CORREPI document, in 1997 the organization intervened in eleven judicial cases. Of them, five led to prosecutions, four led to criminal trials of policemen, in one there was a mistrial and the case has been appealed, and the remaining case is still in a preliminary stage. CORREPI has also brought a case to the Inter-American Commission of Human Rights.

<sup>32</sup> According to Guillermo O'Donnell, accountability has two dimensions: horizontal and vertical. The horizontal dimension is largely concerned with the effective operation of the system of checks and balances and with due process in governmental decision making. The vertical dimension focuses instead on elections and other mechanisms that citizens use to control their government. See Guillermo O'Donnell, "Horizontal Accountability in New Democracies," in Andreas Schedler, Larry Diamond, and Marc Plattner (eds.), *The Self-Restraining State: Power and Accountability in New Democracies*, Boulder, Colo.: Lynne Rienner, 1999

<sup>33</sup> Catalina Smulovitz, "Citizen Insecurity and Fear: Public and Private Responses in the Case of Argentina" in Joseph Tulchin and Heather Golding (eds.) *Citizen Insecurity in Latin America*. Stanford University Press. (forthcoming).

<sup>34</sup> For an specific analysis of these cases see Catalina Smulovitz and Enrique Peruzzoti, "Societal and Horizontal Controls: Two Cases of a Fruitful Relationship" in Scott Mainwaring y Christopher Welna, eds. *Accountability, Democratic Governance, and Political Institutions in Latin America*

At the end of the military government Brazil witnessed the awakening, diversification and institutionalization of associative organizations. The awakening and diversification of the civil society gave rise to different associative forms that included changes in union organizations, the activation of grassroots church movements, the emergence of new urban social movements such as the "favelado" movement or the association of urban renters, and the activation of some professional associations such as the Orden de Abogados (Lawyers) and the Associacao Brasileira de Imprensa (Journalists).<sup>35</sup> After democratic transition, many of these movements saw their mobilizational capacities trimmed and became more institutionalized. However, as Murilo of Carvalho has noted these changes implied that "perhaps, for the first time, the word "citizen" is employed in a positive sense"<sup>36</sup>

As in other countries of the region, Brazil witnessed the emergence of a series of organizations with the goal of controlling and denouncing police violence and the social and political situations that facilitate increasing criminal activities. Their practice include denounces and campaigns in favor of the prohibition of arms sales and the support of community development programs. *Nucleo de Estudos da Violencia* from the Sao Paulo University and *Viva Rio* are some of the organizations associated with these practices. *Viva Rio*, for example, was created in 1993, after a series of violent acts took place in the city (a police massacre of eight boys at the doorsteps of a Church, the killing of 21 people in a favela and a violent fight among youthful bands in the beaches of Ipanema). This organization has been able to place the problem of violence as an issue of the public agenda and at the same time have developed actions that include the creation of "ouvidorias" for monitoring police behavior, municipal councils that deal with issues of public insecurity, and has been very active in the organization of community policing programs.<sup>37</sup>

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(forthcoming), Jacqueline Behrend, "Mobilisation and Accountability: A Study of Societal Control in the Cabezas Case in Argentina" mimeo, 2001.

<sup>35</sup> Murilo de Cavalho, José. *Desenvolvimento de la Ciudadanía en Brasil*, México, Fondo de Cultura Económica, 1995; Leonardo Avritzer, "Um Desenho institucional para o Novo Associativismo", *Lua Nova* #39, 1997.

<sup>36</sup> Murilo Carvalho, op. cit.

<sup>37</sup> Hilda Maria Gaspar Pereira, *The Viva Rio Movement: The Struggle for Peace*, London, Institute of Latin American Studies, 1996.

In the Chilean case, the mobilizational strategy presents some particular features. On the one hand, the fear of a breakdown of the political coalition that led the democratic transition and the existence of certain legal restrictions from the authoritarian period resulted in the demobilization of organizations that had been particularly active during the final years of the military regime. On the other, the persistence of the neoliberal policies has resulted in an increase in the fragmentation of different social actors. Movements (settlers, women and human rights movements) that in former years had achieved high visibility and political clout were weakened, some disappeared, others lost activists while still others stop awakening support.<sup>38</sup> In Chile, as is the case in Argentina and Brazil, new movements have emerged and others were transformed after transition took place. Among the new ones, it is worthwhile noting Grupo Iniciativa, an association of eight NGOs, with the purpose of overseeing the implementation of the Beijing Platform and the inclusion of its recommendations in state regulations. The activities of this particular group illustrate some of the ways in which formerly strong social organizations have reoriented, institutionalized and specialized their practices

In Colombia, between 1995 and 1996, the mobilizational strategy was used to oversee and control the Congressional procedures dealing with the impeachment of President Ernesto Samper Pizano due to possible use of drug moneys in the finance of his electoral campaign. More than fifty NGO's participated in this task (Fundepúblico, Viva la Ciudadanía, Fundación Social, etc.) In the nineties, the mobilizational strategy was also used to foster and oversee the peace process.<sup>39</sup> Civic organizations have been very active in organizing campaigns in favor of peace and against kidnappings. Their efforts have led to popular mobilizations with massive levels of participation.

Until few months ago, the Mexican institutional context was not particularly favorable for the oversight of governmental activities. However, in recent years mobilizations and campaigns carried out by different citizens organizations to control electoral frauds and to establish institutional conditions warranting free and competitive elections have been critical in fostering the democratization of the Mexican state. Social

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<sup>38</sup> Lucy Taylor, *Citizenship, Participation and Democracy: Changing Dynamics in Chile and Argentina*, London, Macmillan Press, 1998.

<sup>39</sup> For an análisis of the different peace social initiatives see Mauricio Romero, "Sociedad Civil, Cooperación y Movilización por la Paz en Colombia", mimeo, 2000 .

movements and NGOs have concentrated their efforts in electoral monitoring, in human rights oversight, in campaigns demanding transparency and access to public information and in monitoring public policy implementation. In the nineties, citizens actions denouncing electoral frauds, purchase of votes, partisan use of public agencies and funds have been constant and constitute the most salient and successful manifestation of the social accountability practices that have taken place in the country. This type of mobilization had had a clear institutional impact resulting in the modification of the traditional electoral practices of the PRI regime. In 1994, a number of NGOs and civic associations united and formed a new organization Alianza Cívica<sup>40</sup> to monitor the presidential elections. In election day, Alianza Cívica mobilized 37,000 citizens across the country. Although the electoral observation was not able to demonstrate the existence of generalized electoral fraud, it was able to denounce several irregular situations particularly at the local level, the inexistence of equal opportunities for access to public funds for parties as well as unequal opportunities for access to the media. Access to information, a key resource for the oversight of governmental actions was also a salient dispute in the Mexican context. On this regard, Alianza Cívica developed a campaign to monitor the use of the media by political parties, and another named "Adopt a Public Official", which required clearance of public information in order to oversee his actions.

### *II.3 Media Strategies*

As we already noted, to be effective "societal accountability" requires media visibility. In several of these countries the media is playing a central role in exposing and controlling governments. Many of the civic and social claims for legal equality, due process and judicial independence start to exert considerable pressure on political society only after attaining significant media repercussion. In some cases journalists have uncovered situations involving high ranking public officials, in others media investigators have used "secret cameras" to denounce bribes received by low level bureaucrats such as employees of a

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<sup>40</sup> Olvera, op. cit.

pension fund agency.<sup>41</sup> While in others, social movements, acknowledging the expanding effect of media interventions, take their case to the press in order to get public attention to their claims.

The use of the media as a control mechanism has raised certain concerns given that many times media accusations automatically become public sentences. Mediatic strategies rely on a soft form of punishment. Public disclosure of wrongdoing imposes social sanctions that can destroy a crucial resource for public officials: their symbolic capital or public reputation.<sup>42</sup> Experience shows that scandals have not only forced officials out of office, but have also led to a drastic end of their political careers. In democratic context, where the fate of political careers depends on electoral performance and public recognition, the threat of being socially stigmatized becomes a deterrent against illegal behaviors. However, the use of the media as a mechanism of control and accountability carries potential risks of individual rights: when the media draws attention to a case and “punishes” a suspect of wrongdoing, the steps of the legal process are inverted.<sup>43</sup> Finally, it has to be remembered that mediatic strategies have proven to be more effective as mechanisms of social accountability when they jointly interact with the other two mechanisms described.

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

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<sup>41</sup> See Waisbord, *Watchdog Journalism*, op. cit.

<sup>42</sup> John B. Thompson, "Scandal and Social Theory" in James Lull and Stephen Hineman (eds) *Media Scandals*. Cambridge, Cambridge University Press, 1997.

<sup>43</sup> See Catalina Smulovitz "Constitución y Poder Judicial en la Nueva Democracia Argentina. La Experiencia de las Instituciones" in Carlos Acuña, (Ed.) *La Nueva Matriz Política Argentina*, Buenos Aires, Nueva Visión, 1995, p.101.

The already mentioned cases of "María Soledad ", "Carrasco " and "Cabezas " are all paradigmatic examples of the way in which in Argentina social actors interact with the media in the making of claims. The "Maria Soledad case", for example started with a social mobilization that included the so-called "marches of silence" ("marchas de silencio"), silent mobilizations to the city's main square to press for an speedy investigation and an fair trial. Between 1990 and 1996, 82 marches of silence were organized in Catamarca.. The marches drew large numbers, reaching at a certain point 30,000 people in a province whose total population is 210,000 habitants. When the media "nationalized" the case 25 marches took place nationwide.<sup>44</sup> When the trial finally started, the media, in this case the television, also played a crucial and unexpected role as a guarantor of due process. The trial proceedings aired on open TV allowed the audience to recognize that the judges' decisions were favoring the indicted. Public exposure of these gestures led to massive demonstrations demanding a fair trial. After a few days the trial was suspended and a new trial with new judges had to be organized for a future date.

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

Another example of the interaction between the media and the mobilization of specific social groups in the Brazilian case are the working of the Comissoes Parlamentares de Inquerito. In many cases these Investigative Commissions on issues such as drug traffic and corruption had to be organized because social groups took their claim to the media who

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<sup>44</sup> *Revista Noticias*, Edición Especial # 18, April 2, 1996, "Movilizaciones: Reacción en Cadena"

gave them wide visibility forcing legislators to consider those questions that concerned the population. It has been noted however, that the media appropriation of these hot topics might have a paradoxical result. On the one hand, it might help to activate some horizontal mechanisms of control such as the parliamentary commissions, on the other hand, media appropriation of these demands might end up fostering social demobilization.

Another example of the interaction between the social mobilization and mediatic strategies for the exercise of control is the recent case involving the tapes of Vladimiro Montesinos that led to the fall of the Fujimori government in Perú. In September 2000, T.V. *Channel N* aired a tape, obtained by the opposition, showing Montesinos, head of the National Intelligence Service, handing \$15,000 to an opposition congressman in exchange of a switch of sides in order to give the government a majority in parliament. After the airing of the incriminating video tape, a dramatic change in the political atmosphere took place. Fujimori called for new and anticipated elections and he also announced that he was not going to be a candidate. In the following days, 2.500 new videos showing Montesinos in similar situations with other senior political figures were found at the National Intelligence Service. Some of them were also aired on open TV. Severely weakened by the press denounces and by the massive popular demonstrations against the government triggered by these denounces, Fujimori was unable to stay in power until the new elections took place. On November 19<sup>th</sup>, Fujimori resigned to the presidency, while he was in Japan and decided to extend his stay there indefinitely.

As it was mentioned, in some other cases the media has entered the scene autonomously giving public exposure and denouncing the commission of illegal acts. One indicator of this new role of the media is the growth in the prestige of investigative journalism and the increase in the number of journals and TV programs that include special investigative sections. (Pagina 12, Telenoche Investiga, Revista XXI in Argentina, Si and Channel N in Peru, Veja and Istoe in Brazil). In Argentina, for example, since the early 1990s the newspaper *Página 12* has advanced denounces, like the “Swiftgate” or the “Yomagate”, that implicated high level public officials and that led to the resignation of the denounced public agents.

Denounces made by the media include: secret cameras showing public agents taking bribes and videos showing a federal judge selling protection for smugglers. These are just a

few examples of the multiple denunciations made by the TV program *Telenoche Investiga*. The newspaper *Página 12* is another case to consider. Although it has a relatively small reach when compared with the main Argentinean newspapers, its regular exposes of corruption cases involving governmental agents, has helped to establish its reputation among the traditional press. Cases such as the “Swiftgate”, the “Yomagate” or “school children apron” or the “bad milk sales” were initially denounced by this publication to be spilled later on into the other dailies.

In spite of the criticisms about the way in which the media selects and arranges the cases it chooses to denounce, the impact that these exposés are having in controlling public behavior cannot be underestimated. At the beginning of 2000, the Court of the Buenos Aires province accepted a video recorded with a hidden camera by “Telenoche Investiga” as valid legal evidence. The video became the main legal evidence in a trial against the chief of a Police chief accused of demanding bribes from a local of a salesman<sup>45</sup>. And as it was already mentioned, the media initiated Ecuador-Peru arms sale scandal has led to the house arrest of former president Carlos Menem, and to the arrest of the former Armed Forces Chief of Staff while the also media initiated Senate scandal has led to the breakdown of the governmental coalition and the erosion of De la Rúa’s power.

Changes in the relationship between political power and journalism have also taken place in Colombia. On recent years, a series of processes have contributed to redefine and deeply change the profile of the media as social and political actor and to open it to new alliances with sectors of civil society. First, there was a transition from family management to company management that deeply transformed the structure of media property<sup>46</sup>. Second, there was a surge of a powerful investigative journalism throughout the 1980s. The success of the investigative journalism department of *El Tiempo* led to the development of similar ones in *El Espectador* and in *El Colombiano* of Medellín. These departments were later dismantled when journalists ended up kidnapped or dead by the denounced drug dealers. In the 90's some of these departments were reorganized, revitalizing the local boom of

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<sup>45</sup> See *La Nación*, February 16, 2000

<sup>46</sup> Gemán Rey, “Medios de Comunicación y Democracia en Colombia: Expansión, Conflicto y Política”, en G. Rey, *Balsas y Medusas. Visibilidad Comunicativa y Narrativas Políticas*, Bogotá, Cerec/Fescol/Fundación Social, 1998.



investigative journalism<sup>47</sup>. There have been denounces about corruption cases, and regarding human rights violations of displaced populations. Many of these cases (Dragacol, Colpuertos) have achieved great public repercussion, but the most well-known case was undoubtedly Process 8000<sup>48</sup>. It involved denounces and an investigation regarding the contributions made by the Cali Cartel to the 1994 Liberal electoral campaign. Two days after the election the TV program *24 hours* aired conversations between one Cali Cartel boss and a presidential aid dealing with money contributions to Samper's campaign. Pastrana, his opponent, urged the elected president to resign if charges were proven true. After the first denunciations new tapes were found and other journals and periodicals such as *Cambio 16* run new stories containing additional evidence linking the Cali cartel with politicians and military personnell. The judicial investigation took an important push in August 1994 when the Public Prosecutor was changed and the case move from Cali to Bogotá. The Prosecutor presented official denunciations against the President, and impeachment procedures were initiated in 1995 and again in 1996. However, in both occasions the House of Representatives voted against impeachment.

In spite of the repressive characteristics of the Fujimori government, investigative journalism has also been important in Peru. Investigative journalism has denounced the massacres of *Barrios Altos* and of *La Cantuta*. Channel 2 has informed about the unduly acquired assets of presidential advisor Vladimiro Montesinos, and others have revealed the murder of Mariela Barreto, the torture of Leonor La Rosa, the corruption taking place at the National Institute of Civil Defense (INDECI) and the existence of illegal telephone tapping. In many cases, denounces led to open and hostile conflicts between the media and government. The most salient example of this type of confrontation, originated as a consequence of several exposes made by the TV program "*Contrapunto*" regarding Montesinos. The dispute led to the retirement of the citizenship rights of Baruch Ivcher, owner of the TV station and to legal actions that made him loose control of Channel 2.

The revelation of the La Cantuta massacre was another of the numerous mediatic scandals that took place during the Fujimori. In 1993 the press denounced the murder by a clandestine group related to the National Intelligence Office of ten individuals at the

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<sup>47</sup> See Germán Rey, op. cit.

<sup>48</sup> See VV.AA. *Opinión Pública: Encuestas y medios de Comunicación. El Caso del Proceso 8000.* Bogotá, Ceper-Fescol, 1997.

University Enrique Guzmán. The newspaper *La República* gave wide coverage to the case. The Armed Forces officially condemned the newspaper and pro-governmental members of congress ended up acquitting the Armed Forces from all responsibility. However, an investigative team of the weekly magazine *Si*, discovered the place where the victims were buried. Culprits were then charged and condemned in 1994 to be later on released by a presidential pardon.<sup>49</sup>

Although in Chile, there are also some signs of active investigative journalism, specific institutional restrictions and property concentration have limited the scope of its impact. Three features characterize the media performance in Chile: the persistence of legal obstacles, the high concentration of its property and the conservative ideological orientation of most the media that has managed to survive the property concentration process. These characteristics have limited the capacities of the press to exercise control and have resulted in the virtual disappearance of an alternative press. A recent report of Human Rights Watch asserts that "freedom of expression in Chile is subject to restrictions that do not have parallel between the western democracies"<sup>50</sup>. These restrictions derive from legislation dating from the pre military period even though its more restrictive aspects were exacerbated during the authoritarian regime<sup>51</sup>. In 1998, these restrictions gave rise to a defamation trial against Alejandra Matus, a journalist accused by a Supreme Court Judge who considered he had been negatively mentioned in her book.<sup>52</sup> A sales interdiction was placed on the book and the journalist had to leave the country to avoid being put in trial. The property concentration process has also reduced the vitality and diversity of Chilean mass media. In the 80's respectable magazines such as *Cauce*, *Análisis* and *Hoy* were in circulation. All of them together with the newspaper *La Epoca* have stopped circulating due to financial difficulties. This concentration process has also taken place in the TV market.

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<sup>49</sup> Catherine Conaghan, "Entre las Amenazas y la Complicidad: el Estado y la Prensa en el Perú de Fujimori", in Fernando Tuesta Soldevilla (ed.), *El Juego Político. Fujimori, la Oposición y las Reglas*, Lima, Friedrich Ebert Stiftung; Efraín Rúa, *El Crimen de la Cantuta*, Lima, E.R.S. Ediciones, 1996.

<sup>50</sup> Human Rights Watch, *Limits on Tolerance Freedom of Expression and the Public Debate in Chile*, Human Rights Watch, USA, 1998.

<sup>51</sup> The State Interior Security Law establishes important punishments for those that defame the President, Ministers, Senators, Representative, member of the Supreme Court or Commanders of the Armed Forces.

<sup>52</sup> Alejandra Matus, *El Libro Negro de la Justicia Chilena* Santiago de Chile, Planeta.,1999.

Drake and Jaksic have mentioned that the result of media property concentration has been the reduction of spaces and alternative communications<sup>53</sup>.

In spite of this set of phenomenon, Chile also registers some cases of investigative journalism in the exercise of control. In addition to the already mentioned book by Alejandra Matus dealing with the operation of the judicial system, other books such as Patricia Verdugo's about a massacre carried out by military personnel<sup>54</sup> and Ramos and De Luigi's book regarding the murder of private Soto Tapia<sup>55</sup> have been published. Unlike the Argentinean and the Brazilian cases where the explosion of journalistic denunciations is deriving in a process of scandals fatigue, in Chile, due to the shortage of journalistic denunciations, those who manage to become known are likely to have high repercussion and public visibility.

### III. Conclusions

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

Different political and institutional contexts have directly affected the scope and relevance achieved by each of the societal accountability mechanisms. Under democratic regimes, and in spite of the institutional deficits mentioned in the literature<sup>56</sup>, the politics of

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<sup>53</sup> Paul Drake & Iván Jaksic, *El Modelo Chileno: Democracia y Desarrollo en los Noventa*, Santiago de Chile, LOM Ediciones, 1999.

<sup>54</sup> Patricia Verdugo, *Los Zarpazos del Puma: Caso Arellana* Ediciones Chile América, 1989.

<sup>55</sup> Marcel Ramos and Juan Guzman De Luigi. *La Extraña Muerte de un Soldado en los Tiempos de Paz. El Caso Soto Tapia*. LOM Ediciones, 1998.

<sup>56</sup> Guillermo O'Donnell, "Accountability Horizontal," *Agora. Cuaderno de Estudios Políticos*. Number 8 (1998), "Illusions About Consolidation", *Journal of Democracy*, volume 7, number 2 (1995), "Delegative Democracy", *Journal of Democracy*, Vol.5, #1 (1994), "On The State, Democratization And Some Conceptual Problems: A Latin American View With Glances At Some Postcommunist Countries," *World Development*, volume 21 number 8 (1993); Shifter, Michael. "Tensions And Trade-Offs In Latin America," *Journal of Democracy*, volume 8, number 2 (1997); Francisco Weffort, "What Is A New Democracy?" *International Social Science Journal*, number 136 (1993), *Qual Democracia?* (Sao Paulo, Companhia Das Letras, 1992); Laurence Whitehead,

societal accountability is expanding its presence. There are, however, important differences in the way in which societal mechanisms are developing in diverse democratic contexts. The type of transition has conditioned the extension and intensity of the use of the legal and mobilizational strategies. In pacted transitions, such as the one that took place in Chile, the development of these mechanisms was less important than in those other transitions, such as Argentina, where no previous pacts took place. Colombia, on the other hand, has some characteristics that distinguishes it from the new democracies. In this case, a political context characterized by widespread violence and high levels of contestation of the state authority has restricted the expansion of the politics of accountability.

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

Although the development of societal accountability is a regional phenomenon, there are national differences in regard to its strength and evolution in the different countries of the region. In some, such as in Argentina, a significant use of the three strategies (legal, mobilizational and mediatic) can be found. In others, the use of the three strategies has been uneven (i.e. Mexico). There are also differences regarding the specific evolution of each of the strategies. While in Peru, legal mobilization has taken place mainly through the use of new institutions such as the Defensoría, in others such as Colombia, Argentina and Brazil, the legal strategy has encompassed both traditional and ordinary legal

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"The Alternative To 'Liberal Democracy': A Latin American Perspective", in David Held (ed.) *Prospects For Democracy*, (Cambridge, Polity Press, 1993); Fareed Zakaria, "The Rise of Illiberal Democracy". *Foreign Affairs* # 76 (1997). For a critical overview of the delegative argument, see Enrique Peruzzotti, "The Nature of the New Argentine Democracy", op. cit.

procedures as well as institutional innovations such as the use of Defensoría, Acciones de Tutela, Acciones Populares or Amparo Colectivo.

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

Is the politics of societal accountability effective at strengthening accountability or it is just a noisy but toothless mechanism? This question is critical in so far as the notion of accountability is usually associated with the capacity to enforce decisions. We have already mentioned that the intensity and visibility of "voice"<sup>57</sup> is the main resource available for

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<sup>57</sup> Albert O. Hirschman. *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations and States*, Cambridge, Mass., Harvard University Press, 1970.

societal control. Many of the described initiatives consisted on exposing wrongdoings but lacked mandatory effects. For these reasons, some authors have regarded societal mechanisms as window-dressing rather than as real checks on power.<sup>58</sup> However, the fact that most societal mechanisms do not have mandatory effects does not mean that they cannot have important "material consequences". As we have shown, societal mechanisms impose reputational costs that may have very damaging political consequences. In contexts where political survival rests on the extension of support, public officials cannot easily disregard threats to their reputation. It could make a difference in their survival. Furthermore, societal initiatives are in many cases a necessary condition for the activation of mechanisms that have "teeth", such as the judiciary or congressional investigative commissions. Indeed, as it is the case in many poorly institutionalized Latin American democracies, unless societal mechanisms "turn on the alarm"<sup>59</sup>, vertical electoral and horizontal mechanisms do not start to work.

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<sup>58</sup> Andreas Schedler. "Conceptualizing Accountability", in Andreas Schedler, Larry Diamond, and Marc Plattner (eds.), *The Self-Restraining State*, op. cit. op. cit., pp. 19-28.

<sup>59</sup> Matthew McCubbins and Thomas Schwartz, "Congressional Oversight Overlooked: Police Patrols versus Fire Alarms," *American Journal of Political Science* volume 28, number 1, February 1984.

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