

UNIT 13 DEMOCRATIC CONSTITUTIONS AND INSTITUTION BUILDING

Structure

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13.1 INTRODUCTION

At the outset, few points need to be noted. For one, the wave of regime changes in Latin America in the 1980s does not guarantee the persistence of new democracies over the long run. The ‘third wave’ of democratisation may also, like the earlier ones in the post-1919 and post-1945 periods, eventually give way to non-democracies. Also, democracy is neither inevitable for ethical reasons nor necessary for developmental purposes. As stated earlier, it is however both desirable and possible in the contemporary era.

The failure to identify prerequisites and, in fact, mistaking many products of democratic experiments as prerequisites has led scholars to study the democratic breakthroughs in Latin America and elsewhere from a different perspective. The empirical perspective calls in attention to the strategic calculations, unfolding processes, and sequential patterns that are involved in moving from authoritarian regimes to democracy under conditions of non-violence and gradualism.

For Guillermo O’Donnell and Philippe Schmitter, democratisation is understood as a historical process with overlapping stages of transition, consolidation, persistence, and, may be, eventual deconsolidation. A variety of actors with different followings, preferences, calculations, resources, and time horizons come to the fore during these successive stages. For example, elite factions and social movements seem to play the key role in bringing an end to authoritarian rule and ushering in democracy. Political parties—though weak and faction-ridden—generally move to the centre stage during the transition as electoral activity begins. Business associations, labour unions, and state agencies become major determinants of the type of democracy that is eventually consolidated. Each one of these stages differs in the degree to which uncertainty prevails at each moment. During regime transition, all political calculations and intentions are highly uncertain. Actors find it difficult to know what their interests are; who their supporters will be; or who their allies are likely to be. Armed forces and their supporters, importantly the civilian bureaucracy and technocrats—all dominant actors in the erstwhile authoritarian regimes—become faction ridden, often debating as to what their institutional interests are and what their future role should be. Political parties, in view of the electoral prospects, become the main focus; and given the transition situation, they tend to appeal to the widest possible clientele—some times with extreme

and even outlandish promises.

The absence of predictable ‘rules of the game’ during regime transition expands the boundaries of contingent choices. In fact, the dynamics of the transition revolve around strategic interaction and tentative arrangements between actors with uncertain power resources, aimed at defining who will legitimately be entitled to play in the political game; what criteria will determine the winners and the losers; and what limits will be placed on the issues at stake? From this perspective, consolidation—and this is also the definition of the term—occurs when various actors have agreed broadly to the set of rules of the political game; and thereby settle into predictable positions and legitimate behaviour by competing according to mutually acceptable rules. Electoral outcomes may still be uncertain with regard to a person or party, but in consolidated democracies they are firmly surrounded by normative limits and established patterns of power distribution.

The notion of contingency (meaning that outcomes depend less on objective conditions than subjective rules surrounding strategic choices) in the current theorisation of democracy has the advantage of stressing collective decisions and political interaction that have largely been underemphasised in the earlier theoretical search for preconditions. But such an understanding of democracy has the danger of descending into excessive voluntarism if it is not explicitly placed within a framework of structural-historical constraints. While contingent choices are important in the emergence of democracy, the decisions made by various actors respond to or are conditioned by the types of socio-economic structures and political institutions already present. Historical and social factors restrict or enhance the options available to different political actors and in this way they are rightly described as the ‘confining conditions’ of democracy. To take an earlier example, land-owning oligarchy generally was seen as an impediment to democracy and an embodiment of authoritarian preferences, for instance in the countries of Central America. In countries such as Argentina, Chile, Costa Rica, and Venezuela, land-owning oligarchy, on the other hand, had declined for various reasons long before the advent of modern political democracy.

What is called for then is a path-dependent approach which could, and would, clarify how broad structural changes shape particular regime transitions in ways that may especially be conducive to (or especially obstructive of) democratisation. This needs to be combined with an analysis of how such structural changes become embodied in political institutions and rules, which subsequently mould the preferences and capacities of individuals/actors during and after the regime change. In this way, it should be possible to demonstrate how the range of options available to decision makers at a given point in time is a function of structures put in place in an earlier period; and, concomitantly, how such decisions are conditioned by institutions established in the past. The advantage of such an approach is evident when compared to some structural approach alone, which leads to excessively deterministic conclusions about the origins and prospects of democracy; or to a sole focus on contingency, which produces overly voluntaristic interpretations.

In sum, it is important and imperative to articulate the links between structures, institutions and contingent choices. Once it is done, it becomes apparent that the key arrangements made by key political actors during a regime transition establish new rules, roles, and behavioural patterns, which may or may not represent an important rupture with the past. These in turn eventually become the institutions shaping the prospects for regime consolidation in the future. Electoral laws once adopted encourage some and discourage others; models of economic development once initiated through some kind of a compromise between capital and labour systematically

favour some groups over others in patterns that become difficult to change. Thus what may appear to be temporary agreements in the beginning may persist and characterise a democratic regime over medium- and even long-terms.

13.2 MODES OF TRANSITION TO DEMOCRACY

The afore-mentioned observations are important for studying contemporary democracies in Latin America. Searching for preconditions is futile; and scholars have done well to concentrate on clarifying how the mode of regime transition (itself conditioned by the breakdown of authoritarian regimes) set the context within which strategic interaction took place; examining how these interactions in turn helped to determine whether political democracy will emerge and survive; and analysing what type of democracy is getting institutionalised or will eventually be institutionalised.

Thus it is important to distinguish between possible modes of transition to democracy. First, one needs to differentiate cases in which democracies are the outcome of strategy based primarily on overt force from those in which democracies arose from compromises. Second, one must also distinguish between transitions in which incumbent ruling groups, no matter how weakened, were still ascendant in relation to mass actors from cases in which mass actors had gained upper hand even though temporarily vis-à-vis the dominant elites.

The cross tabulation of these distinctions produces four ideal types of democratic transition: reform, revolution, imposition, and pact.

Latin America, at one point or another, has experienced all four modes of transition. To date, however, no stable political democracy has resulted from regime transitions in which mass actors had gained control even if momentarily over traditional ruling classes. Efforts at reform from below, which have been characterised by unrestricted contestation and participation, have generally met with subversive opposition from the traditional elites as in the case of Argentina (1946-51), Guatemala (1946-54) and Chile (1970-73). Revolutions generally produce forms of governance (Bolivia is an exception) but such forms have not yet evolved into democratic patterns of fair competition, unrestricted contestation, rotation in power, and free associability, although developments in Nicaragua have challenged belatedly this assertion. Thus far, the most frequent type of transitions and the ones, which have often resulted in political democracy, are 'transitions from above'. Here traditional rulers remain in control, even when pressured from below, and successfully use strategies of either compromise or force—or a mix of both—to retain at least part of their power.

Of the two modes of transition viz. imposition and pact, democratisation by pure imposition is the least common in Latin America—unless we incorporate cases in which force or the threat of force is applied by foreign as well as domestic actors. In Brazil and Ecuador, military used its dominant position to establish unilaterally the rules for civilian governance. Cases on the margin include Costa Rica (where in 1948 an opposition party militarily defeated the governing party but then participated in pact-making to lay the foundation for a stable democratic rule), Venezuela (1945-48) and Peru in 1980 (where the military's control over the timing and shape of the transition was strongly influenced by a mass popular movement), and Chile (where the military's

unilateralism was curbed somewhat by its defeat in the 1988 plebiscite).

Where democracies that endured for a length of time are those where relatively strong elite actors had engaged in strategies of compromise. This includes Venezuela (1958—), Colombia (1958—), the recent re-democratisation in Uruguay (1984—) and Chile (1932-73). What unites all these cases is the presence of ‘foundational pacts’ between contending actors, which define the rules of governance on the basis of mutual guarantees for the vital interests of those involved. In contemporary cases—characterised by more developed organised interests, the presence of mass parties, stronger military capabilities, and a tighter integration into the international market—*pactismo* may prove essential for the transition to democracy.

The ‘foundational pacts’ underlying some new democracies have several essential components. First, they are necessarily comprehensive and inclusive of virtually all politically significant actors. In such pacts, contending actors agreed not to threaten each other’s vital interests. In this way, a typical foundational pact is actually a series of agreements that are interlocking and dependent upon each other. It necessarily includes an agreement between the military and civilian over conditions for establishing civilian rule; an agreement between political parties to compete under the new rules of governance; and a social pact between state agencies, business and labour regarding property rights, market arrangements and distribution goals. Secondly, such pacts are both substantive and procedural. They also include initially rule making because it involves ‘bargaining about bargaining’, which is the first and the most important stage of compromise. Only after contending forces have agreed to bargain over their differences can the power-sharing which leads to consensual governance result. This initial bargain lays the basis for mutual trust; and the very decision to enter into a pact can create habits of pact making and an accommodative political style. Such foundational pacts must also be differentiated from smaller, more partial, managerial accords for instance the neo-corporatist production agreements between labour and capital. Finally, these pacts ensure survivability. Although they are inclusionary, they are simultaneously aimed at restricting the scope of representation in order to reassure traditional dominant classes that their vital interests will be respected. In a sense they are anti-democratic mechanisms, bargained by elite, which seek to create a deliberate socio-economic and political contract that demobilises emerging mass actors while delineating the extent to which all actors can participate or wield power in the future. They may accomplish this task by restricting contestation (as in Colombia between the two parties to share power alternately) or in Venezuela since 1958 when the two parties agreed to implement the same economic programme. Foundational pacts bring stability in the short and the medium term but may cause instability. In the long run, foundational pacts become rigid and moribund as new social groups are practically barred from entering the public political arena and democracies begin falling short of popular expectations. This precisely is the root cause of structural crisis facing democracy in Venezuela, Colombia and Uruguay.

13.3 PATTERNS OF THE DEMOCRATIC ‘TRANSITION’

The following five patterns can be identified:

1. In the current phase of democratic transition, some countries underwent ‘democratisation’, while for most it was a case of ‘re-democratisation’. Countries such as Argentina, Brazil, Chile, Peru, Ecuador, and Uruguay were all democracies when armed forces staged coups

to overthrow the elected governments. For these countries, it was a case of 'redemocratisation' in the 1970s and the 1980s. Then, countries such as Mexico, Haiti and those in Central America have in fact experienced a slow and incremental 'democratisation' after living for most of their political history under one or the other kind of authoritarian rule.

2. The manner in which transitions took place is also important. Brazil and Chile had transition pacts; while Argentina had had a 'chaotic' transition. Mexico's took a very long path towards a slow and incremental democratisation under the supervision of the ruling Institutional Revolutionary Party, while in Peru, transition began with the military getting unnerved over the economy begun unraveling.
3. In the developments leading to the transition, practically in all the countries the most noticeable feature was the search for compromise and consensus among various civilian elements—political parties, church, trade unions and other groups—as to the nature and shape of the post-military elected governments. Since the transition was taking place in the backdrop of severe economic crisis and opening of the economy, the influence and role of private business had been felt overwhelmingly practically in all the cases of transition. Of these, significant was the 1985 Pact for Democracy in Bolivia, which united the government and the leading opposition behind a programme for some harsh economic policies. The consensus on a programme for economic liberalisation including privatisation of state-owned enterprises continued even after the elections of 1989 when the right-wing *Accion Democratica Nacionalista* (ADN—National Democratic Action) agreed to form a government of national unity. When the military government in Chile decided, as per the military constitution of 1980, to hold a referendum in 1988 to the continuation of General Augusto Pinochet, a sixteen party coalition, representing the entire political spectrum, united behind the one-liner 'Campaign for No' to Pinochet. The same 'rainbow' coalition won the congressional and presidential elections held in 1989 with Patricio Aylwin becoming the first elected president since the overthrow of democracy in 1973. A somewhat similar development was witnessed in Nicaragua. Supported and funded by the US administration and Nicaraguan business sector, the anti-Sandinista forces regrouped in a *concertacion* leading to the surprise victory of Violeta Chamorro in the general elections held in 1989. In Argentina, the Radical and the Peronist parties buried their age-old animosities and agreed to a series of constitutional amendments. Given the severity of external debt obligations and the economic downturn in the early 1980s, the two parties—forgetting their middle class and labour supporters and agendas of social justice, etc.—agreed on the need to introduce some very unpopular anti-people economic austerity measures. In Uruguay, the *Coincidencia Nacional* formally included the opposition parties and groups into a coalition government in 1990. In Colombia, several leftist insurgent groups agreed to join the electoral political mainstream; besides, the two main political parties viz., the Liberal and the Conservative agreed to end their thirty-year old monopoly over power and worked together in drafting a new democratic constitution in 1991. After the 1982 elections in Brazil, the opposition Brazilian Democratic Movement Party (PMDB) heading the pro-democracy coalition of myriad civilian parties and groups negotiated with the military regime for the further liberalisation of the political process including an indirect election for a civilian president in 1985. The 1988 presidential election in Mexico was one of the most hotly contested elections in the history of Mexico. The ruling Revolutionary Institutional Party (PRI) which had won every election since 1929 stood split for the first time in the 1988 election, with the splinter group becoming the Democratic Revolutionary

Party (PRD). In the aftermath of the elections—which were once again rigged in favour of the PRI—president Carlos Salinas de Gortari nevertheless sought to build a partisan consensus on the pace of political and electoral reforms and on the need to liberalise the Mexican economy.

4. Thus nearly everywhere, civilian political forces were looking for compromises and consensus. Many had shed their ideological rigidities and were looking at the prospects of democracy with pragmatism. Many, who had survived the long and repressive rule of the armed forces, for instance in Chile, had interest in holding onto the ‘limited political opening’ the military regime was offering. Others were buoyed and propelled forward by a change that was deep and rooted among the citizenry in general. Civic action groups calling for observance of human rights, preservation of environment, women’s rights, etc., the independent labour unions that arose in defiance of military repression, and the wave of strikes and popular resistance that had erupted for instance in Brazil in 1979 were symptomatic of the fact that the grass-roots movements were determined to seize the military regimes’ agenda of ‘limited political opening’. In Brazil, such actions in the realm of civil society had culminated in the popular demand and mobilisation for *diretas ja*, that is, the demand for a direct presidential election in 1982. Such grass roots activism upset the military’s own time table for indirect presidential elections that could be held finally only in 1984. At the same time, it is important to know that such popular pressures and expectations in most of the countries made the political parties and civilian leadership sit up and acknowledge that a mere change to a civilian rule will not be enough and that elected governments will have to pay serious attention to the question of participation and representation and problems of inequalities, unemployment, etc. In other words, mere ‘electoralism’ or political liberalisation in the name of democracy will not do. Social movements made a brave effort to convert political liberalisation into democratisation everywhere.
5. Similarly, compromises and pacts were attempted between the departing military regimes and future civilian leadership as to the mode and time-table for a peaceful transition as well as for the nature and domain of the post-transition governments.

13.4 POLITICS OF ‘TRANSITIONAL’ DEMOCRACIES

The process of democratisation/ re-democratisation raised several immediate issues.

In fact, not many had expected the current wave to last for long. Most analysts were concerned with devising policies and identifying general political orientation of the political actors and institutions so as to maximise the chances of survival and consolidation of democracy. The sizeable literature on transition that has emerged is concerned mainly with the questions about the character and prospects of the process of democratisation. Another set of literature has examined the causes that led the armed forces to withdraw from power and their new role under the civilian rule. Some of the writings indicate that factors that explain the withdrawal of armed forces from power do not necessarily explain the onset of democracy. Many others are concerned with the shape and form of political democracy—how superficial or deep-rooted it would be; as some others are concerned with the pressing needs for reviving the economic growth, or highlighting the strength of popular demands and movements for economic redistribution.

It is worthwhile to present briefly some of the leading analyses of the transition. Among the first leading analyses of 'transition' was the one by James Malloy and M. Seligson. Having earlier analysed the persistence of authoritarianism and corporatism as the political expression of the 'crisis' of 'delayed dependent capitalism' in Latin America, James Malloy found not many reasons to be optimistic about the 'transitional' democracies of the 1980s. Taking a political historical view, he argued that there is no unilinear tendency toward democracy or towards authoritarianism in Latin America. Rather, the "predominant pattern is cyclical" with alternating democratic and authoritarian "moments". The present moment is one more turn of the wheel. He argued that the underlying forces, which generate alternation between authoritarianism and democracy, remain very much in the political milieu of the 1970s and the 1980s. On why does this cyclical alternation take place, Malloy argued that the case to case diversities are so significant that no general model or theory of the shifts between authoritarianism and democracy can be built. Unlike his analysis of bureaucratic-authoritarianism, Malloy interestingly agreed that there is a link between economic issues and regime shifts but this linkage is neither deterministic nor insurmountable. In the present shift towards democracy—and this is the most significant argument proffered by Malloy—"there is a key voluntary dimension to the process." In other words, 'transition' owes much to the "concrete behaviour of critical civilian leaders", who had often failed in the past because of their ideological rigidities or political intransigence.

The circumstances and nature of transition, Malloy states, demand certain amount of caution and circumspection on the part of the civilian regimes: Elected civilian leaders, having so strongly 'willed' for democracy would have to work under 'constraining situations'. They need to be prudent if the present phase of democratisation is to last reasonably long. These 'prudential rules' pertain to economic and political issues facing democratic regimes. Instead of looking for some definitive and radical solutions, for instance, to the issues of poverty and unemployment and human rights abuses by the armed forces, elected regimes would do well for themselves and for the future of democracy if they searched only for some short-term resolutions. In other words, democracies have to observe caution and pragmatism, and find short-term 'way-outs' (*salidas*) rather than go for some final structural solutions that will only invite confrontation with the forces of authoritarianism. Secondly, given the constraining situations in practically all the Latin American countries, there are going to be only hybrid regimes in the transitional phase. Democratic regimes will assure political participation and maintain civil liberties, while giving the executive quasi-authoritarian powers in times of crisis. This calls for some constitutional engineering. Elections, in order to become meaningful, must be related to the effective functioning and role of the legislatures. Broad legislative coalitions are the need of the hour to breed national consensus on contentious issues. These could underpin strong presidencies; and, at the same time, shape a consensual policy-making process. Political parties need to shun their narrow constituents and instead, mediate between the socio-economic groups and the powerful presidency. Military and civilian leaders will have to compromise and form *de facto* coalitions so that the armed forces find it in their own interest to back a strong civilian regime in times of crisis.

These and other 'prudential rules' are necessary for the prolongation of the present phase of democracy and prevention of the return of authoritarianism. An electoral democratic regime with a quasi-authoritarian presidency is the single flexible regime form, which is best suited to the present context. One may hope that such a regime would muddle through successive crises as they arise, prolonging the present phase of democracy. Otherwise, forces and impulses that generate democracy and authoritarianism alternately are strong and immutable in Latin America;

and the best one hopes for is to learn to live with them.

In yet another analysis, Guillermo O'Donnell had argued that notwithstanding the advent of democracy, the socio-economic and political fundamentals remain unchanged in the region: armed forces continue to play a central role in the political process; the historical roots of democracy remain shallow and its character ambivalent; social and economic inequalities have only exacerbated; and there remain absent the political and economic pacts between significant political actors and economic forces. On the last point, his argument was that various actors and interests particularly the popular sectors such as labour remain organised and politically entrenched and that political parties have not been able to establish their domination over these organised groups. Amidst such a dismal scenario for democracy, however, there is one striking and positive transformation that has taken place. And it is the new and positive region-wide evaluation of democracy itself. The long and repressive phase of bureaucratic authoritarianism has brought about this change in the outlook of all significant political forces. Now, most political and cultural forces of any weight attach intrinsic value to the achievement and consolidation of political democracy. Even the extreme radical forces for whom electoral democracy had little meaning in the past now realise the virtues and values of electoral democracy in terms of its—no matter how limited—civil liberties and political participation; so do conservative forces including church and business who also could not escape the high-handedness of military rule.

A second noteworthy aspect of O'Donnell's analysis is the scope for purposive human action for enhancing the prospects for the consolidation of democracy. Like Malloy and Seligson, O'Donnell also returns to the theme of 'voluntarism'.

O'Donnell and Schmitter both have advised that transitional democracies should not tinker with the 'property rights of the bourgeoisie'. Besides, the institutional interests and privileges of the armed forces should not be touched. The realistic alternative for the broad left-oriented parties and movements is to accept the above limitations and hope for better opportunities in the future to effect radical social change. In line with these prognostications, O'Donnell and Schmitter have advised that for the sake of the survival of democracy, social and economic reforms must be ruled out during the transition period; the military must be given a creditable and honourable national role with its resources and budgets and professionalism guaranteed by the democratic regimes; and the business associations and labour unions must work out mutual understandings and production pacts to tide over the economic crisis; and, popular mobilisation and grass-roots movements must be limited and tamed through elections; and finally, political parties should work not as agents of mobilisation but as instruments of social and political control during the transitional phase. Above all, rightist and centrist political parties must be 'helped' to win elections; and nowhere leftist or centre-left parties should win by an overwhelming majority.

In sum, most analyses of democratisation have advised caution and conservatism so as to exclude any significant social or economic content in the name of protecting political democracy. In the first place, it was argued that political democracy by itself is valuable. It was feared that if the democratic regimes begin advancing the agenda of social and economic democracy during the transitional situation itself, they might—rather surely would—invite authoritarian interventions. Anyway, to attain greater social and economic democracy, Latin America requires installation of popular authoritarian regimes that would respect neither individual rights nor democratic procedure. Secondly, electoral democracy is compatible with social and economic change, and electoral

regimes would be better placed to introduce some incremental reforms, if not now then in the future. Incremental and consensual introduction of economic democracy and social change—since they are more compatible with values of electoral democracy—are likely to have more enduring effects than any premature attempt at radical change. What is advised is the sequencing of piecemeal reforms in response to a wide range of political pressures and policy calculations. In short, O’Donnell and Schmitter presented a double argument: radical social and economic change now would be destabilising and anti-democratic; while more lasting gains may be made by incremental reforms in the future without prejudice to political democracy. They did not offer any solution to the social and economic crisis of the 1980s; instead they advised faith in ‘possibilism’. In other words, democracy holds ‘possibilities’.

In short, the literature on transition has not hoped much out of the present phase of democratisation/re-democratisation. The notable feature in Malloy is the new-found voluntarist commitment of the civilian elite to abide by electoral democratic game; and in O’Donnell and Schmitter, it is the new valuation of democracy per se among various contending political forces.

For Malloy, transition to consolidation was to be a discontinuous phase while O’Donnell has made a clear distinction between the two. Given the transitional and ephemeral character of democracy and lurking authoritarian forces, scholarly analyses have generally suggested transitional regimes to tread with caution, conservatism and consensus. The best course, they suggested, was to form the ‘centrist’ governments of grand ‘rainbow’ coalitions, concertation with minimum programme of safeguarding the electoral-democratic turf and postponing the agenda for deepening the democracy to social and economic areas. Civilian elite and political parties have to accept capitalism as the dominant mode of production and recognise the rights and role of both the national bourgeoisie and the foreign capital. Importantly, all transitional regimes needed to pact and compromise with the institutional interest and a political role for the armed forces. It was expected that in case, and as and when, these transitional regimes consolidate, country-wise patterns of consolidation would be very different. So, common circumstances of birth would differ from the diverse patterns of democratic consolidation. In the end, while some common generalisations can be proffered about the transitional phase, the same cannot be said with certainty about the consolidated democratic regimes.

Analysts, not only Malloy and O’Donnell, but also others like Enrique Baloyra, have uncannily put at store the role of politics and ‘political will’ as an independent variable facilitating the transition to democracy. This contrasts sharply with the analyses of bureaucratic authoritarianism where historical structural constraints were presented as the bases of the emergence of military rules in the 1960s and the 1970s. One may need to explore the terrain upon which structural constraints and ‘political will’ meet face to face. In other words, political scientists would need to know the defining constraints and limitations of socio-economic and political structures which have shaped the political choices and thereby the characteristics of transitional democracies. It is equally imperative to know the institutional set-ups that have facilitated the transition from authoritarian rule as well as institutional arenas in which democracies are working. Also, it is not enough to advise muddling through or a piecemeal approach to historical inequalities and injustices without knowing the structural features of the economies and societies, that have bred repression and inequalities, and now under democracies are said to be holding some hope for incremental reform and justice. Literature on transition saw some uniformity in the patterns of transitional regimes and therefore has suggested some common policy prescriptions.

13.5 CHARACTERISTICS OF TRANSITIONAL REGIMES

In conclusion, in understanding the 'transitional' regimes, one finds that analyses are a mix of normative characterisation and actual shape transitional democracies took in Latin America. Some aspects, it was observed, were common to all transition regimes, possibly because they faced certain common situations at the time of the birth. (i) In nearly all countries, there had emerged during the military rule itself very broad coalitions, spread virtually across the political spectrum that had favoured the return to civilian rule. (ii) Transitional regimes everywhere had a conservative orientation on the question of immediate social and economic reforms. Once in power, democratic elite everywhere advised the grass-roots elements of civil society not to press even for minimum social and economic reforms on the pretext of the 'return' of authoritarianism. (iii) Armed forces continued to claim extensive rights of intervention and oversight. In fact, in most countries, their immunity and preservation of their institutional interests were part of the military-civilian pacts leading to transition. Besides, transitional democracies found military immunity and its political role under civilian rule legislated or guaranteed by the constitutions. As democracies 'consolidated', there is no change in the entrenched rights and privileges of armed forces in all these countries. (iv) Since political democratisation was taking place in the context of deep economic recession and external debt obligations, democratic regimes were obliged by international creditors and lending agencies as well as by the upper echelons of domestic business to introduce stabilisation measures that put the cost of adjustment on the popular classes. The 'consolidated' democracies have only seen the ever-growing power and role of the corporate sector and sometimes, even its direct participation in the electoral political process.

The transitory characteristics of the regimes were obviously not expected to last long. But they have. These were unstable states of transition, which have 'consolidated' more or less as it is. It was expected that once the common transitional situations are over, specific country differences would mark the process of consolidation. But they have not. This tells us something about the nature of democracy in Latin America; and ironically, about the academic analyses too.

Analysts were also identifying as to which one of the Latin American countries would be the first to revert to military authoritarian rule. In a sense, none has. Wherever armed forces have threatened or actually carried out a coup, as in Haiti, regional and inter-American institutional pressures have sooner or later reversed the trend. It was also argued that once the transitory situations faded, electoral dynamism would also generate more differentiated political parties who would be offering alternative programmes of social and economic reforms so as to combine the interests of the dominant classes with some demands of the dominated sections of the society. Contestation is the essence of electoral democracy; and secondly, to garner and maintain support and legitimacy, various regimes had to offer something to those sections of the society who had been reeling under the impact of economic dislocation caused by the prolonged recession. Admittedly, it is not the political process but deep economic crisis that, as for instance in Brazil and Argentina in 2002, has forced elected governments to pay some heed to social and economic issues. Process of differentiation of political forces and a reform agenda in the electoral arena are sure signs of transitional democracies becoming 'consolidated'. But these democracies have been declared 'consolidated' without the above elements. Alfred Stepan has also added a stable civilian-military relationship under civilian rule, if democracy is to be consolidated. As stated elsewhere in this Unit, armed forces retain their institutional privileges and position of the 'transitional'

period; and in some countries are even able to pressurise the ‘consolidated’ democracies.

Be that as it may, the current phase of democratisation has proved more enduring than the earlier attempts. The ‘third wave’ of democratisation is much larger and deeper than the ‘second wave’ of the 1950s. And that makes the task of studying the ‘consolidation’ process much more important.

13.6 DEMOCRATIC CONSOLIDATION

After the foundational elections of the late 1970s and early 1980s, scores of Latin American countries again went to polls in 1989-90, electing new presidents and legislators. For some of the countries, it was an unprecedented development to have one civilian government to be handing over power to another elected civilian government. It is after the second round of elections that scholars began writing about the ‘consolidation’ of democracy in Latin America.

Countries such as Brazil, Colombia, Peru and Venezuela have written new constitutions, while others such as Mexico and Argentina have amended their constitutions. Alongside, new democratic institutions have been created or the existing ones revamped. In particular, consolidated democracies have tried to rework the executive-legislature relations. In a marked departure from the past, legislatures have begun using their constitutional powers to check and balance the presidents. In some of the countries, this has been on account of the fact that presidents had to build coalitions in the legislatures to carry out their policies. Sometimes, they find opposition parties commanding majorities in the legislatures; at others, contentious issues particularly those related to the privatisation of public sector enterprises had required constitutional majorities in the legislatures. Be that as it may, the interesting aspect of institutional renovation was the ascendance of the legislatures and checking the arbitrary powers of the presidents. Presidents in Brazil and Venezuela had even to face the impeachment; elsewhere in Guatemala and Bolivia, their actions have been censured by the legislatures. Revamping judiciaries has also been underway in most countries. Here, perhaps not so much respect of civil liberties and constitutional norms of governance but imperatives of economic liberalisation have fostered the process of judicial reforms. An independent judicial system that is premised on the rule of law is among the first of the prerequisites of economic liberalisation process. Foreign investors look for institutional guarantees and a transparent judicial system for their business operations. Another area of notable change is the relationship between the federal and provincial governments. Larger Latin American countries had been formally federal but had never experienced any real division of power. One of the areas of reform under democracy is the restoration of provincial and municipal jurisdiction. In the case of Brazil, the 1988 Constitution recognises three-tier government with municipalities having their own revenue-generating and expenditure-related responsibilities.

Many other institutional innovations have also been effected in the consolidated democracies. Nearly a dozen countries have created the office of ombudsman with varied responsibilities including receiving complaints from the citizens and developing legislation to advance human rights. There is a greater sensitivity towards gender equality and representation. A 1991 law in Argentina stipulates that 30 per cent of candidates on each party’s list for the chamber of the deputies would be women. From 1991 to 1993, the share of seats in the lower house held by women had risen from 5 to 21 per cent; and by 1995, it had gone up to 28 per cent. In 1995, the Brazilian congress had also issued comparable electoral rules for municipal elections; and Costa

Rica and Uruguay have had similar proposal to grant 30 per cent of legislative seats to women.

For the first time, many countries are describing themselves as multicultural societies, and according constitutional guarantees to the collective rights of land and governance of the indigenous communities. Peru has elected an indigenous as its president, the vice president of Bolivia was an Ayamaran Indian, and Colombia, Guatemala and Venezuela have representation of the indigenous in the national legislatures. Enfranchisement has expanded with the removal of literacy requirement, reduction in voting age, and voting rights for the indigenous communities, etc. In the 'second wave', voting right had not extended beyond one third of the regional population. Between the presidential elections of 1980s and 1985 in Peru for instance, the size of the electorate did increase from 25.7 to 39.4 per cent of the national population. Similar expansion of the electorate, besides high turn out of the voters on the Election Day, has been witnessed practically in every country. Some other institutional innovations are also being experimented with a view to ensure transparency and accountability in democratic governance. The 1991 Constitution of Colombia, for instance, provides for *tutelas*, which guarantees citizens recourse to judicial remedy in case of infringement of fundamental rights. Leading countries have instituted human rights commissions and investigative mechanisms to ensure administrative compliance with human rights.

While the abovementioned innovations are welcome, scholars continue to express skepticism about the effects of these constitutional and institutional innovations. The truth is that consolidated democracies continue to be shaped by the patterns, mechanisms and processes that were involved in the transition. The role and position of presidency has become even more entrenched.

Transition regimes in Argentina, Chile, Peru, Ecuador, Guatemala, Honduras, El Salvador, and Nicaragua were initially fragile civilian—some even militarised civilian—regimes. They were faced with the overwhelming problem of sheer survivability, with the omnipresent threat of a military coup. It was argued that a coup might be provoked by intense partisan political disagreements, by the inability of political parties to manage the national economic crises, by the actions of anti-system elite, by mass mobilisations intended to escape the domination of traditional elite, or by the threats to the corporate interests of the military itself. While in countries such as Chile, military had ensured its control over the economic resources and immunity for its intelligence agencies, there was always the possibility of military getting indicted for its human rights abuses. Uncertainty over rules of the game had prevailed in these fragile democracies. Civilian rulers were hard pressed to find mechanisms that could limit this uncertainty especially by reducing incentives to the military. This suggests that there were two critical tasks that initially faced the Latin American democratisation: first to arrive at a sufficiently strong consensus about the rules of the game (including institutional formalities guaranteeing respect for certain crucial but minoritarian concerns) so that no major elite felt tempted to call upon the military to protect its vital interests. Secondly, to begin to design conscious strategies for the establishment of qualitatively new civil-military relations appropriate to future stable civilian rule. This was probably easier to accomplish in the economically more developed countries where the armed forces know the importance of managerial and bureaucratic elite than in smaller ones where the armed forces might still entertain the self-belief in their own ability to come to power.

Other types of democracies in the region including Costa Rica, and more recently Brazil and Uruguay are relatively consolidated in the sense that the actors are not so preoccupied by the overriding concern with survivability. Rather, the challenge that confronts most of these polities

(and that will certainly confront new democracies as preoccupation with mere survivability recedes) is in providing some new and better resolution to the ancient question of ‘who benefits?’ This is especially important in countries where, for reasons of development strategies of the immediate past, the extension of citizenship and equal political rights is to take place in the context of deepening economic inequalities.

The relationship between survivability and who benefits may well be the central dilemma of consolidated democracies in Latin America. But there are innumerable problems here. To ensure the survivability of a fragile democracy, actors had entered into all kinds of compromises and agreements, but those compromises and agreements have become permanent affecting as to who gains and who loses during the consolidation of democratic regimes. Now, for instance, given the domination of corporate business, any attempt to alter the pattern of economic distribution may affect the survivability of the regime; at the same time, decisions not to redistribute cannot be postponed for long as vast sections of populations have lost or losing their previous standards of life. This is also true of political and citizenship rights. How long can democracies remain illiberal and authoritarian? There are popular expectations and pressures for democracy to shun arbitrariness and subject itself to the rule of law. In the long run, commitment to democracy in part rests on the widely held convictions that economic benefits will be more fairly distributed or the general welfare would overall be improved through democratic methods and manners.

- i) It is assumed and argued strongly that democracies, when further down the road, are capable of self-transforming both the economy and the polity. Ironically, the conditions that permit democracies to persist in the short term may constrain their potential for resolving the enormous problems of poverty and inequality that continue to characterise the continent. Indeed, it is reasonable to hypothesise that what occurs in the phase of transition or early consolidation may involve a significant trade off between some form of political democracy on the one hand and equity on the other. Thus even as these democracies guarantee a greater respect for law and human dignity when compared to their authoritarian predecessors, they may be unable to carry out substantive political and economic reforms that address the question of participation and well-being of their poorest citizens. And this, precisely, is happening. Democracies are becoming ‘frozen’ democracies unable to address the redistributive and participatory issues.
- ii) Second, while this may be the central dilemma of elite-ascendant processes of democratisation, there may be important differences between countries like Uruguay—a pact transition—and Brazil—a unilaterally imposed transition. Pact democracies, whatever their defects, have been hone through compromise between at least two powerful contending elite. Thus, their institutions should reflect some flexibility for future bargaining and revision over existing rules. In Uruguay, for instance, while the agreed-upon rules made it very difficult to challenge agreements between the military and political parties on the issue of amnesty for crime committed during the military rule, the left opposition excluded from this agreement was nevertheless able to force the convocation of a plebiscite on this major issue, which it subsequently lost. It is difficult to imagine anything like this in Brazil. The military had exercised almost complete control over transition and it never curtailed its own prerogatives, so it fully agreed to the principle of civilian control. The contrast between Brazil and Uruguay raises a hypothesis: to the extent that transitions are unilaterally imposed by armed forces, which are not compelled to enter into compromises; they threaten to evolve into civilian

governments controlled by authoritarian elements that are unlikely to push for greater participation, accountability or equity. Paradoxically, in other words, the heritage of ‘successful’ authoritarian experiences may prove to be major obstacle to future democratic self-transformation.

- iii) Third, the attempt to assess possible consequences of various modes of transition is most problematic where strong elements of imposition, compromise, and reform are simultaneously present; that is to say, where neither the incumbent elite nor the newly ascendant power contenders are clearly in control and where the armed forces are relatively intact. This is the case in Argentina and Peru. Given the defeat of the Argentine military in the 1982 war over Malvinas/Falklands Islands, the high levels of mass mobilisation during transition, and the absence of pacts between civilian political elements and the armed forces on one hand and unions and employees on the other, Argentina combines elements of several modes of transition. Such a mixed scenario, while perhaps holding out the greatest hope for political democracy and economic equity, may render a consistent strategy of any type ineffectual and thus lead to the repetition of Argentina’s persistent failure to consolidate any type of regime. The prospects for failure are even greater in Peru. Given the absence of explicit agreement between the leading political parties, the possibility of mass mobilisation in the midst of economic depression, the presence of armed urban and rural guerilla struggles, and a unified military, Peru remains the most fragile of democracies in South America.
- iv) Fourth, because democracies generally arise from a compromise between contending organised elite that are unable to impose their will unilaterally, or the unilateral action of one dominant group usually the armed forces remains decisive, this does not bid well for democratisation in situations in which the armed forces are inextricably tied to the interests of a dominant and anti-democratic agrarian classes. Guatemala and El Salvador in particular are characterised by a landowning elite whose power, for centuries, is based on labour repressive policies and a partnership with military, thereby making it unlikely that their military will tolerate comprehensive political competitiveness, civil liberties or accountability. Given the US pressures and international mediation in the ongoing peace process, at the most likely, these countries will be examples of electoralism—regular elections even as the regimes restrict certain key political and civil rights of the citizens.

These observations lead to the types of democracies, which are largely shaped by the modes of transition in Latin America. These observations suggest that democratisation by imposition is likely to yield conservative democracies that cannot or will not address equity issues. To the extent that imposition originates from outside—governments or/and agencies—the result is likely to be some form of electoral authoritarian rule. Such regimes are likely to institutionalise sooner than later. The point is whether these should be considered as democracies at all. Democracies which are the outcome of pact transitions are likely to produce corporatist or consociational arrangements in which party competition is regulated to varying degrees determined in part by the nature of foundational bargains. Such democracies are also likely to institutionalise sooner rather than later. Transition through reform is likely to bring about competitive democracies whose political fragility paves the way for an eventual return to authoritarian rule. Institutionalisation is a contested issue and becomes subject to partisan competition.

There is no *a priori* reason why one type of democracy cannot be transformed into another

type. That is why electoral authoritarian regimes cannot evolve into conservative or competitive democracies; or why corporatist democracies cannot, someday, become more competitive ones. Given the frequency of *pactismo* and the gravity of the economic equity problem, the latter scenario is especially important. While the pact transitions establish an improvisational institutional framework of governance that may become a semi-permanent barrier to change, this framework is subject to further modification in the future. Such modifications may be brought about preemptively when some ruling groups having experienced the advantages of democratic rule become more inclined over time to seek to accommodate potential pressures from below rather than suppress them; or it may occur through the direct pressure of organised social groups. In either case, democratisation can prove to be an ongoing process of renewal.

The notion that one type of democracy may gradually evolve into a qualitatively different type suggests that the dynamics of democratic consolidation must differ in important ways from the dynamics of transition if 'freezing' is to be avoided. Because, the overriding goal of the transition was to reach some broad social consensus about the goals of society and the acceptable means to achieve them, successful transitions are necessarily characterised by accommodation and compromise. But if this emphasis on caution becomes an overriding political norm during consolidation, democracies may find it difficult to prove that they are better than other forms at resolving fundamental social and economic problems. Thus consolidation, if it is to be successful, should require skills and commitments from leading actors, which are qualitatively different from those exhibited during the transition. In this later phase, these actors must demonstrate the ability to differentiate political forces rather than to draw them all into a grand coalition; show the capacity to define and channel competing political projects rather than seek to keep potentially diverse reforms off the agenda; and also demonstrate the willingness to tackle incremental reforms especially in the domains of the economy and civil-military relations rather than defer them to some later date.

13.7 SUMMARY

Democratic constitutions and institution building are a result of the process of democratisation with overlapping stages of transition, consolidation and even perhaps deconsolidation. In consolidated democracies, while electoral outcomes may still be uncertain with regard to a person or party, they have established patterns of power distribution. While contingent choices are important in the emergence of democracy, the decisions made by various actors respond to or are conditioned by the types of socio-economic structures and political institutions already present. The institutionalisation of democracy in Latin America has been achieved via different modes or four ideal types of democratic transition: reform, revolution, imposition, and pact. Yet, none of these has resulted in stable democratic systems for those in which mass actors gain control. Rather political democracies in Latin America have been a result of a transition from above and where strong elite actors engage in a compromise or pact. Thus transition in most Latin American countries has been slow and incremental after long authoritarian rule. But the transition to democracy is interpreted variously by analysts describing the present period of democracy in Latin America as a part of a cyclical pattern in which democracy and authoritarianism alternate or claiming that notwithstanding the advent of democracy, armed forces continue to play a central role in the political process and the roots of democracy remain shallow.

Most analyses advise transition to democracy to tread with caution and conservatism. Yet the