

**Prepared Testimony
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**Challenges to Democracy in the Western Hemisphere 20 years after the Inter-American Charter
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Senator Menendez, Senator Risch, members of the committee,

This year marks the 20th Anniversary of the Inter-American Democratic Charter; our veritable Constitution of the Americas. It is unique in its creation because it is the first document of its kind to define democracy and enshrine it as a right for all people of the Americas.

It was established in a moment of democratic fervor motivated by the end of a violent dictatorship, in a period was marked by enthusiasm amongst States to create a stronger mechanism to bolster our hemisphere's collective commitment to the promotion and defense of democracy. It also introduced the scenario that has proven to be the main threat to modern democracies worldwide; when the threat to the democracy comes from the government itself.

With unanimous approval, the Democratic Charter not only established clear obligations for the exercise of democracy within a framework of law, but it also created the tools and authorities for its promotion and enforcement. Recognizing the aberration of democratic progress could be a threat to the peace, stability, and prosperity of all OAS Member States, it not only enabled its signatories to act, but created an affirmative responsibility to act.

It is a tool that is available to us and one that we actively use. It has been invoked in cases where there has been an overt interruption of the democratic or constitutional order, as was the case in Venezuela in 2016 and Honduras in 2009, but it is also a means to support countries asking for assistance, as with the case with the 2020 missions to Guatemala and the 2021 mission to El Salvador. The Charter is preventative – it helps to stabilize.

With the political fragmentation and encroachment on democratic values we are experiencing today, achieving consensus on such a document—securing the tools and authorities it conveys—would be impossible.

In this moment, a hemispheric consensus on democracy is not so readily available and we are forced to confront the reality that we have dictatorships in our midst. Dictatorships with friends who are willing and eager to play a less constructive role in the region.

Our hemisphere has a shared fate and we must remain committed to building the path to more rights and more freedoms for the all people of the Americas and the means to respond lies with the Democratic Charter. By committing ourselves to realizing its goals both within our own borders as well as supporting the efforts of our neighbors we will achieve a path to shared prosperity.

Restoring the hemispheric commitment to democratic values and principles in the Americas will require U.S. leadership. American leadership through the model of the Democratic Charter will require your political commitment and the resources necessary to supporting the consolidation of democratic

governance across the continent. The OAS simply cannot deploy democratic missions or implement activities without the financial resources to do so.

You will need good friends and allies if you want to see successful policies implemented on a democratic path and this friendship must be rooted, in consistent and positive leadership.

If we shy away from these democratic responsibilities, we will all too quickly find ourselves in a hemisphere of unfriendly faces, surrounded by regimes who have rejected democracy, instead choosing an ideology of corruption and repression.

The Covid-19 pandemic that has consumed our lives this past year is a pressing example of this. How we as a hemisphere emerge from this crisis will determine the future development and stability of our democracies. We need a generous and engaged posture from the United States, countries within and out of our hemisphere, and the commitment of the international financial institutions.

Governments throughout the region will need assistance in tackling the economic fallout and providing much needed social services. We will need to pump additional financial resources into restarting economies, increased flexibility to face debts and provide loans. We will have to strengthen technological capacities as we rebuild our workforce. Each of these will be key factors to speed up economic recovery. All of these will be essential in maintaining the confidence of electorates in the democratic processes governing them.

Equal access and equitable distribution of vaccines will be essential to post-Covid growth and recovery. The Governments of Russia and China have engaged early in supporting vaccine distribution in the region, in a global roll out that has left many countries behind. The recent US commitment to support its immediate neighbors access vaccines is a welcome start. More needs to be done to ensure vaccines also flow to your third border with the Caribbean, and throughout the continent.

This year, ten countries in our hemisphere are scheduled to hold elections¹ against a backdrop defined by a pandemic that has all but erased a decade of economic progress. With unemployment and inequality rising, more and more families are being forced back into poverty. What is already threatening to be an uneven exit from this crisis can only lead to further discontent and disillusionment with systems of government not seen to be willing or able to adequately support the needs of its people.

Shoring up trust in democracy requires the respect for basic norms. The peaceful transition of power, for example, is a hallmark of democracy. One that simply offers a temporary shift in direction, not a scenario where the winner takes all. This is not the purpose of democracy, every individual that is elected—chosen by their citizenry to represent their voices—is responsible to, and for, all of their constituents, even those who did not vote for them. If we allow scenarios that do not respect this basic truth to take hold, it is the people who pay the highest price because the election becomes about power and not about representation.

There is a certain kind of leadership that does not want to relinquish power. For some, when they have been touched by power, they are seized with a desperate, selfish need to hold on. Power is their path to wealth and business; it provides them immunity and guarantees impunity and elections have become

¹ Ecuador, El Salvador, Chile, Haiti, Peru, Mexico, Argentina, Paraguay, Nicaragua, Honduras.

zero sum. If the winner takes all, and political loss is met with retribution, it inevitably becomes easy to justify using any and all means to stay in power.

Those fearing a loss of popular support resort to false reforms of democratic institutions to maintain a competitive advantage. We see the politicization of justice. Independent electoral councils are subverted with political appointees. Courts are used to overturn electoral outcomes, undermine and break up political parties, and ban popular figures from running for office. Democratic institutions are coopted, coerced and dismantled to consolidate one political grouping's grip on power. We must be willing to speak up early, before these practices are allowed to take hold.

These practices have been manifested through a series of flawed elections. The so-called elections in Venezuela were a complete farce. We must be willing to learn the lesson here and now, and we must be sure to learn the rights lessons. Each one of these cases was unique and election observation, or the lack thereof, played an integral role.

The theater that played out in Venezuela's last two so-called elections was, without reservation, simply illegitimate. This is a criminal, authoritarian regime that has perpetrated crimes against humanity against its people. Elections are a cynical show and nothing more. Every action taken by this regime is designed to further intensify the conditions of internal pressure, taking them deeper and deeper into a crisis that has forcibly displaced five and half million refugees; allowed grand corruption and gross mismanagement to decimate the country's economy; and imbedded terrorist groups and organized crime into their system of governance.

We must also be clear-eyed about the political consequences, ones measured in ideas, not in numbers. The perceived success of Venezuela's consolidation of authoritarian practices has established a political legacy. What is the message they are delivering? Don't give up political power because if you do you will end up in jail or facing prosecutions.

What has happened in Nicaragua should represent for us an early bellwether— they have politicized the security apparatus, coopted and corrupted the democratic institutions, eliminated the opposition, shut down the civic space, and close off to the outside world. Stay in power, at any cost. Without significant engagement and effort by the international community, elections scheduled for November have little hope of being free and fair.

After the 2017 electoral process in Honduras that was a result of deeper, structural problems. The irregularities echoed the same problems from previous elections, resulting in the same problems in managing the results. The OAS has engaged in reform of the electoral process.

At present, we are working with Haiti about their electoral reforms.

The situation in Guyana was one where support from the OAS Electoral Observation Mission proved essential. It was a tenuous situation that needed to be handled with care. The EOM, present and patient, allowed for the election issues to be settled for a transition of power to take place. It was a fluid situation that could have easily been broken, and once broken it is much harder to put all the pieces back together.

The situation in Bolivia was an extreme case. With significant irregularities, election observers were essential. The electoral fraud in Bolivia in 2019 represented a paradigmatic example of ill-intentioned

bad practices with the goal of manipulating the electoral outcome. Among other irregularities all of the following were observed:

Weakening of the electoral authority; intentional stoppage of the Preliminary Results Transmission System (TREP); clandestine servers, hidden server manipulation; use of a parallel technological scheme for improper purposes, improper remote logins into the system; access of unauthorized persons to the system; supplying of false information and deliberate attempt to hide server; false information regarding servers used; malicious and irregular filling of tally sheets; burning of electoral materials; the metadata of the TREP images was not preserved; the hash value was not recorded in the software freezing act and modifications to it were later made in the middle of the electoral process, irregularities in handling of foreign acts; residuals of databases and the NEOTEC application were found in perimeter servers; unexplained and unauthorized entries to the system, the person in charge of the NEOTEC company modified the Official Computation (Cómputo Oficial) software during the process on more than one occasion; at least 1,575 tally sheets of the TREP (environment whose network was violated and manipulated) entered directly into the Official Count; through SQL statements (which allow data to be changed without using the application) the database was accessed to resolve flaws in a calculation algorithm; there was no adequate preservation of the evidence on the election; the poor chain of custody did not guarantee that the electoral material had not been tampered with and/or replaced, original voting records from abroad (unfilled) were found at the TSE facilities; and the authentication for the use of the tally (cómputo) system software was weak and allowed someone to take control with administration roles.

As described the situation in Bolivia has been a matter of concern for the OAS General Secretariat, which has been monitoring things since the fraud in 2019 and even before that. With regards to the fraud in 2019, the reports of the Electoral Observation Mission and the subsequent Audit Mission are public documents and the Organization is ready to share further relevant evidence with the Committee. Current efforts by the General Secretariat are aimed at ensuring that there can be justice without discrimination in Bolivia. Without an impartial and independent judicial system, democracy in Bolivia cannot be sustained, and the OAS General Secretariat has issued public statements to that effect in recent days.

In order to maintain the confidence of the people, democratic processes must be transparent, inclusive, and accountable. The processes and rules must be clear and adhered to. In the case of elections, the main task of the OAS is to observe and document what it witnessed. It is not subjective. When people take issue with our reports, it is because they don't like the facts. Strong and continued support for robust international election observation will be vital in ensuring these processes earn the trust and confidence of those casting their ballots. We also need to invest resources and political support to follow up on the recommendations for strengthening the reforms proposed by these EOMs. And we must prepare for what lies ahead.

When it comes to elections, the biggest challenge of the future is technology. Elections conducted with paper ballots are easy to observe. However, with each year, the technology infused into our electoral campaigns and processes advances at an exponential rate. By the time we adapt to one set of tools, they have already been superseded by updates or altogether new tools or platforms that have been newly created. It is evolving at a such a pace that makes it all but impossible to keep up.

If we struggle to keep pace with the technology our children are using, how do we ensure that our means of observations are evolving fast enough to adapt to the tools of tomorrow.

If we want electoral processes that are inclusive, we also must ensure that all citizens have full access to representation and full participation. This requires that the right to suffrage is universal and equitable, and that the conditions exist for its effective exercise. We must ensure that there is equity in voter registration, access to polling locations, and the casting of ballots, all of which must be considered in our observation activities. Further, this also requires that programs and policies carried out by responsible public institutions favor the full and effective exercise of both men's and women's right to vote on an equal footing.

We must also address any and all forms of discrimination in our society, be it discrimination against marginalized communities including women, LGBTI persons, indigenous peoples and communities, afrodescendants, migrants, older persons, persons with disabilities, or marginalized religious communities, including through anti-Semitism, or the targeting of any other marginalized group. One case of discrimination is too many, and we must approach this as a problem of rights in society as a whole. Ensuring there are free and fair elections process, democratic institutions and constitutional mechanisms are robust, and there exists the separation of powers and an effective and independent judiciary, all people, will secure their access to the political and decision-making processes. An environment with stronger democracies and rule of law, offers better protection for human rights, greater security and more prosperity for religious freedoms and all minority communities.

Security is also essential if we want better democracies. Latin American is the most violent region in the world. We need to address this problem so that we can better fight against drug trafficking and organized crime if we want better democracies.

The dictatorships of Cuba and Venezuela are permanently at work to erode political stability and democracy in the region. With a great deal of help from Cuba, the Venezuela dictatorship has created the worst humanitarian crisis this region has ever experienced, the worst migratory crisis ever in the region, and its dictators have been accused of corruption, crimes against humanity and drug trafficking. It is also host and safe haven for terrorist organizations including Farc dissidents, ELN, and Hezbollah. We urgently need a solution. The first step is to unify the international agenda and then to work this unified international agenda in order to restore justice and democracy back in Venezuela.

The United States will host the next Summit of the Americas. The legacy from the 2018 conference is the Lima Commitment, *Democratic Governance Against Corruption*, presenting a hemispheric commitment to the fight against corruption. As the hosts of the next Summit, the United States has an opportunity to ensure progress continues and that these words are translated into tangible actions.

I applaud the recent proposal for a regional commission to investigate corruption in Central American sub-region. By tackling this issue at the sub-regional level, it recognizes the transboundary nature of the problem, and if combined with efforts to support domestic institutions and capacities, has the potential for a sustained and meaningful impact.

At the national level, we need to work with governments to address corruption at its root. This requires developing institutional capacities with clear and consistent rules and regulations, implemented in a transparent manner, that deters abuse, and is complemented by credible and independent mechanisms for accountability and enforcement. This is much more than a political solution, it requires strengthening

the rule of law and ensuring that the judiciary can function independently, even when it runs contrary to the political interest. The main aspiration of any government should be that no one steals. We need to help governments make this a reality.

Efforts to pursue external accountability, without sufficient means to prevent the abuses in the first place, are not sustainable. Every president and political figure fears exposure. What they need is help for their governments in developing capable institutions with the systems and incentives necessary to prevent theft or corruption to begin with.

For democracy to succeed, we need to maintain the confidence and trust of the public. Well before the world was shut down by the global health crisis, large-scale protests were an increasingly common occurrence across the hemisphere. Some of these were prompted by allegations of corruption, but all were a response to the extreme inequality that persists in our hemisphere.

The recent wave of populism that seems to have seized the global political sphere in recent years is not actually a new phenomenon. It has always been around. The distinction is that people weren't voting for them. The challenge is 'why are people voting for them now'? Until we address the 'why', politics as usual will continue, and political figures will keep taking this divisive approach because it is what allows them to win.

The third wave of democracy that brought representative governance is what brought us here. Governments must be responsible to their citizens, if they want their citizens to be responsible to them. People are still poor. They still see inequality everywhere. Inefficient governments have failed to adequately address these issues fueling political fragmentation and the appeal of populism. And so, populist leaders swept to power with promises of political transformation and democratic renewal.

But as our experience tells us, these promises more often than not come with measures claiming 'fix the system' that do little more than undermine governance. The weakening of democratic institutions and processes is a narrative that lead to dictatorship. Dictatorships keep proving to be the least efficient form of government, but where they do succeed is in eliminating the opportunity for their citizens to choose.

Misinformation and disinformation also affect our politics and governance in a manner like that of technology in elections because it involves many of the same tools. New technologies have disrupted how we relate and interact with one another, inspiring democratic revolutions while also providing means for surveillance and the amplifying of misinformation.

Misinformation is not so much a question of fact versus fiction, but one of false narratives. These stories are created to install doubt. Doubt about the facts, doubts about democracy, its institutions, and the work of politicians. And there is only one aim; the erosion of public trust and confidence.

The problem is that people are not, in fact, fighting against the use of these false narratives. Instead, the other side is adapting these tools and practices for their own ends and countering with their own messaging and what we are faced with is a perpetual fight between competing narratives. Further, these tools and techniques are being industrialized, and troll farms and bots are used to pump out comments and amplify the scale and profile of their preferred storyline to unprecedented levels.

We need to develop the methodologies to facilitate the reliable integration of technology into our elections and political processes. This involves tackling the manner in which this information is shared in the public space. This requires regulation, establishing policies and standards that guide governments, candidates, political actors and the technology firms themselves. And with this regulation, we must introduce accountability. Such an endeavor will require sustained political interest in determining the appropriate path forward as well as the resources to invest in its implementation, oversight, and observation.

We must be careful not look at the encroachment on democracy in the Americas from an ideological vantage point. Greed and the hunger for power is not something that stems from either the right or the left. The suffering our region has experienced at the hands of dictatorship has been caused by those claiming to represent the Left equal to those claiming to represent the Right.

The only relevant ideology is one that reinforces our region's commitment to the fundamental principles of democracy, human rights and the rule of the law, for their antithesis is corruption and repression.

If there is a message that I can leave you with today it is this: *esta es nuestra America*. This is our hemisphere. A continent that we share. Prosperity for one, benefits us all. The United States must be prepared and willing to be leaders as our hemisphere faces this struggle for democracy.

At the center of the inter-American system lies the figure of the Summits of the Americas. This process began in 1994 when the United States hosted the first summit in the city of Miami. In their initial period, the summits achieved much as an instrument to advance the best democratic practices of human rights and as a weapon against corruption. The first summit bore fruit in the world's first anti-corruption agreement: the Inter-American Convention Against Corruption, and for its follow-up, the Mechanism for Follow-up on the Implementation of the Inter-American Convention against Corruption (MESICIC) coordinated by the Organization of American States until today. Similarly, in 2001, in order to face democratic risks in the region, the heads of state and government in Quebec City gave instructions for the OAS to negotiate the Inter-American Democratic Charter, which was finalized the same year on September 2001 in the city of Lima Peru.

We are now in the preparatory phase for the Ninth Summit of the Americas, again under the presidency of the United States. As we are entering the preparatory phase, it is evident that the recovery of the region in its health, economic and social aspects will be very much at the center of our concerns, as well as the consequences on the democratic values and practice in the region on this the 20th anniversary of the Inter-American Democratic Charter.

The mantle of leadership can be heavy, but it is one that can and must necessarily be shared if we are to succeed. This message is not just for members of this Committee or for the Government of the United States. As citizens of the Americas, and Members States of the OAS, we each have the responsibility to act as leaders when it comes to fighting for just cause, and there is no cause more just than that of human rights, democracy, the rule of law, and development.

We must choose to support our friends and work to strengthen the democratic institutions that serve our people. We must remain committed for the long haul, working on sustained programs that support democratic institutions, even when the work appears tedious and mundane, especially then. Focusing on elections is important, but it is not enough. Democracy is a process which must continue to be strengthened and evolve, well after election outcomes drop out of the headlines. Governments must be

prepared to deliver in the days and months after because that is where democracy itself will win or lose. It is ensuring a quality of life while providing guarantees for the fundamental rights and freedoms of a people that will win hearts and minds.