

## **10 YEARS OF THE INTER-AMERICAN DEMOCRATIC CHARTER**

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Six months from now, the Heads of State and Government of the Hemisphere will meet in the VI Summit of the Americas. Cynics will come to expect much talk and few results. But Summits have had important and measurable impacts. One need look no further than the Inter-American Democratic Charter, as a key example of policy making in the Americas.

The Inter-American Democratic Charter (IDC) is the result of a long process of discussion on the promotion and defense of representative democracy that began with the creation of the Organization of American States (OAS) in 1948 and ended at the Summits of the Americas in Quebec, in April 2001, where the Heads of State and Government instructed their foreign ministers to prepare a Democratic Charter to reinforce OAS instruments for its active defense.

Concern for the strengthening of democracy is one of the pillars of action of the OAS since the adoption of its Charter in 1948. Other milestones in this evolutionary process are: the 1959 Santiago Declaration, which sets the attributes of representative democracy; the 1985 Protocol of Cartagena de Indias, which includes among the essential purposes of the OAS the promotion and consolidation of representative democracy, respect for the principle of non-intervention; Resolution AG/Res. 991 (XIX-O/89) "*Democracy and Human Rights - Election Observation*", which gives the Secretary General of the OAS the mandate to regulate the development of electoral observation missions (EOMs); the establishment in 1990 of the *Unit for the Promotion of Democracy*, to carry out medium and long term policies in the promotion and consolidation of democratic institutions; the "*Santiago Commitment to Democracy and the renewal of the inter-American system*" in 1991 and the Resolution AG/RES. 1080 (XXI-O/91), "*Representative Democracy*", which incorporated for the first time sanction mechanisms in case of sudden or irregular interruption of the democratic institutional political process; and the Washington Protocol of 1992 which provides measures in case a government is overthrown by force.

As a result of these advances, it was in 2001 at the Summit of the Americas in Quebec where a democratic clause stated that any unconstitutional alteration or interruption of democratic order in a state within the Hemisphere constitutes an insurmountable obstacle to the participation of the Government of that State in the Summits of the Americas Process; and on the other hand, also instructed (the Member States) to prepare the Inter-American Democratic Charter.

Upon fulfilling this mandate and following a broad consultation process - with the participation of the Member States, other organs of the OAS, and civil society - the XXVIII Extraordinary General Assembly held in Lima on September 11, 2001, adopted the Inter-American Democratic Charter Resolution AG/RES. 1 (XXVIII-E/01).

It is important to emphasize that, as in other aspects of development of international law, the OAS has been a pioneer in advancing the concept of collective defense of democracy and the

IDC became the most advanced example of the subject in the region. Secondly, it must be stated that the IDC is a resolution which despite its complexity, has the great merit of having been adopted by consensus, without reservation, or footnotes.

This has political importance because the General Assembly resolutions are binding for all organs, including the Secretary General and the Permanent Council. In that sense, we must keep in mind that both the Commission and the Inter-American Court of Human Rights, have mentioned the IDC, in their reports and in their sentences, respectively, referring to the fact that respect for human rights is an essential element of representative democracy. As for the Member States, considered individually, in the singular case of the IDC, the special meaning of its content is treated as a recommendation rather than as a mandate with political value.

Obviously, the IDC is not perfect. It has been criticized as lacking a precise definition of some terms such as "alteration of constitutional order" or "severe impairment of the democratic order", or that the preventive action under the Charter is not yet clearly defined and it has also raised the need to strengthen the follow-up mechanisms of the General Secretariat, among other suggestions, most notably in regard to the need for crisis prevention and to avoid their occurrence. Right now, to mark the tenth anniversary of the adoption of the IDC, in the framework of the Permanent Council of the OAS, the states are in discussion about the effectiveness of the Charter, not to modify it, but to reach consensus on suggesting ways to improve its application.