

THE ORGANIZATION OF AMERICAN STATES (OAS) – CHALLENGES AND VISIONS FOR THE FUTURE

Gordon MACE*

Abstract: Over the years, the Organization of American States (OAS) has survived many challenges. More recently, the organization has been confronted by major threats arising from competing regional organizations and ideological fragmentation among its own membership. Will the institution be able to overcome these significant new challenges? The answer to this question requires an examination of how successful the organization has been in fulfilling its mission and achieving the objectives incorporated in its constitutive treaty. To do so, I trace the contours of the institutional design adopted by the OAS in 1948 and select two time-periods in which I examine the record of the institution in selected issue areas, taking into consideration the context in which the organization had to operate. The concluding remarks discuss the future of the OAS.

Keywords: OAS, institutional design, democracy, human rights, security, regional context.

INTRODUCTION

The OAS is the cornerstone of the institutional architecture of the inter-American system. As such, it cannot be shielded from the cyclical evolution of inter-American relations since the end of World War II (Mace and Thérien, 2007; Corrales and Feinberg, 1999) as periods of effervescence succeeded the periods of stagnation. The organization was also tasked with a multi-faceted mission, often without the necessary resources to accomplish that mission. The performance of the OAS has thus varied considerably over the years, depending on the time period examined and the issue area under

* Emeritus Professor, Department of Political science, Laval University, Québec, Canada.
E-mail: Gordon.Mace@pol.ulaval.ca.

consideration. This is why the literature has often found it difficult to arrive at a clear-cut, comprehensive assessment of the OAS's input on the management of inter-American relations. One finds, for example, a relatively positive view of the institution's contribution, particularly in relation to conflict resolution prior to 1989 (Shaw, 2004, pp. 59-93) and issues of democracy and human rights (Stapel, 2022, pp. 201-36; Gosselin & Thérien, 1999). At the same time, there are critical assessments of the organization regarding its results in defense of democracy, conflict management and, more generally, its role as a tool of US hegemony, which has led some to conclude that the OAS has lost its relevance, especially after 2005, in the context of increased fragmentation. (Legler, 2012, 2015; Herz, 2008; O'Keefe 2020; Morales 2018; Mariano, Bressan & Luciano, 2021, p. 13). Given these criticisms and the changing dynamics of regional relations since the early years of 2000, it is appropriate to reflect on the future of the OAS. The analysis requires an examination not only of the OAS's record but also of the context in which the organization has had to maneuver. In order to do so, the rest of the article first examines the performance of the OAS during the Cold War years. The second part deals with the post-Cold War period, followed by a discussion concerning the future of the organization.

THE COLD WAR YEARS

The OAS was created in 1948. Commentators consider it the oldest regional organization in the Americas because it succeeded the International Union of American Republics, established in 1890 and subsequently replaced by the Pan-American Union in 1910. The creation of the OAS was part of a reframing of the institutional architecture of the inter-American system, which was not unrelated to the reorganization of the international system in the context of a nascent Cold War. The OAS has often been considered an instrument of Washington's foreign policy designed to impose and secure U.S. hegemony in the region (Morales 2018, p. 142; O'Keefe 2020, pp. 196-7). Long has clearly demonstrated, however, that the impetus for the creation of the OAS and the restructuring of the inter-American system at the end of the 1940s really came from the Latin American governments themselves. They wanted an institutional framework that would offer them a voice in the management of hemispheric affairs while at the same time providing an instrument to help contain unilateralism on the part of the United States (Long 2020, p. 215; Long 2021). The inter-American system represented, in effect, a "grand bargain that institutionalized and extended U.S. influence while recognizing Latin

American demands" (Long, 2020, p. 215). The Constitutive Treaty of the OAS, the 1948 Charter of Bogota, gave the organization a diversified institutional structure that included the Inter-American Conference (now the General Assembly), the Meeting of Consultation of Ministers of Foreign Affairs, the OAS Council (now the Permanent Council), a General Secretariat, and the Inter-American Economic and Social Council, later transformed into the Inter-American Council on Integral Development (Connell-Smith, 1974, pp. 200-8). The Charter also stipulated four central missions for the OAS: the promotion of representative democracy, the protection of human rights, the strengthening of security for the hemisphere (Ch. V and VI of the Charter), and contributing to development in the member states (Ch. VII). Each mission, as we will see, was not given the same attention on the part of the organization over the years. Development is a multi-dimensional concept, including education, culture, the economy, the environment, and so forth. During the Cold War, development issues were not a primary focus of attention for the OAS, even though the organization was preoccupied early on with education and youth issues. An Inter-American Children's Institute, for example, was incorporated into the OAS in 1949 with the objective, among others, of helping develop public policies for the protection of the rights of children. But the organization had a limited budget, and the establishment of the Inter-American Development Bank (IDB) in 1959, with enormously more resources, made the IDB the privileged instrument to support development projects in the region. The OAS' role with regard to development issues thus became secondary, mostly limited to support for national policies. Not so with human rights, which became a central preoccupation for the inter-American system when the OAS was established. Issues concerning human rights had already been discussed at inter-American conferences during the 1920s and 1930s (Serrano 2010, p. 140), generally at the initiative of Latin American diplomats (Glendon 2003; Forsythe 1991, pp. 75-6). However, it is not until 1948 that human rights principles are officially incorporated into the inter-American system through the Charter of Bogota and, more specifically, the signing of the American Declaration on the Rights and Duties of Man. But only a minority of states at the time wanted a binding convention (Forsythe 1991, p. 77) so that the OAS could do little in terms of enforcement throughout the 1950s. It was only in 1959, during the Fifth Meeting of Consultation of Ministers of Foreign Affairs in Santiago de Chile, that resolutions were approved for the drafting of a Convention on Human Rights and the establishment of two institutions: the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court for the Protection of

Human Rights (Serrano 2010, p. 15). Despite the adoption of the statutes of the Commission by the Council of the OAS in 1960, little enforcement occurred during the following twenty years due mostly to the pressure of the Cold War context favoring U.S. support for conservative and military regimes in the region. These had little consideration for the protection of human rights. Nonetheless, during these years, the inter-American human rights regime will begin to take shape, with the 1967 amendment to the Bogota Charter incorporating the Commission into the OAS as a special organ with a clear mandate to protect and promote human rights. That was followed two years later by the adoption of the Convention on Human Rights, establishing the Inter-American Court of Human Rights. It was only when the Convention entered into force in 1978, however, that the legal basis of the regime was really in place. Consequently, the Cold War years constitute a period of institutionalization of the human rights regime in the Americas. The context of the Cold War, whose main feature in the region was the fight against communism, did not allow for the regime to have full force at the time but could not prevent its impact on the end of the dictatorships and the upcoming democratization in the hemisphere (Herz 2011, p. 28). Although not part of any official doctrine, security and democracy were nevertheless intertwined during the period as a result of the fight against communism, with security resolutely at the forefront. It is illustrative that the Charter of Bogota dedicated one chapter each to the peaceful settlement of disputes, collective security, and the rights and duties of states, but not to representative democracy. Representative democracy is mentioned in the preamble of the Charter and listed as one of its “essential purposes”, but it is ignored in the section dealing with the principles of the OAS. Democratic rule was thus conceived as a vague, undefined objective that the organization had no means to enforce. This is not the case for security issues, to which the future OAS members would dedicate two major conferences immediately after the end of World War II. Collective security and the peaceful settlement of disputes were the two major themes of discussion at both inter-American conferences, one on the Problems of War and Peace in Mexico in 1945 and the other on the Maintenance of Peace and Security in Rio de Janeiro two years later. The Inter-American Treaty of Reciprocal Assistance (or Rio Treaty) and the Pact of Bogota (never ratified) were signed at the Rio conference. The following year, the Charter of Bogota was adopted with articles dealing specifically with collective security (art. 28 and 29) and the peaceful settlement of disputes (Art. 24 to 27). The normative security architecture for the period was completed with the signing and later ratification of the 1967 Tlatelolco Treaty, establishing a

nuclear-free zone in all of Latin America (Herz 2008, p. 9). The OAS was thus instrumental in establishing a security architecture for the Americas comprising both norms and institutions. According to Herz (2008, p. 3), the system was not without flaws, particularly with regard to collective security because of the incapacity or unwillingness of the member states to create mechanisms for the collective use of force, as illustrated during the Malvinas/Falkland conflict between the UK and Argentina. But it was more successful in the peaceful settlement of disputes. Throughout the period, the organization was able in effect to use various instruments in order to reduce regional tensions and prevent conflicts from escalating in the Caribbean and Central America specifically. Looking at the OAS record more generally during this period, it is clear that the progress with the creation of norms and the establishment of institutions was not matched by equivalent success at implementation. Limited progress occurred during this period in terms of democracy promotion, development policies, effective protection of human rights and collective security. The hope for smoother inter-American relations that existed when the OAS was established disappeared only a few years later. The main reason had to do with the Cold War context that permeated the whole inter-American system during the period. Events and policy developments in the hemisphere were perceived and analyzed through the lens of the fight against communism. The instrumentation of the OAS by Washington for that purpose, most vividly apparent in the overthrow of the Arbenz government in Guatemala in 1954 and in the Dominican Republic episode in 1965, greatly reduced the confidence that Latin American governments had toward the organization. Latin American elites' subsequent perception of the OAS as a "puppet" of U.S. administrations largely explains the organization's low profile during the rest of the Cold War.

THE POST-COLD WAR PERIOD

Three factors are at the root of the OAS's revival during the 1990s: the wave of democratization initiated in the region at the start of the 1980s, the end of the Cold War, and the decision of Canada and the Anglophone Caribbean countries to join the organization. All these created a new dynamic in inter-American relations and the OAS specifically, in favor of a reassertion of democratic rules, a reorientation of economic policies, and the introduction of a new security paradigm. Similarly to the situation existing in 1947-48, the early 1990s were characterized by the hope that a new era was transforming the inter-American system, thus introducing more cooperative and somewhat

more equal relations between the United States and its neighbors. The three most salient elements on the agenda of the “new” OAS during this period are those dealing with democracy, human rights, and security. Even though representative democracy was listed in the 1948 Charter as one of the guiding principles of the OAS, the era of military regimes in Latin America made it imperative to reassert the importance of the democratic ideal for the inter-American system in the context of a democratic revival throughout the region. The member states of the OAS thus adopted a series of protocols and resolutions to entrench the role of the organization as a standard bearer for democracy. The first significant step in that direction was the adoption of the 1985 Protocol of Cartagena, which entered into force in 1988 and consecrated the promotion and consolidation of democracy as an “essential purpose” for the organization (OAS 1985). The protocol did not create any enforcement mechanisms, but it was nevertheless a game-changer because it created a legal basis for supporting future OAS action in the defense of democratic norms. This was followed, six years later, by the adoption of the Santiago Declaration, calling for a prompt reaction to a threat to democracy in a member state. The implementation of the Declaration occurs through Resolution 1080, adopted at the same meeting, stipulating that the Permanent Council must be summoned whenever a suspension of democracy occurs in a member state (OAS 1991). The Permanent Council can then decide that a meeting of ministers of Foreign Affairs be called upon no later than ten days following the event. Resolution 1080 thus constitutes a turning point in comparison to previous OAS behavior because the obligation of a formal meeting leads necessarily to a subsequent action or at least to a condemnatory statement.

The Protocol of Washington, adopted in 1992, is another significant stepping stone in the reinforcement of the OAS democracy regime (OAS 1992). As an amendment to Article 9 of the Charter, the Protocol, which came into force five years later, stipulates that a member state in which a “democratically constituted” government is overthrown by force may be suspended from participation in the organs of the OAS. Except for the case of the Cuban government, expelled for other reasons in the early 1960s, the Washington protocol represents the first instance whereby, according to the rules of the OAS, a member state may be suspended due to a severe breach of democratic rule. The inter-American democracy regime was completed in 2001 with the adoption of both the Democratic Clause and the Inter-American Democratic Charter (OAS 2001). The Charter is a strategic addition to the regime because it provides a definition of what democratic practices are (Articles 3 and 4) and it replaces the traditional vote by consensus with a two-thirds majority vote for suspending a member state in cases of an “unconstitutional alteration of

the constitutional regime that seriously impairs the democratic order (...)" (Article 20). The Charter thus represents, as Mônica Herz (2011, p. 67) quite aptly writes, a paradigm shift in the history of the organization. The Inter-American Democratic Charter has been criticized for what Legler (2007, p. 122) has identified as "design flaws". These include an imprecise definition of what constitutes "constitutional interruptions" and "constitutional alterations" along with the absence of clear benchmarks determining when the OAS intervention should occur. This lack of precision has the effect of impeding the subsequent OAS action confronting some member states' undemocratic behavior, particularly in gray areas where democratic rule is progressively debilitated without a coup occurring. The OAS's actions in the overall promotion and defense of democracy after 1990 were not perfect as the organization was unable to prevent authoritarian backsliding in some member states, most notably Nicaragua and Venezuela. But the OAS mediation was more successful in other cases where political impasses threatened democratic stability, for example, in Fujimori's Peru, Paraguay in 1996, and Bolivia in 2005 (Herz, 2011, pp. 67-73; Cooper and Legler 2006). Furthermore, the organization has been actively engaged in less visible but equally important activities related to democracy promotion. The former Unit for the Promotion of Democracy (UPD), created in 1991, is now replaced by the much larger Secretariat for Strengthening Democracy (SSD), which includes the Department for Electoral Cooperation and Observation and the Department of Sustainable Democracy and Special Missions. The SSD is involved in a host of practices in support of representative democracy, including electoral observation, training and educational programs, modernization of legislative work, participation of civil society, and special or fact-finding missions geared toward the stabilization of political systems, among others. It is difficult to assess precisely the impact of the OAS' continued and diversified activities with regard to the state of democracy in the Americas today because the organization is only one of the many actors involved. Nonetheless, one cannot underestimate the organization's positive role in the establishment of democratic rule over the years, just as one cannot deny its influence on the development of the region's human rights regime. The involvement of the OAS in the development of the human rights regime is mostly done through the work of the IACHR. This work has been facilitated by the adoption of new instruments during the 1980s, such as the Statute of the Inter-American Court of Human Rights (1979), the Inter-American Convention to Prevent and Punish Torture (1985), and the Additional Protocol to the Inter-American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (1988) (Thede & Brisson 2011, p. 13). The expanded

normative framework enabled the Commission to enter an intense phase of activity from the mid-1990s on. This period is mostly characterized by a change of strategy whereby shaming and denunciation of states' violations gave way to greater attention to individual cases. Under pressure from more active civil society organizations, the Commission's focus is now much more oriented towards individual complaints in new areas of law such as women's rights, children's rights, indigenous and immigrant rights, and, to a greater extent, freedom of expression (Thede & Brisson 2011, p. 17). The more active role of the IACHR in more diversified areas of rights results naturally in a greater capacity of the human rights regime to regulate domestic norms and practices. The success in developing a normative framework for the human rights regime in the Americas should not, however, underestimate the difficulties and obstacles remaining. The member states' professed commitments to regional norms are not always followed by actual compliance domestically (Turner and Popovski 2010, pp. 233-4). In extreme cases, such as that of Venezuela in 2013, the member states go as far as denouncing the American Convention on Human Rights in order to prevent scrutiny concerning violations occurring on their territory. There is certainly more work on the table for the OAS in the future. Finally, security is also at the forefront of the OAS's agenda during the post-Cold War period. The implosion of the Soviet Union made it necessary to abandon a strategic framework in which the main threat to the hemisphere was perceived as coming from outside the region and defined by the United States (Waffen 2010, p. 22). At the same time, governments had to face new threats, increasingly diversified and originating this time from the region itself. Drug-trafficking, international crime, migration and displacement of populations, health, poverty and the effects of environmental degradation, all generally inter-connected and affecting states as well as individuals, created a completely different security environment that needed to be addressed through a new paradigm (Mace and Durepos 2008; Diamint 2011, pp. 134-7; Thérien, Mace & Gagné 2012). Three channels were used to trace the contours of the new security paradigm: the OAS itself, the Summits of the Americas, and the Defense Ministerials of the Americas (Daly Hayes 2007). Although it is important to keep in mind that the three channels are intertwined, the article deals exclusively with the OAS, given the subject matter of the paper. The starting point of the security rethinking inside the OAS is the 1991 Santiago General Assembly, where a mandate was given to the organization to reflect on a new security framework for the hemisphere. In order to fulfill that mandate, the OAS established a special commission in 1992, which was transformed, three years later, into the Committee on Hemispheric Security

(CHS) (Weiffen 2010, p. 23). During the next ten years, the CHS was the main OAS institution tasked with discussing and proposing ideas on how to replace the collective security concept with a framework better adapted to the new reality of the post-Cold War world. The work of the CHS had to do with both the security of states and that of individuals, the last being clearly an innovation compared with traditional thinking on security in the region. The concept of cooperative security was introduced to address the security problems faced by the member states, ranging from potential border disputes to outright war, as was the case in Central America during the 1980s. Cooperative security is mostly concerned with the vast array of confidence and security-building measures (CSBMs) that can be used to diffuse potential conflicts (Mares 2007). This work led to the signing of important agreements during the 1990s, such as the 1999 Inter-American Convention on Transparency in Convention Weapons Acquisition and the establishment of landmark institutions such as the CICTE, the Inter-American Committee against Terrorism, created in 1998. Human security, for its part, was developed to address threats of various types that affect individual citizens. Human and cooperative security paved the way for the introduction of the concept of multidimensional security, initially proposed by the Caribbean states in 2002 and officially adopted at the Special Security Conference held in Mexico in October 2003 (Daly Hayes 2007, p.78). The Declaration that came out of the conference put forward a notion of security that was both innovative and encompassing. Multidimensional security not only extends the concept of security to dimensions previously excluded, such as economic, environmental, and health, but also calls for new forms of cooperation between states, sub-national governments, and international and non-governmental organizations (Herz 2011, pp. 40-1). As the organization responsible for the implementation of the Declaration on Security, the OAS subsequently introduced significant institutional changes, the most important being the creation in 2005 of the new Secretariat for Multidimensional Security. Also of importance was the incorporation into the OAS of the Inter-American Defense Board (IADB) in 2006. An independent entity until then, the IADB's role in the OAS family is to provide essential technical advisory services (Weiffen 2010, p. 28). The OAS's mission with regard to security was thus extended considerably following the 2003 Conference, but the fulfillment of that mission was somewhat handicapped by the increasing ideological fragmentation among its member states and the central place occupied by the war against terrorism in U.S. foreign policy. For the hemisphere, the dramatic events of September 2001 had the effect of replacing the war on communism

with a war against terrorism, thus significantly reducing the impact of the new approach on multidimensional security.

CONCLUSIONS

The performance of the OAS with regard to its central objectives, as established in the 1948 Charter, has certainly been uneven over the years. The Cold War context and the U.S. fight against communism considerably reduced the organization's margin for maneuver, particularly from 1965 to 1985, to the point of threatening its legitimacy in the eyes of many Latin American governments. The revival and activism of the 1990s and early 2000s were followed, again, by a period in which OAS action was severely constrained. All in all, the major success of the organization has been its ability to develop and put in place a normative framework with regard to security, human rights, and democratic practices. On the downside, implementation has often been a significant problem due to longstanding obstacles and recent difficulties, the most acute being the ideological opposition among the member states, the competition from other regional organizations, and a discrepancy between what is asked of the OAS versus the resources provided. These obstacles have brought some scholars to express doubts concerning the continued relevancy of the organization (Legler 2015, p. 312). The creation of the ALBA (*Alianza Bolivariana para los Pueblos de Nuestra America*) group of countries in 2004 was a game changer for the OAS because it signaled a profound ideological fragmentation among the organization's own members, not only concerning the functioning of the OAS itself but also with regard to the inter-American system as a whole. This critical assessment of the organization by several of its members is partly responsible for the creation of parallel, competing organizations such as the UNASUR (Union of South American Nations) in 2008 and the CELAC (Community of Latin American and the Caribbean States) in 2011, with the potential of eventually sidelining the OAS. It is not clear what the fate of these two organizations, one currently dead and the other moribund, will be in the coming years. But even in the eventuality that they are reborn or replaced, the overlapping of regional organizations is not necessarily a problem, as Nolte aptly writes (2014, pp. 17-8), if a functional division of labor between them can be found. Since all the countries of the hemisphere are facing common problems, it is clear that a diplomatic forum like the OAS has an important role, but the question is how to do it successfully. The OAS, like every other regional organization, cannot do more than what its members want it to do. It still faces a challenging future in a context of extremely limited resources. The regular budget of the

organization has in effect remained the same during the past thirty years, hovering at around \$85 million. Furthermore, the OAS is considered with mistrust, if not outright hostility, by some of its members. Despite the present obstacles, there is a vision according to which the OAS could occupy a significant place in the complex of regional administration in the Americas. To fill that position effectively, the OAS needs the full support of its most important members, especially the United States. Support would have to be provided in the form of additional material resources with a deeper, longer-term engagement of the regional hegemon. Despite all its shortcomings, the OAS has remained a useful political forum and an indispensable instrument for managing inter-American relations.

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