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THE PITFALLS AND PROSPECTS FOR THE ROAD AHEAD: THE RETURN OF THE LIVING INFLATION IN LATIN AMERICA?

Mauricio Baquero-Herrera*

ABSTRACT

First, I would like to thank the Director of the SMU John Goodwin Tower Center for Political Studies as well as Professor Joseph Norton and the organizers for inviting me to participate as a panelist at the A Jno. E. Owens Memorial Foundation Conference entitled “Trade Integration in the Americas: Revisiting the Washington Consensus.” The third session of this event deals with the “Legal and Institutional Dimensions of Reform.”

As we all know, during the 1980s, all Latin American economies suffered from the syndrome of hyperinflation. Therefore, one of the main policies suggested by the Washington consensus was to gain macroeconomic stability as a precondition for the success of the other economic policies recommended. It was achieved by means of establishing independent Central Banks and by constraining the heavy expenditure of the governments at that time. Such structural reforms were carried out during the 1990s through constitutional and legal reforms. As a result, inflation was significantly reduced in the region. But, due to the interesting and radical political changes that are going on in Latin America, it seems that there is a trend to reduce or even to remove Central Banks’ autonomy. Will it mean the return of the living inflation?

I. MAIN POLICIES OF THE 1989 WASHINGTON CONSENSUS: THE SEARCH FOR ECONOMIC STABILITY

The countries of the Andean region (Bolivia, Colombia, Ecuador, Peru, and Bolivia) as well as the rest of Latin America and the Caribbean were affected by turbulent macroeconomic environments involving volatile terms of trade and real exchange rates. The whole region has had a long history of macroeconomic instability that has

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partially resulted from unstable fiscal and monetary policies and the adoption of unsustainable exchange rate regimes. In most Latin American countries, these circumstances have been a critical factor restraining economic development.

Following the external debt crisis of the 1980s and the strategies adopted to bring economic stability to the region, there was political will to implement structural reforms throughout Latin America. International financial institutions such the International Monetary Fund (IMF) and the World Bank began to play a supervisory role conditioning their loans on economic policy reform of the debtors.

The IMF reform programs put into practice in Latin America focused on policies aimed at gaining macroeconomic stability to the region. The policies that were emphasized are: "[1] reduction in the budget deficit to limit inflation, local interest rates and the need for foreign borrowing; [2] limits on domestic credit expansion to control inflation; [3] exchange rate devaluations to discourage imports and encourage exports; and [4] limits on borrowing consistent with the debtor's capacity to pay." Apart from reducing the size and role of local governments, IMF structural adjustments also focused on curtailing protectionism as opposed to the so-called Washington consensus which supported "economic growth . . . promoted through unilateral tariff cuts and reduction in import restrictions." The neo-liberal policies introduced at the domestic level led to the opening of Latin American markets that, at some point, shared the same market-oriented economic policies.

As shown in tables one and two, during the 1990s, countries in the region recorded significant advances in the area of macroeconomic stability by implementing structural reforms focused on achieving better allocations of resources. Certainly, the disastrous macroeconomic phenomenon of hyperinflation in the 1980s, as well as the practice of using

4. Id. "Other structural adjustments included: 1) Higher income and sales taxes. 2) Higher charges for state-produced goods and services such as electricity and water. 3) Privatisation of state-owned companies. 4) Deregulation of the labour market." Id.
6. See Buckley supra note 3, at 32.
7. See IMF 2005, supra note 2.
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monetary expansion to finance public expenditure and fiscal deficit, have almost disappeared or have been heavily reduced in the region. In addition, budget balances, fiscal savings, and the quantum and diversification of exports have improved considerably. Privatization has also experienced widespread growth throughout Latin America.

The evidence found by the Inter-American Development Bank (IADB) in 1997 suggested that countries in the region that implemented deeper structural reforms experienced greater reductions in macroeconomic volatility. But such volatility during the 1990s “was very high by international standards and their own historical standards in several major countries, including Argentina, Mexico, and Peru, all major reformers.” The World Bank, in its 2005 report concerning Latin America and the Caribbean region, concluded that macroeconomic instability is the third most-reported constraint to private investment, preceded by policy uncertainty and corruption.

In February 2005, the Managing Director of the IMF, pointing to the challenges and opportunities of Latin America in the macroeconomic front, said that policymakers in the region still “need to keep their eyes on”: 1) “[m]aintaining appropriate public debt levels” as a reduction in debt levels would ease existing vulnerabilities and increase the scope for flexible fiscal responses to macroeconomic shocks; 2) “[b]alancing spending and capital investment,” cutting on spending in nonessential areas and increasing investments in infrastructure, health, and education; and 3) “keeping inflation in check.” “The prime objective of monetary policy should be to lock in and strengthen” the substantial progress made in the last ten years in the region.

Overall, as a result of the implementation of structural reforms and economic stabilization policies, Latin America is a less economically volatile region. Such achievement would not have been reached without the

9. Id.
10. Id.
12. Id. Gavin’s work suggests that Latin America’s record of economic instability, as measured by real output growth and changes in the real exchange rate, can be explained by three main factors: (1) Instability in the external environment; (2) unstable monetary and fiscal policies, and (3) Some aspects of the policy regime. Id.
15. Id.
16. Id.
17. See Gavin, supra note 9; see also Ben S. Bernanke, Member, Board of Governors, U.S. Fed. Reserve, Remarks at the Stanford Institute for Economic Policy Re-
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commitment of the governments to do so. Certainly, as the President of the IADB stated in 2002, "there is genuine political will in the region to deepen interdependence and reduce volatility." Such certainty led him to propose and conduct the bank towards introducing programs of macroeconomic cooperation in the region.

II. INSTITUTIONAL REFORM AND MACROECONOMIC STABILITY UNTIL 2005: INDEPENDENT CENTRAL BANKS

During the 1990s, an important trend towards granting independence to the central banks from the Andean governments took place in the sub-region. As summarized in table three, constitutional and legal reforms were carried out with the aim of providing an adequate framework for the independence of the central banks to perform their functions, especially those related to the formulation of monetary policy, interest, and exchange rate regimes. This section, therefore, studies the reforms implemented in the 1990s. But, it is important to note that some Andean countries have started back pedaling such reforms in 2006, as is acknowledged in part III.

Generally, the Andean countries used constitutional amendments to incorporate regulatory frameworks for their central banks’ independence. But, in the case of Bolivia, the political constitution of the state does not have a special rule to that effect. In this Andean country, the constitution only establishes that the state is in charge of determining the monetary, banking, and credit policies aimed at improving the conditions of the national economy. It also ascertains that the state controls the monetary reserves. The Law of the Central Bank of Bolivia promulgated in 1995 determines the powers, scope, and degree of independence of the central

19. See Bernanke, supra note 17.
21. See id.
24. Constitucion de la republic de Bolivia art. 143. It is important to note that the Constitution of Bolivia was changed in December 2007.
25. Id.
The Central Bank of Bolivia is an institution of the state, governed by public law and with economic self-sufficiency. It is a legal entity with its own capital and has an indefinite term. The bank is the only monetary and exchange authority in the country with the purpose to preserve monetary stability. To that end, it has administrative, technical, and financial competences as well as legal capacity to enact specialized regulation of general application. Within the scope of its powers, the bank issues general policies regarding monetary, foreign exchange, and payment system, while taking into consideration the economic policy of the government. Generally, the central bank is forbidden to extend credit to or extend guarantee to the public sector. All financial intermediaries and financial services providers are under the scope of its powers. In this sense, Central Bank of Bolivia is a regulator of the financial institutions as well as the superintendent of banks and other financial institutions. In effect, it performs roles of both the regulator and the supervisor.

The main authority of the Central Bank of Bolivia is its Directorate. It is responsible for defining the bank's policies, issuing specialized rules of general application, and internal rules of the bank. The President of Bolivia elects the President of the Bank and five other Directors, who form the Directorate, from a list of three candidates provided by the Bolivian Congress.

As defined by the law, the Central Bank of Bolivia is an institution of the executive branch. Therefore, it is obligated to report periodically to (or when requested by) the Bolivian President on the evolution of the monetary, exchange, credit, and banking situation of the country. The results of its monetary, exchange, credit, and banking policies must be reported to the President on an annual basis. In addition, within the first 120 days of every year, the Central Bank must present the annual report of the institution, including the results of its policies, to the President, the Congress, and the Comptroller General.

25. LEY DEL BANCO CENTRAL DE BOLIVIA [LCBB].
26. Article 1 of the LCBB defines de Central Bank as an autarkic institution. Art. 41, however, defines it as an institution of the executive power being accountable to the President of Bolivia. Id. at arts. 1, 43.
27. Id. at art. 2.
28. Id. at art. 3.
29. Id. at art. 4.
30. Id. at art. 22.
31. Id. at art. 30.
32. Id. at arts. 38-40.
34. See LCBB, supra note 25, at art. 45.
35. Id. at art. 1. LCBB, however, defines it as an institution of the State with autarkic nature. See supra note 26. This contradiction certainly limits the scope of independence of the Bolivian Central Bank.
36. Id.
37. Id. at art. 41.
38. Id. at art. 42.
In case of Colombia, the constitution of 1991 introduced various reforms to the central banking system. The Banco de la República is the Central Bank of Colombia. It is an organization independent of the other branches of government, is organized as a legal entity with public jurisdiction, and acts “with administrative, patrimonial, and technical autonomy, subject to its own legal regime.” Article 372 of the Colombian Constitution entrusted the Congress with the duty of enacting the law that regulates the functioning of the bank and “the regulations under which the government will issue the statutes of the Bank.” It was achieved through Law 32 of 1992. In this sense, the Colombian Congress and not the executive determines the framework governing the scope of the bank’s function and internal structure.

The board of directors of the bank is the Colombian “monetary, exchange, and credit authority [that] represent[s] interest of the nation exclusively.” The board acts independently from the government. It is composed of seven members- the Minister of Finance who is also the chairperson, the governor of the bank elected by the board, and five permanent, full-time members appointed by the President for a term of four years. One of the priorities of the board of directors is to control inflation. Preserving the purchasing power of the currency is the principal objective of the bank, as a constitutional rule. Under normal circumstances, the bank can extend credit only to financial intermediaries undergoing temporary problems of liquidity or a shortage of resources. It is forbidden to extend credit to the private sector or to the Government, except under special circumstances. The bank is accountable to the Congress. “It is

40. Id. at art. 372.
41. Ley 31 de 1992 [LBRC]. This law determines, among other things, the form of the bank’s organization, its legal regime, the functioning of its executive board and its board of directors, the term of the director, the rules for the constitution of its reserves; including rules for exchange and monetary stabilization, and the future application of its earnings.
42. See CCN, supra note 38, at art. 372. These functions must be exercised in coordination with the general economic policy.
43. This appointment is aimed at harmonizing the policies of the bank and the government.
44. Id. When the new Constitution was adopted, it was agreed that at the end of the first four year term, the succeeding President may alter the appointments of only two of the five permanent members, leaving the remainder to continue as members of the board. It provided that none of the board members could remain in office for more than three consecutive terms. This system, therefore, guarantees continuity in bank policy while safeguarding it from the influences of political change ensuring greater credibility. These five members do not hold any other employment.
45. See CCN, supra note 39, at art. 373.
compelled to give a report to the Congress on the execution of the policies for which it is responsible and on other matters requested from it."  

The Colombian Banking Superintendence controls and conducts supervision on the banking activities of the central bank.

It is important to point out that in Colombia, this structure was created with the aim of providing independence to the Central Bank from the government. The Colombian Constitutional Court, however, has played an important role in shaping the power and the authority of the bank's board of directors not only by declaring unconstitutional the Main Articles of Law 32 of 1992, but also by revising important regulation issued by the board. This intervention by the Court has been highly controversial, especially during 1999 and 2000—a period marked by a severe financial crisis in the country.

In sum, the authority of the board of directors of the bank is determined by the Colombian Constitution, and its function is developed by the Colombian Congress through the Central Bank Law. The board has to consider the control that the Constitutional Court may exercise on its decisions. In addition, it is influenced by the general economic policies of the government as well as the ability of the Minister of Finance who chairs the board and the Directors appointed by the government.

In Ecuador, the powers of the central bank as a monetary and exchange authority are limited because of the Dollarization program introduced in 2000 by the Mahuad and Noboa administrations. This was a desperate measure to control inflation and to provide quick stabilization to a volatile macroeconomic environment by introducing the dollar as the legal tender in Ecuador. According to Patino, the "ongoing Dollarization process is the recognition of the State's failure to achieve political independent monetary control due to interminable interference by partic-

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47. See CCN, supra note 39, at art. 371.
48. Id. at art. 372; see also LBRC, supra note 41, at art. 17; Estatuto Orgánico del Sistema Financiero (EOSF), art. 325(2)(c).
49. See, e.g., Colombian Constitutional Court Decision C-485/93, (1993); C-383/99 (1999); C-481/99 7 (1999); C-208/00 (2000); C-700/00 (1999); C-955/00 (2000); C-024/93 (1993).
50. See Ley para la Transformación Económica del Ecuador [Dollarization Statutes] (better known as the "Trolebus Law"); see also Ley de Regimen Monetario y Banco del Estado arts. 70-71. It is important to note that at the time of writing, the constitution of Ecuador is about to be changed by a National Constitutional Assembly summoned by President Correa.
ular economic interests."  

The Law of Economic Transformation of 2000 established a comprehensive program of reform. This law gave official status to the Dollarization of the Ecuadorian economy creating a system with no independent monetary and exchange rate policy. It was expected that under the dollarization scheme, the focus of attention would be the implementation of an adequate fiscal policy, and, in turn, would be able to protect the economy from external shocks. The Executive Decree No. 1589 of June 13, 2001 comprises the Organic Statute of the Central Bank that determines the new mission and duties of the Bank. The board of directors is accountable to the President and to the Ecuadorian Congress. It is obligated to report to them every six months.

"The purpose of the [Peruvian Central] Bank is to preserve monetary stability." It is a jurisdictional person governed by "public law with autonomy within the framework of" the Organic Law of the Central Bank of Peru. This Organic Law exclusively governs the bank's autonomy, purpose, and functions. It has its own capital and an indefinite term. The bank's functions are to regulate currency and credit in the finance system, to administer international reserves under its management, to issue notes and "coins, and report on national finances." In general, the Bank is prohibited from conceding financing to the state treasury.

A Directorate of seven members governs the bank. The board of directors is the highest institutional authority. The Executive Power designates four members, including the President of the bank. The Congress ratifies the four executive appointees and elects the remaining three members. The three members have to be elected with an absolute majority of the legal number of Congressional members. All directors are nominated for a constitutional period corresponding to that of the President of the Republic. As for accountability and supervision, the Bank

52. Patino, supra note 51, at 623.
55. CONSTITUCIÓN POLÍTICA DE LA REPÚBLICA DEL ECUADOR art. 263.
56. CONSTITUCIÓN POLÍTICA DEL PERU art. 84 [hereinafter PCP]; see also Ley Organica del Banco Central de Reserva del Peru [LOBCP] art. 2. The law determines the monetary system of the Republic.
57. LOBCP, supra note 56, at art. 1.
58. Id. at art. 3.
59. Id. at art. 2.
60. Id. Article 86 of the 1993 Political Constitution of Peru (PCP) establishes that the emission of bills and coinage is within the exclusive power of the State. This power is exercised through the Central Reserve Bank of Peru. PCP, supra note 56, at art. 86.
61. For other prohibitions, see LOBCP, supra note 56, at arts. 77-85.
62. Id. at art. 8.
63. See PCP, supra note 56, at art. 86; see also LOBCP, supra note 56, at arts. 8-31.
must inform the country of the state of the national finances, the board of directors is obligated to submit a report to the Minister of Economy and Finance, and any of the board members can be removed by the Congress. The bank is subject to further control by the Comptroller General solely in matters concerning the execution of its budget. The Superintendence of Banking and Insurance supervises the enforcement of the regulations concerning the Bank.

The constitution of the Bolivarian Republic of Venezuela establishes that “the fundamental objective of the Venezuelan Central Bank is to achieve price stability and [to] preserve the internal and foreign exchange value of the monetary unit.” The Central Bank is an institution governed by public-law, “with . . . autonomy to formulate and implement policies within its sphere of competence.”

In order to provide for the adequate attainment of its objective, the functions of the Venezuelan Central Bank . . . include those of formulating and implementing monetary policy, participating in the design and implementation of foreign exchange policy, currency regulation, credit and interest rate, administrating international reserves and any others established by law.

It “perform[s] its functions, in coordination with [the] general economic policy, in the interest of attaining the higher objectives of the State and the Nation.”

The Venezuelan Central Bank [is] governed by the principle of public responsibility. . .[to that end, it] render[s] an accounting of its actions, goals and the results of its policies to the National Assembly, in accordance with the law. . .The Venezuelan Central Bank is subject to [ex post] oversight . . .by the Office of the General Comptroller of the Republic and inspection and supervision by the public entity that supervises the banking [sector].

In the sub-region, the Law of the Central Bank of Venezuela is the regulation that most clearly grants formal independence to the central bank. According to it, the central bank is a legal entity of public law that is a part of the national authority, with constitutional rank and full public and private capacity. Article 2 establishes that in the perform-

64. PCP, supra note 56, at art. 84.
65. LOBCP, supra note 56, at art. 94.
66. PCP, supra note 56, at art. 86.
67. LOBCP, supra note 56, at art. 95.
68. Id. at art. 96.
69. CONSTITUCION DE LA REPUBLICA BOLIVARIANA DE VENEZUELA art. 318, translated in UNIV. OF RICHMOND CONSTITUTION FINDER (unofficial translation), http://confinder.richmond.edu/ [hereinafter CBRV]; see discussion infra part III.
70. CBRV, supra note 69, at art. 318.
71. Id.
72. Id.
73. Id. at art 319
74. See infra note 92.
75. Estatudo del Banco Central de Venezuela [LCBV] art. 1.
ance of its duties, the Central Bank of Venezuela is not subject to the guidelines issued by the executive.\textsuperscript{76} Its main purpose is to achieve price stability and preserve the currency value.\textsuperscript{77} The bank is allowed to make and implement policies within its scope of its authority, and performs its duties in a coordinated manner with the general economic policy.\textsuperscript{78}

Interestingly, a duty of the bank is to contribute to the Latin American and Caribbean integration by establishing necessary mechanisms to expedite coordination of macroeconomic policies.\textsuperscript{79} In the same vein, the Venezuelan Constitution provides that in the event a common currency is instituted within the framework of Latin American and Caribbean integration, it is permissible to adopt the currency provided for by a treaty signed by the Republic.\textsuperscript{80} This is the only regulation in the sub-region that takes into consideration the commitments undertaken by the governments in the Andean Community and foresees the possibility of attaining further economic integration.

Overall, apart from Bolivia, the Andean central banks are entities with constitutional status and separated from the executive power. All Andean countries recognize their central bank or the board of directors of the bank as the monetary, exchange, and credit authority with the exception of Ecuador because of its dollarization program. The central bank is a legal entity with its own resources, governed by public law, and with some degree of formal independence. Its main purpose is to preserve monetary stability and control inflation by retaining the purchasing power of the currency. The Congresses of all Andean countries have shaped the functions and powers of their central banks by issuing law that establishes the institutions’ authority. The Andean central banks are accountable to their local Congresses by means of reporting their activities. These common features certainly reveal a certain degree of harmonized structural and legal treatment of the Andean central banks. They also confirm the importance of the rule of law as a means for ring-fencing key structures and institutions at a domestic level from political interference.

In terms of structural reforms up to 2005, the Andean presidents showed great diligence in the introduction of constitutional and legal reforms aimed at granting independence to the Andean central banks and establishing clear rules regarding their responsibility and the scope of their duties in relation to macroeconomic policies. Certainly, the rule of law served to ring-fence all these processes against political risk. Therefore, it was more difficult for the Andean governments to interfere with

\textsuperscript{76} Id. at art. 2.
\textsuperscript{77} Id. at art. 5.
\textsuperscript{79} See LCBV, supra note 75, at art. 6. It is important to note that Venezuela withdrew from the Andean Community and the G-3 in 2006, and joined MERCOSUR.
\textsuperscript{80} See CBRV, supra note 69, at art. 318.
the technical work of the central bankers aimed at gaining macroeconomic stability. But, there are some countries pulling out from these reforms. This is the focus of the following part.

### TABLE NO. 3 REFORMS AIMED AT GRANTING INDEPENDENCE TO THE CENTRAL BANKS UP TO 2005

<table>
<thead>
<tr>
<th>Central Bank Independence</th>
<th>BOLIVIA</th>
<th>COLOMBIA</th>
<th>ECUADOR</th>
<th>PERU</th>
<th>VENEZUELA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional Amendment</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Central Bank is an Institution of the State: Public Law Applicable</td>
<td>X</td>
<td>X</td>
<td>X 2006</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Accountable to the Congress</td>
<td></td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Part of the Government</td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>In Charge of Monetary, Credit and Exchange Policies</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Independent Budget, technical and administrative autonomy</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Specific Mandate to Preserve Monetary Stability</td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Prohibition to Extend Credit or to Guarantee Public Sector</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>To work in coordination with the general economic policies</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>In charge of payment systems</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>It is not submitted to the government guidelines</td>
<td></td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Directorate or Board</td>
<td>X P+5 [P]</td>
<td>X 7 M P + 6</td>
<td>X 5 M [P-C]</td>
<td>X 7 M [4P-3C]</td>
<td>X 7 M P + 6</td>
</tr>
</tbody>
</table>

### III. WHAT IS GOING ON AFTER 2005? A TENDENCY TO REDUCE CENTRAL BANK INDEPENDENCE IN THE ANDEAN COUNTRIES

The time period spanning from 2005 to 2007 has been a decisive period in the modern history of Latin America. Determinant events in the polit-
ics of the region seem to have changed the approach of Latin American countries to regionalism and multilateralism, in addition to economic and social policies. Certainly, there is something going on in the region that is difficult to grasp at first glance. The change has been gradual. It is politically oriented because it appears to be the region's reaction to decades of implementation of questionable imported economic policies and failed models of development.

In the 1980s, the Washington Consensus was formed\(^\text{81}\) and, because of it, by the middle 1990s it was possible to talk about a hemisphere-wide consensus (Cuba notwithstanding) in favor of free markets and liberal democracy. It seems that in the 2000s, a Latin American consensus is rising: It is time to look for other forms of financing the needs of the countries, it is time to try to be autonomous in economic decisions. There is nothing wrong with growing up. What concerns everyone involved is how.

Hugo Chavez, the President of Venezuela, has been influential in effecting these changes in the region. Among others, such effect occurs when the political tendency in the region leans to the left. An increasing number of Latin American countries are electing left-wing parties that are gaining more presence in congress or are actually getting access to the executive power.

Certainly, the Latin American political map has changed as twelve of the region's countries\(^\text{82}\) held presidential elections between November, 2005 and December, 2006. There are at least seven left-wing governments ruling important countries of the region—Argentina, Brazil, Bolivia, Ecuador, Chile, Uruguay, and Venezuela. The latest elections held in Peru and Mexico also demonstrate the importance of left-wing movements in Latin America. The institutional uncertainty experienced in Mexico after the 2006 elections, exacerbated by the decision of the candidate of the left to create a parallel government,\(^\text{83}\) is a worrying demonstration of the penetration and support given by the Mexican population to this political option.


\(^{82}\) These countries are Mexico, Costa Rica, Nicaragua, Honduras, Haiti, Colombia, Brazil, Bolivia, Ecuador, Chile, Peru, and Venezuela.

\(^{83}\) "Presidential runner-up Andrés Manuel López Obrador said he would create an 'alternate government,' calling Calderón an 'illegitimate president.'" Washingtonpost.com: Mexico Votes, http://voices.washingtonpost.com/mexicovotes/ (Sept., 6, 2006, 09:22 EST).
Overall, these left-wing governments focus on social programs in education, land reform, and healthcare. Therefore, social issues are being emphasized by broadening state help to the poorest families through pooling public money for programs that alleviate extreme poverty. Are such policies sustainable? Would they only mean a short-term solution to the poor as they leave aside important structural reforms? What are the macroeconomic and fiscal implications of these programs? These questions need to be addressed in order to make poverty mitigation more than mere words.

At the same time, Latin America is becoming more independent from IMF. Countries such as Argentina and Brazil have paid back their debts or, as in the Colombian case, have ended the use of IMF’s facilities for the time being. This is one of the most important economic events in the last two decades for these countries. It means that their fiscal, macroeconomic, financial, and overall economic policies will not be influenced by the IMF staff or otherwise subjected to any kind of conditional prerequisites. In sum, Latin American countries are achieving independence from one of the most influential international financial institutions. At the same time, lead by the governments of Argentina and Venezuela, the region is looking for an institutional replacement to the IMF’s economic activities. In this sense, some of the governments of the region agreed on creating the Bank of the South, with the goal of including every nation of Latin America. This independence from the IMF may be a mistake as a future economic crisis could prove, or it may mean the most important economic decision in Latin America in the last decades. It is too soon to assess the overall result of such independence. But it is not naive to suspect that Latin American governments and central banks are aware of the responsibilities of this move.

84. In Brazil there is the “Bolsa Familia” (family grant) program. As per the program, the federal government guarantees forty-five dollars per month to poor citizens. In return, the families must ensure that their children stay in school and follow a prescribed course of vaccinations. BBC News, Brazil Poor Feel Benefits of Lula’s Policies, Sept. 18, 2006, available at http://news.bbc.co.uk/2/hi/americas/5301240.stm.

85. One of the most important pieces of economic news in the region is the increasing independence of relevant Latin American countries from the IMF. The IMF’s presence in the region was used to coordinate and implement economic policies. But during 2005-06, two of the IMF’s largest debtors proclaimed an early repayment. “Argentinean President Néstor Kirchner announced 15 December that Argentina would repay the entire $ 9.8 billion debt owed to the IMF through 2008. Two days earlier, Brazil had declared an early repayment of its outstanding obligations to the IMF amounting to $ 15.5 billion.” Bretton Woods Project, Latin America sends IMF Packing (Jan. 23, 2006), http://www.brettonwoodsproject.org/art-507679. In September 2006, Colombia ended its agreements with the IMF. Venezuela is following the same path. In April 2007, the Venezuelan government announced that it had paid off its debts to the IMF and the World Bank, therefore, cutting its ties with the two institutions.

86. The leaders of Argentina, Brazil, Colombia, Ecuador, Bolivia, Paraguay, and Venezuela met on December 9, 2007, in Buenos Aires, Argentina, to sign the charter of the Bank of the South, as an alternative to the IMF and the World Bank.
Does this mean that the region is growing up? The answer to this question is far from clear. What is evident, however, from the point of view of the external economic and trade policies of the Latin American nations is the formation of two main blocks. The first block comprises of a group of countries that have signed or are in the process of negotiating a Preferential Trade Agreement (PTA) with the United States and are looking to the Pacific as a long-term project. All countries in Central America, the remaining members of the Andean Community, and Chile, form a block of countries with access to the Pacific. With regard to these countries, the strategy takes into account their proximity to the United States as their main commercial partner as well as the potential of Asia as a main future trade partner. The second block comprises countries not aligned with the policies of the United States. It follows the Brazilian and Venezuelan lead and shares a common attitude of independence from U.S. policies and closeness to Europe.

The formation of these two blocks is transforming the region’s traditional approach to regionalism. For instance, Venezuela suddenly withdrew from the Andean Community, the oldest sub-regional economic integration scheme in South America. The Andean Community was deeply affected by this impulsive withdrawal. In addition, Mercado Común del Sur (MERCOSUR), the most promising sub-regional integration scheme of the 1990s, seems to be losing its internal cohesion because Uruguay is starting negotiations with the United States towards a PTA, and the group has been affected by the entrance of Venezuela as a new full member.

All these transformations are going on without affecting the U.S. policy in the region. The old backyard approach seems to remain in place even though President Bush came into office declaring that Latin America was a priority. After the attacks of 9/11, the fight against terrorism has focused the attention of U.S. policy makers on regions other than Latin America. Despite the strong impulse given by President George H.W. Bush to economic integration with Latin America in the 1990s through the Enterprise of the Americas Initiative, the launch of the North Atlan-

87. Except for Bolivia. Bolivia is land-locked and its actual government is close to President Chavez.
88. The Venezuelan government announced its intention to come back to the Andean Community under the compliance of certain conditions that will study jointly with the governments of Bolivia and Ecuador, and will inform to the other country members by the end of 2007. It did not happen.
89. The incorporation of Venezuela as a full member of MERCOSUR is still waiting for approval from the legislatives of Brazil and Paraguay. The congresses of Argentina and Uruguay have already voted for such incorporation. In October 2007, there were exchanges between Caracas and Brasília when Venezuelan president Hugo Chavez called Brazilian Senators “Washington parrots and oligarchs.” The Brazilian Congress reacted saying it would delay consideration of the Venezuelan Mercosur Incorporation Protocol. Chavez, in turn, warned that Venezuela would not crawl or beg to become a member of Mercosur and set December, 2008, as a deadline for the approval of the incorporation documents. Newsroom, Despite Lula’s Pressure Brazil Congress Drags Feet on Venezuela Affair, BRAZILL MAG., Oct. 1, 2007, available at http://www.brazzilmag.com/content/view/8716/54/. 
tic Free Trade Agreement (NAFTA) process, and the commitment of thirty-four democratically elected heads of government to the Free Trade Area of the Americas (FTAA), what we have witnessed in the recent years is an unexpected change in the North American trade policies towards Latin America. The Central American Free Trade Agreement was only narrowly ratified by the US Senate in 2005, the FTAA process is stalled, the U.S. Congress is unwilling to supply the President with Trade Promotion Authority, and the disintegration of a bipartisan free trade bloc is denying Colombia the chance of having a PTA with the United States, notwithstanding the fact that this Latin American country is one of its closest allies in the Region.

Without any doubt Latin America is transforming. What will be the final outcome of these changes? Would it mean an independent and mature region? Or would it create more political and economic uncertainty as the region's governance seems to become more difficult? What would be the best trade policy to be adopted by the Latin American countries when the multilateral dimension is in crisis due to the freeze and possible failure of the Doha round, the hemispheric regional and sub-regional traditional schemes seem to be stalled as in the cases of the FTAA and the Andean Community, and the bilateral strategy used by the U.S. trade representative appears to come to an end due to the U.S. Congressional opposition to it? How are these changes going to affect the Latin American citizenry?

The complexity of the circumstances described above and the implications of the questions suggested become more troubling if macroeconomic instability issues come back into the scene. There are two main branches of structural reforms being used to backpedal the independence of central banks. First, lead by the Bolivarian movement (followed by Venezuela and echoed in Ecuador and Bolivia). The second is developing in Colombia as an unwanted consequence of the reelection of the actual President Uribe. These issues are the subject matter of the following sub-sections.

A. The Reduction of the Central Bank Independence in the Bolivarian Revolution and All Its Friends

As stated in part II,90 in the Andean sub-region, the Law of the Central Bank of Venezuela was the regulation that most clearly granted formal independence to its central bank.91 This institution was established as a legal entity of public law, part of the National Authority, with constitutional rank, and full public and private capacity. In addition, the Central

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90. See supra part II, notes 74-76.
91. This formal independence was diluting over time as the President has the power to name four members of the Central Bank and the other two are name by the National Assembly. At the end, due to the re-election of the actual president and the overwhelming majority of the members of the National Assembly supporting the Bolivarian revolution, the board lost in real terms its independence from the government. See supra part II.
Bank was not subject to the guidelines issued by the executive. But, in October 2007, the Venezuelan government passed in the National Assembly a radical project to reform the Constitution. One of the proposed amendments abolishes the Independence of the Central Bank of Venezuela.

According to the Article 318 of the proposal,

The national monetary system has to tend to achieve the essential goals of the Socialist State and the well being of the people, above any other consideration. The Executive Branch and the Venezuela Central Bank, in strict and obligatory coordination, will fix monetary policy and will exercise the monetary competence of the National Power. The specific objective of the Venezuelan Central Bank, jointly with the Executive Branch, is to attain price stability and preserve the internal and external value of the monetary unit. The monetary unit of the Bolivarian Republic of Venezuela is the Bolivar. In the case that a currency is established in the framework of Latin American and Caribbean integration, that currency that is the subject of treaties subscribed by the Republic can be adopted. The Venezuelan Central Bank is public law entity without autonomy for the formulation and exercising of the corresponding policies and its functions will be subordinated to the general economic policy and the National Development Plan to reach the superior objectives of the Socialist State and the greatest sum of happiness for all of the people. For the adequate fulfilling of its specific objectives, the Central Bank of Venezuela will have among its functions, shared with the National Executive Power, those of participating in the formulation and execution of monetary policy, in the design and execution of foreign exchange policy, in the regulation of the coinage, credit and fixing interest rates.

All reforms included by the government were approved by the National Assembly. But, according to Article 344 of the Venezuelan Constitution, such reforms must be approved by the citizens through a referendum. On December 2, 2007 Venezuelans citizens rejected the reforms. Not-


withstanding the rejection, President Chavez vowed to pursue his agenda through other channels.96

Bolivia, in turn, has a new Constitution approved in December 2007.97 According to the new rules, the state, through the executive, will establish the objectives of the monetary and exchange policies, in coordination with the Central Bank of Bolivia.98 Although the central bank has administrative and technical autonomy,99 it is attached to the executive. The bank’s main function is to keep the value of the local currency.100 Five members of the board of directors are named by the President, chosen from a list of three candidates provided by the National Assembly.101

As acknowledged in part II, in Ecuador, the power of its central bank as a monetary and exchange authority are limited due to the Dollarization program introduced in 2000. As of the time of writing this article, Ecuador is under a process of Constitutional Reform. The likelihood of restating the local currency as a legal tender, however, is very small. In this sense, keeping a dollarized economy will mean no monetary authority for the central bank. It is important to take into account that President Correa in Ambato, Ecuador, on November 12, 2007, said that the independence of the Central Bank must come to an end. “I advised President Chavez on this issue.”102 Correa also declared in Quito, Ecuador, on January 10, 2008 that “it is time to recover sovereignty over national economic policies: no more IMF or World Bank dictating them.”103

As displayed in table four, from 2006 onward, there has been significant rise in inflation in Bolivia and Venezuela, whereas inflation in other Andean countries are below two digits.104

98. Asamblea Constituyente art. 326 (Bolivia). The constitution keeps the Central Bank attached to the economic policies designed by the executive.
99. Id. at art. 327.
100. Id.
101. Id. at art. 329(I).
102. Presidencia de la República del Ecuador, El Banco Central Volverá a Servir a Los Intereses de la Nación, Gobierno Nacional De La República Del Ecuador, Nov. 12, 2007, available at http://www.presidencia.gov.ec/noticias.asp?noid=11655&hl=true. As stated before, the reform proposed by President Chavez was extremely radical. An example is the authority of the Central Bank in terms of monetary policy.
104. Ecuador has dollarized its economy so monetary policy does not depend on the Ecuadorian Central Bank.
B. THE REDUCTION OF CENTRAL BANK INDEPENDENCE DUE TO PRESIDENTIAL REELECTION IN COLOMBIA

The constitution of Colombia established an independent central bank from the government subject to its own legal regime. The board of directors of the Columbian Central Bank is composed of seven members—the Minister of Finance who is the chairperson, the governor of the bank, elected by the Board, and five permanent, full-time members who are appointed by the President of the Republic for four-year terms. When the new Constitution was put in place, it was agreed that at the end of the first four-year term, the succeeding President may alter the appointments of only two of the five permanent members, leaving the remainder to continue as members of the board. As a result, only three members of the board would be directly influenced by the government. This system was aimed at guaranteeing continuity in bank policy while safeguarding it from the influences of political change ensuring greater credibility.

But, these safeguards to political intrusion were changed by Acto Legislativo No. 2 of 2004 that introduced the reelection of the president. Originally, the reelection of a president was not authorized by the Colombian Constitution, as some experiences in the Colombian history showed that reelected presidents tend to remain in power and, eventually, become or act like a dictator. The introduction of the reelection has an impact on the independence of the central bank as the reelected president can have a great influence in macroeconomic policies. In the second

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105. See CCN, supra note 39, at art. 371.
106. See supra, note 40. This appointment is aimed at harmonizing the policies of the Bank and those of the Government.
term, the president will name two other members of the board. So, out of seven members, the president will have influence over five members—the Minister of Finance, two members appointed during the first term, and two members appointed in the second term. Only two members will remain independent.\(^{108}\)

**IV. CONCLUSION**

This paper has pointed out that one of the main policies suggested by the Washington Consensus was to gain macroeconomic stability in Latin America. As shown in part II, it was achieved by means of establishing independent central banks through structural reforms that were carried out during the 1990s. Accordingly, inflation was significantly reduced in the region. As seen in part III, Latin America seems to be divided in two main blocks with different political and economic approaches. At the same time, there is no agreement on the economic policies to be implemented in the region as was the case in the 1990s as a consequence of the Washington Consensus. In addition, the role of the IMF and the World Bank is not clear because of the increasing criticism faced by these international financial institutions in recent years. Nowadays, the conditionality clause is not the main tool used by the IMF to implement the “most suitable economic policies” in the region. As it was said before, there is no consensus any more. Besides, the tendency appears to be that fewer countries in Latin America will be using IMF facilities. This means less influence of the IMF in the region. In addition to these complexities, there is a trend to reduce or even to remove autonomy of the central banks.

Taking into consideration these circumstances, we need to be pragmatic, creative, and stay alert. If there is no political will to implement policies that are related to the Washington Consensus in some influential countries in Latin America, the answer, then, appears to be in the strategic institutions acting in the region and sub-regions. Thus, the Economic Commission for Latin America and the Caribbean (ECLAC) or Organization of American States (OAS) can play a crucial role. These institutions could make convergent the approaches present in Latin America by means of dialogue and serious economic research. At the same time, if governments in the region can “re-control” the central banks without fiscal discipline, an important inflationary crisis could be possible in the fu-

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\(^{108}\) President Uribe has been successful in his policy of Democratic Security. FARC guerrilla has been controlled and its power diminished. Consequently, the popularity of the President has reached levels not seen before. There are some voices asking for a second re-election that will mean a third period in office. If this happens, among other consequences, the actual President will have full control on the board of the central bank. In order to keep the country secure, the government has to spend lots of money in the army. At the same time, it has structured interesting social programs that need to be funded. In addition, there is a demanding bureaucracy to be attended in order to pass acts and regulation. These circumstances pressure for fiscal expenditure that in the end will mean inflation. With control over the Central Bank inflation in Colombia may increase.
ture. In this sense, it is important to keep an eye on the issue of the central bank independence that has become a nuisance to governments prone to expend more than they should. Otherwise, we will witness the return of the living inflation.