

Ensayos de Reseña/Review Essays

Improving the Odds:

Institutional Innovation and Governance Reform in Latin America

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- *Audacious Reforms: Institutional Invention and Democracy in Latin America*, by Merilee Grindle. Johns Hopkins University Press, Baltimore, 2000.
- *Reforming the State: Managerial Public Administration in Latin America*, edited by Luiz Carlos Bresser Pereira and Peter Spink. Lynne Rienner, Boulder, 1999.
- *The Self-Restraining State: Power and Accountability in New Democracies*, edited by Andreas Schedler, Larry Diamond, and Marc Plattner. Lynne Rienner, Boulder, 1999.

Things have to change to remain the same.
Tommasi di Lampedusa, *Il Gattopardo*

After almost two decades of reform, Latin America faces the tremendous challenge of consolidating democratic governance and deepening market reform *simultaneously*. The permanence of poverty, inequality and social exclusion has prompted a reconsideration of the neo-liberal prescriptions of the Washington Consensus. Latin American countries have thus embarked in a sinuous second phase of reform to improve the effectiveness of democracy and the efficiency of the market economy, centring on social policies and institutional reform. The emerging post-Washington consensus, while not refuting its predecessor, does amend it in a number of significant ways (Burki and Perry 1998). However, the contours of the new development agenda remain blurred and its boundaries uncertain, generating what Naím (2000) terms the ‘Washington confusion’.

At this critical juncture, the reform of the institutions of governance becomes critical both for sustaining market reform and consolidating democracy. However, reconciling democratic governance and market reform remains an elusive quest in particularly inauspicious circumstances. Concerns have gradually shifted from the relation between regime type and economic performance, to the intricate links between regime quality and economic performance, and in particular between the depth of democracy and the sustainability of market reform. However, while the importance of governance institutions for consoli-

dating democracy and the market economy is now widely recognized, definite approaches on how to engineer and implement institutional reform are sorely lacking.

Washington consensus policies often disregarded the question of how state institutions can effectively be reformed in order to make public policies more responsive to the needs of the population and more effective in assuming their core responsibilities. Indeed, institutional reform is the black hole of first-generation market reforms. How do institutions emerge, develop and consolidate? How do they change? What explains the successes and failures of institutional reform? What works, what does not and why? Consensus on this subject remains elusive when the discussion moves from general goals to the specific means to achieve them.

The three studies under review assess recent efforts by Latin American emerging democracies to improve the quality of democratic governance. They share the same concern for the intricate backward and forward linkages between economic and political reform and investigate political economy of institutional innovation and governance reform. They describe recent attempts at 'improving the odds' (Graham et al. 1999) by reforming the state and strengthening the institutions of governance in critical areas such political accountability, administrative reform and decentralization.

A fundamental tension between democratic governance and economic reform concerns the styles of policy-making. It is increasingly evident that the modes of governance and the methods of government that characterized the initiation of first-generation market reforms are no longer adequate to sustain them and launch second-generation institutional reforms. In the mid-1980s and early 1990s, sweeping market reforms were introduced by most Latin American restored democracies as a consequence of the failure of previous state-centred development strategies and heterodox economic reform packages. The new orientations in economic policy and development strategies reflected a greater convergence of the views regarding what constitutes sound economic management.

These market-oriented reforms have been implemented by insulated technocratic elites in the economic ministries and autonomous institutions shielded from political pressures (Haggard and Kaufman 1995). While the concentration of executive power has enabled it to circumvent institutional constraints and overcome collective action dilemmas and has allowed the kind of decisive decision-making required to implement radical reforms and respond rapidly to acute economic crises, government by decree in presidential systems has implied the concentration of power in the presidency and the seizure of legislative authority by a largely unaccountable executive. The intrinsic weaknesses of the legislatures, the politicization of judiciaries, and the instability of political party systems have also contributed to this trend. As such, the delegative nature of policy-making has significantly altered executive-legislative relations and the traditional separation of powers (Carey and Shugart, 1998).

The problem with Latin American emerging market economies is that these styles of government have tended to endure beyond crisis management and have become the standard method for governing. Government by decree in non-crisis situations tends, however, to strain democratic governance and un-

dermine the institutions of accountability. Peru, Argentina and Brazil dramatically illustrate the excessive reliance on executive decree authority to manage the economy. While the centralization of authority has been crucial for responding to economic and financial crises, if unchecked over the long run, it can undermine effective economic management by creating uncertainty.

Institutional reforms call for modes of governance that are fundamentally different. They require building sufficient consensus and more coherent and cohesive pro-reform alliances and entail changing the structure of incentives, interests and power distribution. More fundamentally, they require reforming politics and enhancing the performance of democratic institutions. Thus, the fundamental question is whether second-generation economic reforms can be launched using the same tactics as first-generation reforms. The trade-offs between policy credibility and political legitimacy tend to shift gradually as the country pursues economic reform: while policy credibility can be swiftly achieved with insulation strategies in the first phase of reform (macro-economic stabilization and structural adjustment), effectively shielding policy-making from political pressures, these strategies tend to become counterproductive in the second stage of reform, which requires institutional reforms that only a sufficiently large and coherent consensus can sustain. Second-generation reforms call for profound changes in the modes of governance, in the rules governing executive-legislative relations and, consequently, in the nature of political party systems.

Hence, the central dilemma of executive accountability in emergent democracies is how to retain the advantages of strong executive authority for swift market reform while at the same time providing the institutional checks and balances that guarantee accountability. This entails not only reforming the institutional architecture of the state, but also restoring the effective capacity to govern and revising the modes of governance and the methods of government. Effective reform requires building the capacity to pursue it. However, as Caiden (1994:111) points out, 'countries most in need of state reform are least able to implement it'. Emerging market economies and consolidating democracies must thus strengthen their effective capacity to govern. As a consequence, the issue of state capacity and autonomy (Evans 1996), central to political economy approaches to policy reform, is thus being revisited in the context of market reform and democratic consolidation.

The Self-Restraining State explores the recent innovations in political governance and the institutional devices that are being established in emergent democracies to enhance public accountability. It focuses on the 'agencies of restraint' that have been devised within the state apparatus itself and that are designed to prevent the abuse of power and the misuse of power. This landmark study is participating in the current efforts to 'rehabilitate the state' as a subject of enquiry and reform it to make democracy work and governance function effectively. It thus underscores the need to reform the state itself, rather than circumvent it. The central dilemma of effective governance and participatory democracy that Madison and his allies tried to resolve is: 'how to build powers that in a liberal and a republican mood check the trespassing temptations of other powers but still satisfy the democratic demand of having

effective governments that do not forget that they owe themselves to those who are the source of their claim to rule' (p.46).

A recurring theme of *The Self-Restraining State* concerns the delicate interplay between democratization and economic reform and potential tensions between, on the one hand, the need to enhance the political accountability of the state, conceived as a requisite to consolidate democratic governance, and, on the other hand, the insulation of public agencies to ensure the integrity and stability of public policies, a condition for sustaining economic reform. The fragility of democratic governance in new democracies has long been linked to the weakness of the rule of law and public accountability. Liberal democracy requires strengthening political accountability and enhancing control and oversight by establishing credible and 'self binding' mechanisms within the state apparatus itself. As such, the strengthening of public accountability should be viewed as a core dimension of recent efforts at reforming and modernizing the state: 'the absence or weakness of institutional restraints on the state also greatly diminishes the quality of democracy' (p.2).

Accountability is an elusive concept, however. While regular elections provide means of 'vertical accountability', 'horizontal accountability' requires, according to Guillermo O'Donnell, 'the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful' (p.38). Henceforth, these 'agencies of self-restraint' located within the state itself must have 'not only the legal authority... but also the de facto, sufficient autonomy' with respect to the state institutions they are mandated to oversee' (p.39). Richard Sklar underlines the notions of constitutionalism and the rule of law as core dimensions of genuine democratic governance.

The main thematic clusters of chapters scrutinize challenges of and strategies for reform in four specific policy areas, namely electoral administration, judicial reform, corruption control, and central banking. For instance in the area of judicial reform and the rule of law, Pilar Domingo underlines the tensions between democratic rule and judicial independence, stressing that independence does not always entail enhanced impartiality and credibility. Similarly, concerning financial accountability and central bank independence, the fact that Central Banks are non-elective, independent and insulated from democratic politics may contradict principles of 'vertical accountability': who would then guard the guardian? Neo-liberal precepts argue that central bank independence enhances the coherence and stability of monetary policy. However, as in the case of judicial independence, central bank independence is a double-edged sword: in the case of Russia, as Juliet Johnson recounts, until mid-1993 the Central Bank enjoyed full legal and practical autonomy and made full use of it in a disastrous way. Johnson's analysis forcefully shows that the value of independence is not intrinsic but instrumental, and must be embedded in a rigorous legal framework delineating the contours of its scope and rationale.

While also discussing the challenges of the reform of the state and the strengthening of accountability, *Reforming the State* focuses on the concrete strategies

of policy reform that have been deployed in Latin America in the recent past. It depicts a more optimistic picture, based on the recent experience of Brazil with administrative reform, suggesting that governance reform is possible and that it can be successful. The state in Latin America is both indispensable and inadequate: the hierarchical and bureaucratic model of public administration has become obsolete as demands for efficiency and effectiveness have become more acute. As President Cardoso of Brazil notes in his foreword, 'to reform the state does not mean to dismantle it' (p.vii), but to recast it.

During the preceding model of development based on modernization through import-substitution industrialization, the state has progressively become both bulimic and impotent. In the course of the 1980s, after the 1982 debt crisis, the crisis of the state became evident as a result of fiscal collapse and bureaucratic inefficiency and corruption. By advancing the concept and practice of 'new public management, *Reforming the State* critically revisits the traditional notions of state autonomy and capacity. As Luiz Carlos Bresser Pereira and Peter Spink emphasize in the preface, 'whereas the neoliberal reforms removed the state from the economy, the social-democratic approach aims to increase and deepen the state's financial and administrative capabilities to implement government decisions' (p.xiii).

In an insightful chapter, Bresser Pereira, the architect of administrative reform in Brazil, describes his approach to the design, advocacy and adoption of the reform, which required amending the constitution. Appointed Minister of Federal Administration and State Reform in late 1994, he assembled the reform package relatively swiftly and in mid-1995 the *Plano Director da Reforma do Aparelho do Estado* was introduced in Congress and subsequently adopted in 1998. For Adam Przeworski, 'the objective of state reform is to build institutions that will empower the state apparatus to do what it should while impeding it from doing what it should not' (p.15), thus suggesting that 'the quality of state intervention depends on the specific institutional design' (p.37). Using a 'principal-agent model' to resolve the multifaceted challenge of accountability, he argues that well-functioning government is one 'that allows governments to intervene in the economy, enables politicians to control bureaucrats, and enables citizens to control government' (p.37).

However, while the necessity of state reform is amply recognized, many governments have failed to implement reforms. In his provocative chapter, Peter Spink notes that while administrative reform has been on the political agenda for over seventy years (for instance, in the case of Brazil, in 1936 and 1967), it has yielded meagre results. In particular, he points out that the results of the major reform initiatives have not been fully satisfactory (with a few notable exceptions), in contrast with the many promising experiences of more gradualist or incremental approaches to state modernization. He accurately suggests that the current 'good governance agenda' provides a direct or indirect support for reform as an a-historical and technical narrative: 'A tendency to build dominant reform models on the technical voluntarist assumption within an ever-increasing spiral of complexity, without providing space for the critical assessment of previous approaches to reform or of "reform" itself, must throw doubt on the current crop of reform ideas, independently of their individual and autonomous merit' (p.112).

Reforming the State demonstrates that the neoclassical complacency about

markets is no longer tenable. Even the most ardent neo-liberals now admit that markets cannot operate in a vacuum: they require an institutional framework that only governments can provide.

Merilee Grindle's *Audacious Reforms* explores one of the most promising institutional innovations in recent years, namely decentralization. It focuses in particular on the political economy of decentralization to explain the unexpected: why, how and when institutional reform occurs. *Audacious Reforms* critically examines the motivations, choices and consequences of the creation of new political institutions in democratic settings, focusing on the direct elections for governors and mayors established in Venezuela in 1988-89, radical municipalization introduced in Bolivia in 1993-94, and the direct election of the mayor of Buenos Aires instituted in Argentina by the 1994 constitutional revision.

These 'audacious reforms' underlie the unanticipated contribution of institutional engineering to democratic consolidation: by modifying the parameters of politics, they are reinventing democracy by redefining the way in which policy issues are framed and addressed, the ways in which political actors calculate the costs and benefits of their actions and the way in which social groups relate to the political process. As such, and while past conflicts are not erased by reforms, the new order creates greater potential for more responsible, accountable, and responsive democratic governance.

Audacious Reform provides an optimistic perspective on the prospects for democracy in the region. Traditionally, politics have been considered a hindrance to economic reform (Grindle, 1991). Grindle's work in 'search of the political' (Grindle, 2001) demonstrates quite the contrary: at 'critical moments' or junctures, elites can display an unusual capacity for constructive innovation and creative audacity (Grindle, 1996; Grindle and Thomas, 1991). Decentralization represented an important disjuncture as it 'involved important reconfigurations of political power, reversing historical trends toward ever-greater centralization of control' (p.7). Furthermore, decentralization reforms diverged from the usual piecemeal and incremental process of political change and policy adaptation, and marked a significant departure from traditional centralized governments.

In Venezuela, for example, decentralization constituted a last attempt at re-legitimising the political regime. It reversed the trend toward increasing political centralization and *partidocracia* – the sharing of power between the two dominant parties since the 'pacted transition' of the 1958 *Punto Fijo* agreement, after the unsuccessful confrontational period of the democratic *trienio* (1945-48). The fault lines of the two-party political pact were increasingly becoming apparent as evidenced by declining voter turnout in elections. The riots of February 1989, the *caracazo* were a dramatic expression of popular discontent with the regime. It seems unlikely that the 'Bolibarian revolution' engaged by President Hugo Chávez since 1998 will reverse the trend towards decentralization.

In each of the cases, politicians had a range of options they could have pursued as a response to growing societal pressures. According to Grindle, 'the recommendations of presidentially appointed reform teams figure significantly in explaining why particular institutional innovations were chosen' (p.14). The

reform proposals ultimately adopted were fundamentally elite projects, 'the outcome of a centralized design process' (p.125) within a small group of technocrats with the trust and confidence of the president. In Venezuela, the idea of state and local elections was worked out within a national commission established in 1984 by president Lusinchi composed of modernizing technocrats in relative isolation from political pressures. The decentralization ideas advanced by the Presidential Commission for the Reform of the State (COPRE) did not gather support until 1988 when presidential candidate Carlos Andrés Pérez adopted them as a campaign promise. In Bolivia, decentralization emerged between 1991 and 1993 within a think tank, the Fundación Milenio, created by presidential candidate Gonzalo Sánchez Lozada. According to one of the design team members, the decentralization law was 'basically about governance finding a way to decentralize power without destroying the capacity to govern' (p.119).

Decentralization reforms significantly redistributed political power and modified the ways politics are conducted in each country and traditional political parties had to adapt to the challenges and opportunities these reforms represent. In Venezuela, unable to adapt and adopt new tactics, 'AD and COPEI were the most obvious losers from political decentralization' (p.84) as new parties emerged at the grass-roots level. In Bolivia, for instance, municipalization gave indigenous movements greater voice and opened up opportunities for new political careers and new political alliances, as well as facilitating the emergence of novel issues on the political agenda. More fundamentally, the choice of decentralization was all the more unexpected given the weakness of the state and the fragmented political system.

Furthermore, these audacious reforms 'opened a Pandora's box of political consequences only partially understood by the actors who negotiated for them' (p.17). In Argentina, the 1996 elections to the mayoralty of Buenos Aires was won by radical Fernando de la Rúa who would subsequently win the presidential elections of 1999. Until then, provincial politics tended to determine national politics. From then on, elections in the capital have gauged the political pulse of the country, and the position of mayor of the city is now believed to constitute a prelude to the presidency.

For Grindle, 'The central role of political leaders in framing issues, adopting (and rejecting) reform agendas, and determining the timing for action is clear in all three cases' (p.204). Grindle reaches optimistic conclusions finding 'considerable evidence that issues of governance and system legitimacy are important to political leaders who undertake institutional change.... The case studies indicate that politicians were concerned about the extent to which the authority of the state was accepted as legitimate and about the effectiveness of the state in responding to political problems' (p.217).

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