



SEMINARIO REGIONAL SOBRE EL CONTROL PARLAMENTARIO
DEL SECTOR DE LA SEGURIDAD EN AMERICA LATINA

MONTEVIDEO - URUGUAY 1 Y 2 DE JULIO DE 2005



**[Regional Seminar on Parliamentary Oversight of the Security Sector in
Latin America]**

**Professor Gerardo Caetano (Uruguay)
Former Director of the Institute of Political Science,
Currently, General Coordinator of the Institute's Political Observatory,
Director of the School of Governance and Public Action of the
Latin American Centre for Humane Economics**

I. Introduction

- 1) This report is not intended to present conclusions, primarily because we have not had time to develop them—and also because, beyond significant areas of agreement, differences of opinion on some points are still perceptible. This should not be cause for particular concern since, in the international arena, as within societies, agreement and disagreement are very much parts of democratic life—particularly on important issues like the one before us here.
- 2) It appeared more useful to establish an agenda addressing the problems described and discussed during the seminar. This also appears more consistent with the spirit of this encounter, which brought together representatives of 13 national and regional parliaments in Latin America, national legislative and executive branches, and the security sector, as well as experts from academia and the press.
- 3) Aside from its intrinsic merits, this seminar comes at a particularly timely juncture in Latin America. The issues addressed in the following agenda fall within four main areas.

II. The profoundly changed concept of security

- 4) The first main area concerns the profoundly changed concept of security itself, at the present, no doubt historic turning point in world affairs—for Latin America as for other regions. We now must develop a broader, more comprehensive, more cross-cutting concept of security, that moves beyond questions about the role of military or other security forces, and that keeps us mindful of the inherent error of allowing security to dominate our view of human life. On the contrary, we must rethink our notions of security and forge a new concept encompassing other dimensions of our changed world context: globalization, environmental dangers, equity, human capital, and development. We must break, in this first intellectual exercise, with the concepts and definitions of a not-too-distant past

in Latin America, concepts that continue to permeate our political imagination, and which, as democrats we firmly and uncompromisingly reject: the sadly famous "doctrine of national security" that inspired Latin American dictatorship during its dark days in the 1960s, 1970s, and 1980s. Today we might call it the "universal doctrine of insecurity". In gathering here to develop this new concept, we also firmly reject that being advanced by today's superpower, the United States, to strengthen its case (now official State doctrine) for "pre-emptive war". This theory, repeatedly alluded to throughout the seminar and characterized by some authors as "International Insecurity", represents a historical repudiation of prevailing international law and a source of major division on the role to be played by the United Nations and other multilateral agencies.

- 5) This difficult balance between security and freedom has been a recurring theme in recent thinking about security, and was the subject of extensive discussion during the seminar. Historically—and today more than ever—these two concepts go hand in hand. We now know that rights and freedoms cannot be assured without guaranteeing, through the use of legitimate force, the concept of security as a human right. But it is also clear that freedom cannot be legitimately sacrificed for the supposed sake of security. Hence, policies promoting a multiplicity of activities to address this link between security and democracy, and between security and development, in the highly diverse fields covered by the Seminar. There was also discussion about the need to incorporate a multiplicity of stakeholders—civil society as well as military—on the principle that security is first and foremost an issue for the general public—an issue affecting all of us and not to be left in the hands of an expert elite.
- 6) There was discussion on the need to place security back on the public agenda in our countries and political institutions and make it a fully integral part of public policy, understanding security policy, with certain distinctions, as a matter of public policy. There was discussion on the need to change prevailing doctrine, ideology on how we think about security, to make security decisions a predominantly political process. A recurring comment throughout the seminar was that formulation of this new doctrine should be approached as a political and institutional set of options, with many actors involved.
- 7) Participants also stressed the need to avoid confusing distinct concepts, such as national defence, domestic security, or intelligence. Radical innovation around the globe is forcing us to rethink these concepts from an international perspective, taking into account such factors as: the inevitable emergence of new forms of terrorism; State-sponsored terrorism, the most illegitimate form of all; unipolar globalization with its profound effect on collective world security; the danger that security measures may stunt progress with the global human agenda; the fallacy of pre-emptive war; and the need to avoid an exclusively military approach to security threats.
- 8) As repeatedly noted, the seminar came at a particularly convulsive time in Latin America. Although international conflict in the region has abated, new threats and challenges are emerging: drug trafficking, separatism, the confluence of criminal organizations and pseudo-social movements; but also: the illegitimate criminalization of social protest, a terrible impoverishment of the world's most unequal continent—with 44 per cent of Latin Americans living below the poverty line and nearly 20 per cent in extreme poverty—the persistent blurring of boundaries between military and domestic security forces, among many others. These are historic burdens that continue to shape the Latin American agenda.

- 9) As observed by the final panel, we need to rethink this concept of security and view it through a prism that transcends ideology and party politics, that can help us to find common ground between different schools of thought: the prism of human rights—irreducible and non-negotiable. We need a defence policy built around this truly universal conception of human rights—not a Northern, or a Western, or a Eurocentric conception projected globally by force.

III. Cooperation among states

- 10) The second recurrent theme throughout the seminar was the critical importance of cooperation among states and a concerted response to the new security threats.
- 11) In this connection, there was discussion on the need to strengthen the mechanisms offered by the conventions and commissions of the United Nations and inter-American systems, and to incorporate them into the various regional integration processes. This issue also requires supranational coordination. Discussion on this point and the exchange of experiences have been extremely rich—not for the purpose of transferring or imitating prescribed models, but rather to learn from past successes and failures, to effectively internationalize perceptions, and explore the regional dimensions of challenges we face in Latin America today: basic regional and international consensus-building based on a renewed multilateralism and a rejection of unipolar hegemony; the need to keep upholding the rule of law, and of international law, as guiding lights for peaceful coexistence; and the need to renew and improve the instruments we deploy against new forms of organized crime and terrorism.
- 12) Participants shared lucid comments on the new forms of terrorism, the projection of national law beyond national borders, the elimination of classic principles of international law that have been dear to Latin America and to my own country: unrestricted respect for the sovereignty of peoples and for the principle of non-intervention in national domestic affairs. This does not mean condoning human rights violations within national borders, but rather joining in a global commitment to uphold security while ensuring unrestricted respect for human rights. This must come, however, from within the framework, and subject to the laws, of the international community—not from outside that community, let alone from a single State.
- 13) The multidimensional concept proposed calls for non-military as well as military responses; to avoid confusion in this process, an actor legitimized in international law must play a central role.
- 14) We talked about international observation as a critical factor in maintaining security while guaranteeing the rights of the less powerful, and the need to rethink the nature of international action, to restore its effectiveness and, I repeat, its connection with the international community and the multilateral concept of law, as opposed to the unipolar projection of national law.
- 15) There was also discussion on the timely subject of peacekeeping missions and the need to revisit this concept through an in-depth, non-dogmatic re-examination of the United Nations Charter, Chapters 6 and 7.

IV. Challenges to domestic security

- 16) A third area of discussion concerned responses to security threats within national borders; in this area, as observed during the seminar, problems in our countries present a very troubling panorama. This is a question that must be firmly linked with the guarantees that can only come from a continuous process of democracy-building. No democracy has ever been built once and for all; democracy is an unending daily plebiscite and can only be guaranteed through a continuous building process. We must seek to link more effective overall security with high quality democracy; and conversely, less effective security with less securely established democracy.
- 17) It is rightly said that one of the most serious problems in Latin America today is the limited intensity and the poor quality of democracy: the creation, by delegation, of pseudo-democracies and a crypto-authoritarianism, or—to paraphrase Sartori (democracy's version of Confucianism): the cloaking of non-democratic processes in democratic trappings. With the ideological triumph of democracy, we must now promote integral democracies: democracies that respond to demanding challenges, like security, through representative as opposed to anti-representative participation; democracies that affirm classic values and rights, while at the same time enshrining new rights. Security policies must be framed as policies of the State, policies established not from a majority party or executive branch perspective but rather on the basis of strong and rigorous inter-party consensus with a high degree of citizen involvement; policies that restore, or in some cases introduce, the principle of effective subordination of our armed forces to civilian authority, checking tendencies toward institutional autonomy that tend to restrict or limit the effective rule of law in all its dimensions.
- 18) In this connection, there was discussion on the timeliness of renewing military doctrine, professionalizing our armed forces and bringing them closer to our peoples; establishing or consolidating capable armed forces with the courage exemplified by Lieutenant General Balza: the courage to examine and learn from our history, since, as he put it, unexamined history is lost eternally to the past. When we cannot mourn and come to grips with our losses, the consequences are all too clear.
- 19) We have seen how the traumas caused so frequently by Terror throughout world history—and the history of Latin America in particular—can affect the descendants of victims and perpetrators for three and four generations. Hence the need: for strategic gestures to reaffirm political leadership for a renewed security policy; for civilian centres to reflect on security issues and interact with security professionals—not to prescribe political or popular definitions, but to inform their decisions, with legislation based on a new, less improvisational approach and concept of the advisory function, placing security, within a new legal and institutional framework, firmly under civilian authority. It must also be recognized that security agents, in the specific case of armed forces personnel, are guided not only by rules but also by their history and by civilian practice.

V. Parliamentary oversight of the security sector

- 20) Ultimately, the central focus of this Seminar was the need for qualified parliamentary oversight of security issues. In all democracies, parliaments provide an institutional home for political parties and represent a political institution “par excellence”, one that gives more citizens a voice, through

popularly elected representatives, than any other. The time has come for politicians to renew their adherence to a fundamental principle of democratic theory: that parliaments are instruments of oversight and enforcement. And they should do so openly and proudly, debunking the received wisdom in certain segments of public opinion as reflected in their criticisms of parliaments, political leaders, and political parties. Faced with these waves of “political reaction” and without questioning some of the legitimate causes for such malaise in our Latin American societies, we must ask ourselves what kind of democracy—without parliaments, without politics, and without parties—we are talking about.

- 21) In this connection there was discussion on the need to define security policies on a broad, inclusive basis, going through the typical steps followed in developing public policies as studied by experts like John Kingdom. Kingdom talked about five stages in the development of public policies: i) setting the agenda; (ii) specifying options and legitimate alternative decisions in accordance with the constitutional provisions that in every State govern executive and legislative branch relations. (In this regard, decisions should be more than executive branch “options”, with “government” equated with the will of a president or an executive branch; there must be room in government decision-making for a complex and interactive process, involving a multiplicity of institutions but with parliaments playing a decisive and irreplaceable role). The final three stages spoken of by Kingdom in his work "Agendas, Alternatives, and of the Policies" are: (iii) a decision on the specified alternative; (iv) execution of the decision; and then (v) the application of control and evaluation systems at all levels, and in particular for budget oversight.
- 22) In each of these five steps parliaments play an irreplaceable role—not by asserting their authority in quasi-competition with the executive, but by improving the process for public policy formulation, reconfiguring legislative-executive relations for today's world. In that sense, as repeatedly observed during the Seminar, defence policies must be forged with broad stakeholder involvement, creating the conditions for effective parliamentary oversight. This calls for parliaments with the capacity demanded by our times: parliaments with new information systems, able to communicate with any actor in society—including the military—freely and on the basis of trust; parliaments able to interact smoothly with indispensable civil society stakeholders, able to advance policies and legislate from an international, comparative perspective, with adjustments as necessary. In that sense, the Interparliamentary Union offers a forum in which to compare experiences—not, I repeat, to copy, but to elicit the opinions and official positions of different national parliaments.
- 23) There was also discussion on various mechanisms to ensure that the function parliaments perform in exercising civilian control over security policy is neither exclusive nor exclusionary. Parliament is not the only instrument in a democracy for holding public servants to account; there are many others, and rightly so. But in the particular area of security, parliaments play an irreplaceable oversight role.
- 24) A premise underlying much of the discussion on these mechanisms was that parliamentary authority as defined in the laws is often not exercised in actual parliamentary practice. We take great interest in a Parliament's constitutional and legal authority but tend to overlook the realities of concrete parliamentary practice, where reforms have often not been sufficient for parliaments to actually carry out constitutionally or legally authorized forms of oversight.

25) And lastly, there was discussion on mechanisms to ensure that parliaments are equipped to perform these oversight function—that they reform, modernize, and streamline their procedures, methods of communication, and relations with other branches of government and other actors in society. Participants mentioned several mechanisms, including national defence legislation reflecting official doctrine. In this connection, there was discussion on three successive laws in Argentina: the National Defence Act, the Domestic Security Act, and the Intelligence Act. Here we have, in contemporary parlance, a “roadmap” setting out three important steps in constructing a valid security policy: legislator training and the formation of a permanent cadre of advisers on security matters; legitimate, nonabusive recourse to hearings and testimony, and, following the example of some countries, parliamentary investigative committees whose rulings on security matters are binding in character; a redimensioning of government procedures and regulations, reporting requirements, and a responsible, protective definition of the state of emergency concept, duly referring to the inalienable rights that persist under such circumstances; budgetary oversight as a means to accountability; and the absolutely central issue of evaluating and designing new training legislation for security personnel, military personnel, and police personnel, based on a policy of unrestricted respect for human rights, sound management, and a thorough knowledge of available personnel and the new realities that surround security policy today.

VI. Conclusions

26) To conclude this report and outline agenda, it should be observed first that, now more than ever, security is a human right and that many other human rights are compromised in its absence. Second, affirming security as a human right in many poor and marginalized segments of our societies is one of the principal social policies for guaranteeing the effective exercise of human rights. Based on these premises, it is again worth cautioning against the temptation to set national or international agendas as a function of security policy. Over time, as so often observed in Latin American history, public agendas dominated by security considerations inevitably end up infringing on civil liberties. We must therefore endeavour to reconfigure this tension between security and freedom—fertile ground for creativity. Indeed, a balanced approach to both of these legitimate concerns can help to enshrine a security policy protective of our rights, and viewed through a prism of unrestricted and uncompromising respect for human rights.

27) Accordingly, and of direct relevance to this Seminar’s central theme, I would adhere to what I believe represents a consensus among the great majority of participants who spoke at this event: that parliaments should play a central—though not exclusive—role in the civilian oversight of security matters and security agencies. In doing so it should take an innovative perspective while reaffirming the central importance of political processes and strengthening the authority and practical effectiveness of parliamentary acts and resolutions. This can be achieved only to the extent that parliaments demonstrate a genuine capacity for self-reform.

Thank you.